

**Testimony of Vice Chief Joseph Socobasin
Passamaquoddy Tribe at Motahkomikuk (Indian Township)
Wednesday, May 31, 2023
Hearing before the Joint Standing Committee on Judiciary**

**LD 2004, An Act to Restore Access to Federal Laws Beneficial to the
Wabanaki Nations**

Senator Carney, Representative Moonen, and Distinguished Members of the Joint Standing Committee on Judiciary, my name is Joseph Socobasin and I am the Vice Chief of the Passamaquoddy Tribe at Motahkomikuk. I am here today on behalf of Chief Nicholas and we thank you for the opportunity to speak in support of LD 2004 An Act to Restore Access to Federal Laws Beneficial to the Wabanaki Nations.

LD 2004 is a crucial reform of the current legal framework that governs the tribal nations in Maine. This legislation specifically permits the Passamaquoddy and all the tribes in Maine to finally take advantage of federal laws designed to benefit them in the first place. This bill will have an immediate effect on Passamaquoddy at Indian Township and I am honored to speak in support of it today.

We have lived in the Dawnland for generations longer than any European, and we were an ally to the United States at its very foundation, serving under General George Washington to fight against Great Britain. Despite this, the Commonwealth of Massachusetts, and later the State of Maine, considered the Passamaquoddy People to be state wards all the way up to 1975.

In 1975 federal courts ruled that the Passamaquoddy Tribe is a sovereign nation entitled to the protection of the federal government, just like any other federally recognized tribe.

From 1975-1980, we established a government-to-government relationship with the United States and exercised all the attributes of a sovereign nation. Also during this period, the U.S. filed suit against the State of Maine for illegally taking Passamaquoddy lands in violation of federal law.

Our land claims were ultimately resolved in 1980 by the federal Maine Indian Claims Settlement Act. The federal law approved a state law that essentially allowed Maine to exert unprecedented jurisdiction over our Nations. Importantly, and the reason I

am here today, the federal Maine Indian Claims Settlement Act also contains a provision that says that federal law which affects or preempts State jurisdiction does not apply in Maine.

We have done painstaking legislative research and can find zero evidence that this provision was added with the Tribe's knowledge, let alone approval. In fact, we have only seen evidence that the State specifically inserted this extremely harmful language in an effort to shore up state control of the tribes just days before it was voted on in Congress.

The results of these covert efforts to keep the Wabanaki in a box controlled by the State of Maine have been staggering.

A report prepared for the Maine Legislature concluded that Congress has passed 151 laws intended to benefit Indians and Indian tribes since 1980. This includes major laws enacted in the areas of health care, law and order, emergency services, and the environment.

Since 1980, the State of Maine has repeatedly relied on that eleventh hour provision and asserted that federal laws passed for the benefit of Indian country do affect or preempt State law. The State of Maine has barred the Passamaquoddy from realizing the benefits of these federal laws. I cannot overstate how significant of an impediment this has been to Passamaquoddy self-determination for over forty years now.

When natural disasters hit our territory, we cannot simply contact FEMA like tribes elsewhere in Indian country can under the Stafford Act. Earlier this year, when a major freeze hit the state, our health care center suffered significant damage and closed temporarily to allow for extensive repairs. The State of Maine had not declared an emergency when we realized the damage and we began to immediately invest significant resources into getting our health center back into operation.

At Indian Township, our people rely on our health center for critical visits and check-ins, so having it closed put people at risk. Because of the Settlement Act, we could not invoke the Stafford Act to work directly with FEMA to immediately draw in federal resources to fix our shuttered health center. Instead, we had to expend scarce tribal resources in hopes that either Maine would declare an emergency or that some other relief would come.

At this time in February, our tribal officials were in DC visiting with our delegation and showed pictures of the devastation of our health center to Senator King and to Congressman Golden. They were shocked and saddened and asked how they could help.

To be clear, we do not just want money or handouts from the state. We want to work in partnership with the United States, under federal law. When one Member of Congress suggested that the federal law could be amended to just allow us to access the Stafford Act, we responded “no”. We do not seek access to one or two laws, just so we can be stymied and stuck fighting with Maine over future access to other laws.

No, we seek to change the paradigm and to be able to access every federal law that is meant to benefit our people. We seek this type of equality with other tribes so we can serve our people during times of crisis and provide the public health and public safety benefits Congress intended to make available in Indian country.

The problem with the current model is that we never know if a federal beneficial act will apply in Maine until the state objects to it. We live in uncertainty and end up running into conflict with the state almost every time we try to access benefits available under recently enacted federal laws.

As a result of this dynamic, there have been numerous legal battles and fights with the State of Maine regarding the question of whether the Wabanaki can access federal laws. These fights have resulted in lopsided results. The State has always had the upper hand and been able to block our access to federal law regardless of whether the law was about public safety, hiring doctors, or ensuring clean water on our lands.

The inability to access these federal laws has real consequences for our people and these impacts have been shown to negatively affect our people in a variety of ways.

As a recent report from the Harvard Project on American Indian Economic Development, a part of the Kennedy School at Harvard University found, all of the tribes in Maine are vastly underperforming compared to the other tribes in the Lower 48.

- **Per capita income** at Passamaquoddy Indian Township is \$14,435 compared to \$34,593 in Maine
- **Child poverty** rates at Passamaquoddy Indian Township is 40.2% compared to 15.1% in Maine

- **Unemployment rates** at Passamaquoddy Indian Township is 6.5% compared to 4.1% in Maine
- The percentage of **college graduates** at Passamaquoddy Indian Township is 7.1% compared to 20% in Maine

We have all the same responsibilities to our citizens as any other government, and yet are forced to operate without critical funding and authorities that every other tribal nation in the United States is afforded.

This reality makes no sense. In 2023, it serves no purpose other than to frustrate the ability of the Wabanaki Nations to self-govern and to pursue self-determination.

LD 2004 finally addresses this problem and it does so immediately and comprehensively. This legislation makes a limited withdrawal of the jurisdiction and application of Maine law to the extent that state law would be affected or preempted by federal law. As the Harvard Report concludes, this will not only help my own community, but is likely to benefit all of Maine.

With the tribes able to access federal programs and funding, we can begin to provide services for our own communities, removing the burden from state and local governments. And, the proceeds of our economic development will spill over into neighboring communities.

In closing, LD 2004 would have immediate and immeasurable positive effects for the Passamaquoddy people. For the first time since 1980, we would be able to benefit from laws passed by Congress on equal footing with every other tribe in the United States.

Please support LD 2004 and vote it favorably out of committee.

Woliwon. Thank you.