

**Testimony of Chief William Nicholas Sr.
Passamaquoddy Tribe at Motahkomikuk (Indian Township)
Friday, April 4, 2025, 1 P.M.
State House Rm. 438
Hearing before the Committee on Judiciary**

LD 958, An Act to Prohibit Eminent Domain on Tribal Lands

Senator Carney, Representative Kuhn, and Distinguished Members of the Committee on Judiciary, my name is William Nicholas Sr. and I am the Chief of the Passamaquoddy Tribe at Motahkomikuk.

Thank you for the opportunity to speak in support of LD 958, An Act to Prohibit Eminent Domain on Tribal Lands.

I would like to also thank the Passamaquoddy Tribe's great allies, Leader Faulkingham and Senator Marianne Moore, for championing this important legislation.

LD 958 amends the Settlement Act to prevent the state from taking Wabanaki land for public uses, often referred to as "the right of eminent domain."

This would apply to land located within Passamaquoddy Tribe territory, Penobscot Nation territory, Houlton Band Trust Land and the Mi'kmaq Nation Trust Land.

Specifically, LD 958 removes existing language that gives the state eminent domain power over tribal lands.

This state power of eminent domain over tribal lands is contrary to tribal sovereignty and self-determination, and to federal policy promoting these ideals.

Maybe most significantly, the current policy that LD 958 seeks to address is at odds with standards for the international recognized rights of indigenous peoples.

Under international law, indigenous people have a right to free, prior and informed consent for actions on indigenous lands. That does not exist in Maine.

By removing this state power, this bill would recognize the fundamental principle that the Wabanaki Nations are sovereign governments whose lands are not property of the state of Maine.

LD 958 is a long-awaited opportunity to redress, in part, some of the historical wrongs exacted upon the Passamaquoddy and other Wabanaki Nations.

Maybe more importantly though, this bill would prevent future wrongs, by formally abolishing the State's ability to seize tribal lands.

The ancestral home of the Passamaquoddy Tribe covers the entire St. Croix River watershed, an area in excess of three million acres.

The traditional Passamaquoddy way of life follows migration of the animals and fish throughout the year, depending on seasonal food and opportunities for work.

Historically, this meant moving to the forests to hunt game before the Winter.

We would then gather at the head of tide to catch the salmon runs in the Spring before moving out towards the ocean for saltwater fishing and shellfish harvesting in Summer.

Then, by late summer, we were harvesting blueberries in the barrens before returning to the forest for fall and winter hunts.

This migratory lifestyle meant reliance on a system of rivers, lakes, and portages to survive and trade with other tribes and then Europeans and Americans.

Unfortunately though, the Wabanaki have been constantly forced to contend with the seizing of our ancestral lands and destruction of our food sources since even before Maine was a state.

The taking of our lands has been legally justified by government decrees and colonists claiming the right to take tribal territories to pave the way for new colonial settlements and industries.

Without our consent, the Commonwealth of Massachusetts and then the State of Maine seized lands to build dams and to flood surrounding lands in ways that restricted our fishing and then forever destroyed our homelands.

We still have thousands of acres of flooded lands at Indian Township because of these actions.

We also still have highways built on tribal lands seized without tribal consent, which are daily reminders of this dark history.

You'll see these roads if you ever drive on Route 1 as it cuts through Indian Township or if you drive to Eastport from Sipayik on the causeway that sits on a highway cutting through our most important saltwater fishing village.

These actions not only violated us, the first peoples of this land, but also the fish and wildlife that share and migrate over this land with us.

LD 958 says no more!

This legislation is a protective measure to guarantee government-to-government consultation and certain mutual agreements before any federal action is taken on tribal lands.

Importantly, this bill preserves a federal takings process, which is in alignment with the treaties negotiated with the Wabanaki and the treatment of other federally recognized tribes protected by federal law.

Nonetheless, LD 958 is not a perfect solution to the takings issue.

The ongoing federal takings authority issue aside, the Nation is also concerned with the language of Subsection 3(B), which is the previously existing and current state takings process but incorporated under the federal takings clause.

Subsection 3(B) describes how the Tribe must reinvest monies received from federal takings in new lands within 2 years from the date of receipt.

This section also restricts how lands bought with these proceeds can be added back to our tribal land base.

I am not here with language solutions today but wanted to call these concerns to the attention of the sponsors and committee so we can work through these issues in work session.

In closing, I would like to again thank you to House Minority Leader Faulkingham and Senator Moore for sponsoring this vital legislation and to this Committee for the opportunity to testify today.

Please vote LD 958 favorably out of committee.

Woliwon. Thank you.