TESTIMONY OF EVAN RICHERT
IN SUPPORT OF LD 554
AN ACT TO CREATE GAMING EQUITY AND FAIRNESS FOR THE NATIVE AMERICAN TRIBES IN MAINE
March 17, 2021

Senator Luchini, Representative Caiazzo, and Members of the Veterans and Legal Affairs Committee:

My name is Evan Richert. I am a resident of Brewer. From 1995-2002, I served as Director of the Maine State Planning Office under Gov. Angus King. In that capacity I was also one of the appointed State members of the Maine Indian Tribal State Commission.

Then, as now, there was serious and at times seemingly intractable tension between the Tribes and State government over the terms of Maine's statute implementing the Maine Indian Claims Settlement Act of 1980. At the heart of the tension was the inherent conflict within the Implementing Act itself – specifically, Sec. 6204 of the Act, which states that the laws of Maine apply to Indian lands "except as otherwise provided in this Act"; and Sec. 6206, which purports to lay out the general powers of the Tribes within their respective territories, including all things municipalities can do plus exclusive control over "internal tribal matters."

For the tribes, "internal tribal matters" went to the heart of their sovereignty – i.e., the inherent "limited sovereignty" powers "which have never been extinguished," in the words of the U.S. Supreme Court (U.S. v Wheeler, 435 U.S. 313 [1978]). But, because "internal tribal matters" is not defined in the Act, the State and courts, through consistently restrictive interpretations, essentially reduced the tribes to special kinds of municipalities.

It was heartening to see the recommendations of the Maine Indian Claims Task Force last year, which, taken together, would restore many of the "inherent powers of limited sovereignty." I don't know the status or fate of the rest of the Task Force's recommendations, but I believed when I was on MITSC and continue to believe that, broadly speaking, one of those powers is the development of sources of revenue to support tribal operations and the well-being of tribal members. Especially upon adoption of the Federal Indian Gaming Regulatory Act in 1988, this should include gaming activities on tribal lands.

Under IGRA, gaming – whether Class II or Class III – is a heavily regulated industry. It is subject to Tribal, Federal, and, through a required Tribal-State compact, State regulations. Further, gaming under IGRA must be for the welfare of an Indian tribe and its members; its net revenues can be used only for purposes restricted to funding tribal government operations or programs, promoting tribal economic development, charitable purposes, or helping to fund the administration of gaming regulations and related public services. These purposes are no different than those for which the State engages in lotteries or cities like Bangor endorsed a casino. They go squarely to the internal requirements of the Tribes and their quest to improve the economic well-being of their members.

One can question the wisdom of government-supported gambling, but Maine has made that decision for itself, and the Tribes, within the "inherent powers of limited sovereignty," are due the same right to make their own decisions within the bounds of Federal law. LD 554 takes one important step toward recognizing and respecting that sovereignty. I urge you to adopt an Ought to Pass report. Thank you.

Submitted by Evan Richert, Brewer, ME