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Date:

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JUDICIARY

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**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

COMMITTEE AMENDMENT

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,

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

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4 is repealed if a court of competent jurisdiction enters a final judgment concluding that no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

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

16 **§6216. Application of statutes and regulations of the United States to the Penobscot**
17 **Nation**

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

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

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

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

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

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

6 **2. Federal statutes and regulations apply to the Penobscot Nation.**

7 Notwithstanding any provision of this Act to the contrary:

8 A. The State and the Penobscot Nation agree and intend pursuant to United States
9 Public Law 96-420 that any law of this State that would be affected or preempted by
10 the operation, application or implementation of any 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 does not apply to the
14 Penobscot Nation, except as provided in subsection 4;

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

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

39 **3. Notice regarding applicability of federal and state law to the Penobscot Nation.**

40 Whenever the Penobscot Nation believes that a law of this State does not apply to the
41 Penobscot Nation, its citizens or its tribal territory or trust lands as a result of subsection 2
42 and the application of a statute or regulation of the United States, the Penobscot Nation
43 shall provide written notice to the Attorney General. The Attorney General shall use
44 reasonable efforts to respond in writing to the Penobscot Nation within 30 days if the State
45 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

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

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

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

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

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

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

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

14 C. The provisions of the federal Clean Water Act, the federal Water Quality Act of
15 1987, the federal Clean Air Act and the federal Indian Mineral Development Act of
16 1982, including all future amendments and reauthorizations of those Acts, do not apply
17 with respect to the Houlton Band of Maliseet Indians and its Indian territory or trust
18 land to the extent the provisions affect or preempt the application of the laws of this
19 State and directly or indirectly extend the jurisdiction of the Houlton Band of Maliseet
20 Indians beyond its Indian territory or trust land, unless such provisions are specifically
21 made applicable within the State of Maine.

22 **5. Powers of Houlton Band of Maliseet Indians relating to federal statutes and**
23 **regulations.** Notwithstanding any provision of law to the contrary, the State and the
24 Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law
25 96-420 that the Houlton Band of Maliseet Indians has the power to enact laws and
26 ordinances relating to the operation, application and implementation of any statute or
27 regulation of the United States enacted before, on or after October 10, 1980 that accords a
28 special status or right to or relates to a special status or right of any Indian, Indian nation,
29 tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory
30 or land held in trust for Indians, except as otherwise provided in subsection 4.

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

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

44 **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

1 State of Maine. The federal laws identified in Section 6(c) of United States Public Law
2 96-420 do not apply in this State; and

3 C. The provisions of the federal Clean Water Act, the federal Water Quality Act of
4 1987, the federal Clean Air Act and the federal Indian Mineral Development Act of
5 1982, including all future amendments and reauthorizations of those Acts, do not apply
6 with respect to the Mi'kmaq Nation and its Indian territory or trust land to the extent
7 the provisions affect or preempt the application of the laws of this State and directly or
8 indirectly extend the jurisdiction of the Mi'kmaq Nation beyond its Indian territory or
9 trust land, unless such provisions are specifically made applicable within the State of
10 Maine.

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

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

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

39 That section of this Act that enacts the Maine Revised Statutes, Title 30, section 6216
40 takes effect 120 days after adjournment of the First Special Session of the 131st Legislature
41 only if, within 90 days after adjournment of the First Special Session of the 131st
42 Legislature, the Secretary of State receives written certification from the Governor and the
43 Council of the Penobscot Nation that the nation has agreed to the provisions of that section,
44 copies of which must be submitted by the Secretary of State to the Secretary of the Senate,
45 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)**