Working Group to Develop Recommendations for
Extending Federal Beneficial Laws to the Wabanaki Nations
Resolve 2025, chapter 165

Meeting #1 — Thursday, September 24, 2026 at 10:00 a.m.
Maine State House, Room 438 (Judiciary Committee Room)

AGENDA

10:00 am	**Welcome** • *Chairs, Senator Rachel Talbot Ross & Representative Amy Kuhn* **Working Group Member Introductions** **Review of Authorizing Legislation, Freedom of Access Act, Background Materials & Working Group Rules of Procedure** • *Legislative Staff*
10:30 am * (approx.)	**Goals & Issues to Resolve – Working Group Member Perspectives** • *Chief Clarissa Sabattis, Houlton Band of Maliseet Indians* • *Chief Kirk Francis, Penobscot Nation* • *Craig Sanborn, Esq., Mi'kmaq Nation* • *Rena Newell, Passamaquoddy Tribe at Sipayik* • *Chief William J. Nicholas, Sr., Passamaquoddy Tribe at Motahkomikuk* • *Assistant Attorney General Kim Patwardhan, Esq.* • *Jerry Reid, Esq., General Counsel to Governor Mills* (written material only) • *Commissioner Darren Ranco, Maine Indian Tribal-State Commission*
To be followed by *	**Discussion and Planning for Future Meetings** • Including identification of October meeting dates

* ***The Working Group may take a lunch break at an appropriate time during the meeting***

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

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

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Membership List — As of Sept. 21, 2026

Name	Representation
Legislative Members	
Senator Rachel Talbot Ross	Senate Chair, appointed by the President of the Senate
Representative Amy Kuhn	House Chair, appointed by the Speaker of the House
Senator Marianne Moore	Member of the Senate from the party holding the 2nd largest number of seats in the Legislature, appointed by the President of the Senate
Representative Rachel Henderson	Member of the House from the party holding the 2nd largest number of seats in the Legislature, appointed by the Speaker of the House
Chiefs of the Wabanaki Nations	
Chief Clarissa Sabattis	Chief of the Houlton Band of Maliseet Indians
Craig Sanborn	Designee of Chief McCormack of the Mi'kmaq Nation
Chief William J. Nicholas, Sr.	Chief of the Passamaquoddy Tribe at Motahkomikuk
Representative-elect Rena Newell	Designee of Chief Bassett of the Passamaquoddy Tribe at Sipayik
Chief Kirk E. Francis, Sr.	Chief of the Penobscot Nation
Non-Voting, Ex Officio Members	
Jerry Reid, Chief Legal Counsel	Governor's designee
Assistant Attorney General Kimberly Patwardhan	Attorney General's designee
Jill Tompkins **(invited)**	Executive Director, Maine Indian Tribal–State Commission

APPROVED | CHAPTER
APRIL 15, 2026 | 165
BY GOVERNOR | RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-SIX

S.P. 181 - L.D. 395

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

Sec. 1. Working group established. Resolved: That the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to the Wabanaki Nations, referred to in this resolve as "the working group," is established.

Sec. 2. Working group membership. Resolved: That, notwithstanding Joint Rule 353, the working group consists of the following members.

1. Two members of the Senate, appointed by the President of the Senate, including one member of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature.

2. Two members of the House of Representatives, appointed by the Speaker of the House of Representatives, including one member of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature.

The President of the Senate and the Speaker of the House of Representatives shall invite to participate as voting members of the working group the Chief of the Houlton Band of Maliseet Indians or the chief's designee; the Chief of the Mi'kmaq Nation or the chief's designee; the Chief of the Passamaquoddy Tribe at Sipayik or the chief's designee; the Chief of the Passamaquoddy Tribe at Motahkomikuk or the chief's designee; and the Chief of the Penobscot Nation or the chief's designee.

The President of the Senate and the Speaker of the House of Representatives also shall invite to participate as nonvoting ex officio members of the working group the Governor or the Governor's designee; the Attorney General or the Attorney General's designee; and the Managing Director of the Maine Indian Tribal-State Commission.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the working group.

Sec. 4. Appointments; convening of working group. Resolved: That all appointments must be made no later than 15 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment and invitation of all members has been completed, the chairs of the working group shall call and convene the first meeting of the working group. If 15 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the working group to meet and conduct its business.

Sec. 5. Duties. Resolved: That the working group shall review the federal Maine Indian Claims Settlement Act, Public Law 96-420, Sections 6(h) and 16(b), which provide that the laws and regulations of the United States that are generally applicable to, enacted for the benefit of or that relate to a special status or right of Indians, Indian tribes or lands owned by or held in trust for Indians or Indian tribes, referred to in this resolve as "federal beneficial laws," do not apply within the State if these laws or regulations affect or preempt the laws of the State. The working group shall develop and recommend legislative mechanisms for extending the benefits of federal beneficial laws to the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe and the Penobscot Nation notwithstanding these provisions of the federal Maine Indian Claims Settlement Act. The recommendations may identify particular federal beneficial laws that should not apply within the State or propose a review process to be employed when the application of a particular federal beneficial law within the State would have a specific and substantial disruptive and harmful effect on the State and its citizens. Each of the working group's recommendations must be made by consensus. For the purposes of this resolve, "consensus" means the consent of the members of the working group who are representatives of the tribe or tribes affected by a particular recommendation and a majority of the legislative members of the working group.

Sec. 6. Quorum. Resolved: That a quorum of the working group consists of at least 3 members who are representatives of the tribes and at least 3 members who are members of the Legislature.

Sec. 7. Staffing assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the working group, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 8. Report. Resolved: That, notwithstanding Joint Rule 353, no later than December 2, 2026, the working group shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters that includes its findings and consensus recommendations, including any suggested legislation. The joint standing committee may report out legislation based on the consensus-based recommendations of the working group to the 133rd Legislature in 2027.

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

RULES OF PROCEDURE
(as presented by the Chairs)

Legislative studies allow for the examination of topics and issues beyond what is possible during a legislative session. Legislative studies allow for in-depth review and discussion by incorporating a wide range of input from those with direct experience or knowledge of the issue. Adopting procedures to guide the conduct of legislative study proceedings provides a structure for the orderly conduct of meetings that will best achieve the prescribed duties of the study in a manner that is efficient and effective and ensures the transparency of proceedings.

1. Attendance and quorum

A. **Quorum.** A quorum is required to convene a meeting of the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to the Wabanaki Nations ("Working Group"). Pursuant to Resolve 2025, chapter 165 (the "authorizing legislation"), a quorum of the working group consists of at least 3 members who are representatives of the tribes and at least 3 members who are members of the Legislature.

B. **Nonvoting members.** The presence of nonvoting, ex officio members is not required to establish a quorum.

C. **Authorized member designee.** If the authorizing legislation permits a voting member of the Working Group to name a designee, the designee is counted towards a quorum. A person attending in place of a voting member, when a designee is not authorized in the legislation, is not counted towards a quorum.

D. **Attendance.** It is the duty of each voting and nonvoting member of the Working Group to notify the chairs and staff — by sending an email to both Janet.Stocco@legislature.maine.gov and Samuel.Senft@legislature.maine.gov — as soon as possible, but not later than 48 hours in advance:

- If the member will be represented by a designee at all Working Group meetings or at a specific Working Group meeting; or
- If neither the member nor an authorized designee of the member will be present at a Working Group meeting.

E. **Hybrid meetings.** Meetings will be conducted in a hybrid format, with members having the opportunity to attend either in-person or electronically. Voting members, or their authorized designees, who attend a meeting remotely are counted towards a quorum.

- A member wishing to attend a meeting remotely or to have the member's authorized designee attend a meeting remotely shall provide at least 48 hours advance notice to the chairs and staff — by sending an email to both Janet.Stocco@legislature.maine.gov and Samuel.Senft@legislature.maine.gov.
- The legislative member serving as presiding chair must be physically present in the room for hybrid meetings.

2. Scheduling

A. **Chairs determine schedule.** The chairs of the legislative study shall jointly determine the schedule of meetings.

B. **Authorized meetings**. Requests for additional meetings (beyond those budgeted in the fiscal note of the authorizing legislation) are subject to the approval of the Legislative Council pursuant to Joint Rule 353.

3. Notice and conduct of meetings

A. **Notice provided.** As soon as practicable after the date of meeting has been determined by the chairs, notice of the meeting must be posted on the legislative events calendar, the Working Group webpage (https://legislature.maine.gov/extending-federal-beneficial-laws-to-wabanaki-nations-work-group) and delivered by email to members and interested parties.

B. **All proceedings public.** Actions of the membership, including but not limited to presentations, discussion, determination of findings and proposing recommendations, must be conducted openly as part of a public proceeding.

C. **Meeting agenda.** The chairs determine the agenda for each meeting of the Working Group. Requests for presentations or speakers must be made through the chairs.

D. **Conduct of meeting; public comment.** All questions must be addressed through the chair. If a Working Group meeting includes an opportunity for the public to provide comment the chairs shall announce the format and manner by which public comment will be received.

E. **Electronic devices.** Personal electronic devices must be silenced during meetings and may only be used in a way that is not disruptive to members or those in attendance at the meeting.

4. Voting

A. **Quorum required**. Other than a vote on a motion to adjourn, a quorum is required for a vote of the Working Group.

B. **Absent members.** Except for procedural votes such as a motion to table, to adjourn or to reconsider, voting members who are absent at the time of a vote may register their position in support of or opposition to the motion with staff in accordance with the timeframe and in the manner specified by the chairs.

C. **Abstention**. In order for a legislative member to abstain from a vote, the legislative member must first obtain approval from the chairs.

5. Report recommendations

A. **Vote required.** Proposed consensus recommendations are subject to a vote of the members of the legislative study. When proposing a recommendation, members are encouraged to be as specific as possible and explain how the recommendation relates to the duties or objectives of the legislative study. Only voting members of the Working Group may make a motion to vote on a consensus recommendation.

B. **Consensus required.** Pursuant to the authorizing legislation, each of the working group's recommendations must be made by consensus. For purposes of this rule, "consensus" means the consent of the members of the working group who are representatives of the tribe or tribes affected by a particular recommendation and a majority of the legislative members of the working group.

C. **Report.** Recommendations that receive the vote of at least one voting member but that do not receive a consensus vote, will be described in the final report.

6. Review of legislative study report

A. **Purpose of review**. The purpose of review is to ensure that the draft report accurately reflects the information received by the legislative study, member discussion and decision-making that took place during public meetings of the legislative study.

B. **Review procedure.** The chairs, with the assistance of staff, shall establish the procedures for member review of the draft report of the legislative study. Members shall review the draft report and as necessary provide feedback to staff within the established timeframe set by the chairs.

Maine's Freedom of Access Act and the Conduct of the Business of the Legislature

Prepared for the Right to Know Advisory Committee
by the Office of Policy and Legal Analysis and the Office of the Attorney General
Updated January 2025

The Maine Freedom of Access Act requires governmental entities to conduct public business in the open and to provide access to public records. Legislative meetings and records are subject to the law and must be open to the public, with some limited exceptions set forth in the law.

Intent of the Freedom of Access Law
The Maine Freedom of Access Act provides that it is the intent of the Legislature that "actions [involving the conduct of the people's business] be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly." The Freedom of Access Act, found in Title 1 of the Maine Revised Statutes, chapter 13, applies to all governmental entities, including the Legislature.

Public Proceedings
Under state law, all meetings of the Legislature, its joint standing committees, joint select committees and legislative subcommittees are public proceedings. A legislative subcommittee is a group of 3 or more committee members appointed for the purpose of conducting legislative business on behalf of the committee.

The public must be given notice of public proceedings and must be allowed to attend. Notice must be given in ample time to allow the public to attend and in a manner reasonably calculated to notify the general public. The public is also allowed to record the proceedings as long as the activity does not interfere with the orderly conduct of the proceedings.

Party caucuses are not committees or subcommittees of the Legislature, so their meetings do not appear to be public proceedings. Similarly, informal meetings of the members of a committee who are affiliated with the same party are not public proceedings as these members are not designated by the committee as a whole to conduct business of the committee. However, committee members should be careful when they caucus not to make decisions or otherwise use the caucus to circumvent the public proceeding requirements.

Limited Exception to Public Proceedings (Executive Sessions)
In <u>very limited</u> situations, joint standing committees may hold executive sessions to discuss certain matters. State law is quite specific as to those matters that may be deliberated in executive sessions. The executive session must not be used to defeat the purpose of the Act, which is to ensure that the people's business is conducted in the open.

The permitted reasons for executive session are set forth in the law, Title 1, section 405 and Title 3, section 156. The reasons most relevant to legislative work are discussion of confidential records and pre-hearing conferences on confirmations.

An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of the committee. The motion to go into executive session must indicate the precise nature of the business to be discussed and no other matters may be discussed. A committee may not take any votes or other official action in executive sessions.

If a committee wants to hold an executive session, the committee should discuss the circumstances with a nonpartisan legislative analyst from the Office of Policy and Legal Analysis or the Office of Fiscal and Program Review who can provide the committee with guidance about whether an executive session is permitted and, if so, how to proceed.

Public Records

The Freedom of Access Act defines "public records" broadly, to include all material in possession of public agencies, staff and officials if the materials were received or prepared for use in, or relate to, the transaction of public or governmental business. The scope of the definition means that most, if not all, papers and electronic records relating to legislative business are public records. This includes records that may be stored on an individual legislator's personal computer, tablet or smartphone if they relate to or were prepared for use in the transaction of public business, *e.g.*, constituent inquiries, emails, text messages or other correspondence about legislative matters. Information contained in a communication between a constituent and a legislator may be confidential if it meets certain narrow requirements.

Time-limited Exception from Public Disclosure for Certain Legislative Records

The Freedom of Access Act contains exceptions to the general rule that public records must be made available for public inspection and copying. One exception that is relevant to legislative work allows certain legislative papers to be withheld from public disclosure until the end of the legislative session in which they are being used. The exceptions are as follows:

- Legislative papers and reports (e.g. bill drafts, committee amendments and the like) are not public records until signed and publicly distributed; and
- Working papers, drafts, records and memoranda used to prepare proposed legislative papers or reports are not public records until the end of the legislative session in which the papers or reports are prepared or considered or to which they are carried over.

The Legislative Council's Confidentiality Policy and the Joint Rules provide guidance to legislative staff about how such records are to be treated before they become public records.

Confidential Records in the Possession of Committees

Committees may also need to be prepared to deal with other types of non-public records, such as individual medical or financial records that are classified as confidential under state or federal law.

If the committee comes into possession of records that are declared confidential by law, the Freedom of Access Act allows the committee to withhold those records from the public and to go into executive session to consider them (see discussion above for the proper process).

In addition, the committee should also find out whether there are laws that set specific limitations on, and penalties for, dissemination of those records. The Office of the Attorney General or a nonpartisan legislative analyst from the Office of Policy and Legal Analysis or the Office of Fiscal and Program Review can help the committee with these records.

Joint Rule 313 also sets forth procedures to be followed by a committee that possesses confidential records.

Legislative Review of Public Record Exceptions

All exceptions to the public records law are subject to a review process. A legislative committee that considers a legislative measure proposing a new statutory exception must refer the measure to the Judiciary Committee if a majority of the committee supports the proposed exception. The Judiciary Committee will review and evaluate the proposal according to statutory standards, then report findings and recommendations to the committee of jurisdiction. The Judiciary Committee regularly seeks input from the Right to Know Advisory Committee on public records, confidentiality and other freedom of access issues.

Public Access Ombudsman

The Public Access Ombudsman, an attorney located in the Department of the Attorney General, is available to provide information about public meetings and public records, to help resolve complaints about accessing proceedings and records and to help educate the public as well as public agencies and officials. Legislators may contact the Public Access Ombudsman, Brenda Kielty, at Brenda.Kielty@maine.gov, or (207) 626-8577 for assistance.

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A. Federal and State Settlement Acts

Item	Date	Notes
Federal Maine Indian Claims Settlement Act of 1980 (MICSA)	Oct. 10, 1980	The federal law describing the 1980 land claims settlement between the state and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians ○ See also the Report of the Select Committee on Indian Affairs, Senate Report 96-957 (Sept. 17, 1980)
Federal Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986	Oct. 27, 1986	The federal law describing certain amendments to the MICSA regarding the Houlton Band of Maliseet Indians
Federal Aroostook Band of Micmacs Settlement Act	Nov. 26, 1991	The federal law describing the settlement between the Mi'kmaq Nation and the State
State Maine Implementing Act (MIA) — original version	May 22, 1980	Original version of the state law implementing the MICSA. ○ See also the Report of the Joint Select Committee on Indian Land Claims (1980), which was officially made part of the Legislative Record for MIA
State Maine Implementing Act	Current through Aug. 2026	Current version of the MIA
State Maine Mi'kmaq Nation Restoration Act (MNRA)	Current through Aug. 2026	Current version of the state law implementing the federal Aroostook Band of Micmacs Settlement Act

B. Federal Laws explicitly made applicable to Tribes in Maine

Item	Date	Notes
Violence Against Women Act (VAWA), as reauthorized in 2022 through Pub. L. No. 117-103, Division W	March 15, 2022	Most recent version of VAWA, through which Congress made special tribal jurisdiction over certain crimes explicitly applicable in Maine ○ See 25 U.S.C. §1304(b)(1)
Safe Drinking Water Act, 42 U.S.C. 300j-11, and its implementing regulations, as amended	Based on state legislation enacted in 2022, 2023 & 2024	Through amendments to the MIA and the MNRA, the Maine Legislature explicitly recognized the authority of the Wabanaki Nations to exercise jurisdiction under the federal Safe Drinking Water Act and its implementing regulations over drinking-water related issues within specific tribal lands. ○ 30 M.R.S. §6207(10), (11); §6207-A; §6207-B; §6207-C(10); §6207-D [MIA] ○ 30 M.R.S. §7206(8); §7207 [MNRA]

C. Recent Federal Legislation (not enacted)

Item	Date	Notes
H.R. 6707, "Advancing Equality for Wabanaki Nations Act"	Feb. 11, 2022 (introduced)	Federal legislation introduced by Rep. Golden that would have allowed the Wabanaki Nations in Maine to access future federal laws enacted for the benefit of Indian tribes. o Link to testimony on H.R. 6707 o See also the Report of the Committee on Natural Resources on H.R. 6707, including dissenting views, House Report 117-599 (Dec. 7, 2022)

D. Recent State Legislation (not enacted)

Item	Date	Notes
LD 2094, An Act To Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act (129th Legislature)	Feb. 4, 2020	Legislation introduced in 2020 seeking to enact the tribal sovereignty recommendations made by the 2019 task force. o See especially the following sections of the original bill: ▪ 30 M.R.S. §6216 ▪ 30 M.R.S. §6205(6); §6205-A(1-A) o Link to testimony on LD 2094, see especially concerns raised by: ▪ Governor Mills ▪ Attorney General Frey (pp. 19-21)
LD 1626, An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act (130th Legislature)	April 27, 2021	Legislation introduced in 2021 seeking to enact the tribal sovereignty recommendations made by the 2019 task force. o See especially the following sections of the original bill: ▪ 30 M.R.S. §6216 ▪ 30 M.R.S. §6202(2); §6206(1) ▪ 30 M.R.S. §6205(6); §6205-A(1-A) o Link to testimony on LD 1626, see especially concerns raised by: ▪ Attorney General Frey (pp. 15-18)
LD 2004, An Act to Restore Access to Federal Laws Beneficial to the Wabanaki Nations (131st Legislature)	May 30, 2023	Legislation introduced in 2023 regarding application of federal laws to Maine tribes. o Link to testimony on LD 2004, see especially concerns raised by: ▪ The Office of Governor Mills ▪ Attorney General Frey o LD 2004 veto letter from Governor Mills
LD 395, An Act to Restore Access to Federal Laws Beneficial to the Wabanaki Nations (132nd Legislature)	Feb. 4, 2025	Legislation introduced in 2025 regarding the application of federal laws to Maine tribes. o Link to testimony on LD 395, see especially concerns raised by: ▪ The Office of Governor Mills

LD 785, An Act to Enact the Remaining Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act (132nd Legislature)	March 4, 2025	Legislation introduced in 2025 seeking to enact the tribal sovereignty recommendations made by the 2019 task force. o See especially the following sections of the original bill: ▪ 30 M.R.S. §6216 ▪ 30 M.R.S. §§6202(2); §6206(1) ▪ 30 M.R.S. §6203(2-B); §6205(1)(H); §6205(2)(C); §6205(6); §6205-B(2); and 36 M.R.S. §111(1-E) o Link to testimony on LD 785, see especially concerns raised by o The Office of Governor Mills, referencing the Governor's testimony on LD 2094 (129th Legislature)

E. Selected Case Law

Item	Date	Notes
Passamaquoddy Tribe v. Maine, 75 F.3d 784 (1st Cir. 1996)	Feb. 9, 1996	Provides that the Indian Gaming Regulatory Act does not apply in Maine due to MICSA §16(b)
Shannon v. Houlton Band of Maliseet Indians, 54 F. Supp. 2d 35 (D. Me. 1999)	June 3, 1999	Discusses applicability of certain provisions of Title VII in Maine under MICSA §6(h)
Maine v. Johnson, 498 F.3d 37 (1st Cir. 2007)	Aug. 8, 2007	Notes in footnote 5 that the Clean Water Act does not apply in Maine under MICSA §6(h)
Penobscot Nation v. Frey, 3 F.4th 484 (1st Cir. 2021)	July 8, 2021	See footnote 20, mentioning State argument that, due to §6(h) and §16(b) of MICSA, the Indian canons of construction do not apply in Maine

F. Reports/Other

Item (title, author)	Date	Notes
Assistant Attorney General (AAG) Paul Stern email to Sen. Collins' Staff re: Stafford Act Amendments	Nov. 14, 2012	This email from AAG Stern to staff of U.S. Senator Susan Collins, argues that proposed amendments to the Robert T. Stafford Disaster Relief and Emergency Assistance Act would not apply to the Wabanaki Nations in Maine
Suffolk University Law School – "The Drafting and Enactment of the Maine Indian Claims Settlement Act"	Feb. 2017	Report by the Indigenous Peoples Rights Clinic of Suffolk University Law School at the request of the Maine Indian Tribal-State Commission
Suffolk University Law School – "Federal Laws Enacted After	Dec. 2019	Report by the Human Rights and Indigenous Peoples Clinic of Suffolk University Law School at the request of the Task Force on

October 10, 1980 for the Benefit of Indians or Indian Nations"		Changes to the Maine Indian Claims Settlement Implementing Act
Task Force on Changes to the Maine Indian Claims Settlement Implementing Act	Jan. 2020	Final Task Force Report with 22 consensus recommendations for suggested changes to the Settlement Acts
Harvard Project on Indian Development – "Economic and Social Impacts of Restrictions on the Applicability of Federal Indian Policies to the Wabanaki Nations in Maine"	Dec. 2, 2022	Report by the Harvard Project on Indian Development
Nicole Friederichs, "The Growing List of Reasons to Amend The Maine Indian Jurisdictional Agreement"	2023	Maine Law Review article by Nicole Friederichs

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Excerpt from Resolve 2025, chapter 165, section 5:

> **Sec. 5. Duties. Resolved:** That the working group shall review the federal Maine Indian Claims Settlement Act, Public Law 96-420, Sections 6(h) and 16(b), which provide that the laws and regulations of the United States that are generally applicable to, enacted for the benefit of or that relate to a special status or right of Indians, Indian tribes or lands owned by or held in trust for Indians or Indian tribes, referred to in this resolve as "federal beneficial laws," do not apply within the State if these laws or regulations affect or preempt the laws of the State. The working group shall develop and recommend legislative mechanisms for extending the benefits of federal beneficial laws to the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe and the Penobscot Nation notwithstanding these provisions of the federal Maine Indian Claims Settlement Act. The recommendations may identify particular federal beneficial laws that should not apply within the State or propose a review process to be employed when the application of a particular federal beneficial law within the State would have a specific and substantial disruptive and harmful effect on the State and its citizens. Each of the working group's recommendations must be made by consensus. For the purposes of this resolve, "consensus" means the consent of the members of the working group who are representatives of the tribe or tribes affected by a particular recommendation and a majority of the legislative members of the working group.

Relevant provisions of the federal Maine Indian Claims Settlement Act:

Section 6(h):

> (h) Except as otherwise provided in this Act, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.

Section 16(b):

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

Public Law 96-420
96th Congress

An Act

To provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

Oct. 10, 1980
[H.R. 7919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maine Indian Claims Settlement Act of 1980".

Maine Indian Claims Settlement Act of 1980.
25 USC 1721 note.

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) Congress hereby finds and declares that:

25 USC 1721.

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Maliseet Tribe are asserting claims for possession of lands within the State of Maine and for damages on the ground that the lands in question were originally transferred in violation of law, including, but without limitation, the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments or versions thereof.

(2) The Indians, Indian nations, and tribes and bands of Indians, other than the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, that once may have held aboriginal title to lands within the State of Maine long ago abandoned their aboriginal holdings.

(3) The Penobscot Nation, as represented as of the time of passage of this Act by the Penobscot Nation's Governor and Council, is the sole successor in interest to the aboriginal entity generally known as the Penobscot Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(4) The Passamaquoddy Tribe, as represented as of the time of passage of this Act by the Joint Tribal Council of the Passamaquoddy Tribe, is the sole successor in interest to the aboriginal entity generally known as the Passamaquoddy Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(5) The Houlton Band of Maliseet Indians, as represented as of the time of passage of this Act by the Houlton Band Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Maliseet Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(6) Substantial economic and social hardship to a large number of landowners, citizens, and communities in the State of Maine, and therefore to the economy of the State of Maine as a whole, will result if the aforementioned claims are not resolved promptly.

(7) This Act represents a good faith effort on the part of Congress to provide the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians with a fair and

just settlement of their land claims. In the absence of congressional action, these land claims would be pursued through the courts, a process which in all likelihood would consume many years and thereby promote hostility and uncertainty in the State of Maine to the ultimate detriment of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, their members, and all other citizens of the State of Maine.

(8) The State of Maine, with the agreement of the Passamaquoddy Tribe and the Penobscot Nation, has enacted legislation defining the relationship between the Passamaquoddy Tribe, the Penobscot Nation, and their members, and the State of Maine.

(9) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians. During this same period, the United States provided few special services to the respective tribe, nation, or band, and repeatedly denied that it had jurisdiction over or responsibility for the said tribe, nation, and band. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this claims settlement.

(b) It is the purpose of this Act—

(1) to remove the cloud on the titles to land in the State of Maine resulting from Indian claims;

(2) to clarify the status of other land and natural resources in the State of Maine;

(3) to ratify the Maine Implementing Act, which defines the relationship between the State of Maine and the Passamaquoddy Tribe, and the Penobscot Nation, and

(4) to confirm that all other Indians, Indian nations and tribes and bands of Indians now or hereafter existing or recognized in the State of Maine are and shall be subject to all laws of the State of Maine, as provided herein.

DEFINITIONS

25 USC 1722.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF INDIAN TITLE AND CLAIMS OF THE PASSAMAQUODDY TRIBE, THE PENOBSCOT NATION, THE HOULTON BAND OF MALISEET INDIANS, AND ANY OTHER INDIANS, INDIAN NATION, OR TRIBE OR BAND OF INDIANS WITHIN THE STATE OF MAINE

SEC. 4. (a)(1) Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: *Provided however,* That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians. 25 USC 1723.

(2) The United States is barred from asserting on behalf of any Indian, Indian nation, or tribe or band of Indians any claim under the laws of the State of Maine arising before the date of this Act and arising from any transfer of land or natural resources by any Indian, Indian nation, or tribe or band of Indians, located anywhere within the State of Maine, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, on the grounds that such transfer was not made in accordance with the laws of the State of Maine.

(3) The United States is barred from asserting by or on behalf of any individual Indian any claim under the laws of the State of Maine arising from any transfer of land or natural resources located anywhere within the State of Maine from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State.

(b) To the extent that any transfer of land or natural resources described in subsection (a)(1) of this section may involve land or natural resources to which the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, such subsection (a)(1) shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

Effective date.

(d) The provisions of this section shall take effect immediately upon appropriation of the funds authorized to be appropriated to implement the provisions of section 5 of this Act. The Secretary shall publish notice of such appropriation in the Federal Register when such funds are appropriated.

Publication in Federal Register.

ESTABLISHMENT OF FUNDS

Maine Indian Claims Settlement Fund.
25 USC 1724.

SEC. 5. (a) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Settlement Fund in which $27,000,000 shall be deposited following the appropriation of sums authorized by section 14 of this Act.

(b)(1) One-half of the principal of the settlement fund shall be held in trust by the Secretary for the benefit of the Passamaquoddy Tribe, and the other half of the settlement fund shall be held in trust for the benefit of the Penobscot Nation. Each portion of the settlement fund shall be administered by the Secretary in accordance with reasonable terms established by the Passamaquoddy Tribe or the Penobscot Nation, respectively, and agreed to by the Secretary: *Provided*, That the Secretary may not agree to terms which provide for investment of the settlement fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the respective tribe or

Waiver.
25 USC 162a.

nation first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment: *Provided, further,* That until such terms have been agreed upon, the Secretary shall fix the terms for the administration of the portion of the settlement fund as to which there is no agreement.

(2) Under no circumstances shall any part of the principal of the settlement fund be distributed to either the Passamaquoddy Tribe or the Penobscot Nation, or to any member of either tribe or nation: *Provided, however,* That nothing herein shall prevent the Secretary from investing the principal of said fund in accordance with paragraph (1) of this subsection.

(3) The Secretary shall make available to the Passamaquoddy Tribe and the Penobscot Nation in quarterly payments, without any deductions except as expressly provided in subsection 6(d)(2) and without liability to or on the part of the United States, any income received from the investment of that portion of the settlement fund allocated to the respective tribe or nation, the use of which shall be free of regulation by the Secretary. The Passamaquoddy Tribe and the Penobscot Nation annually shall each expend the income from $1,000,000 of their portion of the settlement fund for the benefit of their respective members who are over the age of sixty. Once payments under this paragraph have been made to the tribe or nation, the United States shall have no further trust responsibility to the tribe or nation or their members with respect to the sums paid, any subsequent distribution of these sums, or any property or services purchased therewith.

Maine Indian Claims Land Acquisition Fund, establishment.

(c) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Land Acquisition Fund in which $54,500,000 shall be deposited following the appropriation of sums authorized by section 14 of this Act.

(d) The principal of the land acquisition fund shall be apportioned as follows:

(1) $900,000 to be held in trust for the Houlton Band of Maliseet Indians;

(2) $26,800,000 to be held in trust for the Passamaquoddy Tribe; and

(3) $26,800,000 to be held in trust for the Penobscot Nation.

Land or natural resources, acquisition.

The Secretary is authorized and directed to expend, at the request of the affected tribe, nation or band, the principal and any income accruing to the respective portions of the land acquisition fund for the purpose of acquiring land or natural resources for the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians and for no other purpose. The first 150,000 acres of land or natural resources acquired for the Passamaquoddy Tribe and the first 150,000 acres acquired for the Penobscot Nation within the area described in the Maine Implementing Act as eligible to be included within the Passamaquoddy Indian Territory and the Penobscot Indian Territory shall be held in trust by the United States for the benefit of the respective tribe or nation. The Secretary is also authorized to take in trust for the Passamaquoddy Tribe or the Penobscot Nation any land or natural resources acquired within the aforesaid area by purchase, gift, or exchange by such tribe or nation. Land or natural resources acquired outside the boundaries of the aforesaid areas shall be held in fee by the respective tribe or nation, and the United States shall have no further trust responsibility with respect thereto. Land or natural resources acquired within the State of Maine for the Houlton Band of Maliseet Indians shall be held in trust by the United States for the benefit of the band: *Provided,* That no land or natural resources shall be so acquired for or on behalf of the Houlton Band of Maliseet Indians without the prior enactment of appropriate legislation by the State of Maine approving such acquisition: *Provided further*, That the Passamaquoddy Tribe and the Penobscot Nation shall each have a one-half undivided interest in the corpus of the trust, which shall consist of any such property or subsequently acquired exchange property, in the event the Houlton Band of Maliseet Indians should terminate its interest in the trust.

State of Maine and Houlton Band of Maliseet Indians, negotiations.

(4) The Secretary is authorized to, and at the request of either party shall, participate in negotiations between the State of Maine and the Houlton Band of Maliseet Indians for the purpose of assisting in securing agreement as to the land or natural resources to be acquired by the United States to be held in trust for the benefit of the Houlton Band. Such agreement shall be embodied in the legislation enacted by the State of Maine approving the acquisition of such lands as required by section 5(d)(3). The agreement and the legislation shall be limited to:

(A) provisions providing restrictions against alienation or taxation of land or natural resources held in trust for the Houlton Band no less restrictive than those provided by this Act and the Maine Implementing Act for land or natural resources to be held in trust for the Passamaquoddy Tribe or Penobscot Nation;

(B) provisions limiting the power of the State of Maine to condemn such lands that are no less restrictive than the provisions of this Act and the Maine Implementing Act that apply to the Passamaquoddy Indian Territory and the Penobscot Indian Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation;

(C) consistent with the trust and restricted character of the lands, provisions satisfactory to the State and the Houlton Band concerning:

(i) payments by the Houlton Band in lieu of payment of property taxes on land or natural resources held in trust for the band, except that the band shall not be deemed to own or use any property for governmental purposes under the Maine Implementing Act;

(ii) payments of other fees and taxes to the extent imposed on the Passamaquoddy Tribe and the Penobscot Nation under the Maine Implementing Act, except that the band shall not be deemed to be a governmental entity under the Maine Implementing Act or to have the powers of a municipality under the Maine Implementing Act;

(iii) securing performance of obligations of the Houlton Band arising after the effective date of agreement between the State and the band.

(D) provisions on the location of these lands.

Except as set forth in this subsection, such agreement shall not include any other provisions regarding the enforcement or application of the laws of the State of Maine. Within one year of the date of enactment of this Act, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the status of these negotiations.

Report to congressional committees.

(e) Notwithstanding the provisions of section 1 of the Act of August 1, 1888 (25 Stat. 357), as amended, and section 1 of the Act of

February 26, 1931 (46 Stat. 1421), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner. Except for the provisions of this Act, the United States shall have no other authority to acquire lands or natural resources in trust for the benefit of Indians or Indian nations, or tribes, or bands of Indians in the State of Maine. 40 USC 258a.

(f) The Secretary may not expend on behalf of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians any sums deposited in the funds established pursuant to the subsections (a) and (c) of this section unless and until he finds that authorized officials of the respective tribe, nation, or band have executed appropriate documents relinquishing all claims to the extent provided by sections 4, 11, and 12 of this Act and by section 6213 of the Maine Implementing Act, including stipulations to the final judicial dismissal with prejudice of their claims.

(g)(1) The provisions of section 2116 of the Revised Statutes shall not be applicable to (A) the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation, or tribe or band of Indians in the State of Maine, or (B) any land or natural resources owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine. Except as provided in subsections (d)(4) and (g)(2), such land or natural resources shall not otherwise be subject to any restraint on alienation by virtue of being held in trust by the United States or the Secretary. 25 USC 177.

(2) Except as provided in paragraph (3) of this subsection, any transfer of land or natural resources within Passamaquoddy Indian Territory or Penobscot Indian Territory, except (A) takings for public uses consistent with the Maine Implementing Act, (B) takings for public uses pursuant to the laws of the United States, or (C) transfers of individual Indian use assignments from one member of the Passamaquoddy Tribe or Penobscot Nation to another member of the same tribe or nation, shall be void ab initio and without any validity in law or equity.

Land or natural resources held in trust.

(3) Land or natural resources within the Passamaquoddy Indian Territory or the Penobscot Indian Territory or held in trust for the benefit of the Houlton Band of Maliseet Indians may, at the request of the respective tribe, nation, or band, be—

(A) leased in accordance with the Act of August 9, 1955 (69 Stat. 539), as amended; 25USC 415-415d, 396.

(B) leased in accordance with the Act of May 11, 1938 (52 Stat. 347), as amended; 25USC 396a-396f and notes.

(C) sold in accordance with section 7 of the Act of June 25, 1910 (36 Stat. 857), as amended; 25 USC 407.

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (62 Stat. 17); 25 USC 323-328 and note.

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the affected tribe, nation, or band, as the circumstances require, so long as payment does not exceed 25 per centum of the total value of the interests in land to be transferred by the tribe, nation, or band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

Land or natural resources, administration.

(h) Land or natural resources acquired by the Secretary in trust for the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective tribe or nation and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (88 Stat. 2206), or other existing law.

25 USC 450f.

(i)(1) Trust or restricted land or natural resources within the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. In the event that the compensation for the taking is in the form of substitute land to be added to the reservation, such land shall become a part of the reservation in accordance with the Maine Implementing Act and upon notification to the Secretary of the location and boundaries of the substitute land. Such substitute land shall have the same trust or restricted status as the land taken. To the extent that the compensation is in the form of monetary proceeds, it shall be deposited and reinvested as provided in paragraph (2) of this subsection.

(2) Trust land of the Passamaquoddy Tribe or the Penobscot Nation not within the Passamaquoddy Reservation or Penobscot Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. The proceeds from any such condemnation shall be deposited in the land acquisition fund established by section 5(c) and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the respective tribe or nation shall designate, with the approval of the United States, and within thirty days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land not acquired in trust shall be held in fee by the respective tribe or nation. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired.

Condemnation proceedings.

State jurisdiction, U.S. judicial review.

(3) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

(j) When trust or restricted land or natural resources of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited and reinvested in accordance with subsection (i)(2) of this section.

APPLICATION OF STATE LAWS

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

State civil and criminal jurisdiction.
25 USC 1725.

(b)(1) The Passamaquoddy Tribe, the Penobscot Nation, and their members, and the land and natural resources owned by, or held in trust for the benefit of the tribe, nation, or their members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act and that Act is hereby approved, ratified, and confirmed.

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

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

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

Report to congressional committees.

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

State criminal jurisdiction, effective date.

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

(2) Notwithstanding the provisions of section 3477 of the Revised Statutes, as amended, the Secretary shall honor valid final orders of a Federal, State, or territorial court which enters money judgments for causes of action which arise after the date of the enactment of this Act against either the Passamaquoddy Tribe or the Penobscot Nation by making an assignment to the judgment creditor of the right to

31 USC 203.

receive income out of the next quarterly payment from the settlement fund established pursuant to section 5(a) of this Act and out of such future quarterly payments as may be necessary until the judgment is satisfied.

(e)(1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: *Provided*, That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

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

Separate jurisdiction.

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

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

(h) Except as other wise provided in this Act, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.

Certain Indian tribes, financial benefits and tax treatment.

(i) As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be treated in thesame manner as other federally recognized tribes for the purposes of Federal taxation and any lands which are held by the respective tribe, nation, or band subject to a restriction against alienation or which are held in trust for the benefit of the respective tribe, nation, or band shall be considered Federal Indian reservations for purposes of Federal taxation.

TRIBAL ORGANIZATION

SEC. 7. (a) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians may each organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the tribe, nation, or band when each is acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act and the Maine Implementing Act. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall each file with the Secretary a copy of its organic governing document and any amendments thereto. 25 USC 1726.

(b) For purposes of benefits under this Act and the recognition extended the Houlton Band of Maliseet Indians, no person who is not a citizen of the United States may be considered a member of the Houlton Band of Maliseets, except persons who, as of the date of this Act, are enrolled members on the band's existing membership roll, and direct lineal descendants of such members. Membership in the band shall be subject to such further qualifications as may be provided by the band in its organic governing document or amendments thereto subject to the approval of the Secretary. Houlton Band of Maliseet Indians, membership.

IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT

SEC. 8. (a) The Passamaquoddy Tribe or the Penobscot Nation may assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act of 1978 (92 Stat. 3069). Before the respective tribe or nation may assume such jurisdiction over Indian child custody proceedings, the respective tribe or nation shall present to the Secretary for approval a petition to assume such jurisdiction and the Secretary shall approve that petition in the manner prescribed by sections 108(a)–(c) of said Act. Indian child custody proceedings, tribal jurisdiction. 25 USC 1727. 25 USC 1901 note. 25 USC 1918.

(b) Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe or the Penobscot Nation shall be considered and determined by the Secretary in accordance with sections 108 (b) and (c) of the Act.

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

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

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

(f) Until the Passamaquoddy Tribe or the Penobscot Nation has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over Indian child custody proceedings of that tribe or nation. Indian child custody proceedings, jurisdiction.

EFFECT OF PAYMENTS TO PASSAMAQUODDY TRIBE, PENOBSCOT NATION, AND HOULTON BAND OF MALISEET INDIANS

SEC. 9. (a) No payments to be made for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet 25 USC 1728.

Indians pursuant to the terms of this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) The eligibility for or receipt of payments from the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation or any of their members pursuant to the Maine Implementing Act shall not be considered by any department or agency of the United States in determining the eligibility of or computing payments to the Passamaquoddy Tribe or the Penobscot Nation or any of their members under any financial aid program of the United States: *Provided,* That to the extent that eligibility for the benefits of such a financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

(c) The availability of funds or distribution of funds pursuant to section 5 of this Act may not be considered as income or resources or otherwise utilized as the basis (1) for denying any Indian household or member thereof participation in any federally assisted housing program, (2) for denying or reducing the Federal financial assistance or other Federal benefits to which such household or member would otherwise be entitled, or (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be eligible or entitled.

DEFERRAL OF CAPITAL GAINS

25 USC 1729.

SEC. 10. For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer by private owners of land purchased or otherwise acquired by the Secretary with moneys from the land acquisition fund whether in the name of the United States or of the respective tribe, nation or band shall be deemed to be an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954, as amended.

26 USC 1033.

TRANSFER OF TRIBAL TRUST FUNDS HELD BY THE STATE OF MAINE

25 USC 1730.

SEC. 11. All funds of either the Passamaquoddy Tribe or the Penobscot Nation held in trust by the State of Maine as of the effective date of this Act shall be transferred to the Secretary to be held in trust for the respective tribe or nation and shall be added to the principal of the settlement fund allocated to that tribe or nation. The receipt of said State funds by the Secretary shall constitute a full discharge of any claim of the respective tribe or nation, its predecessors and successors in interest, and its members, may have against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds. Upon receipt of said State funds, the Secretary, on behalf of the respective tribe and nation, shall execute general releases of all claims against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds.

OTHER CLAIMS DISCHARGED BY THIS ACT

25 USC 1731.

SEC. 12. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Maine and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of any Indian nation, or tribe or band of Indians or the United States as trustee therefor, including those actions now pending in the United States District Court for the District of Maine captioned United States of America against State of Maine (Civil Action Nos. 1966-ND and 1969-ND).

LIMITATION OF ACTIONS

SEC. 13. Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act. 25 USC 1732.

AUTHORIZATION

SEC. 14. There is hereby authorized to be appropriated $81,500,000 for the fiscal year beginning October 1, 1980, for transfer to the funds established by section 5 of this Act. 25 USC 1733.

INSEPARABILITY

SEC. 15. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect. 25 USC 1734.

CONSTRUCTION

SEC. 16. (a) In the event a conflict of interpretation between the provisions of the Maine Implementing Act and this Act should emerge, the provisions of this Act shall govern. 25 USC 1735.

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

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1353 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-957 accompanying S. 2829 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 22, considered and passed House.
Sept. 23, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 11, Presidential statement.

Janet T. Mills
GOVERNOR

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

September 22, 2026

Hon. Rachel Talbot Ross, Chair
Hon. Amy Kuhn, Chair
Working Group – Resolve 2025, chapter 165
Room 438, State House
Augusta, Maine 04330

Re: Working Group to Develop Recommendations to Extend Beneficial Federal Legislation to the Wabanaki Nations

Dear Sen. Talbot Ross and Rep. Kuhn:

Thank you for the opportunity to present on behalf of the Governor's Office at the Working Group's first meeting on September 24, 2026. Governor Mills agrees that the Wabanaki Nations should appropriately benefit from federal legislation applicable to other federally recognized Tribes, and appreciates the Working Group's interest in addressing this issue.

Unfortunately, I will not be able to attend the Working Group's meetings, so I am submitting this letter to share the Office's perspective and propose an analytical framework that could be helpful as the Working Group moves ahead.

Introduction and Summary

As we understand it, the Working Group's core purpose is to recommend legislative mechanisms to ensure the Wabanaki Nations are benefiting appropriately from beneficial federal laws. The Working Group will likely find it difficult to make final recommendations as to those legislative mechanisms given that the Legislature is expected to consider separate legislation next year that would, if enacted, influence how those mechanisms would need to be drafted. The reasons for this are explained in detail below. The Working Group could consider developing recommended mechanisms that are based on the law as it currently stands, and more broadly explore the statutory basis for the issue, how it has arisen over the years, and various models for addressing it. The members of the Working Group may wish to discuss at the outset how they can best use their limited time.

If the Working Group does consider recommendations in the context of current law, we believe the goals of those recommendations should be to ensure both that: (1) the Wabanaki Nations receive the benefits of all the federal laws that should apply to them, and (2) no federal laws apply in Maine that would cause confusion or unintended disruption, given that the Wabanaki Nations will always have certain unique rights and authorities.[1] Drafting a bill that achieves those twin goals would be challenging, but we will suggest a possible model below.

Statutory Background: Why Doesn't Every Beneficial Federal Law Apply in Maine?

As a general rule, the Maine Indian Claims Settlement Act (MICSA) provides that federal Indian laws apply to the Penobscot Nation, the Passamaquoddy Tribe, and the Houlton Band of Maliseet Indians "... to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians." 25 U.S.C. § 1731(i). However, MICSA also includes an exception. Federal laws that would "affect or preempt" Maine's jurisdiction do not apply here unless Congress expressly makes them applicable. 25 U.S.C. §§ 1725(h) & 1735(b). It is this exception that has given rise to questions and concerns about the applicability of certain federal laws to the Wabanaki Nations.

Importantly, the reason why certain federal laws might "affect or preempt" Maine's jurisdiction is that the Maine Implementing Act (MIA) provides that, except as otherwise noted, the Wabanaki Nations and their lands and natural resources are subject to state laws and state jurisdiction. *See, e.g.,* 30 M.R.S. § 6204. If Maine's laws and its civil and criminal jurisdiction did not apply to the Wabanaki Nations, then there would be no potential for federal legislation that applies to Indian Tribes to "affect or preempt" Maine's jurisdiction, because Maine would have no jurisdiction within Indian Territory to preempt.

How Future Changes to MIA would be Relevant to the Working Group's Purpose

The reason this background is important to the Working Group is that bills have been introduced in recent Legislatures that would have repealed many of the provisions within MIA that make state law applicable to the Wabanaki Nations and their lands and natural resources (*see* L.D. 2094, 129th Legislature; L.D. 1626, 130th Legislature; L.D. 2007, 131st Legislature; and L.D. 785, 132nd Legislature). It is widely expected that a similar bill will be considered in the 133rd Legislature.[2] If MIA were amended as these bills have proposed – to go from a paradigm in which state law generally applies to the Wabanaki Nations to one in which it generally does not – that change would significantly reduce the potential for the State's jurisdiction to be "affected or preempted" by federal laws generally applicable to Indian Tribes. That, in turn, would reduce the need for any separate legislation designed to address the issue of beneficial federal legislation. As it moves ahead, the Working Group should bear in mind how proposed changes to the allocation of jurisdiction between the State and the Wabanaki Nations could affect the applicability of beneficial federal laws.

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[1] Some of those unique rights and authorities, such as those relating to land acquisition and criminal jurisdiction, are set forth within the Maine Implementing Act, while others, such as those relating to taxation, gaming, and marine resources, are set forth elsewhere in the Maine Revised Statutes.

[2] The Governor has expressed her concerns with such legislation in previous testimony, but we understand those issues to be beyond the purview of this Working Group.

A Potential Model to Ensure the Wabanaki Nations Appropriately Benefit from Future Federal Enactments

As we understand it, there are basically two criticisms of MICSA's "affect or preempt" standard. The first is that is vague and has created confusion over whether certain federal laws apply in Maine. The second is that it is overly broad and has screened out at least two federal laws that most people seem to agree should apply in Maine.[3] We believe it is unlikely that an alternative to the "affect or preempt" standard could be drafted that would, simply by operation of law, and in all the varying circumstances that could arise in the future, always produce the outcome that both Wabanaki Nations and the State would want.[4]

The better approach would be to create a process in state law that would require engagement by all the necessary parties – Tribal, State, and Congressional – to produce the desired outcome with respect to all future federal legislation. That process could have the following elements:

1. Establish and fund a position in state government that is responsible for monitoring and reviewing federal legislation that would benefit the Wabanaki Nations.[5]
2. Impose a duty on the responsible state official to notify and consult with, or at a minimum make good faith attempts to consult with, Tribal representatives to resolve the question of whether the bill should apply in Maine. This consultation must occur in a timely manner to allow for its outcome to be reported to the Congressional delegation.
3. Mandate that the responsible state official prepare and submit a report to members of the Congressional delegation that describes the outcome of the consultation or attempted consultation within a time reasonably calculated to allow the members of the delegation to introduce amendments to the bill, as necessary.
4. Require that the report request the members of the delegation to amend the bill, as necessary, to included "confirmatory" language that expressly makes the bill applicable in Maine unless:

    a. One or more Wabanaki Nations expressed the view during the consultation process that the bill should not apply in Maine; or
    b. The responsible state official makes written findings according to a set of criteria set forth in the law that the bill would have disruptive effects if it applied in Maine.

[3] The Stafford Act and the professional licensing provisions of the Indian Healthcare Improvement Act have been identified as examples of such federal laws.

[4] Even putting aside the question of how an alternative standard would need to be drafted, there are inherent problems with attempting to rely upon state law to reverse the effect of a federal law governing preemption. This issue and similar concerns are addressed in the testimony this office submitted in connection with L.D. 2004 in the 131st Legislature. We understand that testimony is part of the Working Group's record.

[5] The funding for this position would need to be sufficient to cover legal advice from the Attorney General's Office.

5. The criteria that would guide the responsible state official's written findings could include, for example, at least two categories of "disruptive effects." The first category would cover certain federal gaming, criminal, and environmental laws that were carved out of L.D. 395 as an acknowledgement that their inclusion would be controversial. *See* L.D. 395 sections 6215(4), 6216(4), 6217(4) and 7301(4).

The second category would cover other federal legislation that is intended to fill a legislative void in Indian Country nationally that does not actually exist in Maine because there already exists a state law corollary that everyone – Tribal and non-Tribal alike – accepts and prefers. For example, the Federal Indian Probate Code was enacted to put in place a uniform probate code in Indian Country because state probate codes generally did not apply there. Here, the Maine Probate Code has always applied to Wabanaki members. If the state code were displaced with a federal code, it would likely cause confusion while providing no apparent benefit to Tribal members. The point here is just that future federal Indian legislation should only apply in Maine if it would be more helpful than disruptive.

Conclusion

Everyone agrees the Wabanaki Nations should not be unfairly deprived of the benefits of federal legislation. Achieving that goal through state legislation is challenging because the Wabanaki Nations will always have a unique set of rights and authorities under MIA, and Congress typically does not draft federal Indian legislation with that framework in mind. As a result, some federal legislation will not fit well here. The best way to ensure the Wabanaki Nations and the State of Maine receive all appropriate benefits of federal Indian legislation with no disruptive effects is to create a review process that requires engagement by all the relevant parties. No such process will be totally foolproof, but the model we have outlined would at a minimum force a dialogue about these issues when it is most important – while the bill is still pending in Congress. That dialogue would create an opportunity to resolve the issue conclusively with respect to each bill before it is enacted, and thereby dispel the uncertainty that has occasionally been a problem with respect to certain laws.

Sincerely,

Gerald D. Reid
Chief Legal Counsel

Statement of Chief William Nicholas Sr.

Passamaquoddy Tribe at Motahkomikuk (Indian Township)

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

Senator Talbot Ross, Representative Kuhn, and Distinguished Members of the Working Group:

My name is William Nicholas Sr., and I serve as Chief of the Passamaquoddy Tribe at Motahkomikuk, also known as Indian Township.

Thank you for the opportunity to speak at our first meeting regarding the importance of ensuring that the Passamaquoddy Tribe and the other Wabanaki Nations have access to federal laws enacted by Congress for the benefit of Indian tribes, commonly known as federal beneficial laws.

This is an issue that our Tribe has been working on for many years in Augusta and in Washington, D.C.

It is not a new concern.

For years, the Passamaquoddy Tribe has sought the same ability as every other federally recognized tribe in the United States to benefit from laws that Congress specifically intended to apply to tribal nations.

As you all know, we have returned to this Legislature many times to explain how the current legal framework continues to place the Wabanaki Nations in a position unlike any other tribes in the country.

Several years ago, in 2023, my Vice Chief, Joseph Socobasin, appeared before the Judiciary committee and testified in support of LD 2004, legislation that would have restored access to beneficial federal laws for the Wabanaki Nations.

He shared a real example of how lack of access to federal laws impacted our community in a negative way.

He explained that when natural disasters hit our territory, we cannot simply contact FEMA like tribes elsewhere in Indian country can under the Stafford Act.

Back then, in 2023, when a major freeze hit the state, our health care center suffered significant damage and closed temporarily for an immediate start to extensive repairs.

The State of Maine did not declare an emergency when we realized the damage and when we had to immediately invest significant resources into getting our health center back into operation.

At Indian Township, our people rely on our health center for critical visits and check-ins, so having it closed puts people at risk.

Because of the Settlement Act, we could not invoke the Stafford Act to work directly with FEMA to immediately draw in federal resources to fix our shuttered health center.

Instead, we had to expend scarce tribal resources in hopes that either Maine would declare an emergency or that some other relief would come.

At the same time, our tribal officials were in DC visiting with our delegation and showed pictures of the devastation of our health center to Senator King and to Congressman Golden. They were shocked and saddened and asked how they could help.

To be clear, we do not just want money or handouts from the state.

We are also not trying to pick fights or to throw salt in old wounds.

We just want to work in partnership with the United States, under federal law, just like other tribes.

When it was previously suggested that the federal law could be amended to just allow us to access one law, like the Stafford Act, we responded "no".

We do not seek access to one or two laws, just so we can be arguing over future access to other laws.

No, we seek to change the dynamic and to be able to access every federal law that is meant to benefit our people.

In 2023, our efforts to seek equality did not succeed.

While that effort did not achieve the result we hoped for, it demonstrated the growing recognition that this issue deserves serious consideration and meaningful resolution.

We are here today because the underlying problem remains unresolved.

When Congress passes laws to strengthen tribal self-determination, improve health care, protect natural resources, enhance public safety, support housing initiatives, expand economic opportunities, or assist tribes during emergencies, those laws are generally available to tribal nations across the United States.

Yet the Passamaquoddy Tribe often finds itself in the position of having to ask whether those same laws apply here in Maine. The result is uncertainty, delay, and missed opportunities to serve our citizens.

This issue is about fairness, self-determination, and respect for the government-to-government relationship between tribal nations and the United States.

Congress enacts federal beneficial laws because it recognizes the unique trust responsibility owed to tribes. Those laws are intended to strengthen tribal governments and improve the lives of tribal citizens.

There is no sound policy reason why the Passamaquoddy Tribe should be excluded from benefits that Congress intended for tribes nationwide.

The practical consequences of this exclusion are significant. Every day, our Tribal government is responsible for protecting public health, promoting economic development, caring for natural resources, supporting families, and preserving our culture for future generations.

We carry the same responsibilities as other tribal governments, yet we frequently lack access to federal authorities and programs that other tribes have access to. This places our community at a disadvantage and limits our ability to fully exercise self-governance on behalf of our citizens.

Today, we recognize that this study group alone will not resolve a problem that has existed for more than four decades.

We are here because it is important to continue building the legislative record. We want lawmakers, stakeholders, and future legislatures to understand both the history of this issue and its continuing impact on the Passamaquoddy people.

Our hope is, the work done during this group will help create a pathway toward a lasting solution in the next legislative session.

We believe that after years of discussion, study, testimony, and negotiation, the time has come to finally address this question in a comprehensive manner. The uncertainty surrounding federal beneficial laws has persisted for far too long. It serves neither the interests of tribal nations nor the State of Maine.

We remain committed to working collaboratively with the Legislature, the Governor's Office, our neighboring communities, and all interested parties to find a solution that honors the intent of Congress, strengthens tribal self-government, and provides clarity for everyone involved.

We will continue that work until our people are afforded the same access to federal beneficial laws that every other federally recognized tribe in the United States enjoys.

We appreciate the opportunity to share our perspective today and look forward to continuing this important conversation.

Woliwon. Thank you.

Pleasant Point Reservation
P.O. Box 343 • Perry, Maine 04667
Tel. (207) 853-2600

Testimony of Councilwoman Rena Newell On Behalf of Chief Pos Bassett

Passamaquoddy Tribe at Sipayik (Pleasant Point)

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

Senator, Representative, and Distinguished Members of the Committee:

My name is Rena Newell, and I serve on the Tribal Council of the Passamaquoddy Tribe at Sipayik. I am appearing today on behalf of Chief Pos Bassett and the Passamaquoddy Tribe. Thank you for the opportunity to speak about an issue that has occupied much of my professional life: ensuring that the Wabanaki Nations have access to federal laws enacted by Congress for the benefit of Indian tribes.

This issue is deeply personal to me. Before serving on Tribal Council, I served as the Passamaquoddy Tribe's Legislative Representative, advocating before this Legislature on behalf of our people.

Later, as Chief of the Passamaquoddy Tribe at Sipayik, I testified before this committee in support of legislation that would have restored access to federal beneficial laws for the Wabanaki Nations.

For many years, in multiple roles, I have worked alongside tribal leaders, attorneys, legislators, and community members to address this issue.

And yet, despite decades of effort, the problem remains unresolved.

When I testified in 2023, I spoke about the many ways the current legal framework has restricted our ability to govern effectively and serve our citizens.

I described how the State has repeatedly challenged our efforts to utilize federal laws that Congress specifically enacted to support tribal self-determination.

I explained how our health center at Sipayik encountered obstacles when attempting to rely upon federal authority designed to help tribes recruit desperately needed health care professionals. Unfortunately, those concerns remain just as relevant today as they were then.

What makes this issue so frustrating is its simplicity.

Congress routinely passes laws intended to strengthen tribal governments, improve health care, protect natural resources, enhance public safety, support economic development, and promote self-determination.

Tribes across the United States can generally look to those laws as tools to better serve their citizens. The Wabanaki Nations, however, are often left wondering whether those same laws will apply in Maine.

That uncertainty has existed for more than forty years.

For more than four decades, the tribes have been forced to evaluate each new federal law through the lens of a legal framework that exists nowhere else in Indian Country.

Instead of focusing our energy on implementing programs, creating jobs, improving health outcomes, and supporting our communities, we have too often been required to focus on whether we are even allowed to access the benefits Congress intended for us.

As someone who has worked on this issue for many years, I find it deeply concerning that we are still having the same conversation.

We have studied the issue, litigated the issue, negotiated the issue, and testified about the issue. Meanwhile, tribal communities across the country have continued to benefit from federal laws intended to support their growth and development.

Yet despite my concern, I remain hopeful.

I know that many legislators have spent considerable time learning about this issue.

I know there is a growing recognition that the current situation is neither fair nor sustainable.

And I know that there are people throughout Maine who understand that tribal self-determination is not a threat but an opportunity, both for tribal communities and for the State as a whole.

That is why I am here today.

I recognize that this hearing may not produce an immediate solution. But it is important that we continue building the legislative record and preserving the history of this issue. It is important that future lawmakers understand how long the Wabanaki Nations have sought equal access to federal beneficial laws and how significant the consequences have been for our communities.

As many of you know, I will be returning to this Legislature in January as a Tribal-State Representative for the Passamaquoddy Tribe.

I look forward to continuing this conversation from a different seat, but with the same commitment that has guided my work for many years.

My hope is that the next Legislature will finally have the opportunity to address this issue in a meaningful and lasting way.

The goal is not special treatment. The goal is parity. The goal is to ensure that when Congress passes a law to benefit tribal nations, the Wabanaki Nations can benefit from that law just as other federally recognized tribes do. The goal is to provide tribal governments with the same tools that governments across Indian Country use every day to strengthen their communities.

After all these years, I believe we are closer than ever to achieving that goal.

I respectfully ask the Committee to continue examining this issue carefully and to help create the record necessary for future action. Our communities have waited long enough. It is time to chart a path that finally allows the Passamaquoddy Tribe, the other Wabanaki Nations, and the State of Maine to move forward together.

Woliwon. Thank you for your time and consideration.