

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 395

S.P. 181

In Senate, February 4, 2025

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

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.