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***Testimony in Support of LD 78, RESOLUTION, Proposing an Amendment
To Article X of the Constitution of Maine Regarding the
Publication of Maine Indian Treaty Obligations and LD 578,
RESOLUTION Proposing an Amendment to the Constitution of Maine
Concerning the Publication of Maine Indian Treaty Obligations***

Good afternoon, Senator Carney, Representative Moonen, and honorable members of the Joint Standing Committee on Judiciary, my name is Aaron Frey, and I have the pleasure of serving as Maine's Attorney General.

I am here today to speak in support of LDs 78 and 578, both resolutions proposing an amendment to Maine's Constitution removing a provision that prevents the printing of Article X, Sec. 5 of the Maine Constitution. Passage would send the question to Maine voters through the referendum process.

As originally adopted in 1820, Article X of the Maine Constitution had six sections. In 1876, Maine amended the Constitution to add a new section to Article X:

Sections one, two and five, of article ten of the existing constitution, shall hereafter be omitted in any printed copies thereof prefixed to the laws of the State; but this shall not impair the validity of acts under those sections; and section five shall remain in full force, as part of the Constitution, according to the stipulations of said section, with the same effect as if contained in said printed copies.

Me. Const. Art. X, § 7. LDs 78 and 578, if enacted and approved by the voters, would strike Section 5 from this provision, thus allowing Section 5 to again be included in printed copies of the Maine Constitution.¹ It would also strike the provision declaring that Section 5 remains in full force, since that provision would no longer be necessary.

I appreciated the opportunity to engage with the sponsor and the Office of the Secretary of State on about how to restore this language to the printed Maine Constitution. While there are different views on why Article X, Sec. 5 was excluded from printed versions of the Maine Constitution, there is no apparent legal or policy reason or for it to remain so. To promote

¹ Sections 1 and 2 addressed initial officeholders and the first legislative session after Maine became a state. Since these sections are no longer pertinent, there is not the same compelling reason to print them as there is for Section 5.

transparency and ensure that all provisions of Maine's Constitution are accessible to the people of Maine, Section 5 should be included in all printed copies. Doing so would support the clarity and consistency, both of which are favored in legal analyses, of Maine's Constitution. In sum, the constitutional provision barring printing of Section 5 should be removed.

Thanks for your time and I would be pleased to answer any questions you may have.