



# 132nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2025

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Legislative Document

No. 395

S.P. 181

In Senate, February 4, 2025

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**An Act to Restore Access to Federal Laws Beneficial to the  
Wabanaki Nations**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator TALBOT ROSS of Cumberland.  
Cosponsored by Representative DANA of the Passamaquoddy Tribe and  
Senators: BENNETT of Oxford, CARNEY of Cumberland, HARRINGTON of York,  
MARTIN of Oxford, MOORE of Washington, Representatives: FAULKINGHAM of Winter  
Harbor, KUHN of Falmouth, LEE of Auburn.

1 **Be it enacted by the People of the State of Maine as follows:**

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

3 **§6215. Application of statutes and regulations of the United States to the**  
4 **Passamaquoddy Tribe**

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

14 A. The amendments to this Act enacted in 2025 modify the application of the laws of  
15 this State with respect to the Passamaquoddy Tribe and its Indian territory or trust land  
16 to the limited extent that such laws, in the absence of these amendments, would be  
17 affected or preempted by the application of the statutes and regulations of the United  
18 States that are generally applicable to or enacted for the benefit of Indians or relate to  
19 a special status or right of Indian nations or tribes or bands of Indians or to lands owned  
20 by or held in trust for Indians, Indian nations or tribes or bands of Indians, except as  
21 otherwise provided by these amendments.

22 B. The amendments to this Act enacted in 2025 confirm, establish and enable, with  
23 respect to the Passamaquoddy Tribe and its Indian territory or trust land, the operation,  
24 application and implementation in this State of the statutes and regulations of the  
25 United States that are generally applicable to Indians, Indian nations or tribes or bands  
26 of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or  
27 bands of Indians, including such statutes and regulations enacted for the benefit of  
28 Indians, Indian nations or tribes or bands of Indians and statutes and regulations that  
29 accord a special status or right to or that relate to a special status or right of any Indian,  
30 Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian  
31 country, Indian territory or land or other natural resources held in trust for Indians,  
32 except as otherwise provided by these amendments.

33 C. The amendments to this Act enacted in 2025 do not:

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

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

39 **2. Federal statutes and regulations apply to the Passamaquoddy Tribe.**  
40 **Notwithstanding any provision of this Act to the contrary:**

41 A. The State and the Passamaquoddy Tribe agree and intend pursuant to United States  
42 Public Law 96-420 that any law of this State that would be affected or preempted by  
43 the operation, application or implementation of any statute or regulation of the United

1 States that accords a special status or right to or relates to a special status or right of  
2 any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations,  
3 Indian country, Indian territory or land held in trust for Indians does not apply to the  
4 Passamaquoddy Tribe, except as provided in subsection 4;

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

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

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

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

44 A. The Passamaquoddy Tribe may conduct gaming activities only in accordance with  
45 the laws of this State and may not conduct gaming activities under the authority of the  
46 federal Indian Gaming Regulatory Act or under any regulations promulgated under the

1 federal Indian Gaming Regulatory Act by the chair of the National Indian Gaming  
2 Commission or its successor organization;

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

10 C. The provisions of the federal Clean Water Act, the federal Water Quality Act of  
11 1987, the federal Clean Air Act and the federal Indian Mineral Development Act of  
12 1982, including all future amendments and reauthorizations of those Acts, do not apply  
13 with respect to the Passamaquoddy Tribe and its Indian territory or trust land to the  
14 extent the provisions affect or preempt the application of the laws of this State and  
15 directly or indirectly extend the jurisdiction of the Passamaquoddy Tribe beyond its  
16 Indian territory or trust land, unless such provisions are specifically made applicable  
17 within the State of Maine.

18 **5. Powers of Passamaquoddy Tribe relating to federal statutes and regulations.**

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

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

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

40 **§6216. Application of statutes and regulations of the United States to the Penobscot**  
41 **Nation**

42 **1. Further legislative findings regarding the application of statutes and**  
43 **regulations of the United States to the Penobscot Nation.** Sections 6(h) and 16(b) of  
44 United States Public Law 96-420 provide that the laws and regulations of the United States  
45 that are generally applicable to or enacted for the benefit of Indians or relate to a special

1 status or right of Indian nations or tribes or bands of Indians or to lands owned by or held  
2 in trust for Indians, Indian nations or tribes or bands of Indians are applicable within this  
3 State unless such law or regulation affects or preempts the civil, criminal or regulatory  
4 jurisdiction of this State, including, without limitation, laws of this State relating to land  
5 use or environmental matters.

6 A. The amendments to this Act enacted in 2025 modify the application of the laws of  
7 this State with respect to the Penobscot Nation and its Indian territory or trust land to  
8 the limited extent that such laws, in the absence of these amendments, would be  
9 affected or preempted by the application of the statutes and regulations of the United  
10 States that are generally applicable to or enacted for the benefit of Indians or relate to  
11 a special status or right of Indian nations or tribes or bands of Indians or to lands owned  
12 by or held in trust for Indians, Indian nations or tribes or bands of Indians, except as  
13 otherwise provided by these amendments.

14 B. The amendments to this Act enacted in 2025 confirm, establish and enable, with  
15 respect to the Penobscot Nation and its Indian territory or trust land, the operation,  
16 application and implementation in this State of the statutes and regulations of the  
17 United States that are generally applicable to Indians, Indian nations or tribes or bands  
18 of Indians or to lands owned by or held in trust for Indians, Indian nations or tribes or  
19 bands of Indians, including such statutes and regulations enacted for the benefit of  
20 Indians, Indian nations or tribes or bands of Indians and statutes and regulations that  
21 accord a special status or right to or that relate to a special status or right of any Indian,  
22 Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian  
23 country, Indian territory or land or other natural resources held in trust for Indians,  
24 except as otherwise provided by these amendments.

25 C. The amendments to this Act enacted in 2025 do not:

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

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

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

32 Notwithstanding any provision of this Act to the contrary:

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

40 B. The State and the Penobscot Nation agree and intend pursuant to United States  
41 Public Law 96-420 that any statute or regulation of the United States enacted before,  
42 on or after October 10, 1980 that accords a special status or right to or relates to a  
43 special status or right of any Indian, Indian nation, tribe or band of Indians, Indian  
44 lands, Indian reservations, Indian country, Indian territory or land held in trust for

1 Indians is applicable to the Penobscot Nation within this State, without regard to any  
2 effect on the application of the laws of this State, except as provided in subsection 4;  
3 and

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

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

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

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

39 B. The laws of this State applicable to the crimes and juvenile crimes described in this  
40 Act apply to the Penobscot Nation as provided in this Act. The statutes and regulations  
41 of the United States that conflict with or affect or preempt the jurisdiction of the State  
42 over crimes and juvenile crimes described in this Act do not apply to the Penobscot  
43 Nation, unless such provisions are specifically made applicable within the State of  
44 Maine. The federal laws identified in Section 6(c) of United States Public Law 96-420  
45 do not apply to the Penobscot Nation; and

1           C. The provisions of the federal Clean Water Act, the federal Water Quality Act of  
2           1987, the federal Clean Air Act and the federal Indian Mineral Development Act of  
3           1982, including all future amendments and reauthorizations of those Acts, do not apply  
4           with respect to the Penobscot Nation and its Indian territory or trust land to the extent  
5           the provisions affect or preempt the application of the laws of this State and directly or  
6           indirectly extend the jurisdiction of the Penobscot Nation beyond its Indian territory or  
7           trust land, unless such provisions are specifically made applicable within the State of  
8           Maine.

9           **5. Powers of Penobscot Nation relating to federal statutes and regulations.**

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

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

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

31          **§6217. Application of statutes and regulations of the United States to the Houlton**  
32          **Band of Maliseet Indians**

33          **1. Further legislative findings regarding the application of statutes and**  
34          **regulations of the United States to the Houlton Band of Maliseet Indians.** Sections  
35          6(h) and 16(b) of United States Public Law 96-420 provide that the laws and regulations  
36          of the United States that are generally applicable to or enacted for the benefit of Indians or  
37          relate to a special status or right of Indian nations or tribes or bands of Indians or to lands  
38          owned by or held in trust for Indians, Indian nations or tribes or bands of Indians are  
39          applicable within this State unless such law or regulation affects or preempts the civil,  
40          criminal or regulatory jurisdiction of this State, including, without limitation, laws of this  
41          State relating to land use or environmental matters.

42          A. The amendments to this Act enacted in 2025 modify the application of the laws of  
43          this State with respect to the Houlton Band of Maliseet Indians and its Indian territory  
44          or trust land to the limited extent that such laws, in the absence of these amendments,  
45          would be affected or preempted by the application of the statutes and regulations of the

1 United States that are generally applicable to or enacted for the benefit of Indians or  
2 relate to a special status or right of Indian nations or tribes or bands of Indians or to  
3 lands owned by or held in trust for Indians, Indian nations or tribes or bands of Indians,  
4 except as otherwise provided by these amendments.

5 B. The amendments to this Act enacted in 2025 confirm, establish and enable, with  
6 respect to the Houlton Band of Maliseet Indians and its Indian territory or trust land,  
7 the operation, application and implementation in this State of the statutes and  
8 regulations of the United States that are generally applicable to Indians, Indian nations  
9 or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian  
10 nations or tribes or bands of Indians, including such statutes and regulations enacted  
11 for the benefit of Indians, Indian nations or tribes or bands of Indians and statutes and  
12 regulations that accord a special status or right to or that relate to a special status or  
13 right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian  
14 reservations, Indian country, Indian territory or land or other natural resources held in  
15 trust for Indians, except as otherwise provided by these amendments.

16 C. The amendments to this Act enacted in 2025 do not:

- 17 (1) Extend the general body of federal common law known as federal Indian law  
18 to the Houlton Band of Maliseet Indians and its Indian territory or trust land; or
- 19 (2) Adjust the jurisdictional relationship set forth in this Act and in United States  
20 Public Law 96-420 between this State and the Houlton Band of Maliseet Indians,  
21 except as provided by these amendments.

22 **2. Federal statutes and regulations apply to the Houlton Band of Maliseet Indians.**

23 Notwithstanding any provision of this Act to the contrary:

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

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

39 C. Modification of the application of the laws of this State to the Houlton Band of  
40 Maliseet Indians under this section is limited to those particular circumstances in which  
41 the application of the laws of this State to the Houlton Band of Maliseet Indians would  
42 conflict or interfere with the actual operation, application or implementation of a statute  
43 or regulation of the United States that accords a special status or right to or relates to a  
44 special status or right of any Indian, Indian nation, tribe or band of Indians, Indian



1 lands, Indian reservations, Indian country, Indian territory or land held in trust for  
2 Indians. If the operation, application or implementation of any statute or regulation of  
3 the United States to the Houlton Band of Maliseet Indians would result in the absence  
4 of any law or regulation applicable to the Houlton Band of Maliseet Indians relating to  
5 a matter of public health or safety, including without limitation laws relating to land  
6 use or environmental matters, the corresponding laws of the State with respect to that  
7 health or safety matter must apply to the Houlton Band of Maliseet Indians to fill any  
8 regulatory gap. For the purposes of this paragraph, "corresponding laws of the State"  
9 means laws of the State that apply to similar activities outside of Indian lands, Indian  
10 reservations, Indian country, Indian territory or land held in trust for Indians.

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

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

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

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

41 C. The provisions of the federal Clean Water Act, the federal Water Quality Act of  
42 1987, the federal Clean Air Act and the federal Indian Mineral Development Act of  
43 1982, including all future amendments and reauthorizations of those Acts, do not apply  
44 with respect to the Houlton Band of Maliseet Indians and its Indian territory or trust  
45 land to the extent the provisions affect or preempt the application of the laws of this  
46 State and directly or indirectly extend the jurisdiction of the Houlton Band of Maliseet

1 Indians beyond its Indian territory or trust land, unless such provisions are specifically  
2 made applicable within the State of Maine.

3 **5. Powers of Houlton Band of Maliseet Indians relating to federal statutes and**  
4 **regulations.** Notwithstanding any provision of law to the contrary, the State and the  
5 Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law  
6 96-420 that the Houlton Band of Maliseet Indians has the power to enact laws and  
7 ordinances relating to the operation, application and implementation of any statute or  
8 regulation of the United States enacted before, on or after October 10, 1980 that accords a  
9 special status or right to or relates to a special status or right of any Indian, Indian nation,  
10 tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory  
11 or land held in trust for Indians, except as otherwise provided in subsection 4.

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

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

25 **CHAPTER 605**

26 **MI'KMAQ NATION**

27 **§7301. Federal statutes and regulations**

28 **1. Application of statutes and regulations of the United States.** Sections 6(h) and  
29 16(b) of United States Public Law 96-420 provide that the laws and regulations of the  
30 United States that are generally applicable to or enacted for the benefit of Indians or relate  
31 to a special status or right of Indian nations or tribes or bands of Indians or to lands owned  
32 by or held in trust for Indians, Indian nations or tribes or bands of Indians are applicable  
33 within this State unless such law or regulation affects or preempts the civil, criminal or  
34 regulatory jurisdiction of this State, including, without limitation, laws of this State relating  
35 to land use or environmental matters.

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

1 Indians, Indian nations or tribes or bands of Indians, except as otherwise provided by  
2 this section.

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

14 C. This section does not:

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

17 (2) Adjust the jurisdictional relationship set forth in United States Public Law 102-  
18 171 between this State and the Mi'kmaq Nation except as provided by this section.

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

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

28 B. Any statute or regulation of the United States enacted before, on or after October  
29 10, 1980 that accords a special status or right to or relates to a special status or right of  
30 any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations,  
31 Indian country, Indian territory or land held in trust for Indians is applicable to the  
32 Mi'kmaq Nation, without regard to any effect on the application of the laws of this  
33 State, except as provided in subsection 4;

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

41 D. If the operation, application or implementation of any statute or regulation of the  
42 United States to the Mi'kmaq Nation would result in the absence of any law or  
43 regulation applicable to the Mi'kmaq Nation relating to a matter of public health or  
44 safety, including without limitation laws relating to land use or environmental matters,

1 the corresponding laws of the State with respect to that health or safety matter must  
2 apply to the Mi'kmaq Nation to fill any regulatory gap. For the purposes of this  
3 paragraph, "corresponding laws of the State" means laws of the State that apply to  
4 similar activities outside of Indian lands, Indian reservations, Indian country, Indian  
5 territory or land held in trust for Indians.

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

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

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

25 B. The laws of this State applicable to crimes and juvenile crimes apply to the Mi'kmaq  
26 Nation. The statutes and regulations of the United States that conflict with or affect or  
27 preempt the jurisdiction of this State over crimes and juvenile crimes do not apply to  
28 the Mi'kmaq Nation, unless such provisions are specifically made applicable within the  
29 State of Maine. The federal laws identified in Section 6(c) of United States Public Law  
30 96-420 do not apply in this State; and

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

39 **5. Powers of Mi'kmaq Nation relating to federal statutes and regulations.**  
40 Notwithstanding any provision of law to the contrary, the State and the Mi'kmaq Nation  
41 agree and intend pursuant to United States Public Law 102-171 that the Mi'kmaq Nation  
42 has the power to enact laws and ordinances relating to the operation, application and  
43 implementation of any statute or regulation of the United States enacted before, on or after  
44 October 10, 1980 that accords a special status or right to or relates to a special status or  
45 right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian

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

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

15 **Sec. 5. Contingent effective date.** That section of this Act that enacts the Maine  
16 Revised Statutes, Title 30, section 6215 takes effect 120 days after adjournment of the First  
17 Regular Session of the 132nd Legislature only if, within 90 days after adjournment of the  
18 First Regular Session of the 132nd Legislature, the Secretary of State receives written  
19 certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has  
20 agreed to the provisions of that section, copies of which must be submitted by the Secretary  
21 of State to the Secretary of the Senate, the Clerk of the House of Representatives and the  
22 Revisor of Statutes.

23 That section of this Act that enacts the Maine Revised Statutes, Title 30, section 6216  
24 takes effect 120 days after adjournment of the First Regular Session of the 132nd  
25 Legislature only if, within 90 days after adjournment of the First Regular Session of the  
26 132nd Legislature, the Secretary of State receives written certification from the Governor  
27 and the Council of the Penobscot Nation that the nation has agreed to the provisions of that  
28 section, copies of which must be submitted by the Secretary of State to the Secretary of the  
29 Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

30 That section of this Act that enacts the Maine Revised Statutes, Title 30, section 6217  
31 takes effect 120 days after adjournment of the First Regular Session of the 132nd  
32 Legislature only if, within 90 days after adjournment of the First Regular Session of the  
33 132nd Legislature, the Secretary of State receives written certification from the Houlton  
34 Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the  
35 provisions of that section, copies of which must be submitted by the Secretary of State to  
36 the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of  
37 Statutes. Upon such written certification by the Houlton Band Council of the Houlton Band  
38 of Maliseet Indians, Title 30, section 6217 constitutes a jurisdictional agreement for  
39 purposes of the federal Maine Indian Claims Settlement Act of 1980, United States Public  
40 Law 96-420, Section 6(e)(2). Such written certification by the Houlton Band Council of  
41 the Houlton Band of Maliseet Indians does not constitute an agreement that the  
42 contingencies in Public Law 1981, chapter 675 were met or that the provisions of Public  
43 Law 1981, chapter 675 ever took effect.

44 That section of this Act that enacts the Maine Revised Statutes, Title 30, chapter 605  
45 takes effect 120 days after adjournment of the First Regular Session of the 132nd

1 Legislature only if, within 90 days after adjournment of the First Regular Session of the  
2 132nd Legislature, the Secretary of State receives written certification from the Mi'kmaq  
3 Nation Tribal Council that the nation has agreed to the provisions of that chapter, copies of  
4 which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk  
5 of the House of Representatives and the Revisor of Statutes. Upon such written  
6 certification by the Mi'kmaq Nation Tribal Council, Title 30, chapter 605 constitutes a  
7 jurisdictional agreement for purposes of the Aroostook Band of Micmacs Settlement Act,  
8 United States Public Law 102-171, Section 6(d). Such written certification by the Mi'kmaq  
9 Nation Tribal Council does not constitute an agreement that the contingencies in Public  
10 Law 1989, chapter 148 were met or that the provisions of Public Law 1989, chapter 148  
11 ever took effect.

## 12 SUMMARY

13 This bill:

14 1. Establishes new findings within the Maine Implementing Act to distinguish  
15 legislative findings relevant to this bill from the findings made during the enactment of the  
16 original 1980 Implementing Act. Separate but identical findings are included for the  
17 Passamaquoddy Tribe, Penobscot Nation and Houlton Band of Maliseet Indians. These  
18 findings describe the effect of Section 6(h) and Section 16(b) of the federal Settlement Act,  
19 United States Public Law 96-420, in precluding the Passamaquoddy Tribe, Penobscot  
20 Nation and Houlton Band of Maliseet Indians from benefiting from federal laws and  
21 regulations that are generally applicable to or enacted for the benefit of Indians or relate to  
22 a special status or right of Indian nations or tribes or bands of Indians or to lands owned by  
23 or held in trust for Indians, Indian nations or tribes or bands of Indians if such law or  
24 regulation affects or preempts the civil, criminal or regulatory jurisdiction of this State,  
25 including, without limitation, laws of this State relating to land use or environmental  
26 matters. The findings describe the purposes of the amendments to the Maine Implementing  
27 Act included in this legislation regarding the application of state and federal law to the  
28 Passamaquoddy Tribe, Penobscot Nation and Houlton Band of Maliseet Indians;

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

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

44 4. Provides that modification of the application of the laws of this State is limited to  
45 those particular circumstances in which the application of the laws of this State would

1 conflict or interfere with the actual operation, application or implementation of a statute or  
2 regulation of the United States that accords a special status or right to or relates to a special  
3 status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian  
4 reservations, Indian country, Indian territory or land held in trust for Indians. If the  
5 operation, application or implementation of any statute or regulation of the United States  
6 in this State would result in the absence of any law or regulation applicable to a matter of  
7 public health or safety, including without limitation laws relating to land use or  
8 environmental matters, the corresponding laws of the State with respect to that health or  
9 safety matter apply to fill any regulatory gap;

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

14 6. Provides that the Passamaquoddy Tribe, Penobscot Nation and Houlton Band of  
15 Maliseet Indians may conduct gaming activities only in accordance with the laws of this  
16 State and may not conduct gaming activities under the authority of the federal Indian  
17 Gaming Regulatory Act or under any regulations promulgated under the federal Indian  
18 Gaming Regulatory Act by the chair of the National Indian Gaming Commission or its  
19 successor organization;

20 7. Provides that the laws of this State applicable to the crimes and juvenile crimes  
21 described in this legislation apply to the Passamaquoddy Tribe, Penobscot Nation and  
22 Houlton Band of Maliseet Indians as provided in this legislation; the statutes and  
23 regulations of the United States that conflict with or affect or preempt the jurisdiction of  
24 this State over crimes and juvenile crimes described in this legislation do not apply in this  
25 State; and the federal laws identified in Section 6(c) of United States Public Law 96-420  
26 do not apply in this State;

27 8. Provides that the federal Clean Water Act, the federal Water Quality Act of 1987,  
28 the federal Clean Air Act and the federal Indian Mineral Development Act of 1982, as well  
29 as all future amendments to those laws, do not apply to the Passamaquoddy Tribe,  
30 Penobscot Nation, Houlton Band of Maliseet Indians and Mi'kmaq Nation and their Indian  
31 territory or trust land to the extent the provisions affect or preempt the application of the  
32 laws of this State and extend the jurisdiction of the tribe, nation or band beyond their Indian  
33 territory or trust land, unless such provisions are specifically made applicable within the  
34 State;

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

43 10. Creates a new chapter within the Maine Revised Statutes, Title 30 pertaining to  
44 the Mi'kmaq Nation with provisions that mirror those applicable to the Passamaquoddy  
45 Tribe, Penobscot Nation and Houlton Band of Maliseet Indians;

- 1 11. Adds contingent effective date language specific to each tribe, nation or band; and
- 2 12. Adds contingent repeal language.