

Good morning members of the Legal and Veterans Affairs committee, my name is Kirk Francis and I serve as the Chief of the Penobscot Indian Nation. Thank you for the opportunity to speak with you today about the restoration of our tribal nations' inherent right to conduct gaming as a governmental economic tool.

In my opening, I mention restoration of rights. This continues to be the goal of the Maine Wabanaki tribes. The most recent effort to restore the exercise of our inherent governmental rights occurred with the work of the Tribal-State task force over the past few years as directed by a legislative resolve. In this effort, we are not seeking anything new or special. We are simply trying to restore recognition of the Maine Wabanaki as native tribes having rights of self-governance on par with those of other tribes all across the country. Prior to the Maine Indian Claims Settlement Act of 1980, the courts acknowledged that the tribes in Maine possessed inherent rights of self-governance within our own territory similar those to other federally-recognized tribes. These rights of self-governance included the exclusive jurisdiction of the tribes to conduct economic development within our own territory including through gaming activities. Between the time of the recognition by the courts of our inherent rights of self-governance and the passing of the Settlement Act, the Penobscot Nation had two established gaming operations. We had a slot parlor and a high stakes bingo operation.

After the passage of the Settlement Act, the State deemed these operations to be illegal based on its view that the exercise of our gaming rights was not an internal tribal matter as contemplated by the Settlement Act. The tribes did not agree with this position and never understood the Settlement Act to deprive us of our inherent rights to self-governance including conducting gaming activities. The Tribe's position is gaming is a governmental activity used to generate funding for the operation of our government and the betterment of our citizens, similar to how the State generates funding through the Maine State lottery. As a governmental activity, it should fall within the internal tribal matters language of the Settlement Act. Unfortunately, the Maine Supreme Judicial Court did not agree ruling against tribal gaming in *Penobscot Nation v. Stilphen* in 1983.

It is interesting to note that subsequent to this court decision, the Maine legislature acted in 1987 to restore recognition of our right to conduct bingo operations. Of further note, the U. S. Supreme Court that same year of 1987, ruled in *California v. Cabazon* that gaming is an attribute of tribal governance and can be conducted exclusively under the inherent authority of tribes. This Supreme Court ruling undermined one of the underlying tenets of Maine Supreme Judicial Court decision against tribal gaming. Following the *Cabazon* decision, Congress enacted the Indian Gaming Regulatory Act to regulate tribal gaming. IGRA creates a framework for tribes and states to work together to create mutually beneficial outcomes and activities.

In line with tribal goal of restoration of rights, the purpose of this current bill is the recognition of a right we should already possess as a tribal government, and the framework is there for the State and the tribes to work together under IGRA. Unlike commercial casinos, IGRA requires that the majority of the funds generated by gaming be used for tribal governmental activities and to provide services that will ultimately benefit both our communities and the state as a

whole. In other words, most of the money stays in Maine. The tribes of Maine have lived here since time immemorial, and we are not going anywhere. There are numerous examples of states and tribes using the statutory framework of IGRA to structure arrangements that benefit everyone.

The title of this bill reads: *“An act to create gaming equity and fairness for the Native American tribes in Maine”*. For many years, long before anyone else, the tribes in Maine have worked to restore our rights to conduct gaming. These efforts have failed time and again for various reasons, including the protection of others interests. The legislative resolve creating the Maine Tribal-State Work Group mandated that the work group find a way for the tribes in Maine to be restored to a place where we enjoy “the same rights, privileges and immunities as every other federally recognized tribe in the country”. There is not a more glaring example of inequity than what has occurred with respect to our gaming rights being taken away and never returned. The time has come for us to roll up our sleeves and truly find solutions that establish equity and fairness for the tribes of Maine.

Thank you for attention and I’m happy to take any questions.