

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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. 1045, L.D. 1620, “An Act to Amend the Laws Regarding the Mi'kmaq Nation”

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Laws Regarding the Mi'kmaq Nation and to Provide Parity to the Wabanaki Nations'

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

'PART A

Sec. A-1. PL 1989, c. 148, §3 is repealed and the following enacted in its place:

Sec. 3. 30 MRSA c. 603 is enacted to read:

CHAPTER 603

MI'KMAQ NATION RESTORATION ACT

§7201. Short title

This Act may be known and cited as "The Mi'kmaq Nation Restoration Act."

§7202. Legislative findings and declaration of policy

The Legislature finds and declares the following.

The Mi'kmaq Nation, previously known as the Aroostook Band of Micmacs, as represented as of the effective date of this chapter by the Mi'kmaq Nation Tribal Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Mi'kmaq Nation that years ago claimed aboriginal title to certain lands in the State.

The Mi'kmaq Nation was not referred to in the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420.

COMMITTEE AMENDMENT

1 There exist aboriginal lands in the State jointly used by the Mi'kmaq Nation and other
2 tribes to which the Mi'kmaq Nation could have asserted aboriginal title but for the
3 extinguishment of all such claims by the federal Maine Indian Claims Settlement Act of
4 1980, Public Law 96-420.

5 In 1991, the United States formally recognized the Mi'kmaq Nation as a sovereign
6 government to whom it owed a special trust relationship by enacting the federal Aroostook
7 Band of Micmacs Settlement Act, Public Law 102-171.

8 Section 6(d) of the federal Aroostook Band of Micmacs Settlement Act, Public Law
9 102-171, authorized the State of Maine and the Mi'kmaq Nation to execute agreements
10 regarding the State's jurisdiction over lands owned by or held in trust for the benefit of the
11 Mi'kmaq Nation or any citizen of the nation and provided the advance consent of the United
12 States to amendments of the state Micmac Settlement Act in Public Law 1989, chapter 148
13 for this purpose.

14 The State of Maine and the Mi'kmaq Nation agree and intend that this Act constitutes
15 a jurisdictional agreement pursuant to Section 6(d) of the federal Aroostook Band of
16 Micmacs Settlement Act, Public Law 102-171, that amends the state Micmac Settlement
17 Act, originally enacted in Public Law 1989, chapter 148.

18 **§7203. Definitions**

19 As used in this Act, unless the context otherwise indicates, the following terms have
20 the following meanings.

21 **1. Aroostook Band of Micmacs Settlement Act.** "Aroostook Band of Micmacs
22 Settlement Act" means the federal Aroostook Band of Micmacs Settlement Act, Public
23 Law 102-171.

24 **2. Lands or other natural resources.** "Lands or other natural resources" means any
25 real property or natural resources, or any interest in or right involving any real property or
26 natural resources, including, but not limited to, minerals and mineral rights, timber and
27 timber rights, water and water rights and hunting and fishing rights.

28 **3. Laws of the State.** "Laws of the State" means the Constitution of Maine and all
29 statutes, rules or regulations and the common law of the State and its political subdivisions,
30 and subsequent amendments thereto or judicial interpretations thereof.

31 **4. Mi'kmaq Nation.** "Mi'kmaq Nation" has the same meaning as "Band" in Section
32 3(1) of the Aroostook Band of Micmacs Settlement Act.

33 **5. Mi'kmaq Nation Jurisdiction Land.** "Mi'kmaq Nation Jurisdiction Land" means:

34 A. All Mi'kmaq Nation Trust Land that exists as of the effective date of this subsection;
35 and

36 B. All Mi'kmaq Nation Trust Land acquired after the effective date of this subsection
37 that is both within Aroostook County and within 50 miles of land described in
38 paragraph A.

39 **6. Mi'kmaq Nation Trust Land.** "Mi'kmaq Nation Trust Land" has the same meaning
40 as "Band Trust Land" in Section 3(3) of the Aroostook Band of Micmacs Settlement Act.

41 **7. Secretary.** "Secretary" means the United States Secretary of the Interior.

42 **§7204. Laws of State to apply to Indian Lands**

1 Except as otherwise provided in this Act, the Mi'kmaq Nation and all members of the
2 Mi'kmaq Nation in the State and any lands or other natural resources owned by them or
3 held in trust for them by the United States or by any other person or entity are subject to
4 the laws of the State and to the civil and criminal jurisdiction of the courts of the State to
5 the same extent as any other person or lands or other natural resources in the State.

6 **§7205. Powers and duties of Mi'kmaq Nation within Mi'kmaq Nation Jurisdiction**
7 **Land**

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

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

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

33 **4. Ordinances.** The Mi'kmaq Nation has the right to exercise exclusive jurisdiction
34 within Mi'kmaq Nation Jurisdiction Land over violations by members of any federally
35 recognized Indian tribe, nation, band or other group of tribal ordinances adopted by the
36 nation pursuant to this section or section 7206. The decision to exercise or terminate the
37 jurisdiction authorized by this section must be made by the Mi'kmaq Nation Tribal Council.
38 If the nation chooses not to exercise, or to terminate its exercise of, jurisdiction as
39 authorized by this section or section 7206, the State has exclusive jurisdiction over
40 violations of the nation's tribal ordinances by members of any federally recognized Indian
41 tribe, nation, band or other group within Mi'kmaq Nation Jurisdiction Land. The State has
42 exclusive jurisdiction over violations of the nation's tribal ordinances by persons not
43 members of any federally recognized Indian tribe, nation, band or other group except as
44 provided in section 7208.

45 **§7206. Regulation of natural resources**

1 **1. Adoption of hunting, trapping and fishing ordinances by Mi'kmaq Nation.**
2 Subject to the limitations of subsection 5, the Mi'kmaq Nation has exclusive authority
3 within Mi'kmaq Nation Jurisdiction Land to enact ordinances regulating:

4 A. Hunting, trapping or other taking of wildlife; and

5 B. Taking of fish on any pond in which all the shoreline and all submerged lands are
6 wholly within Mi'kmaq Nation Jurisdiction Land and that is less than 10 acres in
7 surface area.

8 Ordinances under this subsection must be equally applicable, on a nondiscriminatory basis,
9 to all persons regardless of whether a person is a member of the Mi'kmaq Nation except
10 that, subject to the limitations of subsection 5, ordinances under this subsection may include
11 special provisions for the sustenance of the individual members of the Mi'kmaq Nation. In
12 addition to the authority provided by this subsection, the Mi'kmaq Nation, subject to the
13 limitations of subsection 5, may exercise within Mi'kmaq Nation Trust Land all the rights
14 incident to ownership of land under the laws of the State.

15 **2. Registration stations.** The Mi'kmaq Nation shall establish and maintain registration
16 stations for the purpose of registering bear, moose, deer and other wildlife killed within
17 Mi'kmaq Nation Jurisdiction Land and shall adopt ordinances requiring registration of such
18 wildlife to the extent and in substantially the same manner as such wildlife are required to
19 be registered under the laws of the State. These ordinances requiring registration must be
20 equally applicable to all persons without distinction based on tribal membership. The
21 Mi'kmaq Nation shall report the deer, moose, bear and other wildlife killed and registered
22 within Mi'kmaq Nation Jurisdiction Land to the Commissioner of Inland Fisheries and
23 Wildlife at such times as the commissioner considers appropriate. The records of
24 registration of the Mi'kmaq Nation must be available, at all times, for inspection and
25 examination by the commissioner.

26 **3. Sustenance fishing within Mi'kmaq Nation Jurisdiction Land.** Subject to the
27 limitations of subsection 5 and notwithstanding any other provision of state law to the
28 contrary, the members of the Mi'kmaq Nation may take fish for their individual sustenance
29 within the boundaries of Mi'kmaq Nation Jurisdiction Land to the same extent as authorized
30 under section 6207, subsection 4.

31 **4. Posting.** Lands or waters subject to regulation by the Mi'kmaq Nation must be
32 conspicuously posted in such a manner as to provide reasonable notice to the public of the
33 limitations on hunting, trapping, fishing or other use of those lands or waters.

34 **5. Supervision by Commissioner of Inland Fisheries and Wildlife.** The
35 Commissioner of Inland Fisheries and Wildlife, or the commissioner's successor, is entitled
36 to conduct fish and wildlife surveys within Mi'kmaq Nation Jurisdiction Land to the same
37 extent as the commissioner is authorized to conduct such surveys in other areas of the State.
38 Before conducting any such survey, the commissioner shall provide reasonable advance
39 notice to the Mi'kmaq Nation and afford the nation a reasonable opportunity to participate
40 in that survey. If the commissioner, at any time, has reasonable grounds to believe that a
41 tribal ordinance adopted under this section, or the absence of such a tribal ordinance, is
42 adversely affecting or is likely to adversely affect the stock of any fish or wildlife on lands
43 or waters outside the boundaries of lands or waters subject to regulation by the Mi'kmaq
44 Nation, the commissioner shall inform the governing body of the nation of the
45 commissioner's opinion and attempt to develop appropriate remedial standards in

1 consultation with the nation. If such efforts fail, the commissioner may call a public hearing
2 to investigate the matter further. Any such hearing must be conducted in a manner
3 consistent with the laws of the State applicable to adjudicative hearings. If, after a hearing,
4 the commissioner determines that any such tribal ordinance or the absence of a tribal
5 ordinance is causing, or there is a reasonable likelihood that it will cause, a significant
6 depletion of fish or wildlife stocks on lands or waters outside the boundaries of lands or
7 waters subject to regulation by the Mi'kmaq Nation, the commissioner may adopt
8 appropriate remedial measures including rescission of any such tribal ordinance and, in lieu
9 thereof, order the enforcement of the generally applicable laws or rules of the State. In
10 adopting any remedial measures, the commissioner shall use the least restrictive means
11 possible to prevent a substantial diminution of the stocks in question and shall take into
12 consideration the effect that non-Indian practices on non-Indian lands or waters are having
13 on those stocks. The remedial measures adopted by the commissioner may not be more
14 restrictive than those that the commissioner could impose if the area in question was not
15 within Mi'kmaq Nation Jurisdiction Land.

16 In any administrative proceeding under this section, the commissioner has the burden of
17 proof. The decision of the commissioner may be appealed in the manner provided by the
18 laws of the State for judicial review of administrative action and may be sustained only if
19 supported by substantial evidence.

20 **6. Transportation of game.** Fish lawfully taken within Mi'kmaq Nation Jurisdiction
21 Land and wildlife lawfully taken within Mi'kmaq Nation Jurisdiction Land and registered
22 pursuant to ordinances adopted by the Mi'kmaq Nation may be transported within the State.

23 **7. Fish.** As used in this section, "fish" means a cold-blooded, completely aquatic
24 vertebrate animal having permanent fins, gills and an elongated streamlined body usually
25 covered with scales and includes inland fish and anadromous and catadromous fish when
26 in inland water.

27 **8. Regulation of drinking water.** Unless the Mi'kmaq Nation, in its discretion, enters
28 into an intergovernmental agreement authorizing the State to exercise concurrent
29 jurisdiction over specific drinking water-related issues within Mi'kmaq Nation Jurisdiction
30 Land:

31 A. The Mi'kmaq Nation has exclusive authority to enact ordinances regulating drinking
32 water within Mi'kmaq Nation Jurisdiction Land;

33 B. The State may not exercise primary enforcement authority from the United States
34 Environmental Protection Agency to implement the federal Safe Drinking Water Act
35 and its implementing regulations, as amended, within Mi'kmaq Nation Jurisdiction
36 Land; and

37 C. The Mi'kmaq Nation may seek to be treated as a state and to obtain primary
38 enforcement authority from the United States Environmental Protection Agency to
39 implement the federal Safe Drinking Water Act and its implementing regulations, as
40 amended, within Mi'kmaq Nation Jurisdiction Land.

41 Notwithstanding any other provision of this subsection, the Mi'kmaq Nation's jurisdiction
42 does not extend beyond Mi'kmaq Nation Jurisdiction Land.

43 **§7207. Jurisdiction of Mi'kmaq Nation over drinking water within Mi'kmaq Nation**
44 **Jurisdiction Land**

1 Notwithstanding any provision of state law to the contrary, pursuant to the Aroostook
2 Band of Micmacs Settlement Act, Section 6(d), the State and the Mi'kmaq Nation agree
3 and establish that:

4 **1. Jurisdiction of Mi'kmaq Nation to administer drinking water-related**
5 **programs.** The Mi'kmaq Nation may seek to be treated as a state pursuant to the federal
6 Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing
7 regulations, as amended, within Mi'kmaq Nation Jurisdiction Land and may otherwise
8 benefit from and exercise jurisdiction under any other federal law enacted after October 10,
9 1980 that permits a federally recognized Indian tribe to administer drinking water-related
10 programs; and

11 **2. Administration of drinking water-related programs does not affect or preempt**
12 **state law.** The application of any provision of the federal Safe Drinking Water Act and its
13 implementing regulations, as amended, and of any other federal law enacted after October
14 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-
15 related programs and the enforcement of such laws and regulations by the Mi'kmaq Nation
16 under subsection 1 does not affect or preempt the laws of the State.

17 Notwithstanding any other provision of this section, the Mi'kmaq Nation's jurisdiction
18 does not extend beyond Mi'kmaq Nation Jurisdiction Land.

19 **§7208. Jurisdiction of the Mi'kmaq Tribal Court**

20 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections 5
21 and 6, the Mi'kmaq Nation has the right to exercise exclusive jurisdiction, separate and
22 distinct from the State, over:

23 A. Criminal offenses for which the maximum potential term of imprisonment is less
24 than one year and the maximum potential fine does not exceed \$5,000 and that are
25 committed on Mi'kmaq Nation Jurisdiction Land by a member of any federally
26 recognized Indian tribe, nation, band or other group, except when committed against a
27 person who is not a member of any federally recognized Indian tribe, nation, band or
28 other group or against the property of a person who is not a member of any federally
29 recognized Indian tribe, nation, band or other group;

30 B. Juvenile crimes against a person or property involving conduct that, if committed
31 by an adult, would fall within the exclusive jurisdiction of the Mi'kmaq Nation under
32 paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1,
33 paragraphs B and C, committed by a juvenile member of the Mi'kmaq Nation, the
34 Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation
35 within Mi'kmaq Nation Jurisdiction Land;

36 C. Civil actions between members of the Mi'kmaq Nation, the Passamaquoddy Tribe,
37 the Houlton Band of Maliseet Indians or the Penobscot Nation arising on Mi'kmaq
38 Nation Jurisdiction Land and cognizable as small claims under the laws of the State
39 and civil actions against a member of the Mi'kmaq Nation, the Passamaquoddy Tribe,
40 the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section
41 2383 involving conduct within Mi'kmaq Nation Jurisdiction Land by a member of the
42 Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or
43 the Penobscot Nation;

1 D. Indian child custody proceedings to the extent authorized by applicable state and
2 federal law;

3 E. Other domestic relations matters, including marriage, divorce and support, between
4 members of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of
5 Maliseet Indians or the Penobscot Nation, both of whom reside within Mi'kmaq Nation
6 Jurisdiction Land; and

7 F. Notwithstanding any other provision of this subsection, civil and criminal actions
8 regarding the enforcement of ordinances enacted pursuant to section 7206, subsection
9 8, except that the Mi'kmaq Nation may not exercise jurisdiction over a nonprofit public
10 municipal corporation.

11 The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate
12 the exercise of the exclusive jurisdiction authorized by this subsection. The decision to
13 exercise, to terminate the exercise of or to reassert the exercise of jurisdiction under each
14 of the subject areas described by paragraphs A to F may be made separately. Until the
15 Mi'kmaq Nation notifies the Attorney General that the nation has decided to exercise
16 exclusive jurisdiction set forth in any or all of the paragraphs in this subsection, the State
17 has exclusive jurisdiction over those matters. If the Mi'kmaq Nation chooses not to
18 exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile,
19 civil and domestic matters described in this subsection, the State has exclusive jurisdiction
20 over those matters. When the Mi'kmaq Nation chooses to reassert the exercise of exclusive
21 jurisdiction over any or all of the areas under paragraphs A to F, the nation must first
22 provide 30 days' notice to the Attorney General. Except as provided in paragraphs A and
23 B, all laws of the State relating to criminal offenses and juvenile crimes apply within
24 Mi'kmaq Nation Jurisdiction Land and the State has exclusive jurisdiction over those
25 offenses and crimes.

26 **2. Concurrent jurisdiction over certain criminal offenses.** The Mi'kmaq Nation has
27 the right to exercise jurisdiction, concurrently with the State, over the following Class D
28 crimes committed by a person within Mi'kmaq Nation Jurisdiction Land or on lands taken
29 into trust by the secretary for the benefit of the Mi'kmaq Nation, now or in the future, for
30 which the potential maximum term of imprisonment does not exceed one year and the
31 potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C
32 and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this
33 subsection does not include an offense committed by a juvenile or a criminal offense
34 committed by a person who is not a member of any federally recognized Indian tribe,
35 nation, band or other group against the person or property of a person who is not a member
36 of any federally recognized Indian tribe, nation, band or other group.

37 The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate
38 the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 3,
39 the Mi'kmaq Nation may not deny to any criminal defendant prosecuted under this
40 subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and
41 protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and
42 1304(d) and all other rights whose protection is necessary under the United States
43 Constitution in order for the State to authorize concurrent jurisdiction under this subsection.
44 If a criminal defendant prosecuted under this subsection moves to suppress statements on
45 the ground that they were made involuntarily, the prosecution has the burden to prove
46 beyond a reasonable doubt that the statements were made voluntarily.

1 In exercising the concurrent jurisdiction authorized by this subsection, the Mi'kmaq Nation
2 is deemed to be enforcing Mi'kmaq tribal law. The definitions of the criminal offenses and
3 the punishments applicable to those criminal offenses over which the Mi'kmaq Nation has
4 concurrent jurisdiction under this subsection are governed by the laws of the State. Issuance
5 and execution of criminal process also are governed by the laws of the State.

6 **3. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
7 under subsection 1, paragraphs A and B, the Mi'kmaq Nation is deemed to be enforcing
8 Mi'kmaq tribal law. The definitions of the criminal offenses and juvenile crimes and the
9 punishments applicable to those criminal offenses and juvenile crimes over which the
10 Mi'kmaq Nation has exclusive jurisdiction under this section are governed by the laws of
11 the State. Issuance and execution of criminal process are also governed by the laws of the
12 State. The procedures for the establishment and operation of tribal forums created to
13 effectuate the purposes of this section are governed by federal statute, including, without
14 limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or
15 regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on
16 federal Indian reservations.

17 **4. Criminal records, juvenile records and fingerprinting.** At the arraignment of a
18 criminal defendant, the Mi'kmaq Tribal Court shall inquire whether fingerprints have been
19 taken or whether arrangements have been made for fingerprinting. If neither has occurred,
20 the Mi'kmaq Tribal Court shall instruct both the responsible law enforcement agency and
21 the person charged as to their respective obligations in this regard, consistent with Title 25,
22 section 1542-A.

23 At the conclusion of a criminal or juvenile proceeding within the Mi'kmaq Nation's
24 exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is
25 a Class D or Class E crime other than a Class D crime that involves hunting while under
26 the influence of intoxicating liquor or drugs or with an excessive alcohol level or the
27 operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor
28 vehicle while under the influence of intoxicating liquor or drugs or with an excessive
29 alcohol level, the Mi'kmaq Tribal Court shall transmit to the Department of Public Safety,
30 State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

31 **5. Lesser included offenses in state courts.** In any criminal proceeding in the courts
32 of the State in which a criminal offense under the exclusive jurisdiction of the Mi'kmaq
33 Nation constitutes a lesser included offense of the criminal offense charged, the defendant
34 may be convicted in the courts of the State of the lesser included offense. A lesser included
35 offense is as defined under the laws of the State.

36 **6. Double jeopardy, collateral estoppel.** A prosecution for a criminal offense or
37 juvenile crime over which the Mi'kmaq Nation has exclusive jurisdiction under this section
38 does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same
39 conduct, over which the State has exclusive jurisdiction. A prosecution for a criminal
40 offense over which the Mi'kmaq Nation has concurrent jurisdiction under this section does
41 not bar a prosecution for a criminal offense, arising out of the same conduct, over which
42 the State has exclusive jurisdiction. A prosecution for a criminal offense over which the
43 State has concurrent jurisdiction under this section does not bar a prosecution for a criminal
44 offense, arising out of the same conduct, over which the Mi'kmaq Nation has exclusive
45 jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State
46 has exclusive jurisdiction does not bar a prosecution for a criminal offense or juvenile

1 crime, arising out of the same conduct, over which the Mi'kmaq Nation has exclusive
2 jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile
3 proceeding conducted in a Mi'kmaq tribal forum does not constitute collateral estoppel in
4 a criminal or juvenile proceeding conducted in a state court. The determination of an issue
5 of fact in a criminal or juvenile proceeding conducted in a state court does not constitute
6 collateral estoppel in a criminal or juvenile proceeding conducted in a Mi'kmaq tribal
7 forum.

8 **7. Full faith and credit.** The State shall give full faith and credit to the judicial
9 proceedings of the Mi'kmaq Nation. The Mi'kmaq Nation shall give full faith and credit to
10 the judicial proceedings of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton
11 Band of Maliseet Indians and the State.

12 **§7209. Law enforcement within Mi'kmaq Nation Jurisdiction Land**

13 **1. Exclusive authority of Mi'kmaq Nation law enforcement officers.** Law
14 enforcement officers appointed by the Mi'kmaq Nation have exclusive authority to enforce,
15 within Mi'kmaq Nation Jurisdiction Land, the criminal, juvenile, civil and domestic
16 relations laws over which the Mi'kmaq Nation has exclusive jurisdiction under section
17 7208, subsection 1, and to enforce, on Mi'kmaq Nation Jurisdiction Land, ordinances
18 adopted under section 7205 and section 7206, subsection 1.

19 **2. Joint authority of Mi'kmaq Nation and state law enforcement officers.** Law
20 enforcement officers appointed by the Mi'kmaq Nation and state and county law
21 enforcement officers have the authority within Mi'kmaq Nation Jurisdiction Land to
22 enforce all laws of the State other than those over which the Mi'kmaq Nation has exclusive
23 jurisdiction under section 7208, subsection 1.

24 **3. Agreements for cooperation and mutual aid.** This section does not prevent the
25 Mi'kmaq Nation and any state, county or local law enforcement agency from entering into
26 agreements for cooperation and mutual aid.

27 **4. Powers and training requirements.** Law enforcement officers appointed by the
28 Mi'kmaq Nation possess the same powers and are subject to the same duties, limitations
29 and training requirements as other corresponding law enforcement officers under the laws
30 of the State.

31 **5. Reports to the State Bureau of Identification by Mi'kmaq Nation.** Mi'kmaq
32 Nation law enforcement agencies shall submit to the Department of Public Safety, State
33 Bureau of Identification uniform crime reports and other information required by Title 25,
34 section 1544.

35 **§7210. Eligibility of Mi'kmaq Nation and state funding**

36 **1. Eligibility for discretionary funds.** The Mi'kmaq Nation is eligible to apply for any
37 federally funded discretionary state grants or loans to the same extent and subject to the
38 same eligibility requirements, including availability of funds, applicable to municipalities
39 in the State.

40 **2. Eligibility of individuals for state funds.** Residents of Mi'kmaq Nation Trust Land
41 are eligible for and entitled to receive any state grant, loan, unemployment compensation,
42 medical or welfare benefit or other social service to the same extent as and subject to the
43 same eligibility requirements applicable to other persons in the State as long as in
44 computing the extent to which any person is entitled to receive any such funds any money

1 received by the person from the United States within substantially the same period of time
2 for which state funds are provided and for a program or purpose substantially similar to
3 that funded by the State is deducted in computing any payment to be made by the State.

4 **Sec. A-2. PL 1989, c. 148, §4** is amended to read:

5 **Sec. 4. Effective date.** This Act shall be effective only if:

6 1. The United States enacts legislation:

7 A. Ratifying and approving this Act without modification; and

8 B. Providing the consent of the United States for amendments to this Act, with respect
9 to the Aroostook Band of Micmacs, provided that such amendment of this Act is made
10 with the agreement of the Aroostook Band of Micmacs; and

11 ~~2. Within 60 days of adjournment of the Legislature, the Secretary of State receives~~
12 ~~written certification by the Council of the Aroostook Band of Micmacs that the band has~~
13 ~~agreed to this Act, copies of which shall be submitted by the Secretary of State to the~~
14 ~~Secretary of the Senate and the Clerk of the House of Representatives, provided that in no~~
15 ~~event shall this Act become effective until 90 days after adjournment of the Legislature.~~
16 Within 90 days after adjournment of the First Special Session of the 131st Legislature, the
17 Secretary of State receives written certification from the Mi'kmaq Nation Tribal Council
18 that the Mi'kmaq Nation has agreed to the provisions of this amendment to this Act, copies
19 of which must be submitted by the Secretary of State to the Secretary of the Senate, the
20 Clerk of the House and the Revisor of Statutes.

21 **Sec. A-3. PL 1989, c. 148, §5** is enacted to read:

22 **Sec. 5. Finding and intent of Legislature and Mi'kmaq Nation.**

23 1. The Legislature and the Mi'kmaq Nation agree and find that the contingency in
24 section 4, subsection 1 was met on November 26, 1991 upon the enactment of the federal
25 Aroostook Band of Micmacs Settlement Act, Public Law 102-171.

26 2. The State of Maine and the Mi'kmaq Nation further agree and intend that the
27 provisions of this Act must be interpreted in a manner consistent with the analogous
28 provisions of the Act to Implement the Maine Indian Claims Settlement in the Maine
29 Revised Statutes, Title 30, chapter 601 that apply to the Passamaquoddy Tribe, the
30 Penobscot Nation and the Houlton Band of Maliseet Indians.

31 **Sec. A-4. Maine Revised Statutes amended; revision clause.** Wherever in the
32 Maine Revised Statutes the words "Aroostook Band of Micmacs" appear or reference is
33 made to that entity or those words, those words are amended to read or mean "Mi'kmaq
34 Nation" and the Revisor of Statutes shall implement this revision when updating,
35 publishing or republishing the statutes.

36 **Sec. A-5. Contingent effective date.** This Part takes effect 120 days after
37 adjournment of the First Special Session of the 131st Legislature only if, within 90 days
38 after adjournment of the First Special Session of the 131st Legislature, the Secretary of
39 State receives written certification from the Mi'kmaq Nation Tribal Council that the
40 Mi'kmaq Nation has agreed to the provisions of this Part, copies of which must be
41 submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House
42 and the Revisor of Statutes. Such written certification by the Mi'kmaq Nation Tribal

1 Council does not constitute an agreement that the contingency in Public Law 1989, chapter
2 148, section 4, subsection 2, as it was enacted by the 114th Legislature, was met or that the
3 provisions of Public Law 1989, chapter 148 took effect in 1991.

4 **PART B**

5 **Sec. B-1. 30 MRSA §6207, sub-§10**, as enacted by PL 2021, c. 650, §8 and
6 affected by §13, is amended to read:

7 **10. Regulation of drinking water by Passamaquoddy Tribe.** Unless the
8 Passamaquoddy Tribe, in its discretion, enters into an intergovernmental agreement
9 authorizing the State to exercise concurrent jurisdiction over specific drinking water-
10 related issues within the Passamaquoddy Indian territory:

11 A. The Passamaquoddy Tribe has exclusive authority to enact ordinances regulating
12 drinking water within Passamaquoddy Indian territory;

13 B. The State may not exercise primary enforcement authority from the United States
14 Environmental Protection Agency to implement the federal Safe Drinking Water Act
15 and its implementing regulations, as amended, within the Passamaquoddy Indian
16 territory; and

17 C. The Passamaquoddy Tribe may seek to be treated as a state and to obtain primary
18 enforcement authority from the United States Environmental Protection Agency to
19 implement the federal Safe Drinking Water Act and its implementing regulations, as
20 amended, within the Passamaquoddy Indian territory.

21 Notwithstanding any other provision of this subsection, the Passamaquoddy Tribe's
22 jurisdiction does not extend beyond the Passamaquoddy Indian territory.

23 **Sec. B-2. 30 MRSA §6209-A, sub-§1**, as amended by PL 2021, c. 650, §§10 to 12
24 and affected by c. 650, §13, is further amended to read:

25 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections 3
26 and 4, the Passamaquoddy Tribe has the right to exercise exclusive jurisdiction, separate
27 and distinct from the State, over:

28 A. Criminal offenses for which the maximum potential term of imprisonment is less
29 than one year and the maximum potential fine does not exceed \$5,000 and that are
30 committed ~~on the Indian reservation of the~~ within Passamaquoddy Tribe Indian
31 territory by a member of any federally recognized Indian tribe, nation, band or other
32 group, except when committed against a person who is not a member of any federally
33 recognized Indian tribe, nation, band or other group or against the property of a person
34 who is not a member of any federally recognized Indian tribe, nation, band or other
35 group;

36 B. Juvenile crimes against a person or property involving conduct that, if committed
37 by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe
38 under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection
39 1, paragraphs B and C, committed by a juvenile member of the Passamaquoddy Tribe,
40 the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation ~~on~~
41 ~~the reservation of the~~ within Passamaquoddy Tribe Indian territory;

42 C. Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of
43 Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation arising ~~on the Indian~~

1 ~~reservation of the within~~ Passamaquoddy Tribe Indian territory and cognizable as small
2 claims under the laws of the State; and civil actions against a member of the
3 Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or
4 the Penobscot Nation under Title 22, section 2383 involving conduct ~~on the within~~
5 Passamaquoddy Indian reservation of the Passamaquoddy Tribe territory by a member
6 of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq
7 Nation or the Penobscot Nation;

8 D. Indian child custody proceedings to the extent authorized by applicable state and
9 federal law;

10 E. Other domestic relations matters, including marriage, divorce and support, between
11 members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the
12 Mi'kmaq Nation or the Penobscot Nation, both of whom reside within the ~~Indian~~
13 ~~reservation of the~~ Passamaquoddy Tribe Indian territory; and

14 F. Notwithstanding any other provision of this subsection, civil and criminal actions
15 regarding the enforcement of ordinances enacted pursuant to section 6207, subsection
16 10, except that the Passamaquoddy Tribe may not exercise jurisdiction over a nonprofit
17 public municipal corporation, including, but not limited to, the water district
18 established by Private and Special Law 1983, chapter 25.

19 The governing body of the Passamaquoddy Tribe shall decide whether to exercise or
20 terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the
21 Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of,
22 jurisdiction over the criminal, juvenile, civil and domestic matters described in this
23 subsection, the State has exclusive jurisdiction over those matters. Except as provided in
24 paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes
25 apply within ~~the~~ Passamaquoddy Indian ~~reservation~~ territory and the State has exclusive
26 jurisdiction over those offenses and crimes.

27 **Sec. B-3. 30 MRSA §6209-A, sub-§6** is enacted to read:

28 **6. Full faith and credit.** The State shall give full faith and credit to the judicial
29 proceedings of the Passamaquoddy Tribe. The Passamaquoddy Tribe shall give full faith
30 and credit to the judicial proceedings of the Penobscot Nation, the Houlton Band of
31 Maliseet Indians, the Mi'kmaq Nation and the State.

32 **Sec. B-4. Contingent effective date.** This Part takes effect 120 days after
33 adjournment of the First Special Session of the 131st Legislature only if, within 90 days
34 after adjournment of the First Special Session of the 131st Legislature, the Secretary of
35 State receives written certification from the Joint Tribal Council of the Passamaquoddy
36 Tribe that the Passamaquoddy Tribe has agreed to the provisions of this Part, copies of
37 which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk
38 of the House and the Revisor of Statutes.

39 PART C

40 **Sec. C-1. 30 MRSA §6206, sub-§1**, as amended by PL 2021, c. 650, §5 and
41 affected by §13, is further amended to read:

42 **1. General powers.** Except as otherwise provided in this Act, the Passamaquoddy
43 Tribe and the Penobscot Nation, within their respective Indian territories, ~~shall have;~~ and

1 may exercise and enjoy all the rights, privileges, powers and immunities, including, but
2 without limitation, the power to enact ordinances and collect taxes, and ~~shall be~~ are subject
3 to all the duties, obligations, liabilities and limitations of a municipality of and subject to
4 the laws of the State, provided, however, that internal tribal matters, including membership
5 in the respective tribe or nation, the right to reside within the respective Indian territories,
6 tribal organization, tribal government, tribal elections, the use or disposition of settlement
7 fund income and the exercise of power by the Passamaquoddy Tribe pursuant to section
8 6207, subsection 10, section 6207-A and section 6209-A, subsection 1, paragraph F ~~shall~~
9 and by the Penobscot Nation pursuant to section 6207, subsection 11, section 6207-B and
10 section 6209-B, subsection 1, paragraph F, respectively, is not be subject to regulation by
11 the State. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers
12 and officials as are necessary to implement and administer those laws of the State
13 applicable to the respective Indian territories and the residents thereof. Any resident of the
14 Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of
15 the respective tribe or nation nonetheless ~~shall be~~ is equally entitled to receive any
16 municipal or governmental services provided by the respective tribe or nation or by the
17 State, except those services ~~which that~~ are provided exclusively to members of the
18 respective tribe or nation pursuant to state or federal law, and ~~shall be~~ is entitled to vote in
19 national, state and county elections in the same manner as any tribal member residing
20 within Indian territory.

21 **Sec. C-2. 30 MRSA §6207, sub-§11** is enacted to read:

22 **11. Regulation of drinking water by Penobscot Nation.** Unless the Penobscot
23 Nation, in its discretion, enters into an intergovernmental agreement authorizing the State
24 to exercise concurrent jurisdiction over specific drinking water-related issues within the
25 Penobscot Indian territory:

26 A. The Penobscot Nation has exclusive authority to enact ordinances regulating
27 drinking water within Penobscot Indian territory;

28 B. The State may not exercise primary enforcement authority from the United States
29 Environmental Protection Agency to implement the federal Safe Drinking Water Act
30 and its implementing regulations, as amended, within the Penobscot Indian territory;
31 and

32 C. The Penobscot Nation may seek to be treated as a state and to obtain primary
33 enforcement authority from the United States Environmental Protection Agency to
34 implement the federal Safe Drinking Water Act and its implementing regulations, as
35 amended, within Penobscot Indian territory.

36 Notwithstanding any other provision of this subsection, the Penobscot Nation's jurisdiction
37 does not extend beyond the Penobscot Indian territory.

38 **Sec. C-3. 30 MRSA §6207-B** is enacted to read:

39 **§6207-B. Jurisdiction of Penobscot Nation over drinking water within the Penobscot**
40 **Indian territory**

41 Notwithstanding any provision of state law to the contrary, pursuant to the federal
42 Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(1), the State
43 and the Penobscot Nation agree and establish that:

1 **1. Jurisdiction of Penobscot Nation to administer drinking water-related**
2 **programs.** The Penobscot Nation may seek to be treated as a state pursuant to the federal
3 Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing
4 regulations, as amended, within the Penobscot Indian territory and may otherwise benefit
5 from and exercise jurisdiction under any other federal law enacted after October 10, 1980
6 that permits a federally recognized Indian tribe to administer drinking water-related
7 programs; and

8 **2. Administration of drinking water-related programs does not affect or preempt**
9 **state law.** The application of any provision of the federal Safe Drinking Water Act and its
10 implementing regulations, as amended, and of any other federal law enacted after October
11 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-
12 related programs and the enforcement of such laws and regulations by the Penobscot Nation
13 under subsection 1 does not affect or preempt the laws of the State.

14 Notwithstanding any other provision of this section, the Penobscot Nation's jurisdiction
15 does not extend beyond the Penobscot Indian territory.

16 **Sec. C-4. 30 MRSA §6209-B, sub-§1,** as corrected by RR 2009, c. 1, §19, is
17 amended to read:

18 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections 3
19 and 4, the Penobscot Nation has the right to exercise exclusive jurisdiction, separate and
20 distinct from the State, over:

21 A. Criminal offenses for which the maximum potential term of imprisonment does not
22 exceed one year and the maximum potential fine does not exceed \$5,000 and that are
23 committed ~~on the Indian reservation of the~~ within Penobscot Nation Indian territory by
24 a member of any federally recognized Indian tribe, nation, band or other group, except
25 when committed against a person who is not a member of any federally recognized
26 Indian tribe, nation, band or other group or against the property of a person who is not
27 a member of any federally recognized Indian tribe, nation, band or other group;

28 B. Juvenile crimes against a person or property involving conduct that, if committed
29 by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation under
30 paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1,
31 paragraphs B and C, committed by a juvenile member of ~~either the Passamaquoddy~~
32 ~~Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation~~ or the Penobscot
33 ~~Nation on the Indian reservation of the~~ within Penobscot Nation Indian territory;

34 C. Civil actions between members of ~~either the Passamaquoddy Tribe, the Houlton~~
35 ~~Band of Maliseet Indians, the Mi'kmaq Nation~~ or the Penobscot Nation arising ~~on the~~
36 ~~Indian reservation of the~~ within Penobscot Nation Indian territory and cognizable as
37 small claims under the laws of the State; and civil actions against a member of ~~either~~
38 ~~the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation~~
39 or the Penobscot Nation under Title 22, section 2383 involving conduct ~~on the Indian~~
40 ~~reservation of the~~ within Penobscot Nation Indian territory by a member of ~~either~~
41 ~~the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation~~ or
42 the Penobscot Nation;

43 D. Indian child custody proceedings to the extent authorized by applicable state and
44 federal law; and

1 E. Other domestic relations matters, including marriage, divorce and support, between
2 members of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians,
3 the Mi'kmaq Nation or the Penobscot Nation, both of whom reside ~~on the Indian~~
4 ~~reservation of the~~ within Penobscot Nation. Indian territory; and

5 F. Notwithstanding any other provision of this subsection, civil and criminal actions
6 regarding the enforcement of ordinances enacted pursuant to section 6207, subsection
7 11, except that the Penobscot Nation may not exercise jurisdiction over a nonprofit
8 public municipal corporation.

9 The governing body of the Penobscot Nation shall decide whether to exercise or terminate
10 the exercise of the exclusive jurisdiction authorized by this subsection. If the Penobscot
11 Nation chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the
12 criminal, juvenile, civil and domestic matters described in this subsection, the State has
13 exclusive jurisdiction over those matters. Except as provided in paragraphs A and B, all
14 laws of the State relating to criminal offenses and juvenile crimes apply within ~~the~~
15 ~~Penobscot Indian reservation~~ territory and the State has exclusive jurisdiction over those
16 offenses and crimes.

17 **Sec. C-5. 30 MRSA §6209-B, sub-§6** is enacted to read:

18 **6. Full faith and credit.** The State shall give full faith and credit to the judicial
19 proceedings of the Penobscot Nation. The Penobscot Nation shall give full faith and credit
20 to the judicial proceedings of the Passamaquoddy Tribe, the Houlton Band of Maliseet
21 Indians, the Mi'kmaq Nation and the State.

22 **Sec. C-6. Contingent effective date.** This Part takes effect 120 days after
23 adjournment of the First Special Session of the 131st Legislature only if, within 90 days
24 after adjournment of the First Special Session of the 131st Legislature, the Secretary of
25 State receives written certification from the Governor and the Council of the Penobscot
26 Nation that the nation has agreed to the provisions of this Part, copies of which must be
27 submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House
28 and the Revisor of Statutes.

29 PART D

30 **Sec. D-1. 30 MRSA §6203, sub-§1-A** is enacted to read:

31 **1-A. Houlton Band Jurisdiction Land.** "Houlton Band Jurisdiction Land" means:

32 A. All Houlton Band Trust Land that exists as of the effective date of this subsection;
33 and

34 B. All Houlton Band Trust Land acquired after the effective date of this subsection
35 that is both within Aroostook County and within 50 miles of land described in
36 paragraph A.

37 **Sec. D-2. 30 MRSA §6203, sub-§2-A,** as enacted by PL 1981, c. 675, §§1 and 8,
38 is repealed and the following enacted in its place:

39 **2-A. Houlton Band Trust Land.** "Houlton Band Trust Land" has the same meaning
40 as "Houlton Band trust land" in Section 2(2) of the federal Houlton Band of Maliseet
41 Indians Supplementary Claims Settlement Act of 1986, Public Law 99-566.

1 **Sec. D-3. 30 MRSA §6206-B, sub-§1**, as enacted by PL 2005, c. 310, §1 and
2 affected by §2, is amended to read:

3 **1. Appointment of tribal law enforcement officers.** The Houlton Band of Maliseet
4 Indians may appoint law enforcement officers who have the authority to enforce all the
5 laws of the State within the Houlton Band Trust Land. Law enforcement officers appointed
6 by the Houlton Band of Maliseet Indians have exclusive authority to enforce, within
7 Houlton Band Jurisdiction Land, the criminal, juvenile, civil and domestic relations laws
8 over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under section
9 6209-C, subsection 1, and to enforce, on Houlton Band Jurisdiction Land, ordinances
10 adopted under section 6207-C, subsection 1. This section does not limit the existing
11 authority of tribal officers under tribal law or affect the performance of federal duties by
12 tribal officers.

13 **Sec. D-4. 30 MRSA §6207-C** is enacted to read:

14 **§6207-C. Regulation of natural resources on Houlton Band Jurisdiction Land**

15 **1. Adoption of hunting, trapping and fishing ordinances by the Houlton Band of**
16 **Maliseet Indians.** Subject to the limitations of subsection 6, the Houlton Band of Maliseet
17 Indians has exclusive authority within Houlton Band Jurisdiction Land to enact ordinances
18 regulating:

19 A. Hunting, trapping or other taking of wildlife; and

20 B. Taking of fish on any pond in which all the shoreline and all submerged lands are
21 wholly within Houlton Band Jurisdiction Land and that is less than 10 acres in surface
22 area.

23 Ordinances under this subsection must be equally applicable, on a nondiscriminatory basis,
24 to all persons regardless of whether a person is a member of the Houlton Band of Maliseet
25 Indians except that, subject to the limitations of subsection 6, ordinances under this
26 subsection may include special provisions for the sustenance of the individual members of
27 the Houlton Band of Maliseet Indians. In addition to the authority provided by this
28 subsection, the Houlton Band of Maliseet Indians, subject to the limitations of subsection
29 6, may exercise within Houlton Band Trust Land all the rights incident to ownership of
30 land under the laws of the State.

31 **2. Registration stations.** The Houlton Band of Maliseet Indians shall establish and
32 maintain registration stations for the purpose of registering bear, moose, deer and other
33 wildlife killed within Houlton Band Jurisdiction Land and shall adopt ordinances requiring
34 registration of such wildlife to the extent and in substantially the same manner as such
35 wildlife are required to be registered under the laws of the State. These ordinances requiring
36 registration must be equally applicable to all persons without distinction based on tribal
37 membership. The Houlton Band of Maliseet Indians shall report the deer, moose, bear and
38 other wildlife killed and registered within Houlton Band Jurisdiction Land to the
39 Commissioner of Inland Fisheries and Wildlife at such times as the commissioner considers
40 appropriate. The records of registration of the Houlton Band of Maliseet Indians must be
41 available, at all times, for inspection and examination by the commissioner.

42 **3. Adoption of regulations by commission.** Subject to the limitations of subsection
43 6, the commission has exclusive authority to adopt fishing rules or regulations on:

1 A. Any pond other than those specified in subsection 1, paragraph B, 50% or more of
2 the linear shoreline of which is within Houlton Band Jurisdiction Land;

3 B. Any section of a river or stream, both sides of which are within Houlton Band
4 Jurisdiction Land; and

5 C. Any section of a river or stream one side of which is within Houlton Band
6 Jurisdiction Land for a continuous length of 1/2 mile or more.

7 In adopting such rules or regulations the commission shall consider and balance the need
8 to preserve and protect existing and future sport and commercial fisheries, the historical
9 non-Indian fishing interests, the needs or desires of the band to establish fishery practices
10 for the sustenance of the band or to contribute to the economic independence of the band,
11 the traditional fishing techniques employed by and ceremonial practices of Indians in the
12 State and the ecological interrelationship between the fishery regulated by the commission
13 and other fisheries throughout the State. Such regulation may include, without limitation,
14 provisions on the method, manner, bag and size limits and season for fishing.

15 Said rules or regulations must be equally applicable on a nondiscriminatory basis to all
16 persons regardless of whether such person is a member of the Houlton Band of Maliseet
17 Indians. Rules and regulations adopted by the commission may include the imposition of
18 fees and permits or license requirements on users of such waters other than members of the
19 Houlton Band of Maliseet Indians. In adopting rules or regulations pursuant to this
20 subsection, the commission shall comply with the Maine Administrative Procedure Act.

21 In order to provide an orderly transition of regulatory authority, all fishing laws and rules
22 and regulations of the State remain applicable to all waters specified in this subsection until
23 the commission certifies to the Commissioner of Inland Fisheries and Wildlife that the
24 commission has met and voted to adopt its own rules and regulations in substitution for
25 such laws and rules of the State.

26 **4. Sustenance fishing within Houlton Band Jurisdiction Land.** Subject to the
27 limitations of subsection 6 and notwithstanding any other provision of state law to the
28 contrary, the members of the Houlton Band of Maliseet Indians may take fish for their
29 individual sustenance within the boundaries of Houlton Band Jurisdiction Land to the same
30 extent as authorized under section 6207, subsection 4.

31 **5. Posting.** Lands or waters subject to regulation by the commission or the Houlton
32 Band of Maliseet Indians must be conspicuously posted in such a manner as to provide
33 reasonable notice to the public of the limitations on hunting, trapping, fishing or other use
34 of the lands or waters.

35 **6. Supervision by Commissioner of Inland Fisheries and Wildlife.** The
36 Commissioner of Inland Fisheries and Wildlife, or the commissioner's successor, is entitled
37 to conduct fish and wildlife surveys within Houlton Band Jurisdiction Land and on waters
38 subject to the jurisdiction of the commission to the same extent as the commissioner is
39 authorized to conduct surveys in other areas of the State. Before conducting any such
40 survey, the commissioner shall provide reasonable advance notice to the Houlton Band of
41 Maliseet Indians and afford it a reasonable opportunity to participate in such survey. If the
42 commissioner, at any time, has reasonable grounds to believe that a tribal ordinance or
43 commission rule adopted under this section, or the absence of such a tribal ordinance or
44 commission rule, is adversely affecting or is likely to adversely affect the stock of any fish

1 or wildlife on lands or waters outside the boundaries of land or waters subject to regulation
2 by the commission or the Houlton Band of Maliseet Indians, the commissioner shall inform
3 the governing body of the band or the commission, as is appropriate, of the commissioner's
4 opinion and attempt to develop appropriate remedial standards in consultation with the
5 band or the commission. If such efforts fail, the commissioner may call a public hearing to
6 investigate the matter further. Any such hearing must be conducted in a manner consistent
7 with the laws of the State applicable to adjudicative hearings. If, after hearing, the
8 commissioner determines that any such ordinance or rule, or the absence of an ordinance
9 or rule, is causing, or there is a reasonable likelihood that it will cause, a significant
10 depletion of fish or wildlife stocks on lands or waters outside the boundaries of lands or
11 waters subject to regulation by the Houlton Band of Maliseet Indians or the commission,
12 the commissioner may adopt appropriate remedial measures including rescission of any
13 such ordinance or rule and, in lieu thereof, order the enforcement of the generally applicable
14 laws or rules of the State. In adopting any remedial measures the commissioner shall use
15 the least restrictive means possible to prevent a substantial diminution of the stocks in
16 question and shall take into consideration the effect that non-Indian practices on non-Indian
17 lands or waters are having on those stocks. The remedial measures adopted by the
18 commissioner may not be more restrictive than those that the commissioner could impose
19 if the area in question was not within Houlton Band Jurisdiction Land or waters subject to
20 commission regulation.

21 In any administrative proceeding under this section the commissioner has the burden of
22 proof. The decision of the commissioner may be appealed in the manner provided by the
23 laws of the State for judicial review of administrative action and may be sustained only if
24 supported by substantial evidence.

25 **7. Transportation of game.** Fish lawfully taken within Houlton Band Jurisdiction
26 Land or in waters subject to commission regulation and wildlife lawfully taken within
27 Houlton Band Jurisdiction Land and registered pursuant to ordinances adopted by the
28 Houlton Band of Maliseet Indians, may be transported within the State.

29 **8. Fish and wildlife on non-Indian lands.** The commission shall undertake
30 appropriate studies, consult with the Houlton Band of Maliseet Indians and landowners and
31 state officials, and make recommendations to the commissioner and the Legislature with
32 respect to implementation of fish and wildlife management policies on non-Indian lands in
33 order to protect fish and wildlife stocks on lands and water subject to regulation by the
34 Houlton Band of Maliseet Indians or the commission.

35 **9. Fish.** As used in this section, the term "fish" means a cold-blooded, completely
36 aquatic vertebrate animal having permanent fins, gills and an elongated streamlined body
37 usually covered with scales and includes inland fish and anadromous and catadromous fish
38 when in inland water.

39 **10. Regulation of drinking water.** Unless the Houlton Band of Maliseet Indians, in
40 its discretion, enters into an intergovernmental agreement authorizing the State to exercise
41 concurrent jurisdiction over specific drinking water-related issues within Houlton Band
42 Jurisdiction Land:

43 A. The Houlton Band of Maliseet Indians has exclusive authority to enact ordinances
44 regulating drinking water within Houlton Band Jurisdiction Land;

1 B. The State may not exercise primary enforcement authority from the United States
2 Environmental Protection Agency to implement the federal Safe Drinking Water Act
3 and its implementing regulations, as amended, within Houlton Band Jurisdiction Land;
4 and

5 C. The Houlton Band of Maliseet Indians may seek to be treated as a state and to obtain
6 primary enforcement authority from the United States Environmental Protection
7 Agency to implement the federal Safe Drinking Water Act and its implementing
8 regulations, as amended, within Houlton Band Jurisdiction Land.

9 Notwithstanding any other provision of this subsection, the Houlton Band of Maliseet
10 Indians' jurisdiction does not extend beyond Houlton Band Jurisdiction Land.

11 **Sec. D-5. 30 MRSA §6207-D** is enacted to read:

12 **§6207-D. Jurisdiction of the Houlton Band of Maliseet Indians over drinking water**
13 **within Houlton Band Jurisdiction Land**

14 Notwithstanding any provision of state law to the contrary, pursuant to the federal
15 Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(2), the State
16 and the Houlton Band of Maliseet Indians agree and establish that:

17 **1. Jurisdiction of Houlton Band of Maliseet Indians to administer drinking water-**
18 **related programs.** The Houlton Band of Maliseet Indians may seek to be treated as a state
19 pursuant to the federal Safe Drinking Water Act, 42 United States Code, Section 300j-11,
20 and its implementing regulations, as amended, within Houlton Band Jurisdiction Land and
21 may otherwise benefit from and exercise jurisdiction under any other federal law enacted
22 after October 10, 1980 that permits a federally recognized Indian tribe to administer
23 drinking water-related programs; and

24 **2. Administration of drinking water-related programs does not affect or preempt**
25 **state law.** The application of any provision of the federal Safe Drinking Water Act and its
26 implementing regulations, as amended, and of any other federal law enacted after October
27 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-
28 related programs and the enforcement of such laws and regulations by the Houlton Band
29 of Maliseet Indians under subsection 1 does not affect or preempt the laws of the State.

30 Notwithstanding any other provision of this section, the Houlton Band of Maliseet
31 Indians' jurisdiction does not extend beyond Houlton Band Jurisdiction Land.

32 **Sec. D-6. 30 MRSA §6209-C**, as corrected by RR 2011, c. 1, §45, is amended to
33 read:

34 **§6209-C. Jurisdiction of the Houlton Band of Maliseet Indians Tribal Court**

35 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections 3
36 and 4, the Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction,
37 separate and distinct from the State, over:

38 A. Criminal offenses for which the maximum potential term of imprisonment does not
39 exceed one year and the maximum potential fine does not exceed \$5,000 and that are
40 committed on the Houlton Band Jurisdiction Land by a member of the Houlton Band
41 of Maliseet Indians any federally recognized Indian tribe, nation, band or other group,
42 except when committed against a person who is not a member of the Houlton Band of
43 Maliseet Indians any federally recognized Indian tribe, nation, band or other group or

1 against the property of a person who is not a member of ~~the Houlton Band of Maliseet~~
2 ~~Indians~~ any federally recognized Indian tribe, nation, band or other group;

3 B. Juvenile crimes against a person or property involving conduct that, if committed
4 by an adult, would fall within the exclusive jurisdiction of the Houlton Band of
5 Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section
6 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the
7 Houlton Band of Maliseet Indians ~~on the~~, the Passamaquoddy Tribe, the Penobscot
8 Nation or the Mi'kmaq Nation within Houlton Band Jurisdiction Land;

9 C. Civil actions between members of the Houlton Band of Maliseet Indians, the
10 Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation arising on ~~the~~
11 Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the
12 State and civil actions against a member of the Houlton Band of Maliseet Indians, the
13 Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation under Title 22,
14 section 2383 involving conduct ~~on the~~ within Houlton Band Jurisdiction Land by a
15 member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the
16 Penobscot Nation or the Mi'kmaq Nation;

17 D. Indian child custody proceedings to the extent authorized by applicable state and
18 federal law; and

19 E. Other domestic relations matters, including marriage, divorce and support, between
20 members of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the
21 Penobscot Nation or the Mi'kmaq Nation, both of whom reside within ~~the~~ Houlton
22 Band Jurisdiction Land; and

23 F. Notwithstanding any other provision of this subsection, civil and criminal actions
24 regarding the enforcement of ordinances enacted pursuant to section 6207-C,
25 subsection 10, except that the Houlton Band of Maliseet Indians may not exercise
26 jurisdiction over a nonprofit public municipal corporation.

27 The governing body of the Houlton Band of Maliseet Indians shall decide whether to
28 exercise or terminate the exercise of the exclusive jurisdiction authorized by this
29 subsection. The decision to exercise, to terminate the exercise of or to reassert the exercise
30 of jurisdiction under each of the subject areas described by paragraphs A to ~~E~~ F may be
31 made separately. Until the Houlton Band of Maliseet Indians notifies the Attorney General
32 that the band has decided to exercise exclusive jurisdiction set forth in any or all of the
33 paragraphs in this subsection, the State has exclusive jurisdiction over those matters. If the
34 Houlton Band of Maliseet Indians chooses not to exercise or chooses to terminate its
35 exercise of exclusive jurisdiction set forth in any or all of the paragraphs in this subsection,
36 the State has exclusive jurisdiction over those matters until the Houlton Band of Maliseet
37 Indians chooses to exercise its exclusive jurisdiction. When the Houlton Band of Maliseet
38 Indians chooses to reassert the exercise of exclusive jurisdiction over any or all of the areas
39 of the exclusive jurisdiction authorized by this subsection it must first provide 30 days'
40 notice to the Attorney General. Except as provided in ~~subsections 2 and 3~~ paragraphs A
41 and B, all laws of the State relating to criminal offenses and juvenile crimes apply within
42 the Houlton Band Trust Land and the State has exclusive jurisdiction over those offenses
43 and crimes.

1 ~~**1-A. Exclusive jurisdiction over Penobscot Nation members.**~~ The Houlton Band
2 of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct
3 from the State, over:

4 A. ~~Criminal offenses for which the maximum potential term of imprisonment does not~~
5 ~~exceed one year and the maximum potential fine does not exceed \$5,000 and that are~~
6 ~~committed on the Houlton Band Jurisdiction Land by a member of the Penobscot~~
7 ~~Nation against a member or property of a member of those federally recognized Indian~~
8 ~~tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet~~
9 ~~Indians under this subsection, and by a member of those federally recognized Indian~~
10 ~~tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet~~
11 ~~Indians under this subsection against a member or the property of a member of the~~
12 ~~Penobscot Nation;~~

13 B. ~~Juvenile crimes against a person or property involving conduct that, if committed~~
14 ~~by an adult, would fall within the exclusive jurisdiction of the Houlton Band of~~
15 ~~Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section~~
16 ~~3103, subsection 1, paragraphs B and C, committed by a juvenile member of the~~
17 ~~Penobscot Nation on the Houlton Band Jurisdiction Land;~~

18 C. ~~Civil actions between a member of those federally recognized Indian tribes~~
19 ~~otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians~~
20 ~~under this subsection and members of the Penobscot Nation arising on the Houlton~~
21 ~~Band Jurisdiction Land and cognizable as small claims under the laws of the State and~~
22 ~~civil actions against a member of the Penobscot Nation under Title 22, section 2383~~
23 ~~involving conduct on the Houlton Band Jurisdiction Land by a member of the~~
24 ~~Penobscot Nation;~~

25 D. ~~Indian child custody proceedings to the extent authorized by applicable federal law;~~
26 ~~and~~

27 E. ~~Other domestic relations matters, including marriage, divorce and support, between~~
28 ~~members of either those federally recognized Indian tribes otherwise subject to the~~
29 ~~exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection or~~
30 ~~the Penobscot Nation, both of whom reside on the Houlton Band Jurisdiction Land.~~

31 The Houlton Band of Maliseet Indians may assert, terminate or reassert exclusive
32 jurisdiction over these areas as described in subsection 1.

33 ~~**1-B. Exclusive jurisdiction over Passamaquoddy Tribe members.**~~ The Houlton
34 Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and
35 distinct from the State, over:

36 A. ~~Criminal offenses for which the maximum potential term of imprisonment does not~~
37 ~~exceed one year and the maximum potential fine does not exceed \$5,000 and that are~~
38 ~~committed on the Houlton Band Jurisdiction Land by a member of the Passamaquoddy~~
39 ~~Tribe against a member or property of a member of those federally recognized Indian~~
40 ~~tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet~~
41 ~~Indians under this subsection, and by a member of those federally recognized Indian~~
42 ~~tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet~~
43 ~~Indians under this subsection against a member or the property of a member of the~~
44 ~~Passamaquoddy Tribe;~~

1 ~~B. Juvenile crimes against a person or property involving conduct that, if committed~~
2 ~~by an adult, would fall within the exclusive jurisdiction of the Houlton Band of~~
3 ~~Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section~~
4 ~~3103, subsection 1, paragraphs B and C, committed by a juvenile member of the~~
5 ~~Passamaquoddy Tribe on the Houlton Band Jurisdiction Land;~~

6 ~~C. Civil actions between a member of those federally recognized Indian tribes~~
7 ~~otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians~~
8 ~~under this subsection and members of the Passamaquoddy Tribe arising on the Houlton~~
9 ~~Band Jurisdiction Land and cognizable as small claims under the laws of the State and~~
10 ~~civil actions against a member of the Passamaquoddy Tribe under Title 22, section~~
11 ~~2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the~~
12 ~~Passamaquoddy Tribe;~~

13 ~~D. Indian child custody proceedings to the extent authorized by applicable federal law;~~
14 ~~and~~

15 ~~E. Other domestic relations matters, including marriage, divorce and support, between~~
16 ~~members of either those federally recognized Indian tribes otherwise subject to the~~
17 ~~exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection or~~
18 ~~the Passamaquoddy Tribe, both of whom reside on the Houlton Band Jurisdiction Land.~~

19 ~~The Houlton Band of Maliseet Indians may assert, terminate or reassert exclusive~~
20 ~~jurisdiction over these areas as described in subsection 1.~~

21 **2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
22 under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed
23 to be enforcing tribal law of the Houlton Band of Maliseet Indians. The definitions of the
24 criminal offenses and juvenile crimes and the punishments applicable to those criminal
25 offenses and juvenile crimes over which the Houlton Band of Maliseet Indians has
26 exclusive jurisdiction under this section are governed by the laws of the State. Issuance and
27 execution of criminal process are also governed by the laws of the State. The procedures
28 for the establishment and operation of tribal forums created to effectuate the purposes of
29 this section are governed by federal statute, including, without limitation, the provisions of
30 25 United States Code, Sections 1301 to 1303 and rules and regulations generally
31 applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian
32 reservations.

33 **2-A. Criminal records, juvenile records and fingerprinting.** At the arraignment of
34 a criminal defendant, the Houlton Band of Maliseet Indians Tribal Court shall inquire
35 whether fingerprints have been taken or whether arrangements have been made for
36 fingerprinting. If neither has occurred, the Houlton Band of Maliseet Indians Tribal Court
37 shall instruct both the responsible law enforcement agency and the person charged as to
38 their respective obligations in this regard, consistent with Title 25, section 1542-A.

39 At the conclusion of a criminal or juvenile proceeding within the Houlton Band of Maliseet
40 Indians' exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A
41 that is a Class D or Class E crime other than a Class D crime that involves hunting while
42 under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the
43 operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor
44 vehicle while under the influence of intoxicating liquor or drugs or with an excessive
45 alcohol level, the Houlton Band of Maliseet Indians Tribal Court shall transmit to the

1 Department of Public Safety, State Bureau of Identification an abstract duly authorized on
2 forms provided by the bureau.

3 **3. Lesser included offenses in state courts.** In any criminal proceeding in the courts
4 of the State in which a criminal offense under the exclusive jurisdiction of the Houlton
5 Band of Maliseet Indians constitutes a lesser included offense of the criminal offense
6 charged, the defendant may be convicted in the courts of the State of the lesser included
7 offense. A lesser included offense is as defined under the laws of the State.

8 **4. Double jeopardy; collateral estoppel.** A prosecution for a criminal offense or
9 juvenile crime over which the Houlton Band of Maliseet Indians has exclusive jurisdiction
10 under this section does not bar a prosecution for a criminal offense or juvenile crime arising
11 out of the same conduct over which the State has exclusive jurisdiction. A prosecution for
12 a criminal offense or juvenile crime over which the State has exclusive jurisdiction does
13 not bar a prosecution for a criminal offense or juvenile crime arising out of the same
14 conduct over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under
15 this section. The determination of an issue of fact in a criminal or juvenile proceeding
16 conducted in a tribal forum does not constitute collateral estoppel in a criminal or juvenile
17 proceeding conducted in a state court. The determination of an issue of fact in a criminal
18 or juvenile proceeding conducted in a state court does not constitute collateral estoppel in
19 a criminal or juvenile proceeding conducted in a tribal forum.

20 **5. Houlton Band Jurisdiction Land.** ~~For the purposes of this section, “Houlton Band~~
21 ~~Jurisdiction Land” means only the Houlton Band Trust Land described as follows:~~

22 ~~A. Lands transferred from Ralph E. Longstaff and Justina Longstaff to the United~~
23 ~~States of America in trust for the Houlton Band of Maliseet Indians, located in Houlton,~~
24 ~~Aroostook County and recorded in the Aroostook County South Registry of Deeds in~~
25 ~~Book 2144, Page 198; and~~

26 ~~B. Lands transferred from F. Douglas Lowrey to the United States of America in trust~~
27 ~~for the Houlton Band of Maliseet Indians, located in Houlton and Littleton, Aroostook~~
28 ~~County and recorded in the Aroostook County South Registry of Deeds in Book 2847,~~
29 ~~Page 114.~~

30 ~~The designation of Houlton Band Jurisdiction Land in this subsection in no way affects the~~
31 ~~acquisition of additional Houlton Band Trust Land pursuant to applicable federal and state~~
32 ~~law, nor limits the Houlton Band of Maliseet Indians from making additional requests that~~
33 ~~portions of the trust land be included in this subsection.~~

34 **6. Effective date; full Full faith and credit.** ~~This section takes effect only if the~~ The
35 ~~State, the Passamaquoddy Tribe and the Penobscot Nation agree to shall~~ give full faith and
36 credit to the judicial proceedings of the Houlton Band of Maliseet Indians ~~and the~~ The
37 ~~Houlton Band of Maliseet Indians agrees to shall~~ give full faith and credit to the judicial
38 proceedings of ~~the State, the Passamaquoddy Tribe and, the Penobscot Nation, the Mi'kmaq~~
39 ~~Nation and the State.~~

40 **Sec. D-7. 30 MRSA §6209-D,** as enacted by PL 2009, c. 384, Pt. C, §1 and affected
41 by §2, is repealed.

42 **Sec. D-8. Contingent effective date.** This Part takes effect 120 days after
43 adjournment of the First Special Session of the 131st Legislature only if, within 90 days
44 after adjournment of the First Special Session of the 131st Legislature, the Secretary of

1 State receives written certification from the Houlton Band Council of the Houlton Band of
2 Maliseet Indians that the Houlton Band of Maliseet Indians has agreed to the provisions of
3 this Part, copies of which must be submitted by the Secretary of State to the Secretary of
4 the Senate, the Clerk of the House and the Revisor of Statutes. Upon such written
5 certification by the Houlton Band Council of the Houlton Band of Maliseet Indians, each
6 section of this Part regarding or affecting the Houlton Band of Maliseet Indians and its
7 tribal members and lands constitutes a jurisdictional agreement for purposes of the federal
8 Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(2). Such
9 written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians
10 does not constitute an agreement that the contingencies in Public Law 1981, chapter 675
11 were met or that the provisions of Public Law 1981, chapter 675 ever took effect.

12 PART E

13 **Sec. E-1. 30 MRSA §6206, sub-§3**, as amended by RR 2019, c. 2, Pt. A, §30, is
14 further amended to read:

15 **3. Ordinances.** The Passamaquoddy Tribe and the Penobscot Nation each has the
16 right to exercise exclusive jurisdiction within its respective Indian territory over violations
17 by members of ~~either tribe or nation~~ any federally recognized Indian tribe, nation, band or
18 other group of tribal ordinances adopted pursuant to this section or section 6207. The
19 decision to exercise or terminate the jurisdiction authorized by this section must be made
20 by each tribal governing body. If either tribe or nation chooses not to exercise, or to
21 terminate its exercise of, jurisdiction as authorized by this section or section 6207, the State
22 has exclusive jurisdiction over violations of tribal ordinances by members of ~~either tribe or~~
23 ~~nation~~ any federally recognized Indian tribe, nation, band or other group within the Indian
24 territory of that tribe or nation. The State has exclusive jurisdiction over violations of tribal
25 ordinances by persons not members of ~~either tribe or nation~~ any federally recognized Indian
26 tribe, nation, band or other group except as provided in the section or sections referenced
27 in the following:

28 A. Section 6209-A.

29 B. Section 6209-B.

30 **Sec. E-2. 30 MRSA §6210, sub-§1**, as amended by PL 1995, c. 388, §7 and
31 affected by §8, is repealed and the following enacted in its place:

32 **1. Exclusive authority of tribal law enforcement officers.** Law enforcement officers
33 appointed by the Passamaquoddy Tribe and the Penobscot Nation have exclusive authority
34 to enforce:

35 A. Within their respective Indian territories, ordinances adopted under section 6206
36 and section 6207, subsections 1, 10 and 11;

37 B. On their respective Indian reservations, the criminal, juvenile, civil and domestic
38 relations laws over which the Passamaquoddy Tribe or the Penobscot Nation have
39 jurisdiction under section 6209-A, subsection 1 and section 6209-B, subsection 1,
40 respectively; and

41 C. Within their respective Indian territories, the civil and domestic relations laws over
42 which the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under

1 section 6209-A, subsection 1, paragraphs C to F and section 6209-B, subsection 1,
2 paragraphs C to F, respectively.

3 **Sec. E-3. 30 MRSA §6210, sub-§2**, as amended by PL 1995, c. 388, §7 and
4 affected by §8, is repealed and the following enacted in its place:

5 **2. Joint authority of tribal and state law enforcement officers.** Law enforcement
6 officers appointed by the Passamaquoddy Tribe or the Penobscot Nation have the authority
7 within their respective Indian territories and state and county law enforcement officers have
8 the authority within both Indian territories to enforce:

9 A. Rules or regulations adopted by the commission under section 6207, subsection 3;
10 and

11 B. All laws of the State other than those over which law enforcement officers appointed
12 by the Passamaquoddy Tribe or the Penobscot Nation have exclusive jurisdiction under
13 subsection 1.

14 **Sec. E-4. 30 MRSA §6210, sub-§3**, as amended by PL 1995, c. 388, §7 and
15 affected by §8, is further amended to read:

16 **3. Agreements for cooperation and mutual aid.** This section does not ~~prevent~~
17 impact existing agreements for cooperation and mutual aid between the Passamaquoddy
18 Tribe or the Penobscot Nation and any state, county or local law enforcement agency or
19 prevent the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local
20 law enforcement agency from entering into future agreements for cooperation and mutual
21 aid.

22 **Sec. E-5. Contingent effective date.** This Part takes effect 120 days after
23 adjournment of the First Special Session of the 131st Legislature only if, within 90 days
24 after adjournment of the First Special Session of the 131st Legislature, the Secretary of
25 State receives written certification from the Joint Tribal Council of the Passamaquoddy
26 Tribe that the tribe has agreed to the provisions of this Part and from the Governor and the
27 Council of the Penobscot Nation that the nation has agreed to the provisions of this Part,
28 copies of which must be submitted by the Secretary of State to the Secretary of the Senate,
29 the Clerk of the House and the Revisor of Statutes.'

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

32 SUMMARY

33 This amendment, which is the majority report of the committee, replaces the bill, which
34 is a concept draft, and changes the title. The amendment provides for greater parity
35 between the jurisdiction recognized by the State of the Passamaquoddy Tribe, the
36 Penobscot Nation, the Houlton Band of Maliseet Indians and the Mi'kmaq Nation, referred
37 to collectively in this summary as the Wabanaki Nations.

38 Part A of the amendment amends Public Law 1989, chapter 148, which governs the
39 jurisdictional relationship between the State and the Mi'kmaq Nation, as follows.

40 1. It renames the laws governing the jurisdiction of the Mi'kmaq Nation within the
41 State the "Mi'kmaq Nation Restoration Act" and, for purposes of that Act, newly defines
42 "Mi'kmaq Nation Jurisdiction Land" to mean all land held by the United States Secretary

1 of the Interior in trust for the Mi'kmaq Nation as of the effective date of the Act as well as
2 all land acquired by the secretary in trust for the nation after the effective date of the Act if
3 it is within Aroostook County and within 50 miles of land held in trust for the nation on the
4 effective date of the Act.

5 2. It provides that, similar to the other Wabanaki Nations in the State and except as
6 provided in the Act, the Mi'kmaq Nation, the nation's members and lands and natural
7 resources held by or in trust for the nation and its members are subject to the laws of the
8 State and to the civil and criminal jurisdiction of the courts of the State.

9 3. It recognizes the authority of the Mi'kmaq Nation, similar to the authority of the
10 Passamaquoddy Tribe and the Penobscot Nation, to exercise exclusive jurisdiction over
11 internal tribal matters; to exercise power similar to that of a municipality within Mi'kmaq
12 Nation Jurisdiction Land, including the power to enact ordinances; and to sue and be sued
13 in the courts of the State. It also recognizes the Mi'kmaq Nation's immunity from suit when
14 the nation is acting in a governmental capacity.

15 4. It recognizes the Mi'kmaq Nation's authority to enact ordinances regulating hunting,
16 trapping and fishing within Mi'kmaq Nation Jurisdiction Land and requires that lands or
17 waters subject to regulation by the nation be clearly posted. The hunting, trapping and
18 fishing ordinances adopted by the nation must be equally applicable to members and
19 nonmembers of the nation except that members of the Mi'kmaq Nation may take fish for
20 their individual sustenance within the boundaries of Mi'kmaq Nation Jurisdiction Land to
21 the same extent that members of the Passamaquoddy Tribe and the Penobscot Nation may
22 exercise sustenance fishing rights within the boundaries of their respective reservations
23 under current law. It also provides that the Commissioner of Inland Fisheries and Wildlife
24 may conduct fish and wildlife surveys within Mi'kmaq Nation Jurisdiction Land and
25 establishes a process for the adoption of remedial measures if a tribal ordinance or the
26 absence of a tribal ordinance is causing or there is a reasonable likelihood that it will cause
27 a significant depletion of fish or wildlife stocks on lands or waters outside the boundaries
28 of Mi'kmaq Nation Jurisdiction Land.

29 5. It recognizes the exclusive authority of the Mi'kmaq Nation in Mi'kmaq Nation
30 Jurisdiction Land, similar to the authority of the Passamaquoddy Tribe in Passamaquoddy
31 Indian territory, to enact ordinances regulating drinking water unless the nation exercises
32 its discretion to enter into an intergovernmental agreement authorizing the State to exercise
33 concurrent jurisdiction over specific drinking water-related issues. It also prohibits the
34 State from exercising primary enforcement authority to implement the federal Safe
35 Drinking Water Act within Mi'kmaq Nation Jurisdiction Land and recognizes the authority
36 of the Mi'kmaq Nation to seek to be treated as a state and to obtain primary enforcement
37 authority to implement the federal Safe Drinking Water Act within Mi'kmaq Nation
38 Jurisdiction Land.

39 6. It recognizes the authority of the Mi'kmaq Nation to establish a tribal court that may
40 exercise jurisdiction analogous to the jurisdiction of the Passamaquoddy Tribal Court and
41 the Penobscot Nation Tribal Court under current law.

42 A. The Mi'kmaq Tribal Court may exercise exclusive jurisdiction over criminal
43 offenses committed by a member of any federally recognized Indian tribe, nation, band
44 or other group within Mi'kmaq Nation Jurisdiction Land if the maximum potential term
45 of imprisonment is less than one year and the maximum potential fine does not exceed

1 \$5,000, unless the offense is committed against a victim who is not a member of a
2 federally recognized Indian tribe, nation or band; juvenile crimes that, if committed by
3 an adult, would be within the exclusive jurisdiction of the Mi'kmaq Tribal Court as
4 well as specific drug and alcohol juvenile crimes committed within Mi'kmaq Nation
5 Jurisdiction Land by a member of the Mi'kmaq Nation, the Passamaquoddy Tribe, the
6 Penobscot Nation or the Houlton Band of Maliseet Indians; small claims actions
7 between members of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Penobscot
8 Nation and the Houlton Band of Maliseet Indians arising within Mi'kmaq Nation
9 Jurisdiction Land and certain civil drug possession offenses committed by members of
10 the Mi'kmaq Nation, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton
11 Band of Maliseet Indians within Mi'kmaq Nation Jurisdiction Land; Indian child
12 custody proceedings to the extent authorized by state or federal law; other domestic
13 relations matters between members of the Mi'kmaq Nation, the Passamaquoddy Tribe,
14 the Penobscot Nation or the Houlton Band of Maliseet Indians, both of whom reside
15 within Mi'kmaq Nation Jurisdiction Land; and the enforcement of drinking water
16 ordinances adopted by the Mi'kmaq Nation for Mi'kmaq Nation Jurisdiction Land,
17 except that the nation may not exert jurisdiction over a nonprofit public municipal
18 corporation.

19 B. The Mi'kmaq Tribal Court and the State may exercise concurrent jurisdiction over
20 certain Class D domestic violence crimes committed within Mi'kmaq Nation
21 Jurisdiction Land by or against a member of a federally recognized Indian tribe, nation,
22 band or other group if the maximum potential term of imprisonment does not exceed
23 one year and the potential fine does not exceed \$2,000.

24 C. The laws of the State govern the definitions of the criminal offenses and juvenile
25 crimes that may be prosecuted in Mi'kmaq Tribal Court and the applicable punishments
26 for those offenses. In addition, the Mi'kmaq Tribal Court must afford specific
27 minimum due process rights required under federal law to criminal and juvenile
28 defendants.

29 7. It requires the State to give full faith and credit to the judicial proceedings of the
30 Mi'kmaq Nation and the Mi'kmaq Nation to give full faith and credit to the judicial
31 proceedings of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of
32 Maliseet Indians and the State.

33 8. It recognizes the Mi'kmaq Nation's authority to appoint law enforcement officers
34 with exclusive authority to enforce the criminal, juvenile, civil and domestic relations laws
35 within Mi'kmaq Nation Jurisdiction Land over which the Mi'kmaq Tribal Court has
36 exclusive jurisdiction. The Mi'kmaq Nation's law enforcement officers and state and
37 county law enforcement officers have concurrent authority to enforce all other laws of the
38 State within Mi'kmaq Nation Jurisdiction Land.

39 9. It provides that the Mi'kmaq Nation is eligible to apply for any federally funded
40 discretionary state grants or loans to the same extent and subject to the same eligibility
41 requirements as municipalities in the State. Residents of Mi'kmaq Nation Trust Land are
42 also entitled to receive any state grant, loan, unemployment compensation, medical or
43 welfare benefit or other social service to the same extent and subject to the same eligibility
44 requirements as other persons in the State, except that the amount of state funding received
45 by a person must be reduced by the amount of any federal funding received by that person
46 for substantially the same purpose and substantially the same period of time.

1 Part A further directs the Revisor of Statutes to replace the words "Aroostook Band of
2 Micmacs" with the words "Mi'kmaq Nation" when updating, publishing or republishing the
3 Maine Revised Statutes.

4 Because it represents a jurisdictional agreement between the State and the Mi'kmaq
5 Nation authorized by Section 6(d) of the federal Aroostook Band of Micmacs Settlement
6 Act, Public Law 102-171, Part A of the amendment does not take effect unless, within 90
7 days of the adjournment of the First Special Session of the 131st Legislature, the Mi'kmaq
8 Nation certifies to the Secretary of State that the Mi'kmaq Nation agrees to the provisions
9 of Part A.

10 Part B of the amendment amends certain provisions of An Act to Implement the Maine
11 Indian Claims Settlement, referred to in this summary as the Maine Implementing Act,
12 governing the jurisdictional relationship between the State and the Passamaquoddy Tribe
13 as follows.

14 1. It provides that the exclusive jurisdiction of the Passamaquoddy Tribal Court over
15 certain criminal offenses, juvenile crimes, small claims and civil drug possession actions
16 arising within the Passamaquoddy Indian reservation under current law extends to those
17 same types of criminal offenses, juvenile crimes, small claims and civil drug possession
18 actions arising within all of Passamaquoddy Indian territory. It also provides that the
19 exclusive jurisdiction of the Passamaquoddy Tribal Court over domestic relations matters
20 between members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton
21 Band of Maliseet Indians, both of whom reside on the Passamaquoddy Indian reservation,
22 extends to the same types of domestic relations matters arising between members of any of
23 the Wabanaki Nations, both of whom reside within Passamaquoddy Indian territory.

24 2. It clarifies within the Maine Implementing Act that the State must give full faith and
25 credit to the judicial proceedings of the Passamaquoddy Tribe and that the Passamaquoddy
26 Tribe must give full faith and credit to the judicial proceedings of the Penobscot Nation,
27 the Houlton Band of Maliseet Indians, the Mi'kmaq Nation and the State.

28 Because it represents a jurisdictional agreement between the State and the
29 Passamaquoddy Tribe authorized by Section 6(e)(1) of the federal Maine Indian Claims
30 Settlement Act of 1980, Public Law 96-420, Part B of the amendment does not take effect
31 unless, within 90 days of the adjournment of the First Special Session of the 131st
32 Legislature, the Joint Tribal Council of the Passamaquoddy Tribe certifies to the Secretary
33 of State that the Passamaquoddy Tribe agrees to the provisions of Part B.

34 Part C of the amendment amends certain provisions of the Maine Implementing Act
35 governing the jurisdictional relationship between the State and the Penobscot Nation as
36 follows.

37 1. It recognizes the exclusive authority of the Penobscot Nation in Penobscot Indian
38 territory, similar to the authority of the Passamaquoddy Tribe in Passamaquoddy Indian
39 territory, to enact ordinances regulating drinking water unless the nation exercises its
40 discretion to enter into an intergovernmental agreement authorizing the State to exercise
41 concurrent jurisdiction over specific drinking water-related issues. It also prohibits the
42 State from exercising primary enforcement authority to implement the federal Safe
43 Drinking Water Act within Penobscot Indian territory and recognizes the authority of the
44 Penobscot Nation to seek to be treated as a state and to obtain primary enforcement

1 authority to implement the federal Safe Drinking Water Act within Penobscot Indian
2 territory.

3 2. It provides that the exclusive jurisdiction of the Penobscot Nation Tribal Court over
4 certain criminal offenses, juvenile crimes, small claims and civil drug possession actions
5 arising within the Penobscot Indian reservation under current law extends to those same
6 types of criminal offenses, juvenile crimes, small claims and civil drug possession actions
7 arising within all of Penobscot Indian territory. To the extent that the Penobscot Nation
8 Tribal Court has exclusive jurisdiction over members of the Passamaquoddy Tribe or the
9 Penobscot Nation under these provisions, it extends that exclusive jurisdiction to members
10 of any of the Wabanaki Nations. It also provides that the exclusive jurisdiction of the
11 Penobscot Nation Tribal Court over domestic relations matters between members of the
12 Passamaquoddy Tribe and the Penobscot Nation, both of whom reside on the Penobscot
13 Indian reservation, extends to the same types of domestic relations matters arising between
14 members of any of the Wabanaki Nations, both of whom reside within Passamaquoddy
15 Indian territory. The amendment further recognizes the exclusive authority of the
16 Penobscot Nation Tribal Court to enforce any drinking water ordinances adopted by the
17 nation for Penobscot Indian territory, except that the nation may not exercise jurisdiction
18 over a nonprofit public municipal corporation.

19 3. It clarifies within the Maine Implementing Act that the State must give full faith and
20 credit to the judicial proceedings of the Penobscot Nation and that the Penobscot Nation
21 must give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the
22 Houlton Band of Maliseet Indians, the Mi'kmaq Nation and the State.

23 Because it represents a jurisdictional agreement between the State and the Penobscot
24 Nation authorized by Section 6(e)(1) of the federal Maine Indian Claims Settlement Act of
25 1980, Public Law 96-420, Part C of the amendment does not take effect unless, within 90
26 days of the adjournment of the First Special Session of the 131st Legislature, the Governor
27 and Council of the Penobscot Nation certify to the Secretary of State that the Penobscot
28 Nation agrees to the provisions of Part C.

29 Part D of the amendment amends certain provisions of the Maine Implementing Act
30 governing the jurisdictional relationship between the State and the Houlton Band of
31 Maliseet Indians as follows.

32 1. It repeals the definition of "Houlton Band Trust Land" and replaces it with a
33 definition that cross-references the definition established in the federal Houlton Band of
34 Maliseet Indians Supplementary Claims Settlement Act of 1986, Public Law 99-566. It
35 also repeals the definition of "Houlton Band Jurisdiction Land" and newly defines that term
36 to mean all land held by the United States Secretary of the Interior in trust for the Houlton
37 Band of Maliseet Indians as of the effective date of this legislation as well as all land
38 acquired by the secretary in trust for the band after the effective date of this legislation if it
39 is within Aroostook County and within 50 miles of land held in trust for the band on the
40 effective date of this legislation.

41 2. It recognizes the Houlton Band of Maliseet Indians' authority to enact ordinances
42 regulating hunting, trapping and fishing within Houlton Band Jurisdiction Land and the
43 authority of the Maine Indian Tribal-State Commission to regulate fishing on certain waters
44 on the boundary of Houlton Band Jurisdiction Land. Lands and waters subject to regulation
45 by the band or the commission must be clearly posted. The hunting, trapping and fishing

1 ordinances and rules adopted by the band and the commission must be equally applicable
2 to members and nonmembers of the band, except that members of the Houlton Band of
3 Maliseet Indians may take fish for their individual sustenance within the boundaries of
4 Houlton Band Jurisdiction Land to the same extent that members of the Passamaquoddy
5 Tribe and the Penobscot Nation may exercise sustenance fishing rights within the
6 boundaries of their respective reservations under current law. It also provides that the
7 Commissioner of Inland Fisheries and Wildlife may conduct fish and wildlife surveys
8 within Houlton Band Jurisdiction Land and establishes a process for the adoption of
9 remedial measures if a tribal ordinance or commission rule or the absence of a tribal
10 ordinance or commission rule is causing or there is a reasonable likelihood that it will cause
11 a significant depletion of fish or wildlife stocks on lands or waters outside the boundaries
12 of Houlton Band Jurisdiction Land.

13 3. It recognizes the exclusive authority of the Houlton Band of Maliseet Indians in
14 Houlton Band Jurisdiction Land, similar to the authority of the Passamaquoddy Tribe in
15 Passamaquoddy Indian territory, to enact ordinances regulating drinking water unless the
16 band exercises its discretion to enter into an intergovernmental agreement authorizing the
17 State to exercise concurrent jurisdiction over specific drinking water-related issues. It also
18 prohibits the State from exercising primary enforcement authority to implement the federal
19 Safe Drinking Water Act within Houlton Band Jurisdiction Land and recognizes the
20 authority of the Houlton Band of Maliseet Indians to seek to be treated as a state and to
21 obtain primary enforcement authority to implement the federal Safe Drinking Water Act
22 within Houlton Band Jurisdiction Land.

23 4. It combines in one statutory location the 3 separate provisions of current law
24 describing the exclusive jurisdiction that may be exercised by the Houlton Band of Maliseet
25 Indians Tribal Court over certain criminal offenses, juvenile crimes, small claims and civil
26 drug possession actions arising within Houlton Band Jurisdiction Land and certain
27 domestic relations matters when both parties reside within Houlton Band Jurisdiction Land.
28 To the extent that the Houlton Band of Maliseet Indians Tribal Court may exercise
29 exclusive jurisdiction over members of the Passamaquoddy Tribe, the Penobscot Nation or
30 the Houlton Band of Maliseet Indians under these provisions, the amendment extends that
31 exclusive jurisdiction to members of the Mi'kmaq Nation. It further recognizes the
32 exclusive authority of the Houlton Band of Maliseet Indians Tribal Court to enforce any
33 drinking water ordinances adopted by the band for Houlton Band Jurisdiction Land, except
34 that the nation may not exercise jurisdiction over a nonprofit public municipal corporation.

35 5. It requires the State to give full faith and credit to the judicial proceedings of the
36 Houlton Band of Maliseet Indians and the Houlton Band of Maliseet Indians to give full
37 faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Penobscot
38 Nation, the Mi'kmaq Nation and the State.

39 6. It provides that law enforcement officers appointed by the Houlton Band of Maliseet
40 Indians have exclusive authority to enforce the criminal, juvenile, civil and domestic
41 relations laws within Houlton Band Jurisdiction Land over which the Houlton Band of
42 Maliseet Indians Tribal Court has exclusive jurisdiction. It also specifies that the band's
43 law enforcement officers and state and county law enforcement officers have concurrent
44 authority to enforce all other laws of the State within Houlton Band Jurisdiction Land.

45 Because it represents a jurisdictional agreement between the State and the Houlton
46 Band of Maliseet Indians authorized by Section 6(e)(2) of the federal Maine Indian Claims

1 Settlement Act of 1980, Public Law 96-420, Part D of the amendment does not take effect
2 unless, within 90 days of the adjournment of the First Special Session of the 131st
3 Legislature, the Houlton Band Council certifies to the Secretary of State that the Houlton
4 Band of Maliseet Indians agrees to the provisions of Part D.

5 Part E of the amendment amends the provisions of the Maine Implementing Act
6 governing the jurisdictional relationship between the State and both the Passamaquoddy
7 Tribe and the Penobscot Nation as follows.

8 1. It provides that the Passamaquoddy Tribe and the Penobscot Nation each have
9 exclusive jurisdiction within their respective Indian territory over violations of their
10 respective tribal ordinances by members of any federally recognized Indian tribe, nation,
11 band or other group but that the State has exclusive jurisdiction within Passamaquoddy
12 Indian territory and Penobscot Indian territory over violations of applicable tribal
13 ordinances by persons who are not members of any federally recognized Indian tribe,
14 nation, band or other group.

15 2. It provides that law enforcement officers appointed by the Passamaquoddy Tribe and
16 the Penobscot Nation have exclusive authority to enforce, within their respective Indian
17 territories, civil and domestic relations laws over which the Passamaquoddy Tribal Court
18 or the Penobscot Nation Tribal Court have exclusive jurisdiction, respectively. Law
19 enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation also
20 have exclusive authority to enforce, on their respective Indian reservations, the criminal
21 and juvenile offenses over which the Passamaquoddy Tribal Court or the Penobscot Nation
22 Tribal Court have exclusive jurisdiction. State and county law enforcement officers have
23 concurrent authority with law enforcement officers appointed by the Passamaquoddy Tribe
24 and the Penobscot Nation to enforce all other laws of the State within both Indian territories
25 and concurrent authority to enforce fishing rules adopted by the Maine Indian Tribal-State
26 Commission.

27 Because it represents a jurisdictional agreement between the State and the
28 Passamaquoddy Tribe and between the State and the Penobscot Nation authorized by
29 Section 6(e)(1) of the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-
30 420, Part E of the amendment does not take effect unless, within 90 days of the adjournment
31 of the First Special Session of the 131st Legislature, the Joint Tribal Council of the
32 Passamaquoddy Tribe certifies to the Secretary of State that the Passamaquoddy Tribe
33 agrees to the provisions of Part E and the Governor and the Council of the Penobscot Nation
34 certify to the Secretary of State that the Penobscot Nation agrees to the provisions of Part
35 E.

36 **FISCAL NOTE REQUIRED**

37 **(See attached)**