

Working Group to Develop Recommendations for
Extending Federal Beneficial Laws to the Wabanaki Nations
[Resolve 2025, chapter 165](#)

Meeting #2 — Wednesday, October 7, 2026 at 10:00 a.m.
Maine State House, Room 438 (Judiciary Committee Room)

AGENDA

10:00 am Welcome

Chairs, Senator Rachel Talbot Ross and Representative Amy Kubn

Working Group Member Introductions

10:15 Discussion: H.R. 6707 and Congressional Actions

Working Group members and Natalie Teare, Legislative Assistant, Office of Congressman Golden (ME-02)

11:15 am Discussion: Research on the Application of Federal Beneficial Laws
(approx.)

Working Group members and Professor Nicole Friederichs, Human Rights and Indigenous Peoples Clinic, Suffolk University School of Law

12:15 pm Discussion: Pathways to Reform
(approx.)

Working Group members and legislative staff

1:30 pm Discussion and Planning for Future Meetings
(approx.)

Future Meetings

- Tuesday, October 13 – 10:00 a.m. (State House Room 438)
- Tuesday, November 17 – 10:00 a.m. (State House Room 438)

Times are subject to change. The Working Group may take a lunch break at an appropriate time during the meeting.

Meetings can be livestreamed or viewed as an archived video after the meeting has concluded at the following link by selecting the appropriate meeting date: <https://legislature.maine.gov/Audio/#438>.

117TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } 117-599

ADVANCING EQUALITY FOR WABANAKI NATIONS ACT

DECEMBER 7, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 6707]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6707) to amend the Maine Indian Claims Settlement Act of 1980 to advance equality for Wabanaki nations, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Advancing Equality for Wabanaki Nations Act”.

SEC. 2. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION OF STATE LAWS.—The Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) is amended—

(1) in section 3—

(A) in subsection (m), by striking “and” at the end;

(B) in subsection (n), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(o) ‘Mi’kmaq Nation’ means the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest, and which is represented, as of the date of enactment of this subsection, as to lands within the United States, by the Mi’kmaq Council.”; and

(2) in section 6—

(A) in subsection (a), by striking “provided in section 8(e) and section 5(d)(4)” and inserting “otherwise provided in this Act”; and

- (B) in subsection (h)—
- (i) by striking “Except as other wise provided in this Act, the” and inserting “The”;
 - (ii) by inserting “or enacted for the benefit of” before “Indians, Indian nations” the second place it appears;
 - (iii) by inserting “that is in effect as of the date of the enactment of the Advancing Equality for Wabanaki Nations Act, (2)” after “United States (1)”;
 - (iv) by striking “also (2)” and inserting “also (3)”;
 - (v) by inserting “, unless Federal law or the State laws of Maine provide for the application of such Federal law or regulation” before the period at the end.
- (b) IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT.—Section 8 of the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) is amended—
- (1) in subsection (a)—
 - (A) by striking “or” after “Passamaquoddy Tribe” and inserting a comma;
 - (B) by inserting “, the Houlton Band of Maliseet Indians, or the Mi’kmaq Nation” after “Penobscot Nation”; and
 - (C) in the second sentence, by striking “respective tribe or nation” each place it appears and inserting “respective tribe, nation, or band”;
 - (2) in subsection (b)—
 - (A) by striking “or” after “Passamaquoddy Tribe” and inserting a comma; and
 - (B) by inserting “, the Houlton Band of Maliseet Indians, or the Mi’kmaq Nation” after “Penobscot Nation”;
 - (3) by striking subsection (e);
 - (4) by redesignating subsection (f) as subsection (e); and
 - (5) in subsection (e), as so redesignated—
 - (A) by striking “or” after “Passamaquoddy Tribe” and inserting a comma;
 - (B) by inserting “, the Houlton Band of Maliseet Indians, or the Mi’kmaq Nation” after “Penobscot Nation”; and
 - (C) by striking “or nation” and inserting “, nation, or band”.
- (c) CONSTRUCTION.—Section 16 of the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) is amended—
- (1) by striking “(a)” at the beginning; and
 - (2) by striking subsection (b).
- (d) AMENDMENT TO THE AROOSTOOK BAND OF MICMACS SETTLEMENT ACT.—The Aroostook Band of Micmacs Settlement Act (Public Law 102-171) is amended by striking section 8.

PURPOSE OF THE BILL

The purpose of H.R. 6707 is to amend the Maine Indian Claims Settlement Act of 1980 to advance equality for Wabanaki nations.

BACKGROUND AND NEED FOR LEGISLATION

Enacted in 1980, the Maine Indian Claims Settlement Act (MICSA) extinguished the legal claims of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians to their historic lands in Maine in exchange for funds to allow the tribes to purchase lands, provide general revenue, and establish old-age pensions for their members. In addition, MICSA ratified the state-level Maine Implementing Act, which extended state civil and criminal jurisdiction over each of the tribes.

Notably, Section 6(h) of MICSA blocked any federal law previously enacted for the benefit of tribes from applying to Maine if the law would affect state jurisdiction, with limited exceptions. Section 16(b) of MICSA similarly restrained the application of future federal Indian laws in Maine, unless the law specified that it would apply to Maine. This exclusion is unique to the Wabanaki—no other federally-recognized tribes are subject to such a sweeping exclusion from federal Indian laws. In addition to other critical laws, MICSA has prevented the application of the Violence Against

Women Act, the Indian Health Care Improvement Act, and the Stafford Act to the Wabanaki tribes. Removing this unique exclusion would have significant economic and social benefits for the Wabanaki nations. As concluded by a recent report by the Harvard Project on American Indian Economic Development, the current restriction has the “consequence of handcuffing Wabanaki self-government[, which] is today visible in the stark economic underperformance of all four of the tribes” compared to other tribes.¹

H.R. 6707 will begin to address this inequity by allowing the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, and the Mi’kmaq Nation—known collectively as the Wabanaki tribes—to benefit from future enacted federal Indian laws.

COMMITTEE ACTION

H.R. 6707 was introduced on February 11, 2022, by Representative Jared F. Golden (D-ME). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee for Indigenous Peoples of the United States. On March 31, 2022, the Subcommittee held a hearing on the bill. On June 15, 2022, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Chair Raúl M. Grijalva (D-AZ) offered an amendment in the nature of a substitute. Rep. Jay Obernolte (R-CA) offered an amendment designated Obernolte #1 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote. Rep. Obernolte offered an amendment designated Obernolte #2 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 24 nays, as follows:

¹ HARV. PROJECT ON AM. INDIAN ECON. DEV., JOSEPH P. KALT, AMY BESAW MEDFORD & JONATHAN B. TAYLOR, ECONOMIC AND SOCIAL IMPACTS OF RESTRICTIONS ON THE APPLICABILITY OF FEDERAL INDIAN POLICIES TO THE WABANAKI NATIONS IN MAINE 54 (2022), https://ash.harvard.edu/sites/hwpi.harvard.edu/files/ash/files/wabanaki_report_vfin_for_dist_2022-12-02.pdf.

Date: June 15, 2022

**COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL**

Bill / Motion: H.R. 6707

Amendment: Rep. Obernolte amendment #2 to the ANS

Disposition: Was not agreed to by a roll call vote of 18 yeas and 24 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ		X	
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger-Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN		X	
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Ms. Porter, CA		X	
19	Mr. Sablan, MP		X	
20	Mr. San Nicolas, GU			
21	Mr. Soto, FL		X	
22	Ms. Stansbury, NM		X	
23	Ms. Tlaib, MI		X	
24	Mr. Tonko, NY		X	
25	Ms. Trahan, MA		X	
26	Ms. Velázquez, NY			
	REP. MEMBERS (20)	Y	N	P
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Mr. Fulcher, ID	X		
5	Mr. Gohmert, TX	X		
6	Miss González-Colón, PR	X		
7	Mr. Graves, LA	X		
8	Ms. Herrrell, NM			
9	Mr. Hice, GA	X		
10	Mr. Lamborn, CO	X		
11	Mr. McClintock, CA	X		
12	Mr. Moore, UT	X		
13	Mr. Obernolte, CA	X		
14	Mrs. Radewagen, AS			
15	Mr. Rosendale, MT	X		
16	Mr. Stauber, MN	X		
17	Mr. Tiffany, WI	X		
18	Mr. Webster, FL	X		
19	Mr. Westerman, AR (RM)	X		
20	Mr. Wittman, VA	X		
	TOTALS	18	24	
	Total: 46 / Quorum: 15 / Report: 24	YEAS	NAYS	PRESENT

The amendment in the nature of a substitute was agreed to by voice vote. The bill, as amended, was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 24 yeas and 17 nays, as follows:

Date: June 15, 2022

**COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS—ROLL CALL**

Bill / Motion: H.R. 6707

Amendment:

Disposition: Final Passage: H.R. 6707, as amended, was ordered favorably reported to the House of Representatives by a roll call vote 24 yeas and 17 nays.¹

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL	X		
9	Mr. Grijalva, AZ (Chair)	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger-Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN	X		
15	Mr. McEachin, VA	X		
16	Mrs. Napollitano, CA	X		
17	Mr. Neguse, CO	X		
18	Ms. Porter, CA	X		
19	Mr. Sablan, MP			
20	Mr. San Nicolas, GU	X		
21	Mr. Soto, FL	X		
22	Ms. Stansbury, NM	X		
23	Ms. Tlaib, MI	X		
24	Mr. Tonko, NY	X		
25	Ms. Trahan, MA	X		
26	Ms. Velázquez, NY			
	REP. MEMBERS (20)	Y	N	P
1	Mr. Bentz, OR		X	
2	Mrs. Boebert, CO		X	
3	Mr. Carl, AL		X	
4	Mr. Fulcher, ID		X	
5	Mr. Gohmert, TX		X	
6	Miss González-Colón, PR		X	
7	Mr. Graves, LA		X	
8	Ms. Herrell, NM			
9	Mr. Hice, GA		X	
10	Mr. Lamborn, CO		X	
11	Mr. McClintock, CA		X	
12	Mr. Moore, UT		X	
13	Mr. Obermole, CA		X	
14	Mrs. Radewagen, AS		X	
15	Mr. Rosendale, MT			
16	Mr. Stauber, MN	X		
17	Mr. Tiffany, WI		X	
18	Mr. Webster, FL		X	
19	Mr. Westerman, AR (RM)		X	
20	Mr. Wittman, VA		X	
	TOTALS	24	17	
	Total 487 Quorum 15 / Report 24	YEAS	NAYS	PRESENT

¹ During the markup, the total on this vote was announced incorrectly. The numbers above are accurate and authoritative.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee for Indigenous Peoples of the United States held on March 31, 2022.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) and clause 3(d) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to amend the Maine Indian Claims Settlement Act of 1980 to advance equality for Wabanaki nations.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee, if such estimate is not publicly available on the Congressional Budget Office website.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

MAINE INDIAN CLAIMS SETTLEMENT ACT OF 1980

* * * * *

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(a) "Houlton Band of Maliseet Indians" means the sole successor to the Maliseet Tribe of Indians as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Houlton Band of Maliseet Indians is represented, as of the date of the enactment of this Act, as to lands within the United States, by the Houlton Band Council of the Houlton Band of Maliseet Indians;

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including but without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(c) "Land Acquisition Fund" means the Maine Indian Claims Land Acquisition Fund established under section 5(c) of this Act;

(d) "laws of the State" means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof;

(e) "Maine Implementing Act" means section 1, section 30, and section 31, of the "Act to Implement the Maine Indian Claims Settlement" enacted by the State of Maine in chapter 732 of the public laws of 1979;

(f) "Passamaquoddy Indian Reservation" means those lands as defined in the Maine Implementing Act;

(g) "Passamaquoddy Indian Territory" means those lands as defined in the Maine Implementing Act;

(h) "Passamaquoddy Tribe" means the Passamaquoddy Indian Tribe, as constituted in aboriginal times and all its predecessors and successors in interest. The Passamaquoddy Tribe is represented, as of the date of the enactment of this Act, by the Joint Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian Township and Pleasant Point Reservations;

(i) "Penobscot Indian Reservation" means those lands as defined in the Maine Implementing Act;

(j) "Penobscot Indian Territory" means those lands as defined in the Maine Implementing Act;

(k) "Penobscot Nation" means the Penobscot Indian Nation as constituted in aboriginal times, and all its predecessors and successors in interest. The Penobscot Nation is represented, as of the date of enactment of this Act, by the Penobscot Nation Governor and Council;

(l) "Secretary" means the Secretary of the Interior;

(m) "Settlement Fund" means the Maine Indian Claims Settlement Fund established under section 5(a) of this Act; [and]

(n) "transfer" includes but is not limited to any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources[.]; and

(o) "*Mi'kmaq Nation*" means the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest, and which is represented, as of the date of enactment of this subsection, as to lands within the United States, by the *Mi'kmaq Council*.

* * * * *

APPLICATION OF STATE LAWS

SEC. 6. (a) Except as [provided in section 8(e) and section 5(d)(4)] *otherwise provided in this Act*, all Indians, Indian nations, or tribes or bands of Indians in the State of Maine, other than the Passamaquoddy Tribe, the Penobscot Nation, and their members, and any lands or natural resources owned by any such Indian, Indian nation, tribe or band of Indians and any lands or natural resources held in trust by the United States, or by any other person or entity, for any such Indian, Indian nation, tribe, or band of Indians shall be subject to the civil and criminal jurisdiction of the State, the laws of the State, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein.

(b)(1) The Passamaquoddy Tribe, the Penobscot Nation, and their members, and the land and natural resources owned by, or held in trust for the benefit of the tribe, nation, or their members, shall be

subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act and that Act is hereby approved, ratified, and confirmed.

(2) Funds appropriated for the benefit of Indian people or for the administration of Indian affairs may be utilized, consistent with the purposes for which they are appropriated, by the Passamaquoddy Tribe and the Penobscot Nation to provide part or all of the local share as provided by the Maine Implementing Act.

(3) Nothing in this section shall be construed to supersede any Federal laws or regulations governing the provision or funding of services or benefits to any person or entity in the State of Maine unless expressly provided by this Act.

(4) Not later than October 30, 1982, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the Federal and State funding provided the Passamaquoddy Tribe and Penobscot Nation compared with the respective Federal and State funding in other States.

(c) The United States shall not have any criminal jurisdiction in the State of Maine under the provisions of sections 1152, 1153, 1154, 1155, 1156, 1160, 1161, and 1165 of title 18 of the United States Code. This provision shall not be effective until sixty days after the publication of notice in the Federal Register as required by subsection 4(d) of this Act.

(d)(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and all members thereof, and all other Indians, Indian nations, or tribes or bands of Indians in the State of Maine may sue and be sued in the courts of the State of Maine and the United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in those courts; and section 1362 of title 28, United States Code, shall be applicable to civil actions brought by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians: Provided, however, That the Passamaquoddy Tribe, the Penobscot Nation, and their officers and employees shall be immune from suit to the extent provided in the Maine Implementing Act.

(2) Notwithstanding the provisions of section 3477 of the Revised Statutes, as amended, the Secretary shall honor valid final orders of a Federal, State, or territorial court which enters money judgments for causes of action which arise after the date of the enactment of this Act against either the Passamaquoddy Tribe or the Penobscot Nation by making an assignment to the judgment creditor of the right to receive income out of the next quarterly payment from the settlement fund established pursuant to section 5(a) of this Act and out of such future quarterly payments as may be necessary until the judgment is satisfied.

(e)(1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: Provided, That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe

or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

(2) Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the band or its members.

(f) The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

(g) The Passamaquoddy Tribe, the Penobscot Nation, and the State of Maine shall give full faith and credit to the judicial proceedings of each other.

(h) ~~Except as otherwise provided in this Act, the~~ *The* laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for *or enacted for the benefit of* Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) *that is in effect as of the date of the enactment of the Advancing Equality for Wabanaki Nations Act*, (2) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and ~~also (2)~~ *also* (3) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State, *unless Federal law or the State laws of Maine provide for the application of such Federal law or regulation.*

(i) As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be treated in the same manner as other federally recognized tribes for the purposes of Federal taxation and any lands which are held by the respective tribe, nation, or band subject to a restriction against alienation or which are held in trust for the benefit of the respective tribe, nation, or band shall be considered Federal Indian reservations for purposes of Federal taxation. Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Houlton Band of Maliseet Indians in or near the town of Houlton, Maine, shall be eligible for such programs and services without regard to the existence of a reservation or of the residence of such member on or near a reservation.

* * * * *

IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT

SEC. 8. (a) The Passamaquoddy Tribe [or], the Penobscot Nation, *the Houlton Band of Maliseet Indians*, or *the Mi'kmaq Nation* may assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act of 1978 (92 Stat. 3069). Before the [respective tribe or nation] *respective tribe, nation, or band* may assume such jurisdiction over Indian child custody proceedings, the [respective tribe or nation] *respective tribe, nation, or band* shall present to the Secretary for approval a petition to assume such jurisdiction and the Secretary shall approve that petition in the manner prescribed by sections 108(a)–(c) of said Act.

(b) Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe [or], the Penobscot Nation, *the Houlton Band of Maliseet Indians*, or *the Mi'kmaq Nation* shall be considered and determined by the Secretary in accordance with sections 108 (b) and (c) of the Act.

(c) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction.

(d) For the purposes of this section, the Passamaquoddy Indian Reservation and the Penobscot Indian Reservation are “reservations” within section 4(10) of the Act.

[(e) For the purposes of this section, the Houlton Band of Maliseet Indians is an “Indian tribe” within section 4(8) of the Act, provided, that nothing in this subsection shall alter or effect the jurisdiction of the State of Maine over child welfare matters as provided in subsection 6(e)(2) of this Act.]

[(f) (e) Until the Passamaquoddy Tribe [or], the Penobscot Nation, *the Houlton Band of Maliseet Indians*, or *the Mi'kmaq Nation* has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over Indian child custody proceedings of that tribe [or nation], *nation, or band*.

* * * * *

CONSTRUCTION

SEC. 16. [(a)] In the event a conflict of interpretation between the provisions of the Maine Implementing Act and this Act should emerge, the provisions of this Act shall govern.

[(b) The provisions of any Federal law enacted after the date of enactment of this Act for the benefit of Indians, Indian nations, or tribes or bands of Indians, which would affect or preempt the application of the laws of the State of Maine, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this Act and the Maine Implementing Act, shall not apply within the State of Maine, unless such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.]

**SECTION 8 OF THE AROOSTOOK BAND OF MICMACS
SETTLEMENT ACT**

[SEC. 8. IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT.

[For the purposes of this section, the Band is an "Indian tribe" within the meaning of section 4(8) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(8)), except that nothing in this section shall alter or affect the jurisdiction of the State of Maine over child welfare matters as provided by the Maine Indian Claims Settlement Act of 1980.]

DISSENTING VIEWS

I strongly oppose H.R. 6707, the Advancing Equality for Wabanaki Nations Act, as reported by the Committee on Natural Resources.

H.R. 6707 would extend the applicability of future federal Indian laws to the Wabanaki tribes and extend the applicability of the Indian Child Welfare Act to the Houlton Band of Maliseet Indians. Under current law, the four federally recognized tribes in the State of Maine, collectively known as the Wabanaki, are excluded from federal Indian law application, unless explicitly included.

The intent of H.R. 6707 is to apply Indian laws to Tribes in Maine, but it is vague regarding how federal law will be implemented when involving federal laws that the state has been delegated authority to carry out, such as the Clean Air Act and Clean Water Act. If not done correctly, this bill could result in great uncertainty for Mainers, creating a patchwork of state, federal and tribal regulatory structures with no requirement to coordinate.

The four federally recognized Indian tribes in Maine are the Houlton Band of Maliseet Indians, the Mi'kmaq Nation (formerly known as the Aroostook Band of Micmacs), the Passamaquoddy Tribe, and the Penobscot Nation, known collectively as the Wabanaki people, or "People of the Dawnland."¹ From 1794 to the 1800s, millions of acres of Wabanaki lands were transferred from the tribes to Massachusetts and then Maine, as well as to private individuals, through a mix of treaties and other dealings.² In 1972, the Passamaquoddy tribe filed a lawsuit challenging whether these land transfers were legal under the *Nonintercourse Act*, passed by Congress in 1790 (P.L. 10 24).³ This law prohibited any transfer of land from Indian tribes to another state or person unless the sale or transfer was ratified through a treaty with the United States. In 1975, the First Circuit ruled that the *Nonintercourse Act* applied to the Passamaquoddy Tribe and Penobscot Nation, even though they were not federally recognized at the time.⁴ This revived the land claims of the Wabanaki tribes.

In 1980, the *Maine Indian Claims Settlement Act* (MICSA) was enacted to extinguish the legal claims of the Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians to their historic lands in Maine in exchange for trust funds to allow the tribes to purchase lands and provide general revenue and old-age pensions to their members.⁵ In addition, MICSA ratified the state-level *Maine Implementing Act*, which extended state civil and

¹ Abbe Museum, *About the Wabanaki Nations*, <https://www.abbemuseum.org/about-the-wabanaki-nations>.

² H. Report 96-1353 accompanying H.R. 7919, the Maine Indian Claims Settlement Act 1980 at 12.

³ 25 USC 177.

⁴ <https://law.justia.com/cases/federal/appellate-courts/F2/528/370/178873/>.

⁵ P.L. 96-420.

criminal jurisdiction over the Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians.⁶

Notably, Section 6(h) of MICSA prohibited any federal law previously enacted for the benefit of Indian tribes from applying to tribes in the State of Maine if the law would affect state jurisdiction, with limited exceptions. Section 16(b) of MICSA similarly restrained the application of future beneficial federal Indian laws in Maine, unless the law specified that it would apply in Maine. This exclusion is unique to the Wabanaki tribes.

While the intent of H.R. 6707 is to extend future federal Indian law applicability to the Wabanaki tribes, it is critically important that the Committee work with the State of Maine on any amendments to the MICSA. The MICSA was a ratification of a settlement entered into between the tribes and the state. Congress should give deference to the State of Maine to determine which changes, if any, should be made to the MICSA if those changes will directly impact the state. For the last forty years, the State of Maine has exercised certain jurisdiction over civil and criminal matters over all persons in the state, as well as an assumption of certain federal delegations of authorities. Unless carefully executed in close coordination with the state, new authorizations and changes to existing Indian law, may cause confusion over what the state or tribe's responsibilities are under the statutes. Implementation of this bill would also raise costs on the residents of Maine during a time of unprecedented inflation.

This Committee should ensure that there is close coordination with states when we pass laws that change their sovereignty and existing authority. All governments involved in this sort of legislation—tribal, state, and federal—should coordinate such a change.

For these reasons, I oppose this legislation.

BRUCE WESTERMAN,
Ranking Member.

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⁶ 30 M.R.S.A. 6201 et. seq.

**Federal Laws Enacted After October 10, 1980
For the Benefit of Indians or Indian Nations**

Research Findings

**Requested by the
State of Maine Task Force on Changes to the
Maine Indian Claims Settlement Implementing Act**

**Compiled by the Human Rights and Indigenous Peoples Clinic
Suffolk University Law School**

December 2019

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Executive Summary

In October 2019, the State of Maine's Task Force on Changes to the Maine Indian Claims Settlement Implementing Act ("Task Force") made a request to the Human Rights and Indigenous Peoples Clinic at Suffolk University Law School ("Clinic") to research federal laws enacted after October 10, 1980 for the benefit of Indians and Indian nations. This report presents those research findings.

As part of the Task Force's mandate to consider changes to the several state and federal Maine Indian claims settlement acts, it sought to compile a list of federal legislation enacted after October 10, 1980 that benefit Indian nations and Indians. The reason for this request is that one section of the federal Maine Indian Claims Settlement Act ("MICSA") provides that federal laws "enacted after October 10, 1980, for the benefit of Indians [or] Indian nations ...which would affect or preempt the application of the laws of the State of Maine" do not apply within the State of Maine, unless the law is specifically made applicable within the State. 25 U.S.C. §1735(b). Researching which laws may be implicated by section 1735(b), may help facilitate discussions on changes to the settlement acts.

The primary research tool utilized by the Clinic was Congress.gov, which covers all federal laws. The Clinic used different search terms, i.e. Indian, Native American, tribe, American Indian and tribal to capture the terminology used at different periods of times and to ensure that all potential laws were found. Using the following guidelines, the research results were reviewed to determine whether to include a particular law in the final findings.

- Laws which were applicable to just a specific tribe(s) were not included.
- Laws which solely provided for the appropriation of funds under a preexisting program were not included.
- If a law seemed to provide a benefit to an Indian nation or Indians, it was included.
- If a law amended an earlier law, the Clinic did not review the earlier law which was being amended. Instead, if it seemed that the earlier law and the amendment of that law provided a benefit to an Indian nation or Indians, it was included.
- If there was a question whether to include a law, the law was included.

When considering to include a law, the Clinic did not conduct a legal analysis under section 1735(b); namely the Clinic did not attempt to answer the question whether a law was "for the benefit of Indians [or] Indian nations" and "which would affect or preempt the application of the laws of the State of Maine." As a result, this report and its findings should not be regarded as a comprehensive list of laws triggered by section 1735(b), but rather a list of federal laws enacted after October 10, 1980 related to or which may benefit Indians and Indian nations.

The Clinic identified approximately 151 laws covering a wide range of topics. Major federal Indian legislation was enacted or amended during this 40 year period, including the Indian Civil Rights Act, Indian Self-Determination Act, American Indian Religious Freedom Act, Indian Gaming Regulatory Act, Native American Graves Protection and Repatriation Act, Indian Tribal Economic Development and Contract Encouragement Act, American Indian Probate Reform Act, Esther Martinez Native American Languages Preservation Act, Tribal Law and Order Act, and the Violence Against Women Act. The report lists all the laws by Congress, and then follows with a list of each law (again by Congress) with a brief description of the law and a web link to the full document.

We hope that this report proves helpful in the Task Force's work and we thank the Task Force for including the Clinic in this important endeavor.

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List of Laws by Congress

96th Congress

National Historic Preservation Act Amendments of 1980, P.L. 96-515
Indian Health Care Amendments of 1980, P.L. 96-537
State and Local Fiscal Assistance Act Amendments of 1980, P.L. 96-604

97th Congress

Indian Mineral Development Act of 1982, P.L. 97-382
Indian Claims Limitation Act of 1982, P.L. 97-394
Indian Tribal Governmental Tax Status Act of 1982, P.L. 473
Nuclear Waste Policy Act of 1982, P.L. 97-425
Federal Oil and Gas Royalty Management Act of 1982, P.L. 97-451
Lacey Act Amendments of 1981, P.L. 97-79

98th Congress

Per Capita Payments to Indians, P.L. 96-64
Deficit Reduction Act of 1984, P.L. 98-369
Indian Financing Act Amendments of 1984, P.L. 98-449
Old Age Assistance Claims Settlement Act, P.L. 98-500
Indian Land Consolidation Act Amendment, P.L. 98-608

99th Congress

Indian Education Technical Amendments Act of 1985, P.L. 99-89
Food Security Act of 1985, P.L. 99-198
Consolidated Omnibus Budget, P.L. 99-272
A bill to amend Title 25 relating to Indian education programs, P.L. 99-228
A bill to prevent sexual molestation of children in Indian country, P.L. 99-303
Safe Drinking Water Act Amendments of 1986, P.L. 99-339
Education of the Handicapped Amendments of 1986, P.L. 99-459
Electric Consumer Protection Act of 1986, P.L. 99-495
American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, P.L. 99-498
Rehabilitation Act Amendments of 1986, P.L. 99-506
Indian Alcohol and Substance Abuse Prevention and Treatment Act, P.L. 99-570

100th Congress

Water Quality Act of 1987, P.L. 100-4
Surface Transportation and Uniform Relocation Assistance Act of 1987, P.L. 100-17
Older Americans Act Amendments of 1987, P.L. 100-175
Public Health Service Amendments of 1987, P.L. 100-177
Agricultural Credit Act of 1987, P.L. 100-233
Housing and Community Development Act of 1987, P.L. 100-242
Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, P.L. 100-297
Abandoned Shipwreck Act of 1987, P.L. 100-298
Indian Housing Act of 1988, P.L. 100-358
Omnibus Trade and Competitiveness Act of 1988, P.L. 100-418

A bill to make clarifying, corrective, and conforming amendments to laws relating to Indian education, and for other purposes, P.L. 100-427

A bill to amend the Indian Financing Act of 1974, and for other purposes, P.L. 100-442

Indian Self-Determination and Education Assistance Act Amendments of 1988, P.L. 100-473

Family Support Act of 1988, P.L. 100-495

Indian Gaming Regulatory Act, P.L. 100-497

Technical and Miscellaneous Revenue Act of 1988, P.L. 100-649

Business Opportunity Development Reform Act of 1988, P.L. 100-656

Anti-Drug Abuse Act of 1988, P.L. 100-690

Federal Cave Resources Protection Act of 1988, P.L. 100-691

Indian Health Care Amendments of 1988, P.L. 100-713

101ST Congress

National Museum of the American Indian Act, P.L. 101-185

Amendment to the Indian Alcohol and Substance Abuse Prevention and Treatment Act, P.L. 101-272

To Authorize and Request the President to Proclaim the Month of November, 1990, and thereafter as "Native American Indian Heritage Month.", P.L. 101-343

Indian Law Enforcement Reform Act, P.L. 101-379

Indian Environmental Regulatory Enhancement Act of 1990, P.L. 101-408

Native American Languages Act, P.L. 101-477

Native American Graves Protection and Repatriation Act, P.L. 101-601

102ND Congress

To make permanent the legislative reinstatement, following the decision of Duro against Reina of the power of Indian tribes to exercise criminal jurisdiction over Indians, P.L. 102-137

Indian Environmental General Assistance Program Act of 1992, P.L. 102-497

Native American Languages Act of 1992, P.L. 102-524

103RD Congress

An Act to extend the suspended implementation of certain requirements of the food stamp program on Indian reservations, P.L. 103-11

Omnibus Budget Reconciliation Act of 1993, P.L. 103-65

Indian Tribal Justice Act, P.L. 103-176

American Indian Agricultural Resource Management Act, P.L. 103-177

Preventive Health Amendments of 1993, P.L. 103-183

Food Stamp Program Improvements Act of 1994, P.L. 103-225

School-to-Work Opportunities Act of 1994, P.L. 103-239

Human Services Amendments of 1994, P.L. 103-252

Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322

American Indian Religious Freedom Act Amendments of 1994, P.L. 103-344

National Defense Authorization Act for Fiscal Year 1995, P.L. 103-337

Small Business Administration Reauthorization and Amendments Act of 1994, P.L. 103-403

American Indian Trust Fund Management Reform Act of 1994, P.L. 103-412

Indian Self-Determination Act Amendments of 1994, P.L. 103-413

Social Security Act Amendments of 1994, P.L. 103-432

Indian Dams Safety Act of 1994, P.L. 103-600

Improving America's Schools Act of 1994, P.L. 103-761

Indian Lands Open Dump Cleanup Act of 1994, P.L. 103-783

104th Congress

Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127
Ryan White CARE Act Amendments of 1996, P.L. 104-146
Safe Drinking Water Act Amendments of 1996, P.L. 104-182
Small Business Job Protection Act of 1996, P.L. 104-188
Professional Boxing Safety Act of 1996, P.L. 104-272
National Museum of the American Indian Act Amendments of 1996, P.L. 104-278
Indian Health Care Improvement Technical Corrections Act of 1996, P.L. 104-313
National Invasive Species Act of 1996, P.L. 104-332
Native American Housing Assistance and Self-Determination Act of 1996, P.L. 104-330
To make certain technical corrections in laws relating to Native Americans, and for other purposes, P.L. 104-109

105th Congress

Balanced Budget Act of 1997, P.L. 105-33
Transportation Equity Act for the 21st Century, P.L. 105-178
Workforce Investment Partnership Act of 1998, P.L. 105-220
Department of Defense Appropriations Act, P.L. 105-262
Higher Education Amendments of 1998, P.L. 105-244
Coats Human Services Reauthorization Act of 1998, P.L. 105-285

106th Congress

Indian Tribal Economic Development and Contract Encouragement Act of 2000, P.L. 106-179
Tribal Self-Governance Amendments of 2000, P.L. 106-260
Children's Health Act of 2000, P.L. 106-310
Alaska Native and American Indian Direct Reimbursement Act of 1999, P.L. 106-417
Native American Business Development, Trade Promotion, and Tourism Act of 2000, P.L. 106-464
Indian Arts and Crafts Enforcement Act of 2000, P.L. 106-497
Indian Tribal Justice Technical and Legal Assistance Act of 2000, P.L. 106-559
Indian Land Consolidated Act Amendments of 2000, P.L. 106-462
Older Americans Act of Amendments of 2000, P.L. 106-501
Omnibus Indian Advancement Act, P.L. 106-568
American Homeownership and Economic Opportunity Act of 2000, P.L. 106-569

107th Congress

Farm Security and Rural Investment Act of 2002, P.L. 107-171
Indian Financing Amendments Act of 2002, 107-249
Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, P.L. 107-292

108th Congress

American Indian Probate Reform Act of 2004, P.L. 108-374

109th Congress

Native American Housing Enhancement Act of 2005, P.L. 109-136
Indian Land Probate Reform Technical Corrections Act of 2005, P.L. 109-157
Esther Martinez Native American Languages Preservation Act of 2006, P.L. 109-394

110th Congress

Native American Housing Assistance and Self-Determination Reauthorization Act of 2008, P.L. 110-411

111th Congress

Children's Health Insurance Program Reauthorization Act of 2009, P.L. 111-3

American Recovery and Reinvestment Act of 2009, P.L. 111-5

Serve America Act, P.L. 111-13

Patient Protection and Affordable Care Act, P.L. 111-148

Indian Arts and Crafts Amendments Act of 2010/ Tribal Law and Order Act of 2010, P.L. 111-211

Indian Veterans Housing Opportunity Act of 2010, P.L. 111-269

Claims Resolution Act of 2010, P.L. 111-291

America Competes Reauthorization Act of 2010, P.L. 111-358

112th Congress

Moving Ahead for Progress in the 21st Century Act, P.L. 112-14

Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 or HEART Act of 2012, P.L. 112-151

113th Congress

Disaster Relief Appropriations Act, P.L. 113-2

Violence Against Women Reauthorization Act of 2013, P.L. 113-4

Pandemic and All-Hazards Preparedness Reauthorization Act of 2013, P.L. 113-5

Agricultural Act of 2014, P.L. 113-79

Kilah Davenport Child Protection Act of 2013, P.L. 113-104

Water Resources Reform and Development Act of 2014, P.L. 113-121

Workforce Innovation and Opportunity Act, P.L. 113-128

Veterans Access, Choice, and Accountability Act of 2014, P.L. 113-146

Tribal General Welfare Exclusion Act of 2014, P.L. 113-168

Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183

Child Care and Development Block Grant Act of 2014, P.L. 113-186

Howard Coble Coast Guard and Maritime Transportation Act of 2014, P.L. 113-281

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Tax Increase Prevention Act of 2014, P.L. 113-295

114th Congress

Medicare Access and CHIP Reauthorization Act of 2015, P.L. 114-10

Justice for Victims of Trafficking Act of 2015, P.L. 114-22

Protecting Our Infants Act of 2015, P.L. 114-91

National Defense Authorization Act for Fiscal Year 2016, P.L. 114-280

Fixing America's Surface Transportation Act or the FAST Act, P.L. 114-94

Every Student Succeeds Act, P.L. 114-95

Native American Children's Safety Act, P.L. 114-165

Indian Trust Asset Reform Act, P.L. 114-178

Comprehensive Addiction and Recovery Act of 2016, P.L. 114-198

Native American Tourism and Improving Visitor Experience Act or the NATIVE Act, P.L. 114-221

Water Infra-structure Improvements for the Nation Act, P.L. 114-322

115th Congress

Indian Employment, Training and Related Services Consolidation Act of 2017, P.L. 115-93

Tribal Social Security Fairness Act of 2018, P.L. 115-243

Indian Tribal Energy Development and Self-Determination Act Amendments of 2017, P.L. 115-325

Johnson-O'Malley Supplemental Indian Education Program Modernization Act, P.L. 115-404

116th Congress

John D. Dingell, Jr. Conservation, Management and Recreation Act, P.L. 116-9

Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019, P.L. 116-22

Taxpayer First Act, P.L. 116-25

Autism Collaboration, Accountability, Research, Education, and Support Act of 2019, P.L. 116-60

96TH CONGRESS (1980)

Public Law Number: 96-515

Name of Law: National Historic Preservation Act Amendments of 1980

Description: Declares that it shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals, to: (1) use measures to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony; (2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations; (3) administer federally owned, administered, or controlled prehistoric and historic resources; (4) contribute to the preservation of non federally owned prehistoric and historic resources; (5) encourage the public and private preservation and utilization of all usable elements of the Nation's environment; and (6) assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg2987.pdf#page=1>

Public Law Number: 96-537

Name of Law: Indian Health Care Amendments of 1980

Description: Primarily an appropriations bill, but does amend the Indian Health Care Improvement Act to direct the Secretary of Health and Human Services to assist tribal organizations in administering programs on or near Federal Indian reservations and in or near Alaska Native villages, to assist Indians to enroll for Medicare benefits and to apply for Medicaid benefits. Directs the Secretary to enter into contracts with urban and rural tribal organizations to establish and administer programs to make health services more accessible to Indian populations. Requires such organizations to submit a report for each fiscal year on the expenditure of funds received under such contracts. Makes such report subject to audit by the Secretary and the Comptroller General.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg3173.pdf#page=4>

Public Law Number: 96-604

Name of Law: State and Local Fiscal Assistance Act Amendments of 1980

Description: Removes the requirement that governments of Indian tribes and Alaskan native villages spend revenue sharing funds for the benefit of members of the tribe or village according to the county in which they reside.

Link: <https://uscode.house.gov/statutes/pl/96/604.pdf>

97TH CONGRESS (1981-1982)

Public Law Number: 97-382

Name of Law: Indian Mineral Development Act of 1982

Description: To permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-96/pdf/STATUTE-96-Pg1938.pdf>

Public Law Number: 97-394

Name of Law: Indian Claims Limitation Act of 1982

Description: Part of an larger appropriations bill; makes amendments to timing of Indian Claims (28 U.S.C. 2415)

Link: <https://www.govinfo.gov/content/pkg/STATUTE-96/pdf/STATUTE-96-Pg1966.pdf>

Public Law Number: 97-473

Name of Law: Indian Tribal Governmental Tax Status Act of 1982

Description: Treating tribal government as states for certain tax purposes

Link: <https://uscode.house.gov/statutes/pl/97/473.pdf>

Public Law Number: 97-425

Name of Law: Nuclear Waste Policy Act of 1982

Description: Requires the Secretary to notify the State in which, or the Indian tribe on whose reservation, a repository for high-level radioactive waste or spent nuclear fuel from atomic energy defense activities or from research and development activities of the Secretary is proposed to be located. Entitles the State or Indian tribe involved to rights of participation and consultation with respect to the development of such a repository.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-96/pdf/STATUTE-96-Pg2201.pdf>

Public Law Number: 97-451

Name of Law: Federal Oil and Gas Royalty Management Act of 1982

Description: Title II address oil and gas leases on Indian lands, including entering into cooperative agreements

Link: <https://www.govinfo.gov/content/pkg/STATUTE-96/pdf/STATUTE-96-Pg2447.pdf>

Public Law Number: 97-79

Name of Law: Lacey Act Amendments of 1981

Description: Repeals provisions of Federal law prohibiting commerce in wildlife and fish (the Lacey and Black Bass Acts). Sets forth prohibitions against trade in any fish or wildlife taken or possessed in violation of Federal, Indian tribal, State, or foreign law. Adds a new prohibition against trade in plants which are subject to State conservation of species laws.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-95/pdf/STATUTE-95-Pg1073.pdf>

98TH CONGRESS (1983-1984)

Public Law Number: 98-64

Public Law Name: Per Capita Payments to Indians

Description: To provide that per capita payments to Indians may be made by tribal governments, and for other purposes; Funds held in trust by the Secretary of Interior for an Indian tribe and which are to be distributed per capita to members of that tribe may be distributed by either the Secretary or at the request of the governing body of the tribe and subject to approval of the Secretary.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-97/pdf/STATUTE-97-Pg365.pdf>

Public Law Number: 98-369

Name of Law: Deficit Reduction Act of 1984

Description: Amends rules treating Indian Tribal governments as States to be permanent and expanded

Link: Unable to find

Public Law Number: 98-449

Name of Law: Indian Financing Act Amendments of 1984

Description: To reauthorize and amend the Indian Financing Act (1974); including securities for Indian-owned economic enterprises

Link: Unable to find

Public Law Number: 98-451

Name of Law: Indian Trust Fund Interest Rates Amendment, 1984

Description: "That all funds held in trust by the US and carried in principal accounts on the books of the US Treasury to the credit of Indian Tribes shall be invested by the Secretary of Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved and bearing interest.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-98/pdf/STATUTE-98-Pg1729.pdf>

Public Law Number: 98-500

Name of Law: Old Age Assistance Claims Settlement Act

Description: To compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-98/pdf/STATUTE-98-Pg2317.pdf#page=1>

Public Law Number: 98-608

Name of Law: Indian Land Consolidation Act Amendment

Description: Technical amendments

Link: <https://www.govinfo.gov/content/pkg/STATUTE-98/pdf/STATUTE-98-Pg3171.pdf>

99TH CONGRESS (1985-1986)

Public Law Number: 99-89

Name of Law: Indian Education Technical Amendments Act of 1985

Description: Technical amendments to Title XI of the Education Amendments of 1978, relating to Indian Education Programs, including establishment of standards

Link: <https://www.govinfo.gov/content/pkg/STATUTE-99/pdf/STATUTE-99-Pg379.pdf>

Public Law Number: 99-198

Name of Law: Food Security Act of 1985

Description: Section on employment and training: "The Secretary shall promulgate guidelines that (i) enable State agencies, to the maximum extent practicable, to design and operate an employment and training program that is compatible and consistent with similar programs operated within the State, and (ii) ensure, to the maximum extent practicable, that employment and training programs are provided for Indians on reservations."

Link: <https://www.govinfo.gov/content/pkg/STATUTE-99/pdf/STATUTE-99-Pg1354.pdf>

Public Law Number: 99-272

Name of Law: Consolidated Omnibus Budget

Description: Amendments to Public Service Act to allow for Secretary to enter into contracts of fiscal agents on Indian health services; amendments to eligibility of small business owned by Indian tribes; determination of economic disadvantage of an Indian; creation of advisory committee on native American veterans

Link: <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg82.pdf>

Public Law Number: 99-228

Name of Law: A bill to amend Title 25 relating to Indian education programs

Description: Amends definition of "eligible Indian student"; provides exceptions for when the Secretary of Interior can permit a student to attend a BIA school if they are not an eligible Indian student

Link: <https://www.govinfo.gov/content/pkg/STATUTE-99/pdf/STATUTE-99-Pg1747.pdf>

Public Law Number: 99-303

Name of Law: A bill to prevent sexual molestation of children in Indian country

Description: Amends the Major Crimes Act with respect to crimes in Indian country to include the crime of felonious sexual molestation of a minor

Link: <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg438.pdf>

Public Law Number: 99-339

Name of Law: Safe Drinking Water Act Amendments of 1986

Description: Authorizes the Administrator to make special provisions for treating Indian tribes as States under this Act; directs the administrator to conduct a survey of drinking water on Indian reservations within one year of this Act's enactment

Link: <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg642.pdf>

Public Law Number: 99-457

Name of Law: Education of the Handicapped Amendments of 1986

Description: Secretary may make grants to and cooperative agreements with the Secretary of the Interior to remove architectural barriers in schools serving Indians on reservations; Includes tribes in cooperative agreements on early education of handicapped children.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg1145.pdf>

Public Law Number: 99-495

Name of Law: Electric Consumer Protection Act of 1986

Description: Amends the Federal Power Act to environmental protections and relicensing of electricity generating projects, including those on Indian lands.

Link: <https://www.usbr.gov/power/legislation/ecpa.pdf>

Public Law Number: 99-498

Name of Law: American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act

Description: Creation of Institute of American Indian and Alaska Native Culture and Arts Development to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture

Link: <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg1268.pdf>

Public Law Number: 99-506

Name of Law: Rehabilitation Act Amendments of 1986

Description: American Indian vocational rehabilitation services; study of needs of American Indians with handicaps.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg1807.pdf#page=4>

Public Law Number: 99-570

Name of Law: Indian Alcohol and Substance Abuse Prevention and Treatment Act

Description: Act authorizes and develops a comprehensive, coordinated attack upon the illegal narcotics traffic in Indian country and the deleterious impact of alcohol and substance abuse upon Indian tribes and their members and provides authority and opportunities for Indian tribes to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level. Part of the larger bill which also includes programs for Indian youth, to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior; amendments to the Indian Elementary and Secondary School Assistance Act.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg3207.pdf>

100th CONGRESS (1987-1988)

Public Law Number: 100-4

Name of Law: Water Quality Act of 1987

Description: TITLE V: To amend the Federal Water Pollution Control Act to provide for the renewal of the Feb. 4, 1987 quality of the Nation's waters. Authorizes the Administrator to treat Indian Tribes specially or as States as required to meet such tribes' sewage treatment needs.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-101/pdf/STATUTE-101-Pg7.pdf>

Public Law Number: 100-17

Name of Law: Surface Transportation and Uniform Relocation Assistance Act of 1987

Description: Authorizes the preferential employment of Indians on construction projects and contracts on Indian reservation roads.

Amendment: Federal-Aid Highway Act of 1956

Link: <https://www.govinfo.gov/content/pkg/STATUTE-101/pdf/STATUTE-101-Pg132.pdf>

Public Law Number: 100-175

Name of Law: Older Americans Act Amendments of 1987

Description: Amend the Older Americans Act of 1965 to include grants for Native Americans.

Link: <https://history.nih.gov/research/downloads/PL100-175.pdf>

Public Law Number: 100-177

Name of Law: Public Health Service Amendments of 1987

Description: Amends the Public Health Service Act to require the Secretary, in assigning members of the Corps to health manpower shortage areas, to: (1) give priority to meeting the needs of the Indian Health Service and the needs of health programs or facilities operated by tribes or tribal organizations.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-101/pdf/STATUTE-101-Pg986.pdf#page=5>

Public Law Number: 100-233

Name of Law: Agricultural Credit Act of 1987

Description: Addresses disposition and leasing on farm lands, including on Indian reservations.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-101/pdf/STATUTE-101-Pg1568.pdf>

Public Law Number: 100-242

Name of Law: Housing and Community Development Act of 1987

Description: Requires Secretary to provide mortgages to certain properties within Indian reservations

Link: <https://www.govinfo.gov/content/pkg/STATUTE-101/pdf/STATUTE-101-Pg1815.pdf>

Public Law Number: 100-297

Name of Law: Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988

Description: Reserves one percent of basic grant funds to BIA schools; provides for the basic grant program for Indian children and Indian youth in schools funded by federal govt. Title V: Indian Education sets forth provisions relating to education, bureau and contract schools, tribally controlled school grants, financial assistance to local educational agencies, special programs and projects to improve educational opportunities for Indian children, special programs relating to Adult education for Indians.

Amendment: Elementary and Secondary Education Act of 1965

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg130.pdf>

Public Law Number: 100-298

Name of Law: Abandoned Shipwreck Act of 1987

Description: Any abandoned shipwreck in or on any Indian lands is property of tribe owning such lands.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg432.pdf>

Public Law Number: 100-358

Name of Law: Indian Housing Act of 1988

Description: Amends the United States Housing Act of 1937 to establish a separate assisted housing program for Indians

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg676.pdf>

Public Law Number: 100-418

Name of Law: Omnibus Trade and Competitiveness Act of 1988

Description: Authorizes the secretary of commerce to provide grants to entities for the development of foreign markets for American Indian arts and crafts.

Link: <https://www.govinfo.gov/content/pkg/USCODE-2011-title19/pdf/USCODE-2011-title19-chap20.pdf>

Public Law Number: 100-427

Name of Law: A bill to make clarifying, corrective, and conforming amendments to laws relating to Indian education, and for other purposes

Description: Makes technical, and conforming amendments to the Education Amendments of 1978 regarding: Bureau of Indian Affairs funded schools, coordinated programs among the tribe

Amendments: Education Amendments of 1978, Tribally Controlled Schools Acts of 1988, Indian Education Act of 1988

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg1603.pdf>

Public Law Number: 100-442

Name of Law: A bill to amend the Indian Financing Act of 1974, and for other purposes

Description: Amends the Indian Financing Act of 1974 to increase the amount of loans to individual Indians or economic enterprises

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg1763.pdf>

Public Law Number: 100-472

Name of Law: Indian Self-Determination and Education Assistance Act Amendments of 1988

Description: Directs the Secretary, upon the request of any Indian tribe by tribal resolution, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs or portions thereof for: (1) the transfer of certain hospitals and health services; (2) construction programs administered by the Secretary for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior; and (3) any program for the benefit of Indians without regard to the agency of the Department of Health and Human Services or the Department of the Interior within which it is performed. Authorizes the Secretary, upon the request of any tribal organization, to contract with or make a grant to any tribal organization for: (1) obtaining technical assistance from providers designated by the tribal organization; and (2) planning, designing, monitoring, and evaluating Federal programs serving the tribe. Makes technical assistance provided by the Secretary in the development of self-determination contracts subject to the availability of appropriations.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg2285.pdf>

Public Law Number: 100-485

Name of Law: Family Support Act of 1988

Description: Amends the AFDC program to require States to establish a job opportunities and basic skills training program (Program) which helps needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence. Allows Indian tribes to apply directly to Secretary within 6 months of enactment to establish and administer their own Programs.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg2343.pdf>

Public Law Number: 100-497

Name of Law: Indian Gaming Regulatory Act

Description: Establishes the jurisdictional framework that governs gaming activity on Indian Lands.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg2467.pdf>

Public Law Number: 100-647

Name of Law: Technical and Miscellaneous Revenue Act of 1988

Description: Amends the Internal Revenue Code to prohibit the imposition of any Federal income or employment tax in connection with income derived by an Indian or Indian tribe from the exercise rights secured by treaty, Executive order, or Act of Congress.

Link: <https://www.givemeliberty.org/docs/TaxResearchCD/Statutes/102Stat3499.pdf>

Public Law Number: 100-656

Name of Law: Business Opportunity Development Reform Act of 1988

Description: Exempts economically disadvantaged Indian tribes from specified requirements for competition for set-aside contracts.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg3853.pdf>

Public Law Number: 100-690

Name of Law: Anti-Drug Abuse Act of 1988

Description: Amends Victims of Crime Act of 1984 to allow for grants to tribes to address child abuse cases. Amends Juvenile Justice and Delinquency Prevention Act of 1974 to allow for programs to tribes addressing juvenile detention.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg4181.pdf>

Public Law Number: 100-691

Name of Law: Federal Cave Resources Protection Act of 1988

Description: Authorizes the Secretary of the Interior to delegate permit authority to an Indian tribe for caves on Indian lands at a tribe's request. Requires a tribe's permission before the removal of any cave resource on such tribe's land. Entitle tribes to notice before the issuance of a permit if the Secretary determines that possible harm or destruction of a religious or cultural site may occur.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg4546.pdf>

Public Law Number: 100-713

Name of Law: Indian Health Care Amendments of 1988

Description: Reauthorize and amend the Indian Health Care Improvement Act

Link: <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg4784.pdf>

101ST CONGRESS (1989-1990)

Public Law Number: 101-185

Name of Law: National Museum of the American Indian Act

Description: Establishes within the Smithsonian Institution a memorial to Native Americans to be known as the Nation Museum of the American Indian, to provide for the study and research of Native Americans and their culture and the collection and exhibition of Native American objects.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-103/pdf/STATUTE-103-Pg1336.pdf#page=1>

Public Law Number: 101-272

Name of Law: Amendment to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.

Description: Allows Indian tribes to lease non-Indian land for substance abuse treatment centers.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg137.pdf>

Public Law Number: 101-343

Name of Law: To Authorize and Request the President to Proclaim the Month of November, 1990, and thereafter as "Native American Indian Heritage Month."

Description: Designates November as Native American Indian Heritage Month **Amendment:** N/A

Link: <https://www.loc.gov/law/help/commemorative-observations/pdf/Pub.%20L.%20101-343.pdf>

Public Law Number: 101-379

Name of Law: Indian Law Enforcement Reform Act

Description: Clarify and strengthen the authority for certain Department of the Interior law enforcement services, activities, and officers in Indian country, and for other purposes.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg473.pdf>

Public Law Number: 101-408

Name of Law: Indian Environmental Regulatory Enhancement Act of 1990

Description: Authorizes grants to improve the capability of Indian tribal governments to regulate environmental quality

Amendment: Amends the Native American Programs Act of 1974.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg883.pdf>

Public Law Number: 101-477

Name of Law: Native American Languages Act

Description: Promotes the rights and uses of Native languages through schools and other program

Link: <https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg1152.pdf>

Public Law Number: 101-601

Name of Law: Native American Graves Protection and Repatriation Act.

Description: To provide for the protection of Native American Graves

Link: <https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg3048.pdf#page=5>

102ND CONGRESS (1991-1992)

Public Law Number: 102-137

Name of Law: To make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W, May 29, 1990), of the power of Indian tribes to exercises criminal jurisdiction over Indians.

Description: Makes permanent the legislative reinstatement of the power of tribal courts to exercise criminal misdemeanor jurisdiction over nonmember Indians.

Amendment: Department of Defense Appropriations Act, 1991

Link: <https://www.govinfo.gov/content/pkg/STATUTE-105/pdf/STATUTE-105-Pg646.pdf#page=1>

Public Law Number: 102-497

Name of Law: Indian Environmental General Assistance Program Act of 1992

Description: Provides general assistance grants to eligible Indian tribal governments or intertribal consortia to cover the costs of planning, developing, and establishing environmental protection programs on Indian lands.

Link: <https://www.govinfo.gov/content/pkg/STATUTE-106/pdf/STATUTE-106-Pg3255.pdf#page=7>

Public Law Number: 102-524

Name of Law: Native American Languages Act of 1992

Description: Directs the Secretary of Health and Human Services to award grants to eligible tribal governments and Native American organizations to assist Native Americans in assuring the survival and continuing vitality of their languages.

Amendment: Amends the Native American Programs Act of 1974

Link: <https://www.govinfo.gov/content/pkg/STATUTE-106/pdf/STATUTE-106-Pg3434.pdf>

103RD CONGRESS (1993-1994)

Public Law Number: 103-11

Name of Law: An Act to extend the suspended implementation of certain requirements of the food stamp program on Indian reservations.

Description: Amends the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 to delay until January 31, 1994, implementation of food stamp program provisions: (1) requiring staggered coupon issuance to participating households on Indian reservations; and (2) exempting such households from the program's monthly reporting option.

Link: <https://www.congress.gov/103/bills/s284/BILLS-103s284enr.pdf>

Public Law Number: 103-66

Name of Law: Omnibus Budget Reconciliation Act of 1993

Description: To provide for reconciliation pursuant to section 7 of the concurrent Resolution on the budget for fiscal year 1994. Includes various tax benefits, credits and deductions for Indians and tribes.

Link: <https://www.congress.gov/103/bills/hr2264/BILLS-103hr2264enr.pdf>

Public Law Number: 103-176

Name of Law: Indian Tribal Justice Act

Description: Establishes within the BIA the office of Tribal Justice Support to further the development of tribal justice systems and Courts of Indian offenses including through agreements with tribes under Indian Self-Determination and Education Assistance Act. Also authorizes funds for tribal judicial conferences.

Link: <https://www.congress.gov/103/bills/hr1268/BILLS-103hr1268enr.pdf>

Public Law Number: 103-177

Name of Law: American Indian Agricultural Resource Management Act

Description: To improve the management, productivity, and use of Indian agricultural land and resources through farmland enhancement, education, and training programs.

Link: <https://www.congress.gov/103/bills/hr1425/BILLS-103hr1425enr.pdf>

Public Law Number: 103-183

Name of Law: Preventive Health Amendments of 1993

Description: To amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer. Allows the grants to be made to tribes and tribal organizations. Includes these changes in evaluation and reporting requirements.

Link: <https://www.congress.gov/103/bills/hr2202/BILLS-103hr2202enr.pdf>

Link: <https://www.congress.gov/103/bills/s1777/BILLS-103s1777enr.pdf>

Public Law Number: 103-225

Name of Law: Food Stamp Program Improvements Act of 1994

Description: To amend the Food Stamp Act of 1977 to modify the requirements relating to monthly reporting and staggered issuance of coupons for households residing on Indian reservations, to ensure adequate access to retail food stores by food stamp households, and to maintain the integrity of the food stamp program, and for other purposes.

Amendment: Amends the Food Stamp Act of 1977.

Link: <https://www.congress.gov/103/bills/s1926/BILLS-103s1926enr.pdf>

Public Law Number: 103-239

Name of Law: School-to-Work Opportunities Act of 1994

Description: To establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes. Development and Implementation Grants for School-to-Work Programs for Indian Youths - Directs the Secretaries to provide grants for SWO programs for Indian youths that involve schools funded by the Bureau of Indian Affairs.

Link: <https://www.congress.gov/103/bills/hr2884/BILLS-103hr2884enr.pdf>

Public Law Number: 103-252

Name of Law: Human Services Amendments of 1994

Description: Require Head Start agencies to provide that those on Indian reservations include members of Indian Tribes living near the reservation and authorizes the secretary to take certain funds to buy facilities owned by Indian tribes and make them suitable Head Start facilities; Other sections revise provisions and allows Indian tribes to enroll additional children (who don't meet low-income standards) in Head Start programs and adds a study of availability and delivery to Indian children living on or near reservations, Alaskan natives, and children of migrant and seasonal farmworkers.

Link: <https://www.congress.gov/103/bills/s2000/BILLS-103s2000enr.pdf>

Public Law Number: 103-322

Name of Law: Violent Crime Control and Law Enforcement Act of 1994

Description: Authorizes attorney general to make grants to Indian tribal governments (and others) to increase police presence, expand and improve cooperative efforts between law enforcement agencies and community members to enhance public safety.

Amendment: Amends the Omnibus Crime Control and Safe Streets Act of 1968 (Omnibus Act).

Link: <https://www.congress.gov/103/bills/hr3355/BILLS-103hr3355enr.pdf>

Public Law Number: 103-337

Name of Law: National Defense Authorization Act for Fiscal Year 1995

Description: Sec. 322 allows any federally recognized Indian tribe to participate in DOD (department of defense) environmental restoration programs.

Link: <https://www.congress.gov/103/bills/s2182/BILLS-103s2182enr.pdf>

Public Law Number: 103-344

Name of Law: American Indian Religious Freedom Act Amendments of 1994

Description: Permits the traditional use of peyote for Indian religious purposes. States that this Act shall not prohibit: (1) the Drug Enforcement Agency from reasonably regulating persons who cultivate, harvest, or distribute peyote; and (2) a Federal agency from reasonably limiting peyote use in circumstances of public safety.

Amendment: Amends the American Indian Religious Freedom Act.

Link: <https://www.congress.gov/103/bills/hr4230/BILLS-103hr4230enr.pdf>

Public Law Number: 103-403

Name of Law: Small Business Administration Reauthorization and Amendments Act of 1994

Description: Authorizes agencies or nonprofit entities established by a Native American tribal government to be Microloan intermediaries.

Amendment: Amends the Small Business Act and the Small Business Investment Act of 1958.

Link: <https://www.congress.gov/103/bills/s2060/BILLS-103s2060enr.pdf>

Public Law Number: 103-412

Name of Law: American Indian Trust Fund Management Reform Act of 1994

Description: Amends Federal law to require the Secretary of the Interior (Secretary) to take specified actions to properly discharge U.S. trust responsibilities with regard to Indian funds investment. Reforms the management of Indian trust funds, including Indian trust fund management program, and creating a Special Trustee for American Indians.

Link: <https://www.congress.gov/103/bills/hr4833/BILLS-103hr4833enr.pdf>

Public Law Number: 103-413

Name of Law: Indian Self-Determination Act Amendments of 1994

Description: To specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes. Amends the Indian Self-Determination and Education Assistance Act to add a definition of the term "construction contract," excluding planning services contracts, Bureau of Indian Affairs (BIA) roads maintenance contracts, Housing Improvement Program contracts, and Health and Human Services health facility maintenance and improvement contracts. Requires annual consultation with Indian tribes and organizations when developing the budget for Indian Health Service with BIA. Adds new title on self-governance – expresses congressional findings and declares that it is the policy of this title to permanently establish and implement tribal self-governance.

Link: <https://www.congress.gov/103/bills/hr4842/BILLS-103hr4842enr.pdf>

Public Law Number: 103-432

Name of Law: Social Security Act Amendments of 1994

Description: Makes amendments to the Social Security Act. Amends coverage of Indians in JOBS program. Sec. 204 requires a State part B plan to describe specific measures taken by the State to comply with the Indian Child Welfare Act.

Link: <https://www.congress.gov/103/bills/hr5252/BILLS-103hr5252enr.pdf>

Public Law Number: 103-600

Name of Law: Indian Dams Safety Act of 1994

Description: To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

Link: <https://www.congress.gov/103/bills/hr1426/BILLS-103hr1426enr.pdf>

Public Law Number: 103-761

Name of Law: Improving America's Schools Act of 1994

Description: Extends for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for certain other purposes. Establishes a new ESEA title IX, Indian, Native Hawaiian, and Alaska Native Education, which adds revised Indian Education Act programs to ESEA to improve educational opportunities for children

Link: <https://www.congress.gov/103/bills/hr6/BILLS-103hr6enr.pdf>

Public Law Number: 103-783

Name of Law: Indian Lands Open Dump Cleanup Act of 1994

Description: To clean up open dumps on Indian lands, and for other purposes. Requires the Director of the Indian Health Service to: (1) study and inventory open dumps on Indian and Alaska Native lands; and (2) develop and implement a ten-year plan to address solid waste disposal needs on such lands. Enter into agreements with tribes and provides for tribe demonstration project.

Link: <https://www.congress.gov/103/bills/s720/BILLS-103s720enr.pdf>

104th CONGRESS (1995-1996)

Public Law Number: 104-127

Name of Law: Federal Agriculture Improvement and Reform Act of 1996

Description: To modify the operation of certain agricultural programs. Amends the Consolidated Farm and Rural Development Act to establish a rural community advancement program of grants, loans, guarantees, and other assistance to local communities and federally recognized Indian tribes. Establishes in the Treasury a Rural Development Trust Fund. Authorizes a rural venture capital demonstration program.

Link: <https://www.congress.gov/104/plaws/publ127/PLAW-104publ127.pdf>

Public Law Number: 104-146

Name of Law: Ryan White CARE Act Amendments of 1996

Description: Ensure the ongoing availability of services for Native American communities to enable such communities to care for Native Americans with HIV disease.

Link: <https://www.congress.gov/104/plaws/publ146/PLAW-104publ146.pdf>

Public Law Number: 104-182

Name of Law: Safe Drinking Water Act Amendments of 1996

Description: Provides for grants to tribes on small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water to regulations.

Link: <https://www.congress.gov/104/plaws/publ182/PLAW-104publ182.pdf>

Public Law Number: 104-188

Name of Law: Small Business Job Protection Act of 1996

Description: To provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers. Tribes as employers and as tax-exempt organizations eligible under section 401(k) and other deductions.

Link: <https://www.congress.gov/104/plaws/publ188/PLAW-104publ188.pdf>

Public Law Number: 104-272

Name of Law: Professional Boxing Safety Act of 1996

Description: Includes sections on professional boxing on Indian reservations.

Link: <https://www.congress.gov/104/plaws/publ272/PLAW-104publ272.pdf>

Public Law Number: 104-278

Name of Law: National Museum of the American Indian Act Amendments of 1996

Description: Amends the National Museum of the American Indian Act to require the Smithsonian Institution to expedite the repatriation of such objects where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation.

Link: <https://www.congress.gov/104/plaws/publ278/PLAW-104publ278.pdf>

Public Law Number: 104-313

Name of Law: Indian Health Care Improvement Technical Corrections Act of 1996

Description: Makes technical corrections to the Indian Health Care Improvement Act concerning allopathic medicine and Indian health professions scholarships and active duty service obligations.

Link: <https://www.congress.gov/104/plaws/publ313/PLAW-104publ313.pdf>

Public Law Number: 104-322

Name of Law: National Invasive Species Act of 1996

Description: To provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes. Provides for interstate (in addition to existing State) aquatic nuisance species management plans, allowing Indian tribes as well as States to participate.

Amendment: Amends the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Link: <https://www.congress.gov/104/plaws/publ332/PLAW-104publ332.pdf>

Public Law Number: 104-330

Name of Law: Native American Housing Assistance and Self-Determination Act of 1996

Description: To provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes.

Link: <https://www.congress.gov/104/plaws/publ330/PLAW-104publ330.pdf>

Public Law Number: 104-109

Name of Law: To make certain technical corrections in laws relating to Native Americans, and for other purposes.

Description: To make certain technical corrections in laws relating to Native Americans, and for other purposes. Makes technical amendments to the following acts: Indian Lands Open Dump Cleanup Act of 1994; Indian Self- Determination Contract Reform Act of 1994, and Native American Languages Act. Amends the Indian Self-Determination and Education Assistance Act to allow a participating tribe the option to incorporate self-determination provisions of title I into an agreement entered into under titles III or IV of the Act.

Link: <https://www.congress.gov/104/plaws/publ109/PLAW-104publ109.pdf>

105TH CONGRESS (1997-1998)

Public Law Number: 105-33

Name of Law: Balanced Budget Act of 1997

Description: Directs the Secretary to make grants for services for the prevention and treatment of type I diabetes in Indians through the Indian Health Service and tribal and urban Indian health programs. Amends SSA title IV part D (Child Support and Establishment of Paternity) to modify child support requirements affecting: ... (9) direct Federal grants to Indian tribes for child support enforcement.

Link: <https://www.congress.gov/105/plaws/publ33/PLAW-105publ33.pdf>

Public Law Number: 105-178

Name of Law: Transportation Equity Act for the 21st Century

Description: Amends the emergency relief provisions to authorize an emergency fund for expenditure by the Secretary, subject to specified restrictions, for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds to have suffered serious damage as a result of natural disaster over a wide area or catastrophic failure for any external cause.

Link: <https://www.congress.gov/105/plaws/publ178/PLAW-105publ178.pdf>

Public Law Number: 105-220

Name of Law: Workforce Investment Partnership Act of 1998

Description: Native American programs to support employment and training programs and provides for workforce investment activities and supplemental services under programs for Indians. American Indian vocational rehabilitation programs.

Link: <https://www.congress.gov/105/plaws/publ220/PLAW-105publ220.pdf>

Public Law Number: 105-244

Name of Law: Higher Education Amendments of 1998

Description: Directs the Secretary to provide grants and related assistance to American Indian Tribe Colleges and Universities to improve and expand their capacity to serve Indian students.

Link: <https://www.congress.gov/105/plaws/publ244/PLAW-105publ244.pdf>

Public Law Number: 105-262

Name of Law: Department of Defense Appropriations Act

Description: Authorizes Secretary to carry out program to distribute surplus dental equipment to Indian health service facilities and to federal-qualified health centers.

Link: <https://www.congress.gov/105/plaws/publ262/PLAW-105publ262.pdf>

Public Law Number: 105-285

Name of Law: Coats Human Services Reauthorization Act of 1998

Description: Provides for grants to community food and nutrition programs to benefits Indians.

Link: <https://www.congress.gov/105/plaws/publ285/PLAW-105publ285.pdf>

106TH CONGRESS (1999-2000)

Public Law Number: 106-179

Name of Law: Indian Tribal Economic Development and Contract Encouragement Act of 2000

Description: To encourage Indian economic development, to provide for the disclosure of Indian tribal sovereign immunity in contracts involving Indian tribes, and for other purposes.

Amendment: Amends the Indian Reorganization Act to remove a requirement that a tribe's choice of legal counsel and fixing of fees be subject to the Secretary's approval.

Link: <https://www.congress.gov/106/plaws/publ179/PLAW-106publ179.pdf>

Public Law Number: 106-260

Name of Law: Tribal Self-Governance Amendments of 2000

Description: Amends the Indian Self-Determination and Education Assistance Act to direct the Secretary of Health and Human Services (HHS) to establish a Tribal Self-Governance Program within the Indian Health Service of HHS to provide further self-governance by Indian tribes. Directs the Secretary, at the request of an Indian tribe, to enter into an agreement for the acquisition of any goods, services or supplies available to the Secretary from other Federal agencies that are not directly available to the tribe under this Act or any other Federal law, including acquisitions from prime vendors. Allows patient records, at the option of an Indian tribe or tribal organization, to be deemed Federal records under the Federal Records Act of 1950 for the limited purpose of making such records eligible for storage by the Federal Records Center to the same extent as other HHS patient records.

Link: <https://www.congress.gov/106/plaws/publ260/PLAW-106publ260.pdf>

Public Law Number: 106-310

Name of Law: Children's Health Act of 2000

Description: Direct the secretary to make grants, contracts, or cooperative agreements for alcohol and drug prevention or treatment services for Indians and Alaska Natives. Also establishes a Commission for Indian and Native Alaskan Health Care to study health concerns of Indians and Native Alaskans. Authorizes the director for the Center for Substance Abuse Treatment to make grants to States and Indian tribes recognized by the U.S. to have a higher rate or have a rapid increase in methamphetamine or amphetamine abuse or addiction. Permits tribes to expand activities in connection to treatment in specific geographic areas.

Link: <https://www.congress.gov/106/plaws/publ310/PLAW-106publ310.pdf>

Public Law Number: 106-417

Name of Law: Alaska Native and American Indian Direct Reimbursement Act of 1999

Description: To amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of Medicare, Medicaid, and other third party payers, and to expand the eligibility under such program to other tribes and tribal organizations

Link: <https://www.congress.gov/106/plaws/publ417/PLAW-106publ417.pdf>

Public Law Number: 106-447

Name of Law: Indian Tribal Regulatory Reform and Business Development Act of 2000

Description: Directs Secretary of Commerce to establish the Regulatory Reform and Business Development on Indian Lands Authority to facilitate identifying and removing obstacles to investment, business development, and the creation of wealth with respect to Native American economies.

Link: <https://www.congress.gov/106/plaws/publ447/PLAW-106publ447.pdf>

Public Law Number: 106-464

Name of Law: Native American Business Development, Trade Promotion, and Tourism Act of 2000

Description: Provides financial and technical assistance and administrative services for business development and legal and regulatory compliance to Indian tribes, organizations, and businesses (eligible entities); and (2) other assistance to enhance the economies of Indian tribes.

Link: <https://www.congress.gov/106/plaws/publ464/PLAW-106publ464.pdf>

Public Law Number: 106-559

Name of Law: Indian Tribal Justice Technical and Legal Assistance Act of 2000

Description: Directs the Attorney General, in consultation with the Office of Tribal Justice and the Department of Justice to award grants to (2) non-profit entities that provide legal assistance services for Indian tribes, members of Indian tribes, or tribal justice programs; Title II: Indian Tribal Courts; Title IV: National Leadership Symposium for American Indian, Alaskan Native, and Native Hawaiian Youth

Link: <https://www.congress.gov/106/plaws/publ559/PLAW-106publ559.pdf>

Public Law Number: 106-462

Name of Law: Indian Land Consolidated Act Amendments of 2000

Description: Piloted the Indian Land Consolidation program. Sets forth various provisions such as the acquisition of fractional interests in Indian trust or restricted lands. Requires the Secretary to provide estate-planning assistance to Indian land owners.

Amendment: Amends the Indian Land Consolidated Act

Link: <https://www.congress.gov/106/plaws/publ462/PLAW-106publ462.pdf>

Public Law Number: 106-497

Name of Law: Indian Arts and Crafts Enforcement Act of 2000

Description: Provides that in a civil action brought against a person who offers or displays for sale or sells a good in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization resident within the United States, damages shall include any and all gross profits accrued by the defendant as a result of such activities.

Amendment: Amends the 1990 Indian Arts and Crafts Act

Link: <https://www.congress.gov/106/plaws/publ497/PLAW-106publ497.pdf>

Public Law Number: 106-501

Name of Law: Older Americans Act of Amendments of 2000

Description: Establishes a Native American caregiver support program.

Link: <https://www.congress.gov/106/plaws/publ501/PLAW-106publ501.pdf>

Public Law Number: 106-568

Name of Law: Omnibus Indian Advancement Act

Description: Amendments to Native American Home Ownership and housing assistance and Indian Employment, Training and Related Services to: (1) revise requirements regarding affected programs to include programs for assisting Indian youth and adults to succeed in the workforce, encouraging self-sufficiency, familiarizing them with the world of work, facilitating the creation of job opportunities, and any services related to these activities (replacing current law requirements of job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training); (2) require the Secretary of the Interior to reconsider disapproval of any statutory waiver requested by a tribe.

Link: <https://www.congress.gov/106/plaws/publ568/PLAW-106publ568.pdf>

Public Law Number: 106-569

Name of Law: American Homeownership and Economic Opportunity Act of 2000

Description: Amends the Housing and Community Development Act of 1992 to make permanent the Indian housing loan guarantee authority. Amends the Native American Housing Assistance and Self-Determination Act of 1996 to: (1) restrict the Secretary's authority to waive housing plan requirements to not more than 90 days; (2) permit the Secretary to waive local cooperation requirements upon a good faith showing and agreement to make certain payments in lieu of taxes; (3) permit assistance to Indian families that are not low-income upon a showing of need; (4) eliminate separate housing plan requirements for small tribes; (5) permit the Secretary to waive certain environmental review requirements under specified conditions; (6) permit reservation housing assistance for specified full-time Federal, State, county, or tribal law enforcement officers; (7) revise audit, review, and hearing provisions; (8) prescribe a funding formula for housing authorities operating fewer than 250 units based on an average of FY 1992 through 1997 allocations; and (9) repeal the requirement regarding the certification of compliance with subsidy layering requirements.

Link: <https://www.congress.gov/106/plaws/publ569/PLAW-106publ569.pdf>

107TH CONGRESS (2001-2002)

Public Law Number: 107-171

Name of Law: Farm Security and Rural Investment Act of 2002

Description: Authorizes the Secretary to provide agricultural incentive programs to Indian Tribes; to carry out fresh fruit and vegetable distribution programs to one Indian reservation; provides certain Indian farmers or ranchers on Indian reservation land with 95% operation loan guarantees; directs secretary to waive certain limitations for a direct loan to a farmer or rancher whose farm is subjected to jurisdiction of an Indian Tribe; makes a tax exempt entity on Indian reservation eligible for rural business grants; authorizes secretary to make telephone loans to Tribes; authorizes secretary to make grants to train rural firefighters and emergency medical personnel

Link: <https://www.congress.gov/107/plaws/publ171/PLAW-107publ171.pdf>

Public Law Number: 107-249

Name of Law: Indian Financing Amendments Act of 2002

Description: Increase the Indian Financing Act of 1974 from \$100,000 to \$250,000 the amount of total unpaid principal indebtedness of an individual Indian for which the Bureau of Indian Affairs may guarantee or insure loans

Link: <https://www.congress.gov/107/plaws/publ331/PLAW-107publ331.pdf>

Public Law Number: 107-292

Name of Law: Native American Housing Assistance and Self-Determination Reauthorization Act of 2002

Description: Amends the Native American Housing Assistance and Self-Determination Act of 1996 to reauthorize: (1) block grants; (2) Federal loan guarantees; (3) training and technical assistance; (4) Indian Housing Loan Guarantee Fund; Secretary of Interior required to study and report to Congress on feasibility of demonstration projects for community development and on the extent of black mold infestation of Native American housing

Link: <http://www.congress.gov/107/plaws/publ292/PLAW-107publ292.pdf>

108TH CONGRESS (2003-2004)

Public Law Number: 108-374

Name of Law: American Indian Probate Reform Act of 2004

Description: Amends the Indian Land Consolidation Act to require that any trust or restricted interest in land or interest in trust personality, subject to applicable Fed law, that is not disposed of by valid will shall descend: (1) according to an applicable tribal probate code approved in the Act; or (2) if such tribal does not apply, in accordance with this Act.

Link: <https://www.congress.gov/108/plaws/publ374/PLAW-108publ374.pdf>

109TH CONGRESS (2005-2006)

Public Law Number: 109-136

Name of Law: Native American Housing Enhancement Act of 2005

Description: Amends the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians. Prohibits the Secretary of Housing and Urban Development from restricting access to the housing grant amount for any Indian tribe based solely on: (1) whether the recipient for the tribe retains program income; (2) the amount of any such program income retained; (3) whether the recipient retains certain reserve amounts; or (4) whether the recipient has expended retained program income for housing-related activities.

Link: <https://www.congress.gov/109/plaws/publ136/PLAW-109publ136.pdf>

Public Law Number: 109-157

Name of Law: Indian Land Probate Reform Technical Corrections Act of 2005

Description: Makes technical amendments with regard to: (1) partition of highly fractionated Indian land; (2) tribal probate codes; (3) descent and distribution; (4) the fractional interest acquisition program; (5) establishment of fair market value; and (6) land ownership information.

Link: <https://www.congress.gov/109/plaws/publ157/PLAW-109publ157.pdf>

Public Law Number: 109-394

Name of Law: Esther Martinez Native American Languages Preservation Act of 2006

Description: Amends the Native American Programs Act of 1974 to provide for the revitalization of Native American languages through Native American language immersion programs. Authorizes the Secretary of Health and Human Services, as part of the Native American languages grant program, to make three-year grants for educational Native American language nests, survival schools, and restoration programs.

Link: <https://www.congress.gov/109/plaws/publ394/PLAW-109publ394.pdf>

110TH CONGRESS (2007-2008)

Public Law Number: 110-411

Name of Law: Native American Housing Assistance and Self-Determination Reauthorization Act of 2008

Description: To reauthorize the programs for housing assistance for Native Americans and Amends the Native American Housing Assistance and Self-Determination Act of 1996 to make mandatory the role of the federal government in providing housing assistance to Native Americans and in promoting the economic self-sufficiency and self-determination of Native Americans.

Link: <https://www.congress.gov/110/plaws/publ411/PLAW-110publ411.pdf>

111TH CONGRESS (2009-2010)

Public Law Number: 111-3

Name of Law: Children's Health Insurance Program Reauthorization Act of 2009

Description: Award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

Link: <https://www.congress.gov/111/plaws/publ3/PLAW-111publ3.pdf>

Public Law Number: 111-5

Name of Law: American Recovery and Reinvestment Act of 2009

Description: Authorizes the National Coordinator to award grants to states or Indian tribes for the establishment of programs for loans to health care providers to support certified electronic health record technology. Tribes eligible for emergency TANF funds. Continuation of protections for Indian property from Medicaid estate recovery. Protections for Indians under CHIP and Medicaid.

Link: <https://www.congress.gov/111/plaws/publ5/PLAW-111publ5.pdf>

Public Law Number: 111-13

Name of Law: Serve America Act

Description: Establishes a new Learn and Serve program, Innovative Community-Based Service-Learning Programs and Research, providing grants to states, nonprofit organizations, territories, and Indian tribes.

Link: <https://www.congress.gov/111/plaws/publ13/PLAW-111publ13.pdf>

Public Law Number: 111-148

Name of Law: Patient Protection and Affordable Care Act

Description: Reimbursement for all Medicare part B services furnished by certain Indian Hospitals and Clinics. (Sec. 3505) Requires the Secretary to establish three programs to award grants to qualified public, nonprofit IHS, Indian tribal, and urban Indian trauma centers to: (1) assist in defraying substantial uncompensated care costs; (2) further the core missions of such trauma centers, including by addressing costs associated with patient stabilization and transfer; and (3) provide emergency relief to ensure the continued and future availability of trauma services.

Link: <https://www.congress.gov/111/plaws/publ148/PLAW-111publ148.pdf>

Public Law Number: P.L. 111-211

Name of Law: Indian Arts and Crafts Amendments Act of 2010

Description: To protect Indian arts and crafts through the improvement of applicable criminal proceedings. Also includes Tribal Law and Order Act of 2010.

Amendments: To Indian Civil Rights Act of 1968

Link: <https://www.govinfo.gov/content/pkg/PLAW-111publ211/pdf/PLAW-111publ211.pdf>

Public Law Number: 111-269

Name of Law: Indian Veterans Housing Opportunity Act of 2010

Description: To exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family.

Link: <https://www.congress.gov/111/plaws/publ269/PLAW-111publ269.pdf>

Public Law Number: 111-291

Name of Law: Claims Resolution Act of 2010

Description: Addresses Individual Indian Money Account Litigation Settlement. Establishes the Trust Land Consolidation Fund (TLCF) upon final approval of the settlement with amounts from the TLCF to be made available to the Secretary of the Interior to conduct the Land Consolidation Program (LCP) and for other specified costs.

Link: <https://www.congress.gov/111/plaws/publ291/PLAW-111publ291.pdf>

Public Law Number: 111-358

Name of Law: America Competes Reauthorization Act of 2010

Description: The Director shall continue to support a program to award grants on a competitive, merit-reviewed basis to tribal colleges and universities to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of Native American students pursuing associate's or baccalaureate degrees in STEM.

Link: <https://www.congress.gov/111/plaws/publ358/PLAW-111publ358.pdf>

112TH CONGRESS (2011-2012)

Public Law Number: 112-14

Name of Law: Moving Ahead for Progress in the 21st Century Act

Description: Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities. Secretary of the Interior, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program. Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

Link: <https://www.congress.gov/112/plaws/publ141/PLAW-112publ141.pdf>

Public Law Number: 112-151

Name of Law: Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 or HEART Act of 2012

Description: To amend the Act titled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior, and for other purposes.

Link: <https://www.congress.gov/112/plaws/publ151/PLAW-112publ151.pdf>

113TH CONGRESS (2013-2014)

Public Law Number: 113-2

Name of Law: Disaster Relief Appropriations Act, 2013

Description: Tribal requests for a major disaster or emergency declaration under The Stafford Act.

Amendment: Amends Title I and Sections 102, 401, and 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

Link: <https://www.congress.gov/113/plaws/publ2/PLAW-113publ2.pdf>

Public Law Number: 113-4

Name of Law: Violence Against Women Reauthorization Act of 2013

Description: This law generally applies to tribes and Native American organizations Specifically, Title IX concerns safety for Indian women.

Link: <https://www.congress.gov/113/plaws/publ4/PLAW-113publ4.pdf>

Public Law Number: 113-5

Name of Law: Pandemic and All-Hazards Preparedness Reauthorization Act of 2013

Description: Section 201 allows the federal government to authorize a state or tribe to temporarily reassign state and local public health department or agency personnel funded through PHSA programs to immediately address a public health emergency in the state or tribe

Link: <https://www.congress.gov/113/plaws/publ5/PLAW-113publ5.pdf>

Public Law Number: 113-79

Name of Law: Agricultural Act of 2014

Description: Sec. 4004. Food distribution program on Indian reservations. Sec. 6005. Tribal college and university essential community facilities. Sec. 8005. Tribal watershed forestry assistance program.

Link: <https://www.congress.gov/113/plaws/publ79/PLAW-113publ79.pdf>

Public Law Number: 113-104

Name of Law: Kilah Davenport Child Protection Act of 2013

Description: Amends the federal criminal code to apply certain increased criminal penalties against any person who commits domestic assault and who has a final conviction on at least two separate prior occasions under state, federal, or tribal court proceedings (a habitual offender) for offenses that would be, if subject to federal jurisdiction, assault, sexual abuse, or a serious violent felony against a spouse or intimate partner (as under current law) or against a child of, or in the care of, the person committing the domestic assault.

Link: <https://www.congress.gov/113/plaws/publ104/PLAW-113publ104.pdf>

Public Law Number: 113-121

Name of Law: Water Resources Reform and Development Act of 2014

Description: To provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes. Section 5013 funds Indian programs; Section 5031 deals with state, tribal, and local permits; Section 1031 concerns a tribal partnership program.

Link: <https://www.congress.gov/113/plaws/publ121/PLAW-113publ121.pdf>

Public Law Number: 113-128

Name of Law: Workforce Innovation and Opportunity Act

Description: To amend the Workforce Investment Act of 1998 to strengthen the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs in the United States, and to promote individual and national economic growth. Section 166 supports Native American employment and training activities. Section 423 supports Native American vocational rehabilitation services.

Link: <https://www.congress.gov/113/plaws/publ128/PLAW-113publ128.pdf>

Public Law Number: 113-146

Name of Law: Veterans Access, Choice, And Accountability Act of 2014

Description: Concerns VA outreach to Tribal Medical Facilities and Indian Health Services to raise awareness of veteran programs. Technical amendments made subsequently by P.L. 113- 175

Link: <https://www.congress.gov/113/plaws/publ146/PLAW-113publ146.pdf>

Public Law Number: 113–168

Name of Law: Tribal General Welfare Exclusion Act of 2014

Description: To amend the Internal Revenue Code of 1986 to clarify the treatment of general welfare benefits provided by Indian tribes.

Link: <https://www.congress.gov/113/plaws/publ168/PLAW-113publ168.pdf>

Public Law Number: 113-183

Name of Law: Preventing Sex Trafficking and Strengthening Families Act

Description: Section 302 specifically deals with child support enforcement programs for Indian tribes.

Link: <https://www.congress.gov/113/plaws/publ183/PLAW-113publ183.pdf>

Public Law Number: 113–186

Name of Law: Child Care and Development Block Grant Act of 2014

Description: Amends Child Care and Development Block Grant Act to include collaborations with tribes.

Link: <https://www.congress.gov/113/plaws/publ186/PLAW-113publ186.pdf>

Public Law Number: 113-281

Name of Law: Howard Coble Coast Guard and Maritime Transportation Act of 2014

Description: Section 312 requires DHS to provide notice of major marine casualties to state and tribal governments within 24 hours of it being reported to DHS. Section 313 amends provisions of the Federal Water Pollution Control Act (commonly known as the Clean Water Act) by authorizing Indian tribes to participate in area committees established to plan for responses to spills.

Link: <https://www.congress.gov/113/plaws/publ281/PLAW-113publ281.pdf>

Public Law Number: 113-287

Name of Law: Enactment of Title 54—National Park Service and Related Programs

Description: Creation of Historic Preservation Programs and Authorities for Indian Tribes and Native Hawaiian Organizations.

Link: <https://www.congress.gov/113/plaws/publ287/PLAW-113publ287.pdf>

Public Law Number: 113-295

Name of Law: Tax Increase Prevention Act of 2014

Description: Concerns the Indian employment tax credit and the tax credit for producing electricity using Indian coal facilities placed in service before 2009.

Link: <https://www.congress.gov/113/plaws/publ295/PLAW-113publ295.pdf>

114th Congress (2015-2016)

Public Law Number: 114-10

Name of Law: Medicare Access and CHIP Reauthorization Act of 2015

Description: Section 213 Extends an existing special diabetes program for Indians with type I diabetes.

Link: <https://www.congress.gov/114/plaws/publ10/PLAW-114publ10.pdf>

Public Law Number: 114-22

Name of Law: Justice for Victims of Trafficking Act of 2015

Description: Section 904 allows for DHS to provide training to assist any tribal government in starting a program of training to identify human trafficking.

Link: <https://www.congress.gov/114/plaws/publ22/PLAW-114publ22.pdf>

Public Law Number: 114-91

Name of Law: Protecting Our Infants Act of 2015

Description: Section 4 allows HHS to provide technical assistance to states and Indian tribes to improve neonatal abstinence syndrome surveillance.

Link: <https://www.congress.gov/114/plaws/publ91/PLAW-114publ91.pdf>

Public Law Number: 114-92

Name of Law: National Defense Authorization Act for Fiscal Year 2016

Description: Allows service secretaries to convey excess relocatable military housing units to certain Indian tribes, at no cost, and without consideration.

Link: <https://www.congress.gov/114/plaws/publ92/PLAW-114publ92.pdf>

Public Law Number: 114-94

Name of Law: Fixing America's Surface Transportation Act or the FAST Act

Description: Sec 1117 through 1121 provides funding and requirements for both tribes and government to set up tribal transportation self-governance program.

Link: <https://www.congress.gov/114/plaws/publ94/PLAW-114publ94.pdf>

Public Law Number: 114-95

Name of Law: Every Student Succeeds Act

Description: Reauthorize the Elementary and Secondary Education Act of 1965 to ensure that every child achieves. Title VII focuses on Indian education.

Link: <https://www.congress.gov/114/plaws/publ95/PLAW-114publ95.pdf>

Public Law Number: 114-165

Name of Law: Native American Children's Safety Act

Description: To amend the Indian Child Protection and Family Violence Prevention Act to require background checks before foster care placements are ordered in tribal court proceedings.

Link: <https://www.congress.gov/114/plaws/publ165/PLAW-114publ165.pdf>

Public Law Number: 114-178

Name of Law: Indian Trust Asset Reform Act

Description: To provide for Indian trust asset management reform. Establishes Indian Trust Asset Management Demonstration Project that allows tribes to propose Trust Asset Management plans.

Link: <https://www.congress.gov/114/plaws/publ178/PLAW-114publ178.pdf>

Public Law Number: 114-198

Name of Law: Comprehensive Addiction and Recovery Act of 2016

Description: authorize the Attorney General and Secretary of Health and Human Services to award grants to address the prescription opioid abuse and heroin use crisis, including to tribal governments.

Link: <https://www.congress.gov/114/plaws/publ198/PLAW-114publ198.pdf>

Public Law Number: 114-221

Name of Law: Native American Tourism and Improving Visitor Experience Act or the NATIVE Act

Description: To enhance and integrate Native American tourism, empower Native American communities, increase coordination and collaboration between Federal tourism assets, and expand heritage and cultural tourism opportunities in the United States

Link: <https://www.congress.gov/114/plaws/publ221/PLAW-114publ221.pdf>

Public Law Number: 114-322

Name of Law: Water Infra-structure Improvements for the Nation Act

Description: The Water Resources Development Act of 2000 (WRDA 2000) is amended to allow the Corps of Engineers to carry out cost-shared design and construction of water resources development projects under the tribal partnership program. At an Indian tribe's request, the Corps of Engineers must report on the feasibility of a water resources development project that will substantially benefit Indian tribes.

Link: <https://www.congress.gov/114/plaws/publ322/PLAW-114publ322.pdf>

115TH CONGRESS (2017-2018)

Public Law Number: 115-93

Name of Law: Indian Employment, Training and Related Services Consolidation Act of 2017

Description: Amends the Indian Employment, Training and Related Services Demonstration Act of 1992 to rename the Act to the Indian Employment, Training and Related Services Act of 1992 and to revise the program that provides for the integration of employment, training, and related services programs for Indian tribes.

Link: <https://www.congress.gov/115/plaws/publ93/PLAW-115publ93.pdf>

Public Law Number: 115-243

Name of Law: Tribal Social Security Fairness Act of 2018

Description: Directs the Social Security Administration, at the request of an Indian tribe, to enter into an agreement with the tribe for the purpose of extending Old Age, Survivors, and Disability Insurance benefits under Social Security to tribal council members. Allows tribal council members to receive Social Security credit for taxes paid prior to the establishment of the agreement, if the taxes were timely paid in good faith and not subsequently refunded.

Link: <https://www.congress.gov/115/plaws/publ243/PLAW-115publ243.pdf>

Public Law Number: 115-325

Name of Law: Indian Tribal Energy Development and Self-Determination Act Amendments of 2017

Description: Amends the Indian Tribal Energy Development and Self-Determination Act of 2005 to direct the Department of the Interior to provide Indian tribes with technical assistance in planning their energy resource development programs; amends the Tribal Forest Protection Act of 2004 to direct federal departments to enter into agreements with tribes to carry out demonstration projects to promote biomass energy production on Indian forest land and in nearby communities by providing them with reliable supplies of woody biomass from federal lands. The Department of Energy (DOE) Indian energy education planning and management assistance program is expanded to make intertribal organizations eligible for grants and to allow grants to be used to increase the capacity of tribes to manage energy development and energy efficiency programs.

Link: <https://www.congress.gov/115/plaws/publ325/PLAW-115publ325.pdf>

Public Law Number: 115-404

Name of Law: Johnson-O'Malley Supplemental Indian Education Program Modernization Act

Description: Requires DOI to annually update the number of Indian students eligible for the Johnson-O'Malley Program (JOM Program). The JOM Program awards contracts to tribal organizations, schools, states, and others to educate Indian students.

Link: <https://www.congress.gov/115/plaws/publ404/PLAW-115publ404.pdf>

116TH CONGRESS (2019)

Public Law Number: 116-9

Name of Law: John D. Dingell, Jr. Conservation, Management and Recreation Act

Description: Addresses the facilitation of title transfer to Reclamation project facilities to qualifying entities on the completion of repayment of capital costs

Amendment: Also, amends 54 U.S.C. 104909 on donation and distribution of meat from wildlife which includes tribes as recipients; amendments to the Fish and Wildlife Coordination Act, specifically as it relates to protection from invasive species; amendments to Indian Youth Service Corps.

Link: <https://www.congress.gov/116/plaws/publ9/PLAW-116publ9.pdf>

Public Law Number: 116-22

Name of Law: Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019

Amendment: Amending 42 U.S.C. 247d–4; Tribes may receive technical assistance on Public health and health care system situational awareness and bio surveillance capabilities.

Link: <https://www.congress.gov/116/bills/s1379/BILLS-116s1379enr.pdf>

Public Law Number: 116-25

Name of Law: Taxpayer First Act

Description: Includes tribes in Qualified Return Preparation programs

Link: <https://www.congress.gov/116/bills/hr3151/BILLS-116hr3151enr.pdf>

Public Law Number: 116-60

Name of Law: “Autism Collaboration, Accountability, Research, Education, and Support Act of 2019

Amendment: Amends 42 USC 280i to include tribes in programs related to autism

Link: <https://www.congress.gov/116/plaws/publ60/PLAW-116publ60.pdf>

Proposed Recommendations & Concerns Raised

Working Group to Develop Recommendations for Extending Federal Beneficial Laws to the Wabanaki Nations

Relevant Provisions of federal Settlement Acts

MICSA §6(h): Federal laws enacted before October 10, 1980	MICSA §16(b): Federal laws enacted after October 10, 1980
<i>Except as otherwise provided in this Act, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians <u>shall be applicable</u> in the State of Maine, <u>except</u> that <u>no law or regulation</u> of the United States</i> <i>(1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, <u>and also</u></i> <i>(2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, <u>shall apply</u> within the State.</i>	<i>The provisions of any Federal law enacted after the date of enactment of this Act</i> <i>[1] for the benefit of Indians, Indian nations, or tribes or bands of Indians, <u>[and]</u></i> <i>[2] which would affect or preempt the application of the laws of the State of Maine, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this Act and the Maine Implementing Act, <u>shall not apply</u> within the State of Maine, <u>unless</u> such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.</i>
Summary: Unless Congress says otherwise within MICSA, beneficial laws enacted prior to MICSA apply in Maine. However, specific beneficial laws do not apply to any tribe or tribal lands in Maine if the two-part test is met.	Summary: Unless Congress says otherwise when enacting a particular beneficial law: Post-MICSA beneficial laws do not apply to any tribe or tribal lands in Maine if the two-part test is met.
See also MICSA §6(i): <i>As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians <i>shall be eligible to receive all of the financial benefits</i> which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians.</i>	
Aroostook Band of Micmacs Settlement Act [ABMSA] §6(b)	
<i>Application of federal law. For the purposes of application of Federal law, the [Mi'kmaq Nation] and its lands shall have the same status as other tribes and their lands accorded Federal recognition under the terms of the Maine Indian Claims Settlement Act of 1980.</i>	

Proposed Recommendations & Concerns Raised

Working Group to Develop Recommendations for Extending Federal Beneficial Laws to the Wabanaki Nations

Advance Consent from Congress for amendments to Maine Implementing Act [MIA] and ABMSA:

Passamaquoddy Tribe & Penobscot Nation	Houlton Band of Maliseet Indians	Mi'kmaq Nation
MICSA §6(e)(1): <i>The consent of the United States is hereby given to the State of Maine to amend the [MIA] with respect to either the Passamaquoddy Tribe or the Penobscot Nation: Provided, That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to</i> <i>(A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions;</i> <i>(B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or</i> <i>(C) the allocation of jurisdiction between tribal courts and State courts.</i> MICSA §6(f): <i>The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the [MIA], and any subsequent amendments thereto.</i>	MICSA §6(a): <i>Except as provided in section 8(e) and section 5(d)(4), all Indians, Indian nations, or tribes or bands of Indians in the State of Maine, other than the Passamaquoddy Tribe, the Penobscot Nation, and their members, and any lands or natural resources owned by any such Indian, Indian nation, tribe or band of Indians and any lands or natural resources held in trust by the United States, or by any other person or entity, for any such Indian, Indian nation, tribe, or band of Indians shall be subject to the civil and criminal jurisdiction of the State, the laws of the State, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein.</i> MICSA §6(e)(2): <i>Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the band or its members.</i>	MICSA §6(a): see middle column ABMSA §6(d): <i>Agreements with state regarding jurisdiction.</i> <i>The State of Maine and the [Mi'kmaq Nation] are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by, or held in trust for the benefit of, the [Mi'kmaq Nation] or any member of the [Mi'kmaq Nation].</i> <i>The consent of the United States is hereby given to the State of Maine to amend the Micmac Settlement Act [now known as the Mi'kmaq Nation Restoration Act] for this purpose: Provided, That such amendment is made with the agreement of the [Mi'kmaq Nation].</i>

Proposed Recommendations & Concerns Raised

Working Group to Develop Recommendations for Extending Federal Beneficial Laws to the Wabanaki Nations

Working Group Duties — Resolve 2025, chapter 165, section 5:

- *The working group ... shall develop and recommend legislative mechanisms for extending the benefits of federal beneficial laws to the [Wabanaki Nations] notwithstanding [§6(h) and §16(b) of the] federal Maine Indian Claims Settlement Act. The recommendations may*
 - *Identify particular federal beneficial laws that should not apply within the State or*
 - *Propose a review process to be employed when the application of a particular federal beneficial law within the State would have a specific and substantial disruptive and harmful effect on the State and its citizens.*

Recommendations Proposed at First Working Group Meeting

Proposed Recommendation / Goal	
Mechanism	Concerns Raised / Other Notes
1. Ensure that <u>all</u> federal beneficial laws, regardless of date of enactment, apply to each of the Wabanaki Nations within the State. <u>Question:</u> Should there be any exceptions — federal beneficial laws that would not apply in Maine? For example (from LD 2004): • Federal criminal jurisdiction laws; • Federal gaming laws, including the Indian Gaming Regulatory Act; and/or • Certain federal environmental laws, including federal Clean Water Act, federal Water Quality Act of 1987, federal Clean Air Act, federal Indian Mineral Development Act of 1982, and any future amendments to these laws.	
A. Amend the Maine Implementing Act (MIA) and Mi'kmaq Nation Restoration Act (MNRA) to provide that federal beneficial laws do not affect or preempt Maine law. <u>For example (excerpts from LD 2004):</u> See attachment A. <i>“The State and [each Wabanaki Nation] agree and intend ... that any law of this State that would be affected or preempted by the operation, application or implementation of any statute or regulation of the United States that accords a specific status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians does not apply to [each Wabanaki Nation] ...”</i>	★ Potential lack of authority, through this state law mechanism, to notwithstand the impacts of MICSA §6(h) and §16(b) and to compel actions by federal officials: • Has Congress consented to this change — <i>i.e.</i>, does the proposed change fall within MICSA §§6(e)(1) & (2) and ABMSA §6(d), which authorize reallocation of jurisdiction between the State and the tribes, but not reallocation of jurisdiction between the State and federal government? • If a court finds a conflict between federal law (MICSA) and the proposed amendments to state law (MIA/MNRA), federal law will control. • Per OAG – legislative history of MICSA §6(e)(1) indicates that future amendments to MIA may not affect the roles of federal officials. See attachment from AAG Patwardhan.

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*“The State and [each Wabanaki Nation] agree and intend ... that **any statute or regulation of the United States enacted before, on or after October 10, 1980** that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians **is applicable to [each Wabanaki Nation] within this State**, without regard to any effect on the application of the laws of this State ...”*

★ Potential confusion created by implicit repeal of unspecified state laws throughout the Maine Revised Statutes — *i.e.*, any state statute that is inconsistent with a current or future federal beneficial law.

★ Given the above concerns:

- Risk of litigation, including litigation brought by third parties challenging either application of specific federal beneficial laws in Maine or inapplicability of specific state laws (either entirely, or portions of those laws) to tribes and tribal lands.
- Risk, if a court concludes the amendments to MIA/MNRA are not effective at applying federal beneficial laws in Maine, the portions of the amendments repealing State law would likely still be effective, creating gaps in authority.

Note: LD 2004 addressed this concern in §6216(6), and analogous provisions for other tribes, by providing for **contingent repeal** of its amendments to MIA/ MNRA if a court finds that those amendments are ineffective in making federal beneficial law apply within Maine.

- Risk that State cannot compel the federal government to exercise its authority to apply or enforce federal beneficial laws in Maine, which similarly creates gaps in authority if state laws **also** do not apply to tribes / tribal lands in Maine.

Note: LD 2004 attempts to address this concern in §6216(2)(C), and analogous provisions for other tribes, by establishing that “corresponding laws of the State” would **fill any gaps** “relating to a matter of public health or safety, including without limitation laws relating to land use or environmental matters”

★ Possibility that application of certain federal beneficial laws will have impacts off of tribal land — examples from testimony on LD 2004: the federal Water Quality Act of 1987 and Clean Water Act.

★ Per OAG – Federal beneficial laws assume underlying lack of applicability of state law on tribal lands; thus, some federal beneficial laws may not fit well in Maine.

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	<u>Subject-specific concerns:</u> ★ Criminal jurisdiction: MICSA §6(c) specifically provides that “the United States shall not have any criminal jurisdiction in the State of Maine under sections 1152, 1153, 1154, 1155, 1156, 1160, 1161, and 1165 of title 18 of the United States Code.” But, if state criminal jurisdiction laws do not apply (because they would be affected or preempted by these otherwise-generally-applicable federal criminal jurisdiction laws), there may be a gap in criminal jurisdiction over offenses not within tribal court jurisdiction. ★ Other laws: Legislative history may be problematic if litigation is brought to challenge application of certain federal beneficial laws. <i>See</i> Senate Report 96-957 at 31 (stating, as an example, that under MICSA §6(h), “although the federal Clean Air Act...accords special rights to Indian tribes and Indian lands, such rights will not apply in Maine because...they would interfere with State air quality laws which will be applicable to [tribal lands].”). <u>Other concerns?</u> ★ ★
B. Amend MIA and MNRA to expand definition of “internal tribal matters ... not subject to regulation by the State.” <u>Question:</u> what new definition of “internal tribal affairs” does the Working Group recommend, if any? See attachment B. <u>Current law:</u> MIA §6206(1): “<i>internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections, the use or disposition of settlement fund income and the exercise of power by the Passamaquoddy Tribe ... and by the Penobscot Nation pursuant to [federal safe</i>	★ Concerns outlined above likely also apply here, although it may be viewed as less of a direct override of MICSA §6(h) and §16(b), perhaps weakening any preemption argument? <u>Concerns about scope:</u> ★ MIA §6206(1) provides that the “internal tribal matters” of the Passamaquoddy Tribe and the Penobscot Nation are not subject to State regulation. No provision of the MIA creates this same jurisdictional rule for the Houlton Band of Maliseet Indians. ★ MNRA §7205 provides that the “internal tribal matters” of the Mi’kmaq Nation are not subject to State regulation, but only within “Mi’kmaq Nation Jurisdiction Land” — defined in a way that may

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<i>drinking water laws and tribal ordinance enforcement provisions of the MIA] is not subject to regulation by the State. ...”</i> MNRA §7205(2): “<i>Except as otherwise provided in this Act, the Mi’kmaq Nation, within Mi’kmaq Nation Jurisdiction Land, may, separate and distinct from the State, exercise exclusive jurisdiction, including by enacting ordinances, over internal tribal matters, including membership in the nation, the right to reside within Mi’kmaq Nation Jurisdiction Land, tribal organization, tribal government and tribal elections and the exercise of power pursuant to [federal safe drinking water laws and tribal ordinance enforcement provisions of the MNRA] and such matters are not subject to regulation by the State. ...”</i>	not include all future Mi’kmaq Nation trust lands. See attachment B. ★ This approach may have effects beyond whether federal beneficial laws will apply in Maine. For example, if “internal tribal affairs” is defined broadly, it could prevent application of certain categories of state laws on tribal land even if there is no federal beneficial law addressing those categories. Is there a good example to give here? Building codes? Shoreland Zoning? <u>Other concerns?</u> ★ ★
C. Express the State of Maine’s support for federal legislation repealing §6(h) and §16(b) of MICSA. <u>Options:</u> • A resolve or unallocated language indicating State’s support? • Joint Resolution of the Legislature? • Request Governor send letter to Congressional delegation? • Working Group letter to Congressional delegation?	★ Eliminates concerns about state authority over federal law and federal officials (but not concerns about potential confusion caused by conflicting language in existing state laws). ★ While the State and Wabanaki Nations can request that Congress enact federal legislation, there is no guarantee Congress will do so. ★ Likely to take longer to accomplish than amending state law. ★ Possibility that application of certain federal beneficial laws will have impacts off of tribal land — see examples from testimony on LD 2004: federal Water Quality Act of 1987 and Clean Water Act. ★ The federal government ceded the criminal jurisdiction it ordinarily has in Indian territory through MICSA §6(c), which would not be affected by this proposal. Is this intended / clear? <u>Other concerns?</u> ★ ★
2. Establish new default rule: all federal beneficial laws apply to each of the Wabanaki Nations within the State; however, establish a mechanism by which the State may object to the application of specific federal beneficial laws within the State. <u>Questions:</u> • Would this be a prospective-only approach, applicable only to future-enacted federal beneficial laws?	

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See also questions below related to possible mechanisms for implementing this approach.	
Not yet discussed. A few possible options are listed below. ➤ Is the idea to recommend Congress enact legislation repealing §6(h) and §16(b) of MICSA — so that federal beneficial laws apply to the Wabanaki Nations as a default rule — recognizing that state officials (perhaps in concert with the Wabanaki Nations) may lobby Congress to expressly exclude Maine from the scope of specific existing and future federal beneficial laws that would not work well in Maine? <u>Question:</u> Is this any different from mechanism 1(C) above?	★ Eliminates concerns about state authority over federal law and federal officials (but not concerns about potential confusion caused by conflicting language in existing state laws). ★ While the State and Wabanaki Nations can request that Congress enact federal legislation, there is no guarantee Congress will do so. ★ Likely to take longer to accomplish than amending state law. <u>Other concerns?</u> ★ ★
➤ Is the idea to create, in state law, a mechanism by which the State may object to (or prevent?) the application of specific federal beneficial laws in Maine? What will that mechanism be? Would the mechanism be within MIA/MNRA or other state law? Is the State’s ability to object dependent certain factors, for example, that application of the federal law will have “specific and substantial disruptive and harmful effect[s] on the State and its citizens” as in the Working Group’s authorizing legislation? If so, what is the test for these disruptive and harmful effects and who decides whether the State is correct and the beneficial law should not apply in Maine? Will there be a deadline for the State to object?	★ Concerns related to first proposal described in the chart — about state authority over federal law and federal officials and the possibility of conflicts between federal beneficial laws and existing state laws — may also apply here ★ Mechanism adopted is likely to involve additional tribal and state resources (time and expense) regarding each federal beneficial law ★ Depending on the mechanism proposed and the length of time it would take to work through that mechanism for each federal beneficial law, it could lead to less certainty about which of these laws apply in Maine than some of the other proposed recommendations <u>Other concerns?</u> ★ ★
3. Expand the list of federal beneficial laws that apply in the State on a case-by-case basis.	
A. Amend the MIA & MNRA in two ways: To adjust jurisdiction between the State and Wabanaki Nations with respect to certain federal cooperative	★ Concerns related to first proposal described in the chart — about state authority over federal law and federal officials and possibility of conflicts between federal beneficial laws and existing state laws — may also apply here

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regulatory statutes — similar to existing MIA/MNRA provisions regarding the federal Safe Drinking Water Act. • To achieve outcomes similar to having specific other types of federal beneficial laws apply in the State — similar to the 2019 amendments to MIA that adjusted tribal court criminal jurisdiction to more closely track tribal jurisdiction under the Violence Against Women Act.	★ Requires additional tribal and state resources (time and expense) regarding each federal beneficial law ★ Default rule of MICSA §6(h) & §16(b) will continue to limit application of some (?) / many (?) federal beneficial laws to the Wabanaki Nations <u>Other concerns?</u> ★ ★
B. Amend state law (outside of the MIA & MNRA) to achieve outcomes similar to having specific federal beneficial laws apply in the State — similar to the amendments to state tax laws in Title 36 and the recent Internet gaming law.	★ Eliminates concerns about potential confusion caused by conflicts between federal beneficial laws and existing state laws ★ Requires additional tribal and state resources (time and expense) regarding each federal beneficial law ★ Nothing prevents the State from amending these laws without tribal consent in the future <u>Other concerns?</u> ★ ★
C. Express the State's support for federal legislation specifying which specific federal beneficial laws should apply in Maine — similar to amendments to Violence Against Women Act enacted by Congress in 2022.	★ Eliminates concerns about state authority over federal law and federal officials (but not concerns about potential confusion caused by conflicting language in existing state laws). ★ Requires additional tribal and state resources (time and expense) regarding each federal beneficial law ★ While the State and Wabanaki Nations can request that Congress enact federal legislation, there is no guarantee Congress will do so. <u>Other concerns?</u> ★ ★
4. Require the State and Wabanaki Nations to provide input whether future federal beneficial laws should apply in the State. <u>Questions:</u> See questions below about the details of the mechanism to implement this approach.	

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A. Working within the limitations of §16(b) of MICSA, amend state law to create the following process:

- **Fund a new position in state government responsible for monitoring federal legislation. If the official determines federal legislation may benefit the Wabanaki Nations, the official must consult (or make a good faith attempt to consult) with the Wabanaki Nations about whether the proposed federal legislation should apply in Maine.**
 - **This official must submit a report to members of the Congressional Delegation on the outcome of the consultation within a time reasonably calculated to allow the members to introduce amendments to the pending federal legislation, as necessary.**
 - **The report must request that the pending federal legislation expressly state that it applies in Maine as described in §16(b) of MICSA unless either:**
 - ★ **One or more Wabanaki Nations prefer that the federal legislation not apply in Maine; or**
 - ★ **The official makes written findings — according to statutory criteria — that the federal legislation would have disruptive effects if applied in Maine.**
- Possible criteria: (a) not applying federal gaming, criminal or environmental laws in Maine; and (b) not applying federal laws intended to fill a void in federal Indian law if currently applicable state law is preferable.

Questions: Proposal needs more fleshing out, for example:

- Should the process be in MIA/MNRA or other state law?
- Should the timeline be specified, or is it better to have a flexible “time reasonably calculated” requirement?
- Is more detail required for the consultation process?
- Should “disruptive effects” be changed to “specific and substantial disruptive and harmful effect[s] on the State and its citizens” as in the Working Group’s authorizing legislation? What should the criteria be for this test and what happens if the tribes disagree with the official’s analysis?
- Must Governor or Legislature sign off on official’s report, or is this official more akin to a quasi-independent agency?
- Can the report suggest applying a federal beneficial law to fewer than all of the Wabanaki Nations?

Concerns

- ★ Requires additional tribal and state resources (time and expense) regarding each federal beneficial law
- ★ State could eliminate the new position in the future
- ★ While each report can request that Congress include or exclude Maine from pending federal legislation, this is no guarantee Congress will always adopt the requested approach
- ★ If the consultation process does not work as described, if the “disruptive effects” criteria are not narrowly tailored and/or Congress does not accept the report recommendations, default rule of MICSA §6(h) & §16(b) will continue to limit application of some (?) / many (?) federal beneficial laws to the Wabanaki Nations

Other concerns?

- ★
- ★

5. Renegotiate the federal-state-tribal jurisdictional framework in the settlement acts.

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A. Requires negotiations between the federal government, state government and each of the Wabanaki Nations.	★ Would add clarity / legal certainty re: applicability of federal law. ★ Requires significant state, federal and tribal time and resources. ★ Without the pressure of a pending land claims lawsuit (as in the past), unclear how long it may take to reach a new agreement or whether a new agreement can be reached. <u>Other concerns?</u> ★ ★
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L.D. 2004

Date:

(Filing No. H-)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE HOUSE OF REPRESENTATIVES 131ST LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to H.P. 1284, L.D. 2004, “An Act to Restore Access to Federal Laws Beneficial to the Wabanaki Nations”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 30 MRSA §6215 is enacted to read:

§6215. Application of statutes and regulations of the United States to the Passamaquoddy Tribe

1. Further legislative findings regarding the application of statutes and regulations of the United States to the Passamaquoddy Tribe. Sections 6(h) and 16(b) of United States Public Law 96-420 provide that the laws and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians are applicable within this State unless such law or regulation affects or preempts the civil, criminal or regulatory jurisdiction of this State, including, without limitation, laws of this State relating to land use or environmental matters.

A. The amendments to this Act enacted in 2023 modify the application of the laws of this State with respect to the Passamaquoddy Tribe and its Indian territory or trust land to the limited extent that such laws, in the absence of these amendments, would be affected or preempted by the application of the statutes and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians, except as otherwise provided by these amendments.

B. The amendments to this Act enacted in 2023 confirm, establish and enable, with respect to the Passamaquoddy Tribe and its Indian territory or trust land, the operation, application and implementation in this State of the statutes and regulations of the United States that are generally applicable to Indians, Indian nations or tribes or bands

1 of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or
2 bands of Indians, including such statutes and regulations enacted for the benefit of
3 Indians, Indian nations or tribes or bands of Indians and statutes and regulations that
4 accord a special status or right to or that relate to a special status or right of any Indian,
5 Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian
6 country, Indian territory or land or other natural resources held in trust for Indians,
7 except as otherwise provided by these amendments.

8 C. The amendments to this Act enacted in 2023 do not:

9 (1) Extend the general body of federal common law known as federal Indian law
10 to the Passamaquoddy Tribe and its Indian territory or trust land; or

11 (2) Adjust the jurisdictional relationship set forth in this Act and in United States
12 Public Law 96-420 between this State and the Passamaquoddy Tribe, except as
13 provided by these amendments.

14 **2. Federal statutes and regulations apply to the Passamaquoddy Tribe.**

15 Notwithstanding any provision of this Act to the contrary:

16 A. The State and the Passamaquoddy Tribe agree and intend pursuant to United States
17 Public Law 96-420 that any law of this State that would be affected or preempted by
18 the operation, application or implementation of any statute or regulation of the United
19 States that accords a special status or right to or relates to a special status or right of
20 any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations,
21 Indian country, Indian territory or land held in trust for Indians does not apply to the
22 Passamaquoddy Tribe, except as provided in subsection 4;

23 B. The State and the Passamaquoddy Tribe agree and intend pursuant to United States
24 Public Law 96-420 that any statute or regulation of the United States enacted before,
25 on or after October 10, 1980 that accords a special status or right to or relates to a
26 special status or right of any Indian, Indian nation, tribe or band of Indians, Indian
27 lands, Indian reservations, Indian country, Indian territory or land held in trust for
28 Indians is applicable to the Passamaquoddy Tribe within this State, without regard to
29 any effect on the application of the laws of this State, except as provided in subsection
30 4; and

31 C. Modification of the application of the laws of this State to the Passamaquoddy Tribe
32 under this section is limited to those particular circumstances in which the application
33 of the laws of this State to the Passamaquoddy Tribe would conflict or interfere with
34 the actual operation, application or implementation of a statute or regulation of the
35 United States that accords a special status or right to or relates to a special status or
36 right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian
37 reservations, Indian country, Indian territory or land held in trust for Indians. If the
38 operation, application or implementation of any statute or regulation of the United
39 States to the Passamaquoddy Tribe would result in the absence of any law or regulation
40 applicable to the Passamaquoddy Tribe relating to a matter of public health or safety,
41 including without limitation laws relating to land use or environmental matters, the
42 corresponding laws of the State with respect to that health or safety matter must apply
43 to the Passamaquoddy Tribe to fill any regulatory gap. For the purposes of this
44 paragraph, "corresponding laws of the State" means laws of the State that apply to

1 similar activities outside of Indian lands, Indian reservations, Indian country, Indian
2 territory or land held in trust for Indians.

3 **3. Notice regarding applicability of federal and state law to the Passamaquoddy**
4 **Tribe.** Whenever the Passamaquoddy Tribe believes that a law of this State does not apply
5 to the Passamaquoddy Tribe, its citizens or its tribal territory or trust lands as a result of
6 subsection 2 and the application of a statute or regulation of the United States, the
7 Passamaquoddy Tribe shall provide written notice to the Attorney General. The Attorney
8 General shall use reasonable efforts to respond in writing to the Passamaquoddy Tribe
9 within 30 days if the State disagrees with the Passamaquoddy Tribe's position regarding
10 the application of the laws of the State. The failure of the Passamaquoddy Tribe to provide
11 notice under this subsection does not limit the application to the Passamaquoddy Tribe of
12 any statute or regulation of the United States. The failure of the Attorney General to provide
13 notice under this subsection does not limit the authority of the State to dispute the
14 application of any statute or regulation of the United States or the application of any law of
15 this State to the Passamaquoddy Tribe.

16 **4. Gaming activities; criminal jurisdiction; environmental laws; application to**
17 **the Passamaquoddy Tribe.** Notwithstanding any provision of this Act to the contrary:

18 A. The Passamaquoddy Tribe may conduct gaming activities only in accordance with
19 the laws of this State and may not conduct gaming activities under the authority of the
20 federal Indian Gaming Regulatory Act or under any regulations promulgated under the
21 federal Indian Gaming Regulatory Act by the chair of the National Indian Gaming
22 Commission or its successor organization;

23 B. The laws of this State applicable to the crimes and juvenile crimes described in this
24 Act apply to the Passamaquoddy Tribe as provided in this Act. The statutes and
25 regulations of the United States that conflict with or affect or preempt the jurisdiction
26 of this State over crimes and juvenile crimes described in this Act do not apply to the
27 Passamaquoddy Tribe, unless such provisions are specifically applicable within the
28 State of Maine. The federal laws identified in Section 6(c) of United States Public Law
29 96-420 do not apply to the Passamaquoddy Tribe; and

30 C. The provisions of the federal Clean Water Act, the federal Water Quality Act of
31 1987, the federal Clean Air Act and the federal Indian Mineral Development Act of
32 1982, including all future amendments and reauthorizations of those Acts, do not apply
33 with respect to the Passamaquoddy Tribe and its Indian territory or trust land to the
34 extent the provisions affect or preempt the application of the laws of this State and
35 directly or indirectly extend the jurisdiction of the Passamaquoddy Tribe beyond its
36 Indian territory or trust land, unless such provisions are specifically made applicable
37 within the State of Maine.

38 **5. Powers of Passamaquoddy Tribe relating to federal statutes and regulations.**
39 Notwithstanding any provision of law to the contrary, the State and the Passamaquoddy
40 Tribe agree and intend pursuant to United States Public Law 96-420 that the
41 Passamaquoddy Tribe has the power to enact laws and ordinances relating to the operation,
42 application and implementation of any statute or regulation of the United States enacted
43 before, on or after October 10, 1980 that accords a special status or right to or relates to a
44 special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands,

Indian reservations, Indian country, Indian territory or land held in trust for Indians, except as otherwise provided in subsection 4.

6. Contingent repeal. Notwithstanding Title 1, section 71, subsection 8, this section is repealed if a court of competent jurisdiction enters a final judgment concluding that no part of this section is effective in causing the statutes and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians to apply to the Passamaquoddy Tribe and its Indian territory or trust land. For purposes of this subsection, "final judgment" does not include a judgment that is the subject of a pending appeal or for which the time period for taking an appeal has not yet expired. If this contingency is met, the Attorney General or the Joint Tribal Council of the Passamaquoddy Tribe shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

Sec. 2. 30 MRSA §6216 is enacted to read:

§6216. Application of statutes and regulations of the United States to the Penobscot Nation

1. Further legislative findings regarding the application of statutes and regulations of the United States to the Penobscot Nation. Sections 6(h) and 16(b) of United States Public Law 96-420 provide that the laws and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians are applicable within this State unless such law or regulation affects or preempts the civil, criminal or regulatory jurisdiction of this State, including, without limitation, laws of this State relating to land use or environmental matters.

A. The amendments to this Act enacted in 2023 modify the application of the laws of this State with respect to the Penobscot Nation and its Indian territory or trust land to the limited extent that such laws, in the absence of these amendments, would be affected or preempted by the application of the statutes and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians, except as otherwise provided by these amendments.

B. The amendments to this Act enacted in 2023 confirm, establish and enable, with respect to the Penobscot Nation, the operation, application and implementation in this State of the statutes and regulations of the United States that are generally applicable to Indians, Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians, including such statutes and regulations enacted for the benefit of Indians, Indian nations or tribes or bands of Indians and statutes and regulations that accord a special status or right to or that relate to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land or other natural resources held in trust for Indians, except as otherwise provided by these amendments.

C. The amendments to this Act enacted in 2023 do not:

(1) Extend the general body of federal common law known as federal Indian law to the Penobscot Nation and its Indian territory or trust land; or

(2) Adjust the jurisdictional relationship set forth in this Act and in United States Public Law 96-420 between this State and the Penobscot Nation, except as provided by these amendments.

2. Federal statutes and regulations apply to the Penobscot Nation.
Notwithstanding any provision of this Act to the contrary:

A. The State and the Penobscot Nation agree and intend pursuant to United States Public Law 96-420 that any law of this State that would be affected or preempted by the operation, application or implementation of any statute or regulation of the United States that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians does not apply to the Penobscot Nation, except as provided in subsection 4;

B. The State and the Penobscot Nation agree and intend pursuant to United States Public Law 96-420 that any statute or regulation of the United States enacted before, on or after October 10, 1980 that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians is applicable to the Penobscot Nation within this State, without regard to any effect on the application of the laws of this State, except as provided in subsection 4; and

C. Modification of the application of the laws of this State to the Penobscot Nation under this section is limited to those particular circumstances in which the application of the laws of this State to the Penobscot Nation would conflict or interfere with the actual operation, application or implementation of a statute or regulation of the United States that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians. If the operation, application or implementation of any statute or regulation of the United States to the Penobscot Nation would result in the absence of any law or regulation applicable to the Penobscot Nation relating to a matter of public health or safety, including without limitation laws relating to land use or environmental matters, the corresponding laws of the State with respect to that health or safety matter must apply to the Penobscot Nation to fill any regulatory gap. For the purposes of this paragraph, "corresponding laws of the State" means laws of the State that apply to similar activities outside of Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians.

3. Notice regarding applicability of federal and state law to the Penobscot Nation.
Whenever the Penobscot Nation believes that a law of this State does not apply to the Penobscot Nation, its citizens or its tribal territory or trust lands as a result of subsection 2 and the application of a statute or regulation of the United States, the Penobscot Nation shall provide written notice to the Attorney General. The Attorney General shall use reasonable efforts to respond in writing to the Penobscot Nation within 30 days if the State disagrees with the Penobscot Nation's position regarding the application of the laws of the

1 State. The failure of the Penobscot Nation to provide notice under this subsection does not
2 limit the application to the Penobscot Nation of any statute or regulation of the United
3 States. The failure of the Attorney General to provide notice under this subsection does not
4 limit the authority of the State to dispute the application of any statute or regulation of the
5 United States or the application of any law of this State to the Penobscot Nation.

6 **4. Gaming activities; criminal jurisdiction; environmental laws; application to**
7 **the Penobscot Nation.** Notwithstanding any provision of this Act to the contrary:

8 A. The Penobscot Nation may conduct gaming activities only in accordance with the
9 laws of this State and may not conduct gaming activities under the authority of the
10 federal Indian Gaming Regulatory Act or under any regulations promulgated under the
11 federal Indian Gaming Regulatory Act by the chair of the National Indian Gaming
12 Commission or its successor organization;

13 B. The laws of this State applicable to the crimes and juvenile crimes described in this
14 Act apply to the Penobscot Nation as provided in this Act. The statutes and regulations
15 of the United States that conflict with or affect or preempt the jurisdiction of the State
16 over crimes and juvenile crimes described in this Act do not apply to the Penobscot
17 Nation, unless such provisions are specifically applicable within the State of Maine.
18 The federal laws identified in Section 6(c) of United States Public Law 96-420 do not
19 apply to the Penobscot Nation; and

20 C. The provisions of the federal Clean Water Act, the federal Water Quality Act of
21 1987, the federal Clean Air Act and the federal Indian Mineral Development Act of
22 1982, including all future amendments and reauthorizations of those Acts, do not apply
23 with respect to the Penobscot Nation and its Indian territory or trust land to the extent
24 the provisions affect or preempt the application of the laws of this State and directly or
25 indirectly extend the jurisdiction of the Penobscot Nation beyond its Indian territory or
26 trust land, unless such provisions are specifically made applicable within the State of
27 Maine.

28 **5. Powers of Penobscot Nation relating to federal statutes and regulations.**
29 Notwithstanding any provision of law to the contrary, the State and the Penobscot Nation
30 agree and intend pursuant to United States Public Law 96-420 that the Penobscot Nation
31 has the power to enact laws and ordinances relating to the operation, application and
32 implementation of any statute or regulation of the United States enacted before, on or after
33 October 10, 1980 that accords a special status or right to or relates to a special status or
34 right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian
35 reservations, Indian country, Indian territory or land held in trust for Indians, except as
36 otherwise provided in subsection 4.

37 **6. Contingent repeal.** Notwithstanding Title 1, section 71, subsection 8, this section
38 is repealed if a court of competent jurisdiction enters a final judgment concluding that no
39 part of this section is effective in causing the statutes and regulations of the United States
40 that are generally applicable to or enacted for the benefit of Indians or relate to a special
41 status or right of Indian nations or tribes or bands of Indians or to lands owned by or held
42 in trust for Indians, Indian nations or tribes or bands of Indians to apply to the Penobscot
43 Nation and its Indian territory or trust land. For purposes of this subsection, "final
44 judgment" does not include a judgment that is the subject of a pending appeal or for which
45 the time period for taking an appeal has not yet expired. If this contingency is met, the

1 Attorney General or the Governor and the Council of the Penobscot Nation shall notify the
2 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives
3 and the Revisor of Statutes.

4 **Sec. 3. 30 MRSA §6217** is enacted to read:

5 **§6217. Application of statutes and regulations of the United States to the Houlton**
6 **Band of Maliseet Indians**

7 **1. Further legislative findings regarding the application of statutes and**
8 **regulations of the United States to the Houlton Band of Maliseet Indians.** Sections
9 6(h) and 16(b) of United States Public Law 96-420 provide that the laws and regulations
10 of the United States that are generally applicable to or enacted for the benefit of Indians or
11 relate to a special status or right of Indian nations or tribes or bands of Indians or to lands
12 owned by or held in trust for Indians, Indian nations or tribes or bands of Indians are
13 applicable within this State unless such law or regulation affects or preempts the civil,
14 criminal or regulatory jurisdiction of this State, including, without limitation, laws of this
15 State relating to land use or environmental matters.

16 A. The amendments to this Act enacted in 2023 modify the application of the laws of
17 this State with respect to the Houlton Band of Maliseet Indians and its Indian territory
18 or trust land to the limited extent that such laws, in the absence of these amendments,
19 would be affected or preempted by the application of the statutes and regulations of the
20 United States that are generally applicable to or enacted for the benefit of Indians or
21 relate to a special status or right of Indian nations or tribes or bands of Indians or to
22 lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians,
23 except as otherwise provided by these amendments.

24 B. The amendments to this Act enacted in 2023 confirm, establish and enable, with
25 respect to the Houlton Band of Maliseet Indians and its Indian territory or trust land,
26 the operation, application and implementation in this State of the statutes and
27 regulations of the United States that are generally applicable to Indians, Indian nations
28 or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian
29 nations or tribes or bands of Indians, including such statutes and regulations enacted
30 for the benefit of Indians, Indian nations or tribes or bands of Indians and statutes and
31 regulations that accord a special status or right to or that relate to a special status or
32 right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian
33 reservations, Indian country, Indian territory or land or other natural resources held in
34 trust for Indians, except as otherwise provided by these amendments.

35 C. The amendments to this Act enacted in 2023 do not:

36 (1) Extend the general body of federal common law known as federal Indian law
37 to the Houlton Band of Maliseet Indians and its Indian territory or trust land; or

38 (2) Adjust the jurisdictional relationship set forth in this Act and in United States
39 Public Law 96-420 between this State and the Houlton Band of Maliseet Indians,
40 except as provided by these amendments.

41 **2. Federal statutes and regulations apply to the Houlton Band of Maliseet Indians.**
42 Notwithstanding any provision of this Act to the contrary:

43 A. The State and the Houlton Band of Maliseet Indians agree and intend pursuant to
44 United States Public Law 96-420 that any law of this State that would be affected or

preempted by the operation, application or implementation of any statute or regulation of the United States that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians does not apply to the Houlton Band of Maliseet Indians, except as provided in subsection 4;

B. The State and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 that any statute or regulation of the United States enacted before, on or after October 10, 1980 that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians is applicable to the Houlton Band of Maliseet Indians within this State, without regard to any effect on the application of the laws of this State, except as provided in subsection 4; and

C. Modification of the application of the laws of this State to the Houlton Band of Maliseet Indians under this section is limited to those particular circumstances in which the application of the laws of this State to the Houlton Band of Maliseet Indians would conflict or interfere with the actual operation, application or implementation of a statute or regulation of the United States that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians. If the operation, application or implementation of any statute or regulation of the United States to the Houlton Band of Maliseet Indians would result in the absence of any law or regulation applicable to the Houlton Band of Maliseet Indians relating to a matter of public health or safety, including without limitation laws relating to land use or environmental matters, the corresponding laws of the State with respect to that health or safety matter must apply to the Houlton Band of Maliseet Indians to fill any regulatory gap. For the purposes of this paragraph, "corresponding laws of the State" means laws of the State that apply to similar activities outside of Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians.

3. Notice regarding applicability of federal and state law to the Houlton Band of Maliseet Indians. Whenever the Houlton Band of Maliseet Indians believes that a law of this State does not apply to the Houlton Band of Maliseet Indians, its citizens or its tribal territory or trust lands as a result of subsection 2 and the application of a statute or regulation of the United States, the Houlton Band of Maliseet Indians shall provide written notice to the Attorney General. The Attorney General shall use reasonable efforts to respond in writing to the Houlton Band of Maliseet Indians within 30 days if the State disagrees with the Houlton Band of Maliseet Indians' position regarding the application of the laws of the State. The failure of the Houlton Band of Maliseet Indians to provide notice under this subsection does not limit the application to the Houlton Band of Maliseet Indians of any statute or regulation of the United States. The failure of the Attorney General to provide notice under this subsection does not limit the authority of the State to dispute the application of any statute or regulation of the United States or the application of any law of this State to the Houlton Band of Maliseet Indians.

4. Gaming activities; criminal jurisdiction; environmental laws; application to the Houlton Band of Maliseet Indians. Notwithstanding any provision of this Act to the contrary:

A. The Houlton Band of Maliseet Indians may conduct gaming activities only in accordance with the laws of this State and may not conduct gaming activities under the authority of the federal Indian Gaming Regulatory Act or under any regulations promulgated under the federal Indian Gaming Regulatory Act by the chair of the National Indian Gaming Commission or its successor organization;

B. The laws of this State applicable to the crimes and juvenile crimes described in this Act apply to the Houlton Band of Maliseet Indians as provided in this Act. The statutes and regulations of the United States that conflict with or affect or preempt the jurisdiction of the State over crimes and juvenile crimes described in this Act do not apply to the Houlton Band of Maliseet Indians, unless such provisions are specifically made applicable within the State of Maine. The federal laws identified in Section 6(c) of United States Public Law 96-420 do not apply to the Houlton Band of Maliseet Indians.

C. The provisions of the federal Clean Water Act, the federal Water Quality Act of 1987, the federal Clean Air Act and the federal Indian Mineral Development Act of 1982, including all future amendments and reauthorizations of those Acts, do not apply with respect to the Houlton Band of Maliseet Indians and its Indian territory or trust land to the extent the provisions affect or preempt the application of the laws of this State and directly or indirectly extend the jurisdiction of the Houlton Band of Maliseet Indians beyond its Indian territory or trust land, unless such provisions are specifically made applicable within the State of Maine.

5. Powers of Houlton Band of Maliseet Indians relating to federal statutes and regulations. Notwithstanding any provision of law to the contrary, the State and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 that the Houlton Band of Maliseet Indians has the power to enact laws and ordinances relating to the operation, application and implementation of any statute or regulation of the United States enacted before, on or after October 10, 1980 that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, except as otherwise provided in subsection 4.

6. Contingent repeal. Notwithstanding Title 1, section 71, subsection 8, this section is repealed if a court of competent jurisdiction enters a final judgment concluding that no part of this section is effective in causing the statutes and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians to apply to the Houlton Band of Maliseet Indians and its Indian territory or trust land. For purposes of this subsection, "final judgment" does not include a judgment that is the subject of a pending appeal or for which the time period for taking an appeal has not yet expired. If this contingency is met, the Attorney General or the Houlton Band Council of the Houlton Band of Maliseet Indians shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

Sec. 4. 30 MRSA c. 605 is enacted to read:

CHAPTER 605

MI'KMAQ NATION

§7301. Federal statutes and regulations

1. Application of statutes and regulations of the United States. Sections 6(h) and 16(b) of United States Public Law 96-420 provide that the laws and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians are applicable within this State unless such law or regulation affects or preempts the civil, criminal or regulatory jurisdiction of this State, including, without limitation, laws of this State relating to land use or environmental matters.

A. This section modifies the application of the laws of this State with respect to the Mi'kmaq Nation and its Indian territory or trust land to the limited extent that such laws, in the absence of the provisions of this section, would be affected or preempted by the application of the statutes and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians, except as otherwise provided by this section.

B. This section confirms, establishes and enables, with respect to the Mi'kmaq Nation and its Indian territory or trust land, the operation, application and implementation in this State of the statutes and regulations of the United States that are generally applicable to Indians, Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians, including such statutes and regulations enacted for the benefit of Indians, Indian nations or tribes or bands of Indians and statutes and regulations that accord a special status or right to or that relate to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land or other natural resources held in trust for Indians, except as otherwise provided by this section.

C. This section does not:

(1) Extend the general body of federal common law known as federal Indian law to the Mi'kmaq Nation and its Indian territory or trust land; or

(2) Adjust the jurisdictional relationship set forth in United States Public Law 102-171 between this State and the Mi'kmaq Nation except as provided by this section.

2. Federal statutes and regulations apply. Notwithstanding any provision of this section to the contrary, the State and the Mi'kmaq Nation agree and intend pursuant to United States Public Law 102-171 that:

A. Any law of this State that would be affected or preempted by the operation, application or implementation of any statute or regulation of the United States that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians does not apply to the Mi'kmaq Nation, except as otherwise provided in subsection 4;

1 B. Any statute or regulation of the United States enacted before, on or after October
2 10, 1980 that accords a special status or right to or relates to a special status or right of
3 any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations,
4 Indian country, Indian territory or land held in trust for Indians is applicable to the
5 Mi'kmaq Nation, without regard to any effect on the application of the laws of this
6 State, except as provided in subsection 4;

7 C. This modification of the application of the laws of this State to the Mi'kmaq Nation
8 under this section is limited to those particular circumstances in which the application
9 of the laws of this State to the Mi'kmaq Nation would conflict or interfere with the
10 actual operation, application or implementation of a statute or regulation of the United
11 States that accords a special status or right to or relates to a special status or right of
12 any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations,
13 Indian country, Indian territory or land held in trust for Indians; and

14 D. If the operation, application or implementation of any statute or regulation of the
15 United States to the Mi'kmaq Nation would result in the absence of any law or
16 regulation applicable to the Mi'kmaq Nation relating to a matter of public health or
17 safety, including without limitation laws relating to land use or environmental matters,
18 the corresponding laws of the State with respect to that health or safety matter must
19 apply to the Mi'kmaq Nation to fill any regulatory gap. For the purposes of this
20 paragraph, "corresponding laws of the State" means laws of the State that apply to
21 similar activities outside of Indian lands, Indian reservations, Indian country, Indian
22 territory or land held in trust for Indians.

23 **3. Notice regarding applicability of federal and state law.** Whenever the Mi'kmaq
24 Nation believes that a law of this State does not apply to the Mi'kmaq Nation, its citizens
25 or its tribal territory or trust land as a result of subsection 2 and the application of a statute
26 or regulation of the United States, the Mi'kmaq Nation shall provide written notice to the
27 Attorney General. The Attorney General shall use reasonable efforts to respond in writing
28 to the Mi'kmaq Nation within 30 days if the State disagrees with the Mi'kmaq Nation's
29 position regarding the application of the laws of this State. The failure of the Mi'kmaq
30 Nation to provide notice under this subsection does not limit the application to the Mi'kmaq
31 Nation of any statute or regulation of the United States. The failure of the Attorney General
32 to provide notice under this subsection does not limit the authority of the State to dispute
33 the application of any statute or regulation of the United States or the application of any
34 law of this State.

35 **4. Gaming activities; criminal jurisdiction; environmental laws.** Notwithstanding
36 any provision of this section to the contrary:

37 A. The Mi'kmaq Nation may conduct gaming activities only in accordance with the
38 laws of this State and may not conduct gaming activities under the authority of the
39 federal Indian Gaming Regulatory Act or under any regulations promulgated under the
40 federal Indian Gaming Regulatory Act by the chair of the National Indian Gaming
41 Commission or its successor organization;

42 B. The laws of this State applicable to crimes and juvenile crimes apply to the Mi'kmaq
43 Nation. The statutes and regulations of the United States that conflict with or affect or
44 preempt the jurisdiction of this State over crimes and juvenile crimes do not apply to
45 the Mi'kmaq Nation, unless such provisions are specifically made applicable within the

State of Maine. The federal laws identified in Section 6(c) of United States Public Law 96-420 do not apply in this State; and

C. The provisions of the federal Clean Water Act, the federal Water Quality Act of 1987, the federal Clean Air Act and the federal Indian Mineral Development Act of 1982, including all future amendments and reauthorizations of those Acts, do not apply with respect to the Mi'kmaq Nation and its Indian territory or trust land to the extent the provisions affect or preempt the application of the laws of this State and directly or indirectly extend the jurisdiction of the Mi'kmaq Nation beyond its Indian territory or trust land, unless such provisions are specifically made applicable within the State of Maine.

5. Powers of Mi'kmaq Nation relating to federal statutes and regulations.

Notwithstanding any provision of law to the contrary, the State and the Mi'kmaq Nation agree and intend pursuant to United States Public Law 102-171 that the Mi'kmaq Nation has the power to enact laws and ordinances relating to the operation, application and implementation of any statute or regulation of the United States enacted before, on or after October 10, 1980 that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, except as otherwise provided in subsection 4.

6. Contingent repeal. Notwithstanding Title 1, section 71, subsection 8, this section is repealed if a court of competent jurisdiction enters a final judgment concluding that no part of this section is effective in causing the statutes and regulations of the United States that are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians to apply to the Mi'kmaq Nation and its Indian territory or trust land. For purposes of this subsection, "final judgment" does not include a judgment that is the subject of a pending appeal or for which the time period for taking an appeal has not yet expired. If this contingency is met, the Attorney General or the Mi'kmaq Nation Tribal Council shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

Sec. 5. Contingent effective date. That section of this Act that enacts the Maine Revised Statutes, Title 30, section 6215 takes effect 120 days after adjournment of the First Special Session of the 131st Legislature only if, within 90 days after adjournment of the First Special Session of the 131st Legislature, the Secretary of State receives written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of that section, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

That section of this Act that enacts the Maine Revised Statutes, Title 30, section 6216 takes effect 120 days after adjournment of the First Special Session of the 131st Legislature only if, within 90 days after adjournment of the First Special Session of the 131st Legislature, the Secretary of State receives written certification from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of that section, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

1 That section of this Act that enacts the Maine Revised Statutes, Title 30, section 6217
 2 takes effect 120 days after adjournment of the First Special Session of the 131st Legislature
 3 only if, within 90 days after adjournment of the First Special Session of the 131st
 4 Legislature, the Secretary of State receives written certification from the Houlton Band
 5 Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions
 6 of that section, copies of which must be submitted by the Secretary of State to the Secretary
 7 of the Senate, the Clerk of the House and the Revisor of Statutes. Upon such written
 8 certification by the Houlton Band Council of the Houlton Band of Maliseet Indians, section
 9 6217 constitutes a jurisdictional agreement for purposes of the federal Maine Indian Claims
 10 Settlement Act of 1980, United States Public Law 96-420, Section 6(e)(2). Such written
 11 certification by the Houlton Band Council of the Houlton Band of Maliseet Indians does
 12 not constitute an agreement that the contingencies in Public Law 1981, chapter 675 were
 13 met or that the provisions of Public Law 1981, chapter 675 ever took effect.

14 That section of this Act that enacts the Maine Revised Statutes, Title 30, chapter 605
 15 takes effect 120 days after adjournment of the First Special Session of the 131st Legislature
 16 only if, within 90 days after adjournment of the First Special Session of the 131st
 17 Legislature, the Secretary of State receives written certification from the Mi'kmaq Nation
 18 Tribal Council that the nation has agreed to the provisions of that chapter, copies of which
 19 must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the
 20 House and the Revisor of Statutes. Upon such written certification by the Mi'kmaq Nation
 21 Tribal Council, chapter 605 constitutes a jurisdictional agreement for purposes of the
 22 Aroostook Band of Micmacs Settlement Act, United States Public Law 102-171, Section
 23 6(d). Such written certification by the Mi'kmaq Nation Tribal Council does not constitute
 24 an agreement that the contingencies in Public Law 1989, chapter 148 were met or that the
 25 provisions of Public Law 1989, chapter 148 ever took effect.'

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
 27 number to read consecutively.

28 SUMMARY

29 This amendment strikes and replaces the bill. It does the following:

30 1. Establishes new findings within the Maine Implementing Act to distinguish
 31 legislative findings relevant to this bill from the findings made during the enactment of the
 32 original 1980 Implementing Act. Separate but identical findings are included for the
 33 Passamaquoddy Tribe, Penobscot Nation and Houlton Band of Maliseet Indians. These
 34 findings describe the effect of section 6(h) and 16(b) of the federal Settlement Act, United
 35 States Public Law 96-420, in precluding the Passamaquoddy Tribe, Penobscot Nation and
 36 Houlton Band of Maliseet Indians from benefiting from federal laws and regulations that
 37 are generally applicable to or enacted for the benefit of Indians or relate to a special status
 38 or right of Indian nations or tribes or bands of Indians or to lands owned by or held in trust
 39 for Indians, Indian nations or tribes or bands of Indians if such law or regulation affects or
 40 preempts the civil, criminal or regulatory jurisdiction of this State, including, without
 41 limitation, laws of this State relating to land use or environmental matters. The findings
 42 describe the purposes of the amendments to the Maine Implementing Act included in this
 43 legislation as regards the application of state and federal law to the Passamaquoddy Tribe,
 44 Penobscot Nation and Houlton Band of Maliseet Indians;

1 2. Adds separate but identical sections to the Maine Implementing Act that apply to
2 the Passamaquoddy Tribe, Penobscot Nation and Houlton Band of Maliseet Indians and
3 that describe the application of federal and state law to each. Regarding state law, the
4 language provides that any law of this State that would be affected or preempted by the
5 operation, application or implementation of any statute or regulation of the United States
6 that accords a special status or right to or relates to a special status or right of any Indian,
7 Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country,
8 Indian territory or land held in trust for Indians does not apply, except as specifically
9 provided in the Act;

10 3. Regarding federal law, the language provides that any statute or regulation of the
11 United States enacted before, on or after October 10, 1980 that accords a special status or
12 right to or relates to a special status or right of any Indian, Indian nation, tribe or band of
13 Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in
14 trust for Indians is applicable within this State, without regard to any effect on the
15 application of the laws of this State, except as specifically provided;

16 4. Provides that modification of the application of the laws of this State is limited to
17 those particular circumstances in which the application of the laws of this State would
18 conflict or interfere with the actual operation, application or implementation of a statute or
19 regulation of the United States that accords a special status or right to or relates to a special
20 status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian
21 reservations, Indian country, Indian territory or land held in trust for Indians. If the
22 operation, application or implementation of any statute or regulation of the United States
23 in this State would result in the absence of any law or regulation applicable to a matter of
24 public health or safety, including without limitation laws relating to land use or
25 environmental matters, the corresponding laws of the State with respect to that health or
26 safety matter apply to fill any regulatory gap;

27 5. Describes a process by which the Passamaquoddy Tribe, Penobscot Nation and
28 Houlton Band of Maliseet Indians are to notify the Attorney General in the event they
29 believe that a law of this State does not apply by virtue of the amendments proposed by
30 this legislation;

31 6. Provides that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band
32 of Maliseet Indians may conduct gaming activities only in accordance with the laws of this
33 State and may not conduct gaming activities under the authority of the federal Indian
34 Gaming Regulatory Act or under any regulations promulgated under the federal Indian
35 Gaming Regulatory Act by the chair of the National Indian Gaming Commission or its
36 successor organization;

37 7. Provides that the laws of this State applicable to the crimes and juvenile crimes
38 described in this legislation apply to the Passamaquoddy Tribe, the Penobscot Nation and
39 the Houlton Band of Maliseet Indians as provided in this legislation; the statutes and
40 regulations of the United States that conflict with or affect or preempt the jurisdiction of
41 this State over crimes and juvenile crimes described in this legislation do not apply in this
42 State; and the federal laws identified in Section 6(c) of United States Public Law 96-420
43 do not apply in this State;

44 8. Provides that the federal Clean Water Act, the federal Water Quality Act of 1987,
45 the federal Clean Air Act and the federal Indian Mineral Development Act of 1982, as well

1 as all future amendments to those laws, do not apply to the Passamaquoddy Tribe, the
2 Penobscot Nation, the Houlton Band of Maliseet Indians and the Mi'kmaq Nation and their
3 Indian territory or trust land to the extent the provisions affect or preempt the application
4 of the laws of this State and extend the jurisdiction of the tribe, nation or band beyond their
5 Indian territory or trust land, unless such provisions are specifically made applicable within
6 the State of Maine;

7 9. Provides that, notwithstanding any provision of law to the contrary, the State, the
8 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians
9 agree and intend that each tribe, nation or band has the power to enact laws and ordinances
10 relating to the operation, application and implementation of any statute or regulation of the
11 United States enacted before, on or after October 10, 1980 that accords a special status or
12 right to or relates to a special status or right of any Indian, Indian nation, tribe or band of
13 Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in
14 trust for Indians, except as otherwise provided;

15 10. Creates a new chapter pertaining to the Mi'kmaq Nation with provisions that mirror
16 those applicable to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band
17 of Maliseet Indians;

18 11. Adds contingent effective date language specific to each tribe, nation or band; and

19 12. Adds contingent repeal language.

20 **FISCAL NOTE REQUIRED**

21 **(See attached)**

Attachment B: “internal tribal affairs” provisions of state implementing acts

Maine Implementing Act (MIA) — 30 M.R.S. §6206(1)

§6206. Powers and duties of the Indian tribes within their respective Indian territories

1. General powers. *Except as otherwise provided in this Act, the Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories, have and may exercise and enjoy all the rights, privileges, powers and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and are subject to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, provided, however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections, the use or disposition of settlement fund income and the exercise of power by the Passamaquoddy Tribe pursuant to [section 6207, subsection 10](#), [section 6207-A](#) and [section 6209-A, subsection 1, paragraph F](#) and by the Penobscot Nation pursuant to [section 6207, subsection 11](#), [section 6207-B](#) and [section 6209-B, subsection 1, paragraph F](#), respectively, is not subject to regulation by the State. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to the respective Indian territories and the residents thereof. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the respective tribe or nation nonetheless is equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services that are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and is entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory.*

2. Power to sue and be sued. *The Passamaquoddy Tribe, the Penobscot Nation and their members may sue and be sued in the courts of the State to the same extent as any other entity or person in the State provided, however, that the respective tribe or nation and its officers and employees shall be immune from suit when the respective tribe or nation is acting in its governmental capacity to the same extent as any municipality or like officers or employees thereof within the State.*

3. Ordinances. *The Passamaquoddy Tribe and the Penobscot Nation each has the right to exercise exclusive jurisdiction within its respective Indian territory over violations by members of any federally recognized Indian tribe, nation, band or other group of tribal ordinances adopted pursuant to this section or [section 6207](#). The decision to exercise or terminate the jurisdiction authorized by this section must be made by each tribal governing body. If either tribe or nation chooses not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or [section 6207](#), the State has exclusive jurisdiction over violations of tribal ordinances by members of any federally recognized Indian tribe, nation, band or other group within the Indian territory of that tribe or nation. The State has exclusive jurisdiction over violations of tribal ordinances by persons not members of any federally recognized Indian tribe, nation, band or other group except as provided in the section or sections referenced in the following:*

A. [Section 6209-A](#).

B. [Section 6209-B](#).

Attachment B: “internal tribal affairs” provisions of state implementing acts

Mi’kmaq Nation Restoration Act (MNRA) — 30 M.R.S. § 7203(5)

§7205. Powers and duties of Mi’kmaq Nation within Mi’kmaq Nation Jurisdiction Land

1. Sovereign status. *The State recognizes that the Mi’kmaq Nation predates the State of Maine and the United States and possesses the power and authority to self-govern as limited by the Aroostook Band of Micmacs Settlement Act and this Act.*

2. General powers. *Except as otherwise provided in this Act, the Mi’kmaq Nation, within Mi’kmaq Nation Jurisdiction Land, may, separate and distinct from the State, exercise exclusive jurisdiction, including by enacting ordinances, over internal tribal matters, including membership in the nation, the right to reside within Mi’kmaq Nation Jurisdiction Land, tribal organization, tribal government and tribal elections and the exercise of power pursuant to [section 7206, subsection 8](#), [section 7207](#) and [section 7208, subsection 1, paragraph F](#) and such matters are not subject to regulation by the State. Pursuant to the Mi’kmaq Nation’s power and authority to self-govern, the Mi’kmaq Nation has the same, and no more, power to enact ordinances within Mi’kmaq Nation Jurisdiction Land as municipalities have within the State. The Mi’kmaq Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to Mi’kmaq Nation Jurisdiction Land and the residents thereof. Any resident of Mi’kmaq Nation Jurisdiction Land who is not a member of the nation is equally entitled to receive any municipal or governmental services provided by the nation or by the State, except those services that are provided exclusively to members of the nation pursuant to state or federal law, and are entitled to vote in national, state and county elections in the same manner as any tribal member residing within Mi’kmaq Nation Jurisdiction Land.*

3. Power to sue and be sued. *The Mi’kmaq Nation and its members may sue and be sued in the courts of the State to the same extent as any other entity or person in the State except that the nation and its officers and employees are immune from suit when the nation is acting in its governmental capacity to the same extent as municipalities or like officers or employees thereof within the State.*

4. Ordinances. *The Mi’kmaq Nation has the right to exercise exclusive jurisdiction within Mi’kmaq Nation Jurisdiction Land over violations by members of any federally recognized Indian tribe, nation, band or other group of tribal ordinances adopted by the nation pursuant to this section or [section 7206](#). The decision to exercise or terminate the jurisdiction authorized by this section must be made by the Mi’kmaq Nation Tribal Council. If the nation chooses not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or [section 7206](#), the State has exclusive jurisdiction over violations of the nation’s tribal ordinances by members of any federally recognized Indian tribe, nation, band or other group within Mi’kmaq Nation Jurisdiction Land. The State has exclusive jurisdiction over violations of the nation’s tribal ordinances by persons not members of any federally recognized Indian tribe, nation, band or other group except as provided in section 7208.*

MNRA — 30 M.R.S. § 7203(5) Definitions

5. Mi’kmaq Nation Jurisdiction Land. *“Mi’kmaq Nation Jurisdiction Land” means:*

- A. All Mi’kmaq Nation Trust Land that exists as of the effective date of this subsection; and*
- B. All Mi’kmaq Nation Trust Land acquired after the effective date of this subsection that is both within Aroostook County and within 50 miles of land described in paragraph A.*

Attachment C: “internal tribal affairs” – *Atkins v. Penobscot Nation*, 130 F.3d 482 (1st Cir. 1997)

Synopsis: *Atkins* challenged a policy of the Penobscot Nation Tribal Council, which limited the issuance of stumpage permits for Penobscot Indian territory to enrolled members of the Nation who are Maine residents. *Atkins*, an enrolled member who did not reside in Maine, alleged that the new policy violated his federal and state constitutional rights. The U.S. Court of Appeals for the First Circuit explained that *Atkins*’ ability to bring these claims in federal court “depend[s] on whether the [Maine] Implementing Act and the [federal] Settlement Act subject the Penobscot Nation’s stumpage policy to regulation by the State” — put differently, “whether the issuance of stumpage permits is an ‘internal tribal matter’” under §6206(1) of the Maine Implementing Act.

The First Circuit held that this policy was an “internal tribal matter” reasoning:

- “First, and foremost, the **policy purports to regulate only members of the tribe**, as only tribal members may even apply for permits. The **interests of non-members are not at issue**. Thus, it appears to be an “internal” tribal matter.”
- “Second, the policy has to do with the commercial use of lands acquired by the Nation with the federal funds it received for this purpose as part of the settlement agreement. These lands are “Penobscot Indian Territory” and are subject to federal restraints on alienation. *See* [MICA §5]; Me. Rev. Stat. Ann. tit. 30, § 6205. **The policy regulates the very land that defines the territory of the Nation**, and so appears to be a “tribal” matter.”
- “Third, the **policy concerns the harvesting of a natural resource from that land**; and permit fees paid benefit the Penobscot Nation. The control of the permitting process operates as a control over the growth, health, and reaping of that resource.”
- “Fourth, **the policy, at least on its face, does not implicate or impair any interest of the state of Maine.**”
- “Fifth, it is **consistent with prior legal understandings** to view the issuance of stumpage permits as an internal tribal matter.”

With respect to the fifth factor, although federal cases from other states are not controlling in interpreting MICA and MIA, the following lent support to its decision that this policy was an internal tribal matter:

- “When **on-reservation conduct involving only Indians is at issue** ... the State’s regulatory interest is likely to be minimal and the federal interest in encouraging **tribal self-government is at its strongest** ... though the reservation boundary is not absolute, it remains an important factor to weigh in determining whether state authority has exceeded the permissible limits.” — quoting *White Mountain Apache Tribe*, 448 U.S. 136, 144 (1980).
- A “**tribe [has] general authority**, as sovereign, to control economic activity within its jurisdiction [which extends] to **transactions occurring on trust lands and significantly involving a tribe or its members.**” — quoting *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, (1982).
- Although “**in general, the inherent sovereign powers of a tribe do not extend to the activities of nonmembers of the tribe,**” there are nevertheless certain circumstances where “tribes retain considerable control over nonmember conduct on tribal land.” — quoting *Montana v. United States*, 450 U.S. 544, 564, 565 (1981) (e.g., “A tribe may regulate, through taxation, licensing, or other means, the activities of nonmembers who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements.”).

 KeyCite Yellow Flag
Distinguished by [Maine v. Johnson](#), 1st Cir., August 8, 2007

130 F.3d 482
United States Court of Appeals,
First Circuit.

[Andrew AKINS](#), et al., Plaintiffs, Appellants,
v.
[PENOBSCOT NATION](#), et al., Defendants, Appellees.

No. 97–1644.
|
Heard Oct. 8, 1997.
|
Decided Nov. 17, 1997.

Synopsis

Enrolled member of Penobscot Nation brought civil rights action challenging Nation’s stumpage policy. The United States District Court for the District of Maine, [Morton A. Brody](#), J., dismissed action. Member appealed. The Court of Appeals, [Lynch](#), Circuit Judge, held that issuance of stumpage permits by Penobscot Nation was internal tribal matter, and thus was subject to exclusive jurisdiction of tribal courts.

Affirmed.

Procedural Posture(s): On Appeal; Motion to Dismiss.

Attorneys and Law Firms

***483** [Timothy C. Woodcock](#), with whom Weatherbee, Woodcock, Burlock & Woodcock, Bangor, ME, was on brief, for Plaintiffs, Appellants.

[Kaighn Smith](#), Portland, ME, for Defendants, Appellees. Before [TORRUELLA](#), Chief Judge, [LYNCH](#), Circuit Judge, and [STEARNS](#), District Judge.

* Of the District of Massachusetts, sitting by designation.

Opinion

[LYNCH](#), Circuit Judge.

This case presents the first instance this court has been asked to address an important question in the allocation of sovereign powers between the Penobscot Nation and the State of Maine: the definition of “internal tribal matters.” If the dispute here involves an “internal tribal matter”

then the tribal courts have exclusive jurisdiction; if not, then claims have been stated within federal court jurisdiction and it was error to dismiss the action. While defining what constitutes an internal matter controlled by Indian tribes is hardly novel in Native American law, it is novel in this context. The relations between Maine and the Penobscot Nation are not governed by all of the usual laws governing such relationships, but by two unique laws, one Maine and one federal, approving a settlement. That settlement resulted from disputed claims for vast portions of lands in Maine brought by the Penobscots and others who had not historically been formally recognized as sovereign Indians.

I.

This case involves the harvesting of timber on those lands acquired by the Penobscot Nation as a result of the settlement agreement. Plaintiff Andrew X. Akins is the former Chairman of the Joint Tribal Negotiating Committee; he now resides in Alabama. Akins and his company, PENAK, Inc., also a plaintiff (whom we refer to jointly as “Akins”) for several years logged portions of the land under stumpage permits issued by the Nation. In December of 1993, the Nation’s Tribal Council voted a new policy: stumpage permits would be issued only to people who were both enrolled members of the Nation and residents of Maine. Akins is an enrolled member of the Nation, but not a Maine resident. Akins says he is the only tribal member who will be affected by the new policy. The policy became effective on ***484** May 18, 1994 and the next day the Nation told Akins he was not eligible for a permit.

Akins sued the Nation and its Tribal Council in the U.S. District Court in Maine, under [42 U.S.C. §§ 1983 and 1985](#), alleging that singling him out through an ostensibly neutral policy violated his rights to due process, equal protection, and to be free from bills of attainder. He also brought state law claims and alleged diversity jurisdiction. A report of a Magistrate Judge recommended dismissal of the case for failure to state a claim for which relief may be granted and for lack of subject matter jurisdiction. The U.S. District Court accepted the recommendation and dismissed. Akins appeals, arguing: that the district court erred in holding that the stumpage policy is an “internal tribal matter;” that he has cognizable claims under [42 U.S.C. §§ 1983 and 1985](#), as well as the Declaratory Judgment Act, [28 U.S.C. § 2201–02](#); and that the stumpage policy violates the Maine Administrative Procedures Act and the Maine Constitution.

II.

The issues in this case cannot be grasped without understanding the genesis of the Maine Indian Claims Settlement Act of 1980, 25 U.S.C. §§ 1721–35 (the “Settlement Act”). The history of the Settlement Act was brought to life in the decision of the Maine Law Court in *Penobscot Nation v. Stilphen*, 461 A.2d 478, 487 (Me.1983), and of this Circuit in *Passamaquoddy Tribe v. Maine*, 75 F.3d 784, 787 (1st Cir.1996). A summary of that history will do here.

The disputes which led to the settlement involved assertions that certain persons and groups were members of Indian tribes and as such entitled to ancestral lands and to monetary damages. The claimed lands amounted to nearly two-thirds of Maine’s landmass. See *Joint Tribal Council of the Passamaquoddy Tribe v. Morton*, 388 F.Supp. 649, 651–53, 667–69 (D.Me.), *aff’d*, 528 F.2d 370 (1st Cir.1975). Under federal auspices, the Penobscot Nation, other claimants, and Maine negotiated a settlement. That settlement was subject to approval by both the Maine Legislature and Congress. Maine enacted the Implementing Act, Me.Rev.Stat. Ann. tit. 30 §§ 6201–14, which provides:

[T]he Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories, shall have, exercise and enjoy all the rights, privileges, powers and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and shall be subject to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, *provided however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income shall not be subject to regulation by the State.*

Title 30, § 6206(1) (emphasis added). The Implementing Act was incorporated into the federal Settlement Act of 1980, 25 U.S.C. §§ 1721–35.

Each party benefitted from the settlement. The Nation in many respects gained the powers of a municipality under Maine law. “[T]he Settlement Act confirmed [the

Nation’s] title to designated reservation lands, memorialized federal recognition of its tribal status, and opened the floodgate for the influx of millions of dollars in federal subsidies.” *Passamaquoddy Tribe*, 75 F.3d at 787. Maine, in turn, put to rest the land claims and achieved a certain sharing of authority with the Nation, as described below.

III.

The structure of analysis differs here from that which would be used in claims against the vast majority of other Indian tribes in the country.² This is true as to the application of both state and federal law. As to state law, the Penobscot Nation and Maine expressly agreed that, with very limited exceptions, the Nation is subject to the laws of *485 Maine. See 25 U.S.C. § 1725. Congress was explicit that the purpose of the Settlement Act was “to ratify the Maine Implementing Act, which defines the relationship between the State of Maine ... and the Penobscot Nation” and “to confirm that all other Indians ... are and shall be subject to the laws of the State of Maine, as provided herein.” 25 U.S.C. § 1721(b)(3) & (4). The federal Settlement Act provides that:

² The Narragansett tribe in Rhode Island is also governed by a Claims Settlement Act. See 25 U.S.C. §§ 1701–06 (1978); *Narragansett Indian Tribe v. Narragansett Elec. Co.*, 89 F.3d 908 (1st Cir.1996).

The ... Penobscot Nation, and [its] members, and the land and natural resources owned by, or held in trust for the benefit of the tribe, nation, or [its] members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act and that Act is hereby approved, ratified, and confirmed.

25 U.S.C. § 1725(b)(1). In turn, the Settlement Act made federal law which was then generally applicable to Indians also applicable to the Penobscot Nation but declared special laws and regulations inapplicable. See 25 U.S.C. § 1725(h). The State of Maine may amend the Implementing Act to modify the jurisdictional powers of the Nation only if the Nation agrees to the amendment. See 25 U.S.C. § 1725(e)(1).

Although Indian tribes are not usually subject to the

diversity jurisdiction of the federal courts, see *Romanella v. Hayward*, 114 F.3d 15 (2d Cir.1997), the Settlement Act subjects the Maine tribes to diversity jurisdiction:

the Penobscot Nation ... may sue and be sued in the courts of the ... United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in [that] court.³

³ That section also provides certain immunities from suit. We do not reach the issue of immunity.

25 U.S.C. § 1725(d)(1). Further, those federal laws enacted after October 10, 1980 (the effective date of the Settlement Act) for the benefit of Indians do not apply within Maine unless the federal statute is made expressly applicable within Maine. 25 U.S.C. § 1735(b).

The Settlement Act provides at 25 U.S.C. § 1725(f):

The ... Penobscot Nation [is] hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

The Implementing Act in turn makes the Nation subject “to all the duties, obligations, liabilities and limitations of a municipality ... *provided, however, that internal tribal matters ... shall not be subject to regulation by the State.*” *Me.Rev.Stat. Ann. tit. 30, § 6206(1)* (emphasis added). The viability of both the federal law claims under § 1983 and the state law claims under diversity jurisdiction depend on whether the Implementing Act and the Settlement Act subject the Penobscot Nation’s stumpage policy to regulation by the State. Put differently, the Nation in certain capacities functions as a municipality of Maine and is reachable under state and federal law in that capacity, but when it functions as a tribe as to internal tribal matters, it is not.

This case turns on whether the issuance of stumpage permits is an “internal tribal matter.” Under the Settlement Act, we consider that to be a question of federal law, and the parties so agree.⁴ If this is an internal tribal matter, then Akins’s § 1983 claim fails because the

Nation would not have been acting “under color of state law.” See *R.J. Williams Co. v. Fort Belknap Hous. Auth.*, 719 F.2d 979, 982 (9th Cir.1983); *Dry Creek Lodge, Inc. v. United States*, 515 F.2d 926, 931 (10th Cir.1975). If this is an internal tribal matter, then under both Settlement Act and the Implementing Act, Maine law does not apply and no claims arise under the Maine Constitution or under the Maine Administrative Procedure Act. Thus no claim arises under state law warranting the exercise of diversity jurisdiction.

⁴ The Settlement Act at 25 U.S.C. § 1735(a) recites that in the event of any conflict between that Act and the Maine Implementing Act, the federal statute prevails.

*486 IV.

In considering Akins’s § 1983 claim, we note that Congress did not exempt the Penobscot Nation from obligations not to trammel on civil rights. At a minimum it did so in a separate general statute, the Indian Civil Rights Act of 1968 (“ICRA”). See 25 U.S.C. §§ 1301–41, made applicable to the Penobscot Nation by 25 U.S.C. § 1725(h). The ICRA imposes “restrictions upon tribal governments similar, but not identical, to those embodied in the Bill of Rights and the Fourteenth Amendment.” *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 57, 98 S.Ct. 1670, 1676, 56 L.Ed.2d 106 (1978). Under the ICRA, “No Indian tribe in exercising powers of self-government shall ... deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.” 25 U.S.C. § 1302(8).

Two distinctions are pertinent. As a matter of substantive law, generally, the ICRA and not the U.S. Constitution is the source of the rights. See *Santa Clara Pueblo*, 436 U.S. at 56, 98 S.Ct. at 1675–76; J. Resnik, *Dependent Sovereigns: Indian Tribes, States and the Federal Courts*, 56 U. Chi. L.Rev. 671, 694 (1989) (“Members of Indian tribes cannot make Bill of Rights claims against their tribes.”). Secondly, such claims of violations of civil rights must be heard in the tribal courts, not in the federal courts. With the exception of petitions for habeas corpus relief, Congress did not intend in the ICRA to create implied causes of action to redress substantive rights in federal court.⁵ See *Santa Clara Pueblo*, 436 U.S. at 59–66, 98 S.Ct. at 1677–81. Similarly, if this is an internal tribal matter, then the tribal court will have authority over the essence of the state constitutional claims. The ICRA contains its own equal protection and due process guarantees. Akins’s state constitutional

claims rest on similar guarantees. This is not a potential instance of a right without a remedy.⁶

⁵ While Akins may view a tribal court as a less desirable forum than federal court, the Supreme Court has said that “even if a jurisdictional holding occasionally results in denying an Indian plaintiff a forum to which a non-Indian has access, such disparate treatment of the Indian is justified because it is intended to benefit the class of which he is a member by furthering the congressional policy of Indian self-government.” *Fisher v. District Ct.*, 424 U.S. 382, 390–91, 96 S.Ct. 943, 948, 47 L.Ed.2d 106 (1976). The Court has recognized that subjecting purely intra-tribal disputes to state jurisdiction has the potential to undermine the authority of tribal courts and of the tribal government. See *Santa Clara Pueblo*, 436 U.S. at 59–60, 98 S.Ct. at 1677–78.

⁶ The Penobscot Nation concedes, both in its brief and again at oral argument, that Akins’s equal protection and due process claims may be brought under the Indian Civil Rights Act, and may be brought against the Nation, in the Penobscot Nation Tribal Court.

V.

Is the issuance of stumpage permits an “internal tribal matter”? The language of the statute itself is the first resort. That language refers to:

internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income....

Me.Rev.Stat. Ann. tit. 30, § 6206(1). Because the wording used is “including,” the specific categories are exemplars and not exclusive. The examples provide limited guidance. The stumpage permit policy does not fit neatly within any of these categories. It might be argued it fits within “tribal government” but such an argument rests on inherently too broad a reading of the phrase. That a tribe attempts to govern a matter does not render it an internal tribal matter.

A number of strong considerations point to the stumpage policy being an internal tribal matter. First, and foremost, the policy purports to regulate only members of the tribe, as only tribal members may even apply for permits. The interests of non-members are not at issue. Thus, it appears to be an “internal” tribal matter. Second, the policy has to do with the commercial use of lands acquired by the Nation with the federal funds it received for this purpose as part of the settlement agreement. These lands are *487 “Penobscot Indian Territory” and are subject to federal restraints on alienation. See 25 U.S.C. § 1724; *Me.Rev.Stat. Ann. tit. 30, § 6205*. The policy regulates the very land that defines the territory of the Nation, and so appears to be a “tribal” matter. Third, the policy concerns the harvesting of a natural resource from that land; and permit fees paid benefit the Penobscot Nation. The control of the permitting process operates as a control over the growth, health, and reaping of that resource. Fourth, the policy, at least on its face, does not implicate or impair any interest of the state of Maine. Fifth, it is consistent with prior legal understandings to view the issuance of stumpage permits as an internal tribal matter.

There are also arguments that this is not an internal tribal matter. First, logging permits are issued by municipalities as a standard part of municipal powers. But it is surely too broad a test to ask whether a municipality engages in the same activity. Every activity specifically listed in the statute as an exemplar of an internal tribal matter is also engaged in by a municipality.

The second and more interesting argument advanced by Akins is that, outside of the categorical exemplars, the focus should be historical and tribe specific. The Penobscots, Akins says, have offered no evidence that they have historically been loggers or supported themselves through timber harvesting. Logging, Akins says, is a major commercial activity in Maine and historically has been engaged in by others, and is not “uniquely Indian” nor “of particular cultural importance” to the Nation.

Akins analogizes the expansion of the Nation into the economics of commercial logging to the expansion of the tribe into commercial gambling, an activity that the Maine Law Court has specifically held is not an “internal tribal matter.” See *Stilphen*, 461 A.2d 478 (holding that an illegal bingo game run by the Nation did not qualify as an internal tribal matter); see also *Passamaquoddy Tribe*, 75 F.3d at 787–88 (holding that Congress did not intend to give the Maine tribes any rights under the Indian Gaming Regulatory Act). At the very least, Akins argues, the dismissal of his action should be vacated and the case

remanded for a hearing on whether logging is a traditional tribal activity and whether the stumpage policy reinforces traditional tribal values.

The Nation responds to this latter argument vigorously. The Nation retorts that it is not a museum piece and may not be relegated to historic roles. If the Nation is truly to exercise its residual sovereignty, it must be free to act within the present marketplace and not be stereotypically restricted to ancient forms of economic support. Narrow historical analysis, the Nation says, should play almost no role. Accordingly, the Nation argues that the Maine Law Court was wrong in *Stilphen* when it focused on historic culture or development to define internal tribal matters. *See Stilphen*, 461 A.2d at 490.

Such broad themes do not help to define the rules of decision in these cases. At the same time Congress was enacting the Settlement Act the Supreme Court noted that, “ ‘[g]eneralizations in this subject [of tribal authority] have become ... treacherous.’ ” *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 141, 100 S.Ct. 2578, 2582, 65 L.Ed.2d 665 (1980) (quoting *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 148, 93 S.Ct. 1267, 1270, 36 L.Ed.2d 114 (1973)). Generalizations are no less treacherous today, almost two decades later. We tread cautiously and write narrowly, for the problems and conflicting interests presented by this case will not be the same as the problems and interests presented by the next case.

Context informs our approach. This is not a dispute between Maine and the Nation over the attempted enforcement of Maine’s laws. This does not involve a direct or indirect regulation of the Nation by Congress. This is also not a dispute over application of statutory rights Congress may have wished to apply uniformly, regardless of whether the application involved Indian lands or Indian government. This is not an instance of potential conflict or coincidence of Maine law and federal statutory law. This is not even a situation of substantive rights regarding stumpage permits granted to persons by statute, state or federal. This is instead a question of allocation of jurisdiction among *488 different fora and allocation of substantive law to a dispute between tribal members where neither the Congress nor the Maine Legislature has expressed a particular interest. The federal courts have jurisdiction over this case only if the stumpage permits are not internal tribal matters.

The five considerations outlined earlier, taken together, resolve the question in favor of this being an internal tribal matter and do so as a matter of law. Though future cases may require some exploration of evidence as to

whether the underlying subject is an internal tribal matter before decision of the jurisdictional question, this case does not.

Of great significance is that this is an intra-tribal dispute. It involves only members of the tribe, and not actions by the Nation addressed to non-members. The tribe’s treatment of its members, particularly as to commercial interests, is not of central concern to either Maine or federal law (other than through the ICRA). There appear to be no strong policy reasons not to view this as an area appropriate for internal tribal regulation.

Secondly, the subject matter appears to be one which the settlement statutes viewed as being within legitimate tribal concern; both the Implementing Act, § 6203, and the Settlement Act, § 1722, define “land and other natural resources” as meaning, inter alia, “timber and timber rights.”⁷ The Settlement Act provides that the natural resources within the Penobscot Indian Territory may, at the request of the Nation, be leased, sold, or subject to right of way, in accord with other sections of Title 25. *See* 25 U.S.C. § 1724(g). It has long been understood that the power to issue permits is an indirect method of managing a natural resource. *See California Coastal Comm’n v. Granite Rock Co.*, 480 U.S. 572, 107 S.Ct. 1419, 94 L.Ed.2d 577 (1987). To a large extent, the subject matter here involves the regulation and conservation of natural resources belonging to the tribe.

⁷ That language is used in part to define the meaning of Indian lands and used to extinguish claims that much earlier transfers of lands had not complied with the Trade and Intercourse Act of 1790, and other claims. *See* 25 U.S.C. § 1723.

Third, the subject matter, involving tribal lands, appears to have no impact on Maine’s environmental or other interests. By its own terms, the Implementing Act, § 6204, makes state laws regulating land use or management, conservation and environmental protection applicable to tribal lands. The absence of an assertion that any such laws are involved here is telling. *Cf. Narragansett*, 89 F.3d at 922 (enjoining construction of housing until the tribe complied with the requirements of state coastal resources management program). Under such circumstances, arguments about history, which may be pertinent in other contexts and for addressing other problems,⁸ offer little here.

⁸ Debates about the role to be played by historical and anthropological evidence in Indian cases are not new. In the trial court in *Santa Clara*, such evidence was explored, and commentators have questioned whether it is relevant to the issue of

sovereignty. See *Resnik*, 56 U. Chi. L.Rev. at 705–09.

We test our conclusions against a different history, the legislative history, because the language of the Implementing and Settlement Acts does not clearly dispose of the question. See *Blum v. Stenson*, 465 U.S. 886, 896, 104 S.Ct. 1541, 1548, 79 L.Ed.2d 891 (1984) (“Where, as here, resolution of a question of federal law turns on a statute and the intention of Congress, we look first to the statutory language and then to the legislative history if the statutory language is unclear.”); *Penobscot Indian Nation v. Key Bank*, 112 F.3d 538, 548 (1st Cir.1997) (inquiry into legislative history is “particularly appropriate in the context of federal Indian law”); *Massachusetts v. FDIC*, 102 F.3d 615, 620 (1st Cir.1996). That legislative history is only somewhat helpful because it embodies two conflicting approaches to resolving the question of what is an internal tribal matter. On the one hand, Congress described the settlement as “original” and “innovative.” On the other hand, the Congress referred to respecting the inherent self-governing authority of a tribe. In so doing, it referred to a Supreme Court opinion, *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 98 S.Ct. 1670, 56 L.Ed.2d 106 (1978).

*489 We look to the Committee Report of the Senate Select Committee on Indian Affairs concerning the Settlement Act. See *Garcia v. United States*, 469 U.S. 70, 76, 105 S.Ct. 479, 483, 83 L.Ed.2d 472 (1984) (Committee Reports on a bill are authoritative source for determining legislative intent). That report explains that the “treatment of the Passamaquoddy Tribe and Penobscot Nation in the Maine Implementing Act is original. It is an innovative blend of customary state law respecting units of local government coupled with a recognition of the independent source of tribal authority, that is, the inherent authority of a tribe to be self-governing.” S.Rep. No. 96–957, at 29 (1980) (citing *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 98 S.Ct. 1670, 56 L.Ed.2d 106).

In the final Committee Reports on the Settlement Act, both the House and the Senate addressed the Nation’s concern that “the settlement amounts to a ‘destruction’ of the sovereign rights and jurisdiction of the ... Penobscot Nation.” S.Rep. No. 96–957, at 14; H.R.Rep. No. 96–1353, at 14–15 (1980), U.S.Code Cong. & Admin.News 1980, 3786, at 3790. Before the settlement, the federal government had not formally recognized the Penobscot Nation as an Indian tribe and the State of Maine had long assumed that the Maine tribes had no inherent sovereignty. See *Bottomly v. Passamaquoddy*

Tribe, 599 F.2d 1061, 1063–65 (1st Cir.1979). The Reports state that “While the settlement represents a compromise in which state authority is extended over Indian territory to the extent provided in the Maine Implementing Act, ... the settlement provides that henceforth the tribes will be free from state interference in the exercise of their internal affairs. Thus, rather than destroying the sovereignty of the tribes, by recognizing their power to control their internal affairs ... the settlement strengthens the sovereignty of the Maine Tribes.” S.Rep. No. 96–957, at 14; H.R.Rep. No. 96–1353, at 14–15, U.S.Code Cong. & Admin.News 1980, at 3790.

The Committee Report also referred to the *Santa Clara Pueblo* case, which concerned whether Title I of the ICRA authorized civil actions in the federal courts to enforce its substantive provisions. At issue was the definition of tribal membership, which the tribe extended to children of males who married outside the tribe but not to children of females who married outside the tribe. The Supreme Court held that the ICRA vested jurisdiction in the tribal courts and not the federal courts. The Court recognized both that Congress had the power to limit the powers of local self-government that tribes possessed and that Congress intended in the ICRA to balance dual objectives. Under such circumstances, the Court would not infer from Congressional silence a cause of action in the federal courts.

Congress’ citation to the *Santa Clara Pueblo* opinion in the Senate Report reinforces the tension between the dual objectives of the Settlement Act: between an original, innovative allocation of authority between the State and tribes and the desire to recognize the tribe’s inherent self-government authority. From Congressional silence we are hesitant to read an intent to expand federal court jurisdiction where it appears, as it does here, that inherent self-governing authority of a tribe is involved. We stress that we do not read the reference by Congress to *Santa Clara Pueblo* in the legislative history of the Settlement Act as invoking all of prior Indian law. That would be inconsistent with the unique nature of the Maine settlement and the specific provisions of the Act limiting the application of federal Indian law. But we also do not agree that reference to such law is never helpful in defining what is an internal tribal matter. Congress was explicitly aware of such law, and explicitly made existing general federal Indian law applicable to the Penobscot Nation in the Settlement Act. In other areas, courts have long presumed that Congress acts against the background of prior law. See, e.g., *Clarke v. Securities Indus. Ass’n*, 479 U.S. 388, 405, 107 S.Ct. 750, 760, 93 L.Ed.2d 757 (1987); *Kolster v. INS*, 101 F.3d 785, 787–88 (1st

Cir.1996).

General federal Indian caselaw supports our conclusion. The cases uniformly recognize the importance of the factors we have stressed: that the issue involves matters between tribe members and matters of *490 the economic use of natural resources inherent in the tribal lands. “When on-reservation conduct involving only Indians is at issue, state law is generally inapplicable, for the State’s regulatory interest is likely to be minimal and the federal interest in encouraging tribal self-government is at its strongest.” *White Mountain Apache Tribe*, 448 U.S. at 144, 100 S.Ct. at 2584. In *White Mountain Apache*, a non-Indian logging company challenged the applicability of state taxes to its exclusively on-reservation operations. The Court said that the tradition of Indian sovereignty over their reservations informed the determination that the exercise of state authority was preempted by federal law. The Court reviewed the “basic principles” established by its prior decisions regarding the “boundaries between state regulatory authority and tribal self-government.” *Id.* at 141, 100 S.Ct. at 2582. The Court emphasized the “significant geographical component to tribal sovereignty” and said that “though the reservation boundary is not absolute, it remains an important factor to weigh in determining whether state authority has exceeded the permissible limits.” *Id.* at 151, 100 S.Ct. at 2587.

Similarly, in *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 102 S.Ct. 894, 71 L.Ed.2d 21 (1982), the Court held that the tribe had the inherent authority to impose a severance tax on on-reservation mining activities as part of its power to be self-governing. This power derived from “the tribe’s general authority, as sovereign, to control economic activity within its jurisdiction” and extended to transactions “‘occurring on trust lands and significantly involving a tribe or its members....’” *Id.* at 137, 102 S.Ct. at 901 (quoting *Washington v. Confederated Tribes of Colville Indian Reservation*, 447 U.S. 134, 152, 100 S.Ct. 2069, 2080–81, 65 L.Ed.2d 10 (1980)).

Where, in contrast, the issue involves tribal attempts to regulate non-tribal members, the Supreme Court has often found that those attempts are not within the inherent self-governing powers of a tribe. *Montana v. United*

States, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.2d 493 (1981), held that the Crow Indians did not have the power to regulate hunting and fishing by non-Indians on reservation lands owned by non-Indians. The Court said that the tribal “powers of self-government involve only the relations among members of a tribe.” *Id.* at 564, 101 S.Ct. at 1257.

Similarly, in *Strate v. A-1 Contractors*, — U.S. —, —, 117 S.Ct. 1404, 1409, 137 L.Ed.2d 661 (1997), the Court reaffirmed *Montana*’s holding that, in general, the inherent sovereign powers of a tribe “‘do not extend to the activities of nonmembers of the tribe.’” (quoting *Montana*, 450 U.S. at 565, 101 S.Ct. at 1258). The Court also noted that “tribes retain considerable control over nonmember conduct on tribal land.” *Id.* at —, 117 S.Ct. at 1413. Here, only tribal conduct is at issue.

The legislative history and precedent thus reinforces our conclusion that this dispute involves an “internal tribal matter” and that, accordingly, no claim is stated under § 1983 or under Maine law.⁹

⁹ Appellants’ claims under § 1985(3) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–02 fail for the same reasons. Neither statute, in itself, creates a substantive cause of action. See *Great Am. Fed. S. & L. Assn. v. Novotny*, 442 U.S. 366, 372, 99 S.Ct. 2345, 2349, 60 L.Ed.2d 957 (1979) (§ 1985(3)); *Colonial Penn Group, Inc. v. Colonial Deposit Co.*, 834 F.2d 229, 232 (1st Cir.1987) (Declaratory Judgment Act). Appellants must rely on an independent source for their claims, and there is none present which is capable of being asserted in federal court.

The judgment of the district court is *affirmed*. Costs to appellees.

All Citations

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MICSA Legislative History on § 6(e):

As enacted, Section 6(e) of the federal Maine Indian Claims Settlement Act provides:

(e) Federal consent for amendment of Maine Implementing Act; nature and scope of amendments; agreement respecting State jurisdiction over Houlton Band lands

(1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: Provided, That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

(2) Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the band or its members.

Maine Indian Claims Settlement Act of 1980 (MICSA), Pub. L. No. 96-420, § 6(e), 94 Stat. 1785, 1794 (Oct. 10, 1980).

The original version of this provision, as introduced in the Senate as S. 2829 and the House as H.R. 7919, was section 6(d), and provided:

(d) Congress hereby consents to any amendment to the Maine Implementing Act with respect to either the Passamaquoddy Tribe or Penobscot Nation provided that such amendment is made with the agreement of such tribe or nation.

Hearings before the Senate Select Committee on Indian Affairs: Hearings on S. 2829 to Provide for the Settlement of the Maine Indian Land Claims, 96th Cong. at 19 (1980) ("Senate Hearing").

During the July 1, 1980, hearing on S. 2829, Senator William S. Cohen and Secretary of Interior Cecil D. Andrus discussed the provision:

Senator COHEN. On section 6(d): This appears to be an attempt to authorize action by the State on changes in the Federal laws, and it assumes congressional adoption of those changes.

No. 1: It seems to me the provision is unique because it allows the Federal act in the U.S. interests, regarding the settlement to be amended by the State. The question is this: Should a Federal act ratify an ambiguous State act in a blanket manner?

Secretary ANDRUS. We object to that language, Senator. In our discussions we have found that the State representatives and the tribal representatives did not believe that that language would give congressional consent to future amendments by the State. So, I think that is one that can easily be worked out. But we object to that language in 6(d) which would give that—we think would give that congressional consent.

Senate Hearing at 130.

The Secretary's prepared statement on the original version of S. 2829 also noted the Department's objection to the provision:

We strongly object to the language of section 6(d), which would give Congressional consent to future amendments to the Maine Implementing Act. We understand from discussions with tribal and State representatives that this was not the intent of this section. Rather, it was intended to provide the parties with future flexibility in adjusting their jurisdictional relationship under the State Implementing Act. Since that is the case, we recommend that section 6(d) be amended to authorize the making of future jurisdictional compacts between the tribes and State, provided that the roles of Federal officials are not affected thereby.

Senate Hearing at 135.

Senator Cohen also discussed section 6(d) with then Maine Attorney General Richard Cohen at the July 1, 1980, hearing:

Senator COHEN. In the Federal legislation at section 6(d), the Congress gives its consent, in advance, for any amendment to the Maine Implementing Act which is made with the consent of the tribes. What kinds of amendments do you anticipate Congress is giving its consent to?

Mr. COHEN. As far as the Maine Implementing Act is concerned?

Senator COHEN. Yes.

Mr. COHEN. We had nothing specific in mind at this time—

Senator COHEN. Congress is going to want to know what kind of Amendment—

Mr. COHEN. We talked about depending on how criminal jurisdiction works out or does not work out, and whether there could be a possible alteration as

far as that goes, things of that type. We were just trying to create a mechanism that was workable and that could be effectuated.

Senator COHEN. But you are asking Congress in advance to give consent to amendments that may be offered at some time in the future by the State. I am just trying to find out what kind of amendments you are going to ask Congress for consent on.

Mr. COHEN. It would only be to local relationships that affect the Indians and the State of Maine, specifically. They would not directly affect or have an impact on, certainly, the Federal Government.

Senator COHEN. Perhaps you could spell that out a little more specifically for the record because that question will be raised by many of our colleagues.

Mr. COHEN. I will certainly do that.

Senator COHEN. Thank you. Without objection, the record will remain open for the purpose of inserting this additional information upon receipt.

[See letter dated August 8, 1980, from U.S. Department of the Interior, p. 95.]

Senate Hearing at 165-66.

Approximately one month later, on August 8, 1980, Secretary Andrus sent a letter to the Senate Committee with additional views on S. 2829 and a proposed amendment. The Secretary explained that at the hearing on July 1, 1980, the Department:

raised a series of questions regarding a number of the provisions of the bill, especially insofar as it provides for the role of the Federal Government as trustee for the Maine Tribes. Since then we have met on several occasions with officials of the State and Tribes, and we fully appreciate the efforts the parties have made to achieve agreement on many of the important provisions of S. 2829. We have worked with those officials to redraft a number of those provisions and have achieved a large measure of agreement on substitute language to clarify the governmental responsibilities and jurisdictional relationships among the parties. It has not been our intent to alter in any way the agreement between the State of Maine and the Passamaquoddy Tribe and Penobscot Nation with respect to their new relationship. We have only sought to assist in making that agreement completely workable.

Senate Hearing at 95. The Department provided the Committee with a proposed amendment to S. 2829 in the nature of a substitute. *Id.*; see also *id.* at 105-27 (providing language of proposed substitute).

The Department believed the proposed amendment “would clarify the provisions of the bill while adhering closely to the intent and substance of it.” *Id.* at 95

In addressing the changes proposed to the original language of section 6(d),¹ Secretary Andrus wrote:

Under Section 6(d) of S. 2829 Congress would consent in advance to any amendment of the Maine Implementing Act as long as the Tribes agreed to any such amendment. The breadth of this “consent” gave us cause for concern. We have therefore included in our proposed Section 6(e)(1), language taken from S. 1181 (96th Cong.) which would authorize future jurisdictional agreements between the State and either the Passamaquoddy Tribe or the Penobscot Nation in the form of amendments to the Implementing Act. State and tribal officials have agreed to this provision. Our proposed Section 6(e)(2) would authorize similar agreements with the Houlton Band of Maliseet Indians.

Senate Hearing at 101-02; *see also id.* at 102 (“this is a matter for tribal discretion, and Section 6(e) of our proposed amendment would allow for future jurisdictional agreements to accommodate our preference” regarding payments in lieu of taxes); *id.* at 46 (“Please note also that Section 6(e) of the Administration’s proposed amendment in the nature of a substitute would give Congress’ consent to future changes in the jurisdictional agreement which may be agreed upon among the Tribes and the State.”).

The House Report on H.R. 7919 includes a description of the change from Section 6(d) to Section 6(e). H.R. REP NO. 96-1383 (1980) (“House Report”).

Under Section 6(d) of H.R. 7919 Congress would consent in advance to any amendment of the Maine Implementing Act as long as the Tribes agreed to any such amendment. The breadth of this “consent” gave us cause for concern. We have therefore included in our proposed Section 6(e) (1), language taken from S. 1181 (96th Cong.) which would authorize future jurisdictional agreements between the State and either the Passamaquoddy Tribe or the Penobscot Nation in the form of amendments to the Implementing Act. State and tribal officials have agreed to this provision. Our proposed Section 6(e) (2) would authorize similar agreements with the Houlton Band of Maliseet Indians.

House Report at 28; *see also id.* at 29 (“this is a matter for tribal discretion, and Section 6(e) of our proposed amendment would allow for future jurisdictional agreements to accommodate our preference” regarding payments in lieu of taxes).

¹ The substitute language of Section 6(e) proposed by the Secretary was enacted by Congress as Section 6(e) of MICSA. *Compare* MICSA, § 6(e), *with Senate Hearing* at 121.

The Senate Report on S. 2829 also includes two descriptions of Section 6(e).² *See* S. REP. NO. 96-957 (1980) (“Senate Report”). In the portion of the report called “SUMMARY OF MAJOR PROVISIONS,” the Senate Report provides:

Subsection 6 (b) adopts and ratifies the Maine Implementing Act and subsection 6(e) provides that the State may amend the provisions of that Act only with the prior consent of the Passamaquoddy Tribe and Penobscot Nation. The Maine Implementing Act sets forth the terms of agreement between the Tribe and Nation with the State of Maine with respect to the jurisdiction of the Tribe, the Nation, and the State and the legal status of these Tribes under State law.

Senate Report at 18; *see also* House Report at 19 (same). In the portion of the report called “SECTION-BY-SECTION ANALYSIS,” the Senate Report provides:

Subsection 6(e)(1) permits the State of Maine and the Penobscot Nation and the Passamaquoddy Tribe to enter into agreements amending the Maine Implementing Act. A proviso in this subsection limits the subject matter of those agreements to three specific areas. This subsection is similar to the provisions of S. 1181 introduced in the 96th Congress, 1st Sess. It “authorizes” agreements on jurisdictional issues between the State and the Tribes. It does not constitute Congressional “ratification” of such future agreements nor does it elevate such agreements to the status of Federal law.

Subsection 6(e)(2) extends the authority to enter into agreements with the State of Maine to the Houlton Band of Maliseet Indians over jurisdictional issues, including the governmental status of the Band under laws of the State. Until any such agreement is made with the Houlton Band, it and its members are subject to all the laws of the State of Maine except those from which they will necessarily be exempt under subsection 5(d)(4).

Senate Report at 29.

² The Senate and House Reports include a few other references to Section 6(e), *see* Senate Report at 9, 32, including a statement noting that “[t]he power of the State of Maine to alter [tribal hunting and fishing] rights without the consent of the affected tribe or nation is ended by Sec. 6(e)(1) of S. 2829,” Senate Report at 17; House Report 17.