

**Task Force on Changes to the Maine Indian Claims Settlement Implementing Act Consensus Recommendations**  
 Judiciary Committee legislation

Task Force Consensus Recommendations	Statutory cite	LD 2094
<b>Alternative Dispute Resolution and Tribal-State Collaboration and Consultation</b>		
<p><b>Consensus Recommendation #1:</b> Amend the Maine Implementing Act to establish an enhanced process for tribal-state collaboration and consultation as well as a process for alternative dispute resolution. Allow stakeholders to meet in January to delineate the contours of the Task Force’s general recommendation on these issues.</p>		<p>Not included in printed bill text, but see Summary</p>
<b>Criminal Jurisdiction</b>		
<p><b>Consensus Recommendation #2:</b> Amend the Maine Implementing Act to recognize the jurisdiction of the Passamaquoddy Tribal Court, Penobscot Nation Tribal Court and the Houlton Band of Maliseet Indians Tribal Court over certain criminal and juvenile offenses committed on the following Tribal lands: any land held now or in the future by the Secretary of Interior in trust for the relevant Tribe and any restricted-fee land held now or in the future by the relevant Tribe.</p>	<p>“Tribal Lands”                      §6203, sub-§2-A – Houlton Band Tribal Lands (definition)</p> <p>§6203, sub-§14 – Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet Indians (definition)</p> <p>§6205 – Passamaquoddy Tribal Lands and Penobscot Tribal Lands (description)</p>	<p>Sec. 3</p> <p>Sec. 3</p> <p>Sec. 5</p>

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	§6205-A – Houlton Band Tribal Lands (description)  Court jurisdiction §6209-A – Passamaquoddy Tribe  §6209-B – Penobscot Nation  §6209-C – Houlton Band of Maliseet Indians	Sec. 6  Sec. 14  Sec. 15  Sec. 16
<b>Consensus Recommendation #3:</b> Amend the Maine Implementing Act to:		
<u>Part 1:</u> Equate the exclusive criminal jurisdiction of the Passamaquoddy Tribal Court and the Houlton Band of Maliseet Indians Tribal Court with the <u>exclusive</u> criminal jurisdiction of the Penobscot Nation Tribal Court over offenses committed by Indian defendants.	§6209-A, sub-§1, ¶¶A, A-1 and B – Passamaquoddy Tribal Court  §6209-B, sub-§1, ¶¶A, A-1 and B – Penobscot Tribal Court  §6209-C, sub-§1, ¶¶A, A-1 and B – Houlton Band of Maliseet Indians	Sec. 14  Sec. 15  Sec. 16
<u>Part 2:</u> Recognize the authority of Tribal Courts in Maine to impose the maximum penalties other Tribal	§6209-A, sub-§1, ¶A-1 and sub-§1-A, ¶B – Passamaquoddy Tribe	Sec. 14

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Courts are authorized to impose under the federal Tribal Law and Order Act of 2010, as long as the due process protections required by that Act are observed.	<p>§6209-B, sub-§1, ¶A-1 and sub-§1-A, ¶B – Penobscot Nation</p> <p>§6209-C, sub-§1, ¶A-1 and sub-§1-C, ¶B – Houlton Band of Maliseet Indians</p>	<p>Sec. 15.</p> <p>Sec. 16</p>
<b>Consensus Recommendation #4:</b> Enact and implement L.D. 766, <i>An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013</i> , as it is ultimately amended by agreement of the Tribes and the State, to amend the Maine Implementing Act to grant Tribal courts jurisdiction over certain domestic violence criminal offenses committed by non-Indian defendants on Tribal lands against Indian victims.		Not included in printed bill text, but see Summary
<b>Consensus Recommendation #5:</b> Amend the Maine Implementing Act to recognize the <u>concurrent</u> jurisdiction of Tribal courts over offenses committed on Tribal lands by Indian defendants against non-Indian victims, subject to the maximum penalty provisions and due process requirements of the Tribal Law and Order Act of 2010.	<p>§6209-A, sub-§1-A, ¶¶A, B and C – Passamaquoddy Tribe</p> <p>§6209-B, sub-§1-A, ¶¶A, B and C – Penobscot Nation</p>	<p>Sec. 14</p> <p>Sec. 15</p> <p>Sec. 16</p>

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	§6209-C, sub-§1-C, ¶¶A, B and C – Houlton Band of Maliseet Indians -	
<b>Consensus Recommendation #6:</b> Amend the Maine Implementing Act to recognize each Tribal government’s authority to define all crimes and juvenile offenses committed on its Tribal lands over which its Tribal court has exclusive or concurrent criminal jurisdiction, but retain the authority of the State to define all crimes and juvenile offenses committed on Tribal lands over which state courts have exclusive or concurrent jurisdiction.	§6209-A, sub-§2 – Passamaquoddy Tribe  §6209-B, sub-§2 – Penobscot Nation  §6209-C, sub-§2 – Houlton Band of Maliseet Indians	Sec. 14  Sec. 15 (all of §6209-B)  Sec. 16 (all of §6209-C)
<b>Fish and Game</b>		
<b>Consensus Recommendation #7:</b> Amend the Maine Implementing Act to recognize federal law regarding the exclusive jurisdiction of Tribes to regulate fishing and hunting by Tribal citizens of all federally recognized Tribes on Tribal lands, using the expanded definition of Tribal lands described in consensus recommendation #2.	§6207, sub-§1-A and sub-§§4, 5 and 6 (minor related provisions)	Sec. 10
<b>Consensus Recommendation #8:</b> Amend the Maine Implementing Act to restore and affirm the exclusive jurisdiction of Tribes to regulate fishing and hunting by non-Tribal citizens on Tribal lands, using the	§6207, sub-§1-A sub-§3 (retains MITSC rule-making)	Sec. 10

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expanded definition of Tribal lands described in consensus recommendation #2, but do not cede any of the Maine Indian Tribal-State Commission (MITSC)'s authority to regulate hunting and fishing under current law to the State.	sub-§8 (retains MITSC study/research authority)	§6212 (establishing MITSC) is not amended and is not in the bill
<b>Consensus Recommendation #9:</b> Amend the Maine Implementing Act to relinquish the State of Maine's jurisdiction with respect to the regulation of fishing and hunting by both Tribal and non-Tribal citizens on Tribal lands, except that, solely for conservation purposes, the State of Maine may regulate Tribal members engaged in such activities off Tribal lands to the extent permitted under general principles of federal Indian law and in a manner consistent with reserved Tribal treaty rights.	§6207, sub-§2-A sub-§6 (repealed)	Sec. 10
<b>Land Use and Natural Resources</b>		
<b>Consensus Recommendation #10:</b> Amend the Maine Implementing Act to restore and affirm the Tribes' rights to exercise regulation of natural resources and land use on Tribal land to the fullest extent under federal Indian law.	§6207-A	Sec. 11
<b>Taxing Authority</b>		

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<b>Consensus Recommendation #11:</b> Amend the Maine Implementing Act to recognize federal law providing that Tribes have exclusive jurisdiction to tax Tribal members and Tribal entities on Tribal lands, including entities owned by a Tribe or Tribal member, using the definition of Tribal lands described in consensus recommendation #2.	§6208, sub-§4 sub-§3 (repealed)	Sec. 12
<b>Consensus Recommendation #12:</b> Amend the Maine Implementing Act to recognize federal law providing that Tribes, Tribal members and Tribal entities are not subject to state and local sales taxation on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2.	§6208, sub-§5 sub-§3 (repealed)	Sec. 12
<b>Consensus Recommendation #13</b> Amend the Maine Implementing Act to recognize federal law providing that Tribal members who live on Tribal lands are not subject to state income tax for income earned on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2.	§6208, sub-§6	Sec. 12
<b>Consensus Recommendation #14:</b> Amend the Maine Implementing Act to recognize federal law providing that Tribal lands are not subject to state and local real property tax, using the definition of Tribal lands described in consensus recommendation #2.	§6208, sub-§7 sub-§§2 and 2-A (repealed)	Sec. 12

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<b>Consensus Recommendation #15:</b> Amend the Maine Implementing Act to recognize federal law providing that Tribes have <u>concurrent</u> jurisdiction to tax non-members on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2.	§6208, sub-§8	Sec. 12
<b>Consensus Recommendation #16:</b> Amend the Maine Implementing Act to recognize federal law providing that state and local governments have <u>concurrent</u> jurisdiction to tax non-members on Tribal lands unless their jurisdiction is preempted under a fact-specific, federal common law balancing test.	§6208, sub-§8	Sec. 12
<b>Gaming</b>		
<b>Consensus Recommendation #17:</b> Amend the Maine Implementing Act to render the federal Indian Gaming Regulatory Act applicable in Maine.	§6216, sub-§2	Sec. 24
<b>Civil Jurisdiction</b>		
<b>Consensus Recommendation #18:</b> Amend the Maine Implementing Act to restore to the Tribal nations the exclusive authority to exercise civil legislative jurisdiction over Indians and non-Indians on Tribal land. To the extent that a Tribal nation does not exercise, or terminates its exercise of exclusive civil	§6215	Sec. 23

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legislative jurisdiction, the State has exclusive jurisdiction over those matters.		
<b>Consensus Recommendation #19:</b> Amend the Maine Implementing Act to restore to the Tribal nations the exclusive authority to exercise civil adjudicatory jurisdiction over Indians and non-Indians on Tribal land. To the extent that a Tribal nation does not exercise, or terminates its exercise of exclusive civil adjudicatory jurisdiction, the State has exclusive jurisdiction over those matters.	§6209-A, sub-§1, ¶C and sub-§1, last ¶ – Passamaquoddy Tribe  §6209-B, sub-§1, ¶C and sub-§1, last ¶ – Penobscot Nation  §6209-C, sub-§1, ¶C and sub-§1, last ¶ – Houlton Band of Maliseet Indians	Sec. 14  Sec. 15  Sec. 16
<b>Federal Law Provisions</b>		
<b>Consensus Recommendation #20:</b> Amend the Maine Implementing Act to specify that, for the purposes of §6(h) and §16(b) of the federal Settlement Act, federal laws enacted for the benefit of Indian country do not affect or preempt the laws of the State of Maine.	§6216  (Overlaps with Consensus Recommendation #17)	Sec. 24
<b>Trust Land Acquisition</b>		
<b>Consensus Recommendation #21:</b> Amend the Maine Implementing Act to recognize the ability of all Maine Tribes to acquire trust land in accordance with	§6205, especially sub-§6 – Passamaquoddy Tribe and Penobscot Nation	Sec. 5



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their settlement acts and federal laws like the Indian Reorganization Act and its implementing regulations.	§6205-A – especially sub-§1-A - Houlton Band of Maliseet Indians	Sec. 6
<b>Consensus Recommendation #22:</b> Amend the Maine Implementing Act so that, consistent with federal law, state and local governments do not have veto power over trust acquisitions and eliminate time constraints on trust land acquisitions, as included in the Maine Implementing Act.	§6205, sub-§1 – Passamaquoddy Tribe	Sec. 5
	§6205, sub-§2 – Penobscot Nation	
	§6205, sub-§ 5 (repealed) – Passamaquoddy Tribe and Penobscot Nation	Sec. 6
	§6205, sub-§6 – Passamaquoddy Tribe and Penobscot Nation	
	§6205-A, sub-§1, ¶C (repealed) – Houlton Band of Maliseet Indians	
	§6205-A, sub-§1-A – Houlton Band of Maliseet Indians	