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Testimony of Assistant House Majority Leader Rachel Talbot Ross presenting
**An Amendment to LD 585, An Act to Restore to the Penobscot
Nation and Passamaquoddy Tribe the Authority to Exercise
Jurisdiction under the Federal Tribal Law and Order Act of
2010**

Before the Joint Standing Committee on Judiciary

Senator Carney, Representative Harnett and distinguished members of the Joint Standing Committee on Judiciary, my name is Rachel Talbot Ross. I represent House District 40, which includes the Portland neighborhoods of Parkside, Bayside, East Bayside, Oakdale and the University of Southern Maine campus. Thank you for this opportunity to present an amendment to legislation I submitted, **LD 585, An Act to Restore to the Penobscot Nation and Passamaquoddy Tribe the Authority to Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010**. It is an honor to be with you today, in this pivotal moment in our history, and to present this amendment at the request of the Penobscot Nation, Passamaquoddy Tribe, and Houlton Band of Maliseet Indians.

I would like to start with a heartfelt and sincere thank you to the Tribal leaders and members who have courageously fought to restore what has always been inherently theirs – sovereignty. I also want to thank and acknowledge the more than 1,500 Mainers from across the state and all walks of life who testified earlier this week, standing together with one voice to say it is time for Maine to right our wrongs.

The language of my amendment was shared with committee members and interested parties on Monday. As you know, when a sponsor presents an amendment to his or her legislation, the amendment is often presented after the public hearing at the work session. In this scenario, the interested parties – which includes myself, the Governor's office, the Attorney General, the Wabanaki leaders and other legislators – wanted to provide the amendment language to committee members and interested parties ahead of the public hearing given that we are changing the substance of the legislation.

The amendment I am presenting today replaces the original language of LD 585 with a new bill that will be entitled **An Act to Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, and the Penobscot Nation and To Authorize Off-track Betting Facilities and Federally Recognized Indian Tribes to Conduct Sports Wagering**. The new language reflects the substance of negotiations between the three Wabanaki Nations and the Governor's office over the past seven months. The Attorney General and his staff, the co-chairs of this committee and myself attended almost all of those meetings, which started off every other week and eventually turned into weekly meetings.

The leaders of the three Wabanaki Nations decided to engage in discussions to see what, if any, progress could be made. And, over the course of the next seven months and hundreds of hours of discussion, there was indeed some progress made. The amendment I present to you today is the fruit of those discussions. However, the provisions of the amendment are not changes to the settlement acts. They are not a restoration of sovereignty.

I do want to be clear and honest: LD 585 is no substitute for LD 1626, and the leaders of the Wabanaki Nations do not view it as a substitute. While it admittedly does not reflect our best step forward or what is needed for history to document the right and just action for us to take, it is one that will lead us on the pathway to our better selves – one that will be a footnote in history to remind us, as Dr. Martin Luther King Jr. said, that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed.

I am in favor of taking this step in the right direction, but I also want everyone to understand that the Wabanaki Nations and myself – and hopefully my fellow legislators – are committed to continuing to fight to get LD 1626 enacted in law.

While this amendment does not attempt to modernize or amend the settlement act, it does represent the first time that I am aware of where the three Wabanaki Nations and the Governor's office have negotiated legislation that would provide economic opportunity to the Wabanaki Nations and people. I do believe this amendment is a step in the right direction, and hopefully a step towards understanding that the Wabanaki Nations are not our enemies or opponents but our neighbors. We need to start treating them as such, particularly because it is their aboriginal land on which we live and work. The Wabanaki Nations were here long before any of us, and they will be here long after those of us here today.

The substance of the amendment I present today is comprised of multiple parts, but there are really three main components.

The first component of the amendment is about improving dialogue between the Wabanaki Nations and the State. This is done by requiring certain state agencies to designate Tribal liaisons who will be responsible for developing and implementing a policy that promotes positive government-to-government relations between the State and Wabanaki Nations. This also includes outreaching and communicating with the Wabanaki Nations when the agencies are taking actions that might substantially and uniquely affect any Wabanaki Nation or their people.

Additionally, the Governor will be required to meet at least annually with the leaders of the Wabanaki Nations in a Tribal-State Summit.

The hope is that forcing these conversations to happen on a regular basis, or at least once a year, will lead to more progress and relationship building amongst the governments. The discussions over the last seven months led to the provisions of this amendment, so hopefully there can be more progress if we keep the discussions going.

The second component of this amendment would implement a few of the same tax rules that apply to Tribal nations and citizens throughout the United States. The Wabanaki Nation governments and their citizens would not be subject to state sales and income tax for activities occurring on Tribal trust or reservation lands, and the Tribal Nations would be able to generate sales tax revenues from sales on their own lands. These are important and necessary steps to support tribal governments and economies and will also benefit the surrounding non-Tribal communities.

Additionally, the amendment would change state tax laws to treat the three Wabanaki Nations as governments and not try to differentiate between when the Tribal nations are acting in a government versus business capacity for purposes of applying the State's sales tax and income tax laws.

The goal of these provisions are to improve the economic opportunities available to the Penobscot Nation, the Passamaquoddy Tribe and the Houlton Band of Maliseet Indians. Encouraging economic development within these Tribal nations and on their lands will benefit them, the surrounding communities and the state. The goal is also to allow the three Tribal Nations to keep the taxes collected from any sales occurring on their lands so that they can use this revenue to invest in their own infrastructure and government programs.

The third component of this amendment legalizes and establishes a regulatory framework for sports wagering within the State. Up to seven licenses for in-person sports wagering will be available to licensed off-track betting facilities. Each Wabanaki Nation will be authorized to conduct mobile sports wagering. Ten percent of the adjusted gross sports wagering receipts will go to the State, with a portion of those funds going towards the Gambling Addiction Prevention and Treatment Fund, the State Harness Racing Commission, the Sires Stakes Fund and the Agriculture Fair Promotion Fund.

Lastly, the amendment includes a provision saying that the Wabanaki Nations have the right to conduct any future forms of mobile gaming that may be legalized in the State. We need stop shutting these tribes out of economic opportunities. If, in the future, the State chooses to legalize other forms of mobile gaming, then we need to make sure that the Tribes are included.

I believe the provisions of this amendment will help the Wabanaki Nations achieve some form of economic self-sufficiency but also provide some economic stimulus to the rural areas of our State. The Wabanaki Nations employs lots of Mainers who are not tribal citizens. And they spend their money locally. Allowing them to access these economic benefits will spur the regional economies.

The provisions of the amendment I present today will begin to provide economic benefits to the Wabanaki Nations, but they do not begin to mitigate the emotional trauma that this State has inflicted on the Wabanaki people for the past 40 years. And, please know that the provisions of this amendment are not sovereignty. The Wabanaki Nations do not view them as restoring any aspect of their sovereignty, nor are the provisions of this amendment or LD 585 a substitute for the Wabanaki Nations' ongoing efforts to restore their sovereignty through enactment of LD 1626.

But this amendment does take three steps to help our State government make better-informed decisions, to provide the Wabanaki Nations and their citizens tools to develop rural economies, and to deliver essential benefits to Maine's rural communities. That is a first step towards correcting 40 years of wrongs. The benefits of this amendment I present today should not be ignored. So, with that, I offer this amendment to LD 585 in the hope that this committee and this Legislature will approve this legislation and place the legislation on the Governor's desk for her to sign this session.

Thank you.