

Working Group to Develop Recommendations for
Extending Federal Beneficial Laws to the Wabanaki Nations
[Resolve 2025, chapter 165](#)

Meeting #3 — Tuesday, October 13, 2026 at 10:00 a.m.
Maine State House, Room 438 (Judiciary Committee Room)

AGENDA

- | | |
|--------------------------------|--|
| 10:00 am | Welcome <ul style="list-style-type: none">• <i>Chairs, Senator Rachel Talbot Ross & Representative Amy Kuhn</i> Working Group Member Introductions |
| 10:10 am *
(approx.) | Public Comment |
| To be followed by * | Continued Discussion: Pathways to Reform <ul style="list-style-type: none">• <i>Working Group members</i> |

Future Meetings

- | |
|--|
| <ul style="list-style-type: none">• Tuesday, November 17 – 10:00 a.m. (State House Room 438) |
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**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>.

Stocco, Janet

From: Claire Raymond <claire.raymond@maine.edu>
Sent: Monday, October 12, 2026 10:51 AM
To: Senft, Samuel; Stocco, Janet
Subject: LD 395 comments

This message originates from outside the Maine Legislature.

Dear Janet Stocco, Samuel Senft, and all members of the working group on LD 395 "An Act to Restore Access to Federal Laws Beneficial to the Wabanaki Nations."

My name is Claire Millikin Raymond. I teach for the University of Maine system and for the Maine Media Workshops. I write you here to address choices regarding how LD 395 may best be implemented.

It is important to find ways for the Wabanaki Nations to have full, fair, and unfettered access to beneficial federal laws and regulations, as do other federally recognized Native American tribal nations. For the Wabanaki people, barriers against this access have long been in place under the 1980 Settlement Acts.

As I am not a Wabanaki citizen, it is most important for me to say that the tribes should have the right to self-determination. All options under discussion appear to move forward toward a system where self-determination is possible. However, both options may have imperfections. According to my best study of the choices, Option 2 seems the clearest way forward as it appears to state that ALL federally beneficial laws, past, present, and future, will apply automatically to the Wabanaki people.

Option 2 also however seems to nod towards the 1980 settlement act in the clause establishing "a mechanism by which the State may object to the application of specific federal beneficial laws in the State." Perhaps this clause exists so that those lawmakers and state residents who fear too sudden a change will be appeased by the knowledge that there are mechanisms for pumping the brakes on progress.

If option 2 is adopted, it is imperative that Wabanaki leaders have robust say as to specifically what constitutes just cause for the state to object to a particular law. These specifications must be clear and the tribal leaders with legal counsel must be given ample time to develop the wording. Part

of the problem with MICSA was the rush under which it was put together. The very last thing anyone wants is endless litigation.

Above all in importance is that Wabanaki leadership and Wabanaki voices determine which of these options is adopted.

I am excited for Maine to begin a new era of tribal-state relations of mutual respect in which all voices speak. This will build a stronger community for all of us.

Thank you for including my comments in your deliberations and thank you for the work you do.

Sincerely,

Claire Millikin Raymond

Stocco, Janet

From: David von Seggern <vonseg1@sbcglobal.net>
Sent: Friday, October 9, 2026 10:38 AM
To: Stocco, Janet
Subject: federal benefits for Wabanaki tribes

This message originates from outside the Maine Legislature.

I am David von Seggern, citizen and resident of Westport, Maine, commenting on behalf of myself.

My involvement with native Americans is only slight, but I have spent the majority of my adult life in two states with deep native American heritages (Oklahoma and Nevada), and I have come to appreciate much of the negative bias towards, and neglect of, our native Americans.

I laud the legislature for continuing to bring this issue regarding federal benefits to tribes before the citizens of Maine, and I feel that justice will eventually be done.

I wish to see Option 2 of the Working Group (in email sent to interested parties on October 8) applied here. Option 2 says "Amend state law to establish a new default rule – that all federal beneficial laws and regulations apply to each of the Wabanaki Nations within the State..." I urge that the conditional clause starting with "however" be dropped though. This conditional clause only continues the subjugation of our Indigenous Peoples. If we are only willing to give them benefits as long as there is no adverse affect on us, then the concepts of justice and restoration for our native Americans become diluted.

The key to removing this conditional clause may be a review of what other states have done with the federal benefits. Have other states put strict conditions on implementation of one or more of the benefits prescribed by federal law? If some states have not placed any conditions, then it would be most just, generous, and humble for Maine to also not require a conditional clause.

Maine's native Americans have too long struggled to gain full rights and the ability to self-determine. Let Maine, among a few states that have established an Indigenous Peoples Day, claim a leadership role here in relations with our native Americans.

David von Seggern
775-303-8461 (no text capability)
vonseg1@sbcglobal.net



FIRST LIGHT

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

12 October 2026

Dear distinguished Chiefs, Senators, Representatives, and Designated Representatives,

Thank you for the opportunity to submit comment as the Working Group considers how best to structure changes to Maine State Law to fully recognize Wabanaki sovereignty and address the limitations of the 1980 Maine Indian Claims Settlement Act. We are staff of First Light, which coordinates more than 80 non-native conservation organizations in Maine to return land, access, and decision-making authority to Wabanaki people. Restoring the full recognition of Wabanaki sovereignty is part of our common aim of caring for land and people, for present and future generations. We support pathways that help resolve decades of an unfair arrangement between Wabanaki Tribes and the State of Maine.

As we review the options and mechanisms under consideration, we emphasize the importance of following Wabanaki leadership to determine the right path forward. Tribal leaders and their advisors have the closest knowledge of what pathways will best reflect their governments' inherent sovereignty.

As Wabanaki leaders have said for decades, the Wabanaki Tribes, like all other federally recognized Tribes, should benefit from all federal beneficial laws.

Of the options presented by the Working Group, Option 1 ("Amend state law (the Maine Implementing Act and the Mi'kmaq Nation Restoration Act) to ensure that all federal beneficial laws — except those, like criminal jurisdiction laws, that Congress directed in the federal Maine Indian Claims Settlement Act of 1980 do not apply in Maine — apply to each of the Wabanaki Nations within the State of Maine.") is appropriate for restoring this full benefit. The State of Maine should not have veto power over which laws apply and which don't to Wabanaki Tribes.

Furthermore, this change should be retroactive so that Wabanaki Tribes receive the full benefit of past legislation, as well as changes to come in the future.

Thank you again for the opportunity to comment,

Ellie Oldach, Brett Ciccotelli, and Otto Muller
Core Staff of First Light

October 11, 2026

To: LD 395 Beneficial Laws Working Group

From: Anne D. Burt on behalf of the Friends Committee on Maine Public Policy (FCMPP)
Subcommittee for Tribal-State Relations

The FCMPP Subcommittee is grateful for this opportunity to offer a public comment on the best way forward to ensure that Federal laws passed for the benefit of Indian Country apply fully in Maine.

Seven years ago this month, the original Task Force was hard at work addressing this and other issues. That process over many months did finally clarify for all concerned the primacy of Federal Indian Law in such matters, and established that in 1980 the Maine Implementing Act had overstepped the State's proper sphere of action and jurisdiction.

Reviewing the **Final Report of the Task Force [Section H Federal Law Provisions, Consensus Recommendation #20]**, it is clear that this unanimous recommendation affirmed the Nation-to-Nation trust relationship between the federal government and the federally-recognized Wabanaki nations/tribes/bands. The intent was that state law would "specifically condone application of that federal law within the state"—in recognition of the body of law and relationship that exists beyond the State's authority.

Whichever option is chosen, the guiding principle should be that a continual and constructive flow of information-sharing and trust-building between the State and Wabanaki governments is paramount. We know there are successful models across Indian Country where tribes and state/municipal entities continually consult with one another to build trust and ongoing beneficial partnerships, raising the economic and social well-being of all. Working to strengthen the tribal liaison role within State of Maine departments might also go a long way to avoid future conflicts and lawsuits.

We favor an Amendment to the Maine Implementing Act that states unequivocally that **all** federal beneficial laws and regulations apply to each of the Wabanaki Nations within the State, **including** both retrospective and prospective laws. In our view, this is the only way to accomplish the retrospective justice due to the Wabanaki people.

Anne D. Burt
Edgecomb, Maine
207-380-5387
annedburt145@gmail.com

October 9, 2026

Co-Chairs Senator Talbot Ross and Representative Kuhn, Representatives of Wabanaki Nations and other members of the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations,

Thank you for this opportunity to respond to the options and questions your committee laid out for public comment as you develop recommendations for extending federal beneficial laws to Wabanaki Nations.

First and foremost, Maine's Wabanaki Nations, like other federally recognized Tribes in the United States, should benefit from all federal beneficial laws. Of the two options outlined by the Working Group, I recommend Option 1. The State of Maine should not be able to decide which federal laws apply to Wabanaki Nations and which do not. The past 45 years, since passage of the Maine Indian Claims Settlement Act, have shown that Maine government has often been an impediment to Wabanaki health, prosperity and self-determination. Further, this change should be retroactive so that all beneficial federal laws apply to Wabanaki Nations, including laws already enacted as well as those to be passed in the future.

Thank you for your work to rectify the grave injustices of MICSA and for your attention to public comment.

Sincerely,

Jennifer Melville

1 Cove Road, Freeport



Maine Conservation Voters

Inform. Vote. Protect.

Co-Chairs Senator Rachel Talbot Ross, Representative Kuhn, Representatives of the Wabanaki Nation and other distinguished members of the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nation. My name is Nick Janzen. I am the Director of Policy and Partnerships for Maine Conservation Voters (MCV). MCV is a statewide non-profit organization with 13,000 members and supporters building a just, thriving future for all by acting on the climate crisis, protecting the environment, and safeguarding our democracy. I am here to submit public comments in regards to the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nation.

The Working Group has requested that the public respond to the merits of two separate options to extend federal laws to the Wabanaki Nation. After reviewing the options provided by the working group, MCV believes that option 1 which states “Amend state law (the Maine Implementing Act and the Mi’kmaq Nation Restoration Act) to ensure that all federal beneficial laws — except those, like criminal jurisdiction laws, that Congress directed in the federal Maine Indian Claims Settlement Act of 1980 do not apply in Maine — apply to each of the Wabanaki Nations within the State of Maine” is the appropriate option to move forward with to make sure that the Wabanaki Nations have access to federal beneficial laws. When looking at the two mechanisms provided by the working group under option one, we believe that mechanism B which would expand “the definition of “internal tribal matters” that are not subject to regulation by the state to include the application of federal beneficial laws or regulations within tribal trust lands to the extent that the application of these federal beneficial laws or regulations do not have effects off of tribal trust lands” is the most appropriate and direct way to implement option one.

In response to the additional question about retroactivity put forward by the Working Group, we do believe that any laws and benefits should be retroactive to provide the most impacts and benefits to the tribe. It is important that any previous and future jurisdictional

barriers that prevent the Wabanaki people from accessing federal policies, programs and funding be removed.

For more than four decades, Maine has operated under an arrangement that isolates the Wabanaki Nations from the broader framework of federal Indian law. No other federally recognized tribes in the United States are subject to the same sweeping exclusion. We are grateful to the Working Group for their work to right these wrongs and to make sure that the Wabanaki Nations will be able to access federal beneficial laws, just like every other federally recognized tribe.

Thank you for your time.



NRA

Institute for Legislative Action



October 12, 2026

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

Maine State Legislature
210 State Street
Augusta, ME 04333

Dear Members of the Joint Working Group:

We are writing today to raise perspectives that we believe the Working Group should consider in its final report on developing recommendations for extending Federal Beneficial Laws to the Wabanaki Nations.

Through the hard work of Maine's Inland Fish & Wildlife Department and the prudent investment of sportsmen's dollars along with federal grants through programs like the Pittman-Robertson Wildlife Restoration Act, that broad public-private partnership has been successful in maintaining healthy wildlife populations in Maine's pristine forests and streams. Further, Maine is unique amongst all states in that nearly 95% of the land in Maine is privately held and to ensure continued access for hunters and anglers, Maine has a longstanding tradition of allowing the public to access private land.

We believe that we have a shared and common interest with the Wabanaki Nations and all Mainers in being good stewards of the state's natural resources, including transitory wildlife populations. Ensuring that access and opportunity for sportsmen and women continues and ensuring the preservation of a unified framework for wildlife management are common goals for all parties. We respectfully ask that the Working Group incorporate these factors into its recommendations.

On behalf of the members of the National Rifle Association, Safari Club International, the Sportsmen's Alliance of Maine, and sportsmen and women across the State of Maine, we would like to thank the Working Group for its consideration of these issues. Please do not hesitate to contact us with any questions or concerns. Thank you.

Sincerely,

Joseph LoPorto
State Director
State & Local Affairs
NRA-ILA
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Christian Ragosta
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David Trahan
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**Written Comments to the Working Group to Develop Recommendations for Extending
Federal Beneficial Laws to the Wabanaki Nations****Luke Frankel, Woods, Waters, & Wildlife Director****October 12, 2026**

Senator Talbot Ross, Representative Kuhn, and members of the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to the Wabanaki Nations, my name is Luke Frankel, and I am the Woods, Waters, & Wildlife Director at the Natural Resources Council of Maine (NRCM). NRCM is a nonprofit, nonpartisan membership organization dedicated to protecting, restoring, and conserving Maine's environment, now and for future generations. On behalf of our nearly 20,000 members and supporters statewide and beyond, I am writing to share our perspective on the important work that this Working Group has been charged with through the passage of LD 395.

Since our founding in 1959, NRCM has been proud to partner with the Wabanaki Nations on numerous environmental initiatives across our state. These have included opposing the flow of out-of-state waste into our landfills, blocking mining proposals that would have polluted Maine's waterways, establishing the Katahdin Woods and Waters National Monument, and implementing large-scale river restoration projects on the Kennebec, Penobscot, and St. Croix rivers. We are grateful for this partnership and for the opportunity to work alongside many talented advocates, scientists, and natural resource managers at the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Penobscot Nation, and the Passamaquoddy Tribe.

The Wabanaki have been stewards of the land we now call Maine for millennia, and it is critically important that they be adequately resourced to protect the forests, waters, and wildlife that are central to their culture and way of life. Since the passage of the Maine Indian Claims Settlement Act (MICSA) in 1980, the Wabanaki Nations have been denied access to federal laws and programs that would have provided additional resources to support this work. Some examples are:¹

- National Historic Preservation Act Amendments of 1980, P.L. 96-515
- Safe Drinking Water Act Amendments of 1986, P.L. 99-339
- Water Quality Act of 1987, P.L. 100-4
- Indian Environmental Regulatory Enhancement Act of 1990, P.L. 101-408
- Indian Environmental General Assistance Program Act of 1992, P.L. 102-497
- Indian Dams Safety Act of 1994, P.L. 103-600
- Indian Lands Open Dump Cleanup Act of 1994, P.L. 103-783

¹ See Hum. Rts. & Indigenous Peoples Clinic, Suffolk Univ. L. Sch., *Federal Laws Enacted After October 10, 1980 for the Benefit of Indians or Indian Nations: Research Findings* 4-8 (Dec. 2019) (listing federal laws enacted after October 10, 1980 that may benefit Indians and Indian nations), <https://legislature.maine.gov/doc/3636>.

- Safe Drinking Water Act Amendments of 1996, P.L. 104-182
- National Invasive Species Act of 1996, P.L. 104-332
- Water Resources Reform and Development Act of 2014, P.L. 113-121
- Water Infrastructure Improvements for the Nation Act, P.L. 114-322

As this Working Group “develop[s] and recommend[s] legislative mechanisms for extending the benefits of federal beneficial laws”² to the Wabanaki Nations, we encourage you to consider the environmental benefits to all Mainers of allowing the Wabanaki to access these programs. We all rely on clean water and healthy ecosystems for our well-being, so any changes that result in increased Wabanaki oversight and/or increased funding for environmental initiatives are unlikely to have “a specific and substantial disruptive and harmful effect on the State and its citizens.”³

We strongly encourage this Working Group to recommend legislative strategies that provide the Wabanaki Nations with access to all federal beneficial laws that would advance environmental protection, in addition to other beneficial laws that would bring important socioeconomic benefits.

The time is now to correct the injustices of the past. Recommending strategies that would allow the Wabanaki Nations in Maine full access to the suite of federal funds and programs that other tribal nations across the U.S. enjoy is one meaningful step that this Working Group can take. Thank you for your hard work and consideration.

² Resolve 2025, c. 165, § 5 (S.P. 181, L.D. 395, 132d Legis.),
<https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0181&item=5&snum=132>.

³ *Id.*

Senft, Samuel

From: Philip Ahrens <chip.ahrens@outlook.com>
Sent: Monday, October 12, 2026 9:55 PM
To: Janet.Stocco@legislature.maine.us; Senft, Samuel
Subject: Re: Public Comment - Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations

This message originates from outside the Maine Legislature.

Good morning, Janet. I continue to go over the language below concerning the types of comments the Working Group has requested, and I still cannot fully understand what comments are being solicited. I have made comments on each of the earlier efforts by the tribes regarding sovereignty that I object to any changes to the application of Maine's environmental laws. That has been my focus and I leave to others any other concerns.

Accordingly I will once again express my objections to any changes to the fundamental understanding stated by the tribes during the Maine Indian Land Claims Settlement Act regarding the State's environmental laws, namely their "understanding the legitimate interest of the State in having basic laws such as those dealing with the environment apply uniformly throughout Maine."

As the current administration in power in Washington continues to back off existing federal environmental laws (relating to, for example, climate change, definitions of 'wetlands' and 'waters of the United States' and impacts to our national parks and forests), it continues to be an essential role that must continue to be taken by the states to protect our environment. To the extent that "develop and recommend legal mechanisms for extending the benefits of federal beneficial laws to the Wabnaki" includes consideration of any change to the understanding stated by the tribes and the State of Maine in the Settlement Act that Maine's environmental laws apply equally throughout Maine, I strenuously object.

If I have misunderstood the Working Group's aims and that methods to shield the Wabnaki from application of Maine's environmental laws does not fall within "mechanisms for extending the benefits of federal beneficial laws to the Wabnaki," then my narrow interest does not appear to be applicable to the Working Groups' charge.

I would greatly appreciate it if you would pass my comments on the the Working Group.

Very truly,
Phil Ahrens

From: enr-ip-request@lists.legislature.maine.gov <enr-ip-request@lists.legislature.maine.gov> on behalf of Stocco, Janet <Janet.Stocco@legislature.maine.gov>
Date: Thursday, October 8, 2026 at 10:24 AM
To: wabanaki.working.group@lists.legislature.maine.gov <wabanaki.working.group@lists.legislature.maine.gov>, acf-ip@lists.legislature.maine.gov <acf-ip@lists.legislature.maine.gov>, enr-ip@lists.legislature.maine.gov <enr-ip@lists.legislature.maine.gov>, hcifs-ip@lists.legislature.maine.gov <hcifs-ip@lists.legislature.maine.gov>, 'hhs-ip@lists.legislature.maine.gov' <hhs-

ip@lists.legislature.maine.gov>, ifw-ip@lists.legislature.maine.gov <ifw-ip@lists.legislature.maine.gov>, jud-ip@lists.legislature.maine.gov <jud-ip@lists.legislature.maine.gov>, slg-ip@lists.legislature.maine.gov <slg-ip@lists.legislature.maine.gov>, vla-ip@lists.legislature.maine.gov <vla-ip@lists.legislature.maine.gov>

Subject: [enr-ip] Public Comment - Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations

Good morning,

Request for public comment:

You are receiving this email because you are on the interested parties list for the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations or the Maine Legislature's ACF, ENR, HCIFS, HHS, IFW, JUD, SLG or VLA Committees. As a reminder, the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations **will be accepting public comment during its meeting on Tuesday, October 13, 2026, beginning at 10:00 a.m.**

Topics for public comment

The Working Group requests that public comments *not* focus on why federal laws and regulations that are designed to benefit Indian tribes, Indian lands or tribal members ("federal beneficial laws") should or should not apply in Maine. The Legislature already answered this question in [Resolve 2025, c. 165](#) by directing the Working Group to "develop and recommend legislative mechanisms for extending the benefits of federal beneficial laws" to the Wabanaki Nations in Maine, with the caveat that, if a particular federal beneficial law should not apply within the State, the Working Group could identify that particular law. In addition, the Legislature directed the Working Group to consider whether to "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."

The Working Group requests input from the public on the relative merits of the following options for extending the benefits of federal beneficial laws to the Wabanaki Nations in Maine notwithstanding §6(h) and §16(b) of the federal Maine Indian Claims Settlement Act (MICSA):

1. **Option 1:** Amend state law (the Maine Implementing Act and the Mi'kmaq Nation Restoration Act) to ensure that all federal beneficial laws — except those, like criminal jurisdiction laws, that Congress directed in the federal Maine Indian Claims Settlement Act of 1980 do not apply in Maine — apply to each of the Wabanaki Nations within the State of Maine.
 - a. **Mechanism A:** Specify that any law of the State that would be affected or preempted by the application of any of these federal beneficial laws or regulations does not apply to the Wabanaki Nations or their Indian territories / trust lands in Maine. OR
 - b. **Mechanism B:** Expand the definition of "internal tribal matters" that are not subject to regulation by the state to include the application of federal beneficial laws or regulations within tribal trust lands to the extent that the application of these federal beneficial laws or regulations do not have effects off of tribal trust lands.
2. **Option 2:** Amend state law to establish a new default rule — that all federal beneficial laws and regulations apply to each of the Wabanaki Nations within the State; however, also establish a mechanism by which the State may object to the application of specific federal beneficial laws in the State.

Note: To pursue this option, it will be necessary to determine what standard the State must meet to object to the application of a particular federal beneficial law in Maine. It will also be necessary to identify who has the authority to decide whether the State is or is not correct that the standard has been met and ultimately decide that the particular federal beneficial law will not apply in Maine.

Additional question about retroactivity: Should the options above provide that all federal beneficial laws apply in Maine, including laws that were enacted by Congress in the past? Or, should the options above provide that only federal beneficial laws enacted by Congress in the future will apply in Maine?

How to submit public comments:

1. **In person at the meeting** – You may provide your public comments in person by attending the meeting on Tuesday, October 13th at 10:00 a.m. in the Judiciary Committee Room, State House room 438. There is no need to sign up in advance if you choose to testify in person. The Chairs of the Working Group may need to limit the amount of time allotted to each person to ensure that all people who wish to provide public comments have an opportunity to be heard. In case you are unable to complete your full remarks during the time allotted, please consider providing written copies of your remarks so that Working Group members can read the remainder of your remarks after the hearing. If you do choose to provide written remarks, please bring 20 copies of your remarks with you.
2. **Via Zoom** – To sign up to provide your comments remotely, please register for the Zoom meeting in advance using this [link](#). The Chairs of the Working Group may need to limit the amount of time allotted to each person to ensure that all people who wish to provide public comments have an opportunity to be heard. In case you are unable to complete your full remarks during the time allotted, please consider providing written copies of your remarks so that Working Group members can read the remainder of your remarks after the hearing (see directions below for submitting testimony electronically).
3. **In writing (electronically)** - To submit your comments in writing, please send an email to legislative analysts Samuel Senft at Samuel.Senft@legislature.maine.gov and Janet Stocco at Janet.Stocco@legislature.maine.gov. To ensure that your comments are received by Working Group members in time for the meeting, please submit your comments **by noon on Monday, October 12.**

Please remember that any comments submitted for distribution to the commission are a matter of public record and may be posted online. In addition, the meeting will be streamed live on the Legislature's website ([here](#)) and on YouTube. Please avoid including any private or sensitive personal information in your submissions.

If you require accommodations to access this meeting due to a disability, please contact the Legislative Information Office at 207-287-1692 or ljo@legislature.maine.gov.

Please contact legislative analysts Samuel Senft at Samuel.Senft@legislature.maine.gov or Janet Stocco at Janet.Stocco@legislature.maine.gov with any questions.

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Janet A. Stocco, Esq. | Legislative Analyst
Office of Policy and Legal Analysis
13 State House Station
Room 215, Cross Building
Augusta, ME 04333-0013
(207) 287-1670

From: Senft, Samuel

Sent: Friday, October 2, 2026 12:22 PM

To: wabanaki.working.group@lists.legislature.maine.gov; acf-ip@lists.legislature.maine.gov; enr-ip@lists.legislature.maine.gov; hcifs-ip@lists.legislature.maine.gov; 'hhs-ip@lists.legislature.maine.gov' <hhs-ip@lists.legislature.maine.gov>; ifw-ip@lists.legislature.maine.gov; jud-ip@lists.legislature.maine.gov; slg-ip@lists.legislature.maine.gov; vla-ip@lists.legislature.maine.gov

Subject: Public Comment - Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations

Good afternoon,

You are receiving this email because you are on the interested parties list for the *Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations* or the Maine Legislature's ACF, ENR, HCIFS, HHS, IFW, JUD, SLG or VLA Committees.

On Tuesday, October 13, the *Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations* will be accepting public comment.

The Working Group was established by [Resolve 2025, c. 165](#), which directs the Working Group to develop and recommend legislative mechanisms for extending the benefits of federal laws beneficial to Indian tribes or tribal members to the Wabanaki Nations. Background and prior meeting materials can be found on the Working Group's webpage, located [here](#).

Members of the public are invited to submit **public comment** during the third meeting of the working group, scheduled for **10 AM on Tuesday, October 13** in the Judiciary Committee Room, State House room 438. Members of the public are welcome to submit testimony in any of the following ways:

1. **In person at the meeting** - Judiciary Committee Room, State House room 438. There is no need to sign up in advance if you choose to testify in person. The Chairs of the Working Group may need to limit the amount of time allotted to each person to ensure that all people who wish to provide public comments have an opportunity to be heard. In case you are unable to complete your full remarks during the time allotted, please consider providing written copies of your remarks so that Working Group members can read the remainder of your remarks after the hearing. If you do choose to provide written remarks, please bring 20 copies of your remarks with you.
2. **Via Zoom** – To sign up to testify remotely, please register for the Zoom meeting in advance using this [link](#). The Chairs of the Working Group may need to limit the amount of time allotted to each person to ensure that all people who wish to provide public comments have an opportunity to be heard. In case you are unable to complete your full remarks during the time allotted, please consider providing written copies of your remarks so that Working Group members can read the remainder of your remarks after the hearing (see directions below for submitting testimony electronically).
3. **In writing (electronically)** - To submit testimony in writing, please email your testimony to legislative analysts Samuel Senft at Samuel.Senft@legislature.maine.gov and Janet Stocco at Janet.Stocco@legislature.maine.gov. To ensure that your comments are received by Working Group members in time for the meeting, please submit your comments **by noon on Monday, October 12**.

The Working Group requests that you limit your public comments to the specific issues that the Legislature directed the Working Group to address in Section 5 of [Resolve 2025, c. 165](#). **For this reason, your comments should focus on the following:**

1. How best to ensure that federal laws that benefit Indian tribes or tribal members apply to the Wabanaki Nations, notwithstanding section 6(h) and section 16(b) of the [federal Maine Indian Claims Settlement Act](#);
2. Identification of particular federal beneficial laws that should *not* apply within the State; and

3. How best to implement 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.

Please remember that any comments submitted for distribution to the commission are a matter of public record and may be posted online. In addition, the meeting will be streamed live on the Legislature's website ([here](#)) and on YouTube. Please avoid including any private or sensitive personal information in your submissions.

If you require accommodations to access this meeting due to a disability, please contact the Legislative Information Office at 207-287-1692 or lio@legislature.maine.gov.

Please contact legislative analysts Samuel Senft at Samuel.Senft@legislature.maine.gov or Janet Stocco at Janet.Stocco@legislature.maine.gov with any questions.

Samuel Senft, Esq., MPH
Legislative Analyst
Office of Policy and Legal Analysis
Maine State Legislature
207-287-1670

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Maine Equal Justice

People Policy Solutions

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Dina Malual
Policy Advocate
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Thank you for the opportunity to provide public comment on the options for extending federal beneficial laws to the Wabanaki Nations in Maine, notwithstanding Sections 6(h) and 16(b) of the federal Maine Indian Claims Settlement Act (MICSA).

Maine Equal Justice (MEJ) supports establishing clear and legally enforceable rules that allow all Wabanaki Nations in Maine to receive the benefits of federal laws intended to benefit Native American tribes, tribal lands, and tribal citizens. MEJ appreciates that the Legislature has directed the Working Group to focus on developing mechanisms to extend these benefits. These comments address the considerations associated with the proposed options while recognizing the historical exclusion of the Wabanaki Nations from certain federal benefits.

Regarding Option 1, MEJ encourages the Working Group to consider the feasibility of Mechanisms A and B, particularly the clarity each would provide to tribal governments, state agencies, and the public.

Mechanism A offers a more direct approach by specifying that state laws affected or preempted by federal beneficial laws would not apply to the Wabanaki Nations or their tribal lands. However, the Working Group should carefully consider how this mechanism would affect existing state law and how potential conflicts would be identified and resolved.

Mechanism B offers a narrower approach by focusing on the application of federal beneficial laws within tribal trust lands to the extent that the application of these federal beneficial laws or regulations do not have effects off of tribal lands. The Working Group should consider how this limitation would be interpreted and applied.

Regarding Option 2, MEJ recommends that any state objection process include clearly defined standards and procedures. The Working Group should identify the requirements the State must meet to object to a specific federal beneficial law, including the evidence necessary to support an objection and the authority responsible for determining whether the applicable standard has been met. Clear procedures and timelines would promote consistency, transparency, and predictability while helping to prevent unnecessary delays.

Regarding retroactivity, MEJ encourages the Working Group to assess the legal and practical implications of applying the proposed framework to both previously enacted and future federal beneficial laws. We believe retroactively including existing federal laws would provide greater clarity regarding benefits already received by other federally recognized tribes, and extending the framework to future laws would reduce the need for repeated legislative changes. MEJ recommends that the Working Group consider identifying specific existing federal beneficial laws that warrant particular attention as part of this analysis.

Finally, MEJ encourages the Working Group to develop recommendations that are clear, feasible, and capable of consistent application. The final recommendations should establish clear decision-making authority and procedures.

Thank you for considering these comments as the Working Group develops its consensus recommendations.



Maine Forest Products Council

The voice of Maine's forest economy

MEMORANDUM

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

FROM: Maine Forest Products Council

DATE: October 13, 2026

RE: Public Comment on Extending Federal Beneficial Laws to the Wabanaki Nations in Maine

Questions Presented for Comment:

1. *Option 1:* Amend state law to ensure that all federal beneficial laws — except those, like criminal jurisdiction laws, that Congress directed in the federal Maine Indian Claims Settlement Act of 1980 do not apply in Maine — apply to each of the Wabanaki Nations within the State of Maine.
 - a. *Mechanism A:* Specify that any law of the State that would be affected or preempted by the application of any of these federal beneficial laws or regulations does not apply to the Wabanaki Nations or their Indian territories / trust lands in Maine. OR
 - b. *Mechanism B:* Expand the definition of “internal tribal matters” that are not subject to regulation by the state to include the application of federal beneficial laws or regulations within tribal trust lands to the extent that the application of these federal beneficial laws or regulations do not have effects off of tribal trust lands.
2. *Option 2:* Amend state law to establish a new default rule — that all federal beneficial laws and regulations apply to each of the Wabanaki Nations within the State; however, also establish a mechanism by which the State may object to the application of specific federal beneficial laws in the State.
3. Should the options above provide that all federal beneficial laws apply in Maine, including laws that were enacted by Congress in the past? Or, should the options above provide that only federal beneficial laws enacted by Congress in the future will apply in Maine?

History:

- The Maine Settlement Acts allowed the tribes to acquire a substantial land base in addition to their then-existing reservations. The settlement did not require the tribes to purchase the newly created Indian territory in contiguous blocks of 150,000 acres but instead authorized the purchase of multiple parcels that could comprise 150,000 acres for each tribe, in the aggregate. Many of these lands are located far from the existing reservations, and they had been privately owned by non-tribal parties since Maine first became a state.
- The scattered land pattern created by the Maine Settlement Acts results in a continuously changing patchwork of regulatory jurisdictions around the state and therefore required an agreement between the

parties to maintain uniformity of environmental regulations across the state for matters that affect tribal and non-tribal resources.

- The jurisdictional terms of the settlement – that Maine law would apply uniformly to tribal and non-tribal lands alike – were essential to avoid the disruptive effects that would otherwise result from numerous tribal jurisdictional enclaves appearing throughout the state in areas that had long been regarded as non-tribal.

Existing federal beneficial laws need to be reviewed and understood for conflicts with state law that would prevent application to Maine tribes before any recommendations are put forward.

- Federal laws that give jurisdiction or rights to the tribes to govern public natural resources or environment that move across jurisdictions must continue be excluded from applying in Maine.
- Many of the federal laws do not conflict with state law and therefore should apply to the tribes in Maine.
- The Legislature should focus attention on the federal laws that conflict with state law to understand the implications of removing uniform application of state law to Maine citizens.
- **A wide approach, as envisioned in Option 1, could have a significant impact on non-tribal members.** This approach would prevent the review of state laws to be supplanted by federal law without regard to the impact on non-tribal members. This review is important as the change cannot be reversed without the agreement of all parties.

Future federal laws should be reviewed by the Attorney General for application to Maine tribes, with default assumption that they apply to Maine tribes unless they impact Maine's regulatory jurisdiction of the environment or natural resources, or the state objects on the basis of a conflict. A process to review future laws should include an annual report to the legislature on new federal laws that provide benefits to tribes with an analysis of any conflicts with state law for those that don't apply.

- Federal laws that govern public natural resources or the environment must be excluded from applying to the tribes in Maine unless there is explicit agreement with the state.

Why is the uniformity of state environmental laws important to us?

- Public natural resources, such as air, surface water and wildlife, are held in public trust. They are connected and move freely from property to property and therefore must be regulated with uniformity. Tribal regulations impacting these resources would have significant implications to non-tribal members far beyond tribal boundaries.
- Absent the guarantee of state jurisdiction on environmental and natural resource matters provided by the Settlement Acts, a continually shifting patchwork of laws would exist across the state and within municipal boundaries, in areas never intended to be removed from municipal jurisdiction. Creating a dual system of regulation in those areas would allow Maine's tribes to regulate activities of Maine municipalities, companies and citizens.
- Any activity that could impact resources that are contiguous or move through tribal jurisdiction, such as permitting a mill, removing a dam, bridge work, wastewater discharges or building a road, would be subject to an unpredictable regulatory system dispersed widely across the state, creating a compliance burden on Maine companies, municipalities and residents who, since 1980, have relied on the certainty of uniform laws and standards.

- Tribal water regulations would extend far beyond the boundaries of the tribal lands. The interconnected nature of watersheds would lead to tribal water quality regulations extending far beyond tribal lands to waterbodies and tributaries that flow into areas under tribal jurisdiction. This change would have a significant impact on land management in and around these watersheds.

If granted authority over environmental regulations, the tribes would not be required to consider non-tribal members' interests in adopting their standards, or to consider impacts on Maine's economic interests.

- Non-tribal residents would have to comply with the tribe's environmental standards, regardless of however stringent or inconsistent their standards may be in comparison with state standards.
- Neither the state nor non-tribal residents can participate in tribal government decision making, so there is no opportunity to make these standards and enforcement consistent.

If granted authority over environmental regulations, the federal government would interpret tribal rights as extending far beyond the borders of their lands, impacting non-tribal citizens and commerce.

- In January of 2026¹, the Penobscot Nation joined with CLF in a successful bid to block the State of Maine from expanding Maine's largest landfill, which is nearing capacity. Even under the current arrangement, Maine's superior court favored the Penobscot's position due to the proximity of Indian Island, which is five miles downstream of the landfill.
- On June 13, 2025, the Penobscot Nation and the Houlton Band of Maliseet Indians joined the Kennebec Coalition's comments against Brookfield's Water Quality Certification Application with DEP², asserting their sovereign rights over the Kennebec River in written testimony. Brookfield has since withdrawn the WQC application after a long and drawn-out process. The 'overburdensome'³ process to achieve relicensing directly contributed to Brookfield's decision to sell the assets, which has put the state's \$8.3 billion forest industry in a precarious position.
- In 2015 in the Penobscot Nation v. Mills lawsuit⁴, the U.S. Department of the Interior argued that even though the entire Main Stem of the Penobscot River does not fall within the bounds of the Nation's reservation, the boundaries of the Penobscot reservation would extend to the threads of the channels surrounding the Penobscot Nation's reservation islands. According to DOI, these "riparian rights" around the islands of the Main Stem create "halos" of water into which the reservation extends. The State of Maine prevailed in this case because of the jurisdictional framework laid out by the Maine Settlement Act. State jurisdiction on environmental regulations must be maintained to avoid significant regulatory conflicts.

As recently as 2015, the Penobscot Nation displayed their desire to assert control over the Penobscot River.

- Penobscot Nation officials stopped nontribal duck hunters on the Penobscot River and required a tribal permit to hunt anywhere on the river. The state later discovered that the Penobscot Nation had summoned

¹ <https://mainemorningstar.com/2026/01/09/in-win-for-penobscot-nation-maine-judge-blocks-expansion-of-juniper-ridge-landfill/?emci=a32b6c0f-72ed-f011-8194-000d3a11f903&emdi=8d0f38a0-aeef-f011-8194-000d3a11f903&ceid=313137>

² https://www.maine.gov/dep/ftp/HYDRO/WaterQualityCertifications/LowerKennebec/comments/Public%20Comments/ASF_MaineRivers_NRCM_TU_CLF_Tribes_Comments/ASF_MaineRivers_NRCM_TU_CLF_Tribes_Comments.pdf

³ <https://www.mainepublic.org/climate/2025-10-17/brookfield-says-kennebec-dam-sale-motivated-by-overburdensome-regulation>

⁴ *Water, Tribal Claims, and Maine's Not-So-Settled Settlement Acts – Matthew D. Manahan and Catherine R. Connors 2016*

non-tribal hunters to tribal court, even though the Settlement Acts do not subject nontribal members to the jurisdiction of tribal courts.

- The Penobscot Nation responded by filing suit against the attorney general in the United States District Court for the District of Maine, claiming that its reservation includes the entire 60-mile stretch of the main stem of the Penobscot River north from its primary reservation island (the Main Stem), including the submerged lands, and that it had exclusive jurisdiction over that portion of the river. The Penobscot Nation asserted that it has retained aboriginal title to the waters and riverbed of the Main Stem. As a result, it claimed that the boundaries of the Penobscot Reservation are the riverbanks found on either side of the Main Stem. According to the Penobscot Nation, these boundaries result in the Penobscot Nation having exclusive authority within its Main Stem reservation to regulate hunting, trapping, and other taking of wildlife for the sustenance of the individual members of the Penobscot Nation.
- The US DOI joined the Tribe in this case against the State, arguing for rights extending far beyond the borders of Indian Island (see bullet point above). For that reason, it is reasonable to assume that the federal government would also extend those rights to discharge licenses for air and water within that region and others should the Tribes be regulatory authority on environmental matters.
- In December 2015, district court Judge Singal issued his decision in the *Penobscot Nation v. Mills* lawsuit, holding that the Penobscot Nation reservation does not include any portion of the Penobscot River, only the islands themselves. *Penobscot Nation v. Mills*, 1:12-CV-254-GZS, 2015 WL 9165881 (D. Me. Dec. 16, 2015).

Maine's waste discharge limits are already among the most stringent in the country.

- Maine's criteria are at least as stringent as Human Health Consumption (HHC) in other states, and when the Maine Department of Environmental Protection adopted its HHC, it made those criteria more stringent in recognition of the fact that some Indians may engage in sustenance fishing. For that reason, Maine increased its assumed fish consumption rate to 32.4 grams per day (gpd), which is a higher fish consumption rate than most states use (17.5 gpd), and Maine uses a risk level of 10⁻⁶, which is ten times more protective than the risk level used in many states (10⁻⁵). This was the result of the state, tribes and industry working within the current settlement framework.

What's happening elsewhere where tribes have regulatory authority:

- In *City of Albuquerque v. Browner*, 97 F.3d 415 (10th Cir. 1996), the court upheld the Isleta Pueblo Tribe's water quality standards that were in some respects 1,000 times greater than those of the State of New Mexico, at a compliance cost to the city of over \$10 million (in 1996 dollars).

Conclusion

The Settlement Acts have provided uniformity in environmental regulations across Maine's landscape that is critical for the forest products industry. Without this provision, Maine residents, industry and municipalities will be faced with regulatory uncertainty and litigation that will make it difficult to attract investment to our mills and expand operations in Maine.

While we fully support the mission of identifying beneficial federal laws that can and should be extended to Maine's tribal nations, both now and in the future, it is critical that any recommendations put forward by this group maintain state authority over regulating the environment and natural resources that are necessary for all.

Thank you for your consideration of our industry's views and we welcome the opportunity to further explain any of our concerns.

Stocco, Janet

From: Maulian Bryant <maulian@wabanakialliance.com>
Sent: Tuesday, October 13, 2026 10:33 AM
To: Stocco, Janet; Samuel.sentf@legislature.maine.gov
Subject: Wabanaki Alliance Comments

This message originates from outside the Maine Legislature.

Senator Talbot Ross, Representative Kuhn Tribal leaders, and honorable members of the working group. My name is Maulian Bryant, I am a Penobscot Nation tribal citizen and council member and also serve as the Executive Director of the Wabanaki Alliance. I am here today to offer comment on behalf of the Wabanaki Alliance.

We were founded in 2020 by tribal leaders from all of the Wabanaki tribal nations in our homelands now called Maine to advocate for the legislative priorities of the tribes as well as educate all Mainers. Our goal is to support all efforts to restore the recognition of the inherent tribal sovereignty of our people.

We present comments today as a show of support for the progress that has been made in the area of federal beneficial acts and their applicability to Wabanaki nations. We are pleased that this group has the baseline premise that these laws should apply here that this public comment session serves as input on the finer points of this process going forward. We have testified or championed all efforts to advance tribal rights since our including LD 2004 from Senator Talbot Ross that would have accomplished these goals at the state level and HR 6707 from Representative Jared Golden that would have handled this at the federal level. Both of these efforts failed due to opposition from state officials and we are heartened to see this working group moving beyond the question of if these acts should apply here to the question of how to best make it work.

The Wabanaki Alliance is in favor of the Wabanaki Nations enjoying the benefits of federal Indian law retroactively and prospectively. We are also in favor of the shift to the Wabanaki nations having access to all of these laws as federally recognized tribes and not having any mechanisms in place for the state to obstruct our access to them. As has been explained many times over the years, when the Wabanaki can realize full rights and equality it will absolutely help the entire state.

We favor option 1 and will not weigh in on mechanism a or b at this time. We have not had time for a full board and tribal leader consultation to address this issue. We do feel that the philosophical and practical approach of option 1 is the one that best supports the progress we have made together and goes the furthest towards restoring our self determination.

--

Maulian Bryant
Penobscot Nation Tribal Citizen
Wabanaki Alliance Executive Director
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maulian@wabanakialliance.com
www.wabanakialliance.com
she/her/hers

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

Senator Talbot Ross, Representative Kuhn, Tribal Leaders, and members of this working group, my name is Sage Phillips and I am a proud citizen of the Penobscot Nation. I am also co-leading the Wabanaki Policy Youth Initiative, a group of Wabanaki and non-Wabanaki youth who are passionate about advocacy, policy, and tribal-state relations. I thank you all for the opportunity to be here and for the opportunity to engage with our young people who share the same goals for our future as Wabanaki here in our homelands now called Maine.

As a young person in this work I look forward to carrying on the legacy of my ancestors as well as past, present and future tribal leaders who have and will continue to pave the way for our people. I am here today in support of the work that is being done to give the Wabanaki Nations access to federal laws beneficial to them in the same way as the other 571 federally recognized tribes in this country. It is my understanding that this group is here not to debate if or why these federal acts should apply but rather to build the groundwork and create a historical record for how we can move forward with accessing these laws.

I am deeply in favor of any way to work together with the state to ensure our inherent sovereignty be recognized by everyone here in our homelands now called Maine. I am here today to support Option 1 for extending the benefits of federal beneficial laws to the Wabanaki Nations. It is time to amend the outdated Maine Implementing Act and see equity for our people. I recognize that there are many tribal leaders on this committee who have our best interests in mind and will choose which mechanism they see fit and wholeheartedly support them.

Kci woliwoni thank you so much.

Stocco, Janet

From: jason whitney <jgwhitney.4@gmail.com>
Sent: Tuesday, October 13, 2026 12:09 PM
To: Stocco, Janet
Subject: Option 1

This message originates from outside the Maine Legislature.

Good morning,

I am in support with the Tribes of Maine of Option 1 as listed by the Working Group to Develop Recommendations for Extending Federal Beneficial Laws to Wabanaki Nations. Thank you.

Jason Grundstrom-Whitney
Wabanaki Alliance
P.O.Box 475
Monmouth, Maine
04259

207-330-8020

Proposed Recommendations & Concerns Raised

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

Relevant Provisions of federal Settlement Acts

MICSA §6(h): Federal laws enacted before October 10, 1980	MICSA §16(b): Federal laws enacted after October 10, 1980
<i>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 <u>shall be applicable</u> in the State of Maine, <u>except</u> that <u>no law or regulation</u> of the United States</i> <i>(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, <u>and also</u></i> <i>(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, <u>shall apply</u> within the State.</i>	<i>The provisions of any Federal law enacted after the date of enactment of this Act</i> <i>[1] for the benefit of Indians, Indian nations, or tribes or bands of Indians, [and]</i> <i>[2] 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, <u>shall not apply</u> within the State of Maine, <u>unless</u> such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.</i>
Summary: Unless Congress says otherwise within MICSA, beneficial laws enacted prior to MICSA apply in Maine. However, specific beneficial laws do not apply to any tribe or tribal lands in Maine if the two-part test is met.	Summary: Unless Congress says otherwise when enacting a particular beneficial law: Post-MICSA beneficial laws do not apply to any tribe or tribal lands in Maine if the two-part test is met.
See also MICSA §6(i): <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.</i>	
Aroostook Band of Micmacs Settlement Act [ABMSA] §6(b)	
<i>Application of federal law. For the purposes of application of Federal law, the [Mi'kmaq Nation] and its lands shall have the same status as other tribes and their lands accorded Federal recognition under the terms of the Maine Indian Claims Settlement Act of 1980.</i>	

Proposed Recommendations & Concerns Raised

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

Advance Consent from Congress for amendments to Maine Implementing Act [MIA] and ABMSA:

Passamaquoddy Tribe & Penobscot Nation	Houlton Band of Maliseet Indians	Mi'kmaq Nation
MICSA §6(e)(1): <i>The consent of the United States is hereby given to the State of Maine to amend the [MIA] 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</i> <i>(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;</i> <i>(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</i> <i>(C) the allocation of jurisdiction between tribal courts and State courts.</i> MICSA §6(f): <i>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 [MIA], and any subsequent amendments thereto.</i>	MICSA §6(a): <i>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.</i> MICSA §6(e)(2): <i>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.</i>	MICSA §6(a): see middle column ABMSA §6(d): <i>Agreements with state regarding jurisdiction.</i> <i>The State of Maine and the [Mi'kmaq Nation] 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 [Mi'kmaq Nation] or any member of the [Mi'kmaq Nation].</i> <i>The consent of the United States is hereby given to the State of Maine to amend the Micmac Settlement Act [now known as the Mi'kmaq Nation Restoration Act] for this purpose: Provided, That such amendment is made with the agreement of the [Mi'kmaq Nation].</i>

Proposed Recommendations & Concerns Raised

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

Working Group Duties — Resolve 2025, chapter 165, section 5:

- The working group ... shall develop and recommend legislative mechanisms for extending the benefits of federal beneficial laws to the [Wabanaki Nations] notwithstanding [§6(h) and §16(b) 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.

Recommendations Proposed at First Working Group Meeting

Proposed Recommendation / Goal		
Mechanism	Legal Concerns raised about this approach	Benefits of this approach
1. Ensure that <u>all</u> federal beneficial laws, regardless of date of enactment, apply to each of the Wabanaki Nations within the State. <u>Question:</u> Should there be any exceptions — federal beneficial laws that would not apply in Maine? For example (from LD 2004): - Federal criminal jurisdiction laws; - Federal gaming laws, including the Indian Gaming Regulatory Act; and/or - Certain federal environmental laws, including federal Clean Water Act, federal Water Quality Act of 1987, federal Clean Air Act, federal Indian Mineral Development Act of 1982, and any future amendments to these laws.		
A. Amend the Maine Implementing Act (MIA) and Mi’kmaq Nation Restoration Act (MNRA) to provide that federal beneficial laws do not affect or preempt Maine law. <u>For example (excerpts from LD 2004):</u> See attachment A. <i>“The State and [each Wabanaki Nation] agree and intend ... that any law of this State that would be affected or preempted by the operation, application or implementation of any statute or regulation of the United States that accords a specifical status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands,</i>	★ Potential lack of authority, through this state law mechanism, to notwithstanding the impacts of MICSA §6(h) and §16(b) and to require actions by federal officials: - Has Congress consented to this change — <i>i.e.</i>, does the proposed change fall within MICSA §§6(e)(1) & (2) and ABMSA §6(d), which authorize reallocation of jurisdiction between the State and the tribes, but not reallocation of jurisdiction between the State and federal government? - If a court finds a conflict between federal law (MICSA) and the proposed amendments	★ Clear intent to provide for comprehensive application of federal beneficial laws. ★ Avoids need for individual analysis regarding applicability of federal beneficial laws ★ Does not require the tribes to expend significant resources advocating for the applicability of federal beneficial laws. <u>Other benefits?</u> ★ Utilizes the statutory tools provided by Congress, MICSA §§6(e)(1) & (2) and ABMSA §6(d),

Proposed Recommendations & Concerns Raised

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

<i>Indian reservations, Indian country, Indian territory or land held in trust for Indians does not apply to [each Wabanaki Nation] ...”</i> <i>“The State and [each Wabanaki Nation] agree and intend ... that any statute or regulation of the United States enacted before, on or after October 10, 1980 that accords a special status or right to or relates to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians is applicable to [each Wabanaki Nation] within this State, without regard to any effect on the application of the laws of this State ...”</i>	to state law (MIA/MNRA), federal law will control. • Per OAG – legislative history of MICSA §6(e)(1) indicates that future amendments to MIA may not affect the roles of federal officials. See attachment from AAG Patwardhan. ★ Potential confusion created by repeal of unspecified state laws throughout the Maine Revised Statutes — <i>i.e.</i>, any state statute that is inconsistent with a current or future federal beneficial law. ★ Given the above concerns: • Risk of litigation, including litigation brought by third parties challenging either application of specific federal beneficial laws in Maine or inapplicability of specific state laws (either entirely, or portions of those laws) to tribes and tribal lands. • Risk, if a court concludes the amendments to MIA/MNRA are not effective at applying federal beneficial laws in Maine, the portions of the amendments repealing State law might still be effective, creating gaps in authority. <u>Note:</u> LD 2004 addressed this concern in §6216(6), and analogous provisions for other tribes, by providing for contingent repeal of its amendments to MIA/ MNRA if a court finds that those amendments are ineffective in making federal beneficial law apply within Maine.	to reallocate jurisdiction between the State and the tribes. ★ Operates consistent with MICSA §6(h) and §16(b) default presumption that federal beneficial laws apply ★ Operates consistent with MICSA §6(h) and §16(b) “affects or preempts” standard; state law is not affected or preempted if state law does not apply by its own terms ★ Congress would still have ability to dictate that specific federal laws will not apply in Maine, as it did in MICSA §6(c) with respect to federal criminal laws in Indian country
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Proposed Recommendations & Concerns Raised

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

	• Risk that State cannot require the federal government to exercise its authority to apply or enforce federal beneficial laws in Maine, which similarly creates gaps in authority if state laws also do not apply to tribes / tribal lands in Maine. <u>Note:</u> LD 2004 attempts to address this concern in §6216(2)(C), and analogous provisions for other tribes, by establishing that “corresponding laws of the State” would fill any gaps “relating to a matter of public health or safety, including without limitation laws relating to land use or environmental matters” ★ Possibility that application of certain federal beneficial laws will have impacts off of tribal land — examples from testimony on LD 2004: federal Water Quality Act of 1987 and Clean Water Act. ★ Per OAG – Federal beneficial laws assume underlying lack of applicability of state law on tribal lands; thus, some federal beneficial laws may not fit well in Maine. <u>Subject-specific concerns:</u> ★ Criminal jurisdiction: MICSA §6(c) specifically provides that “the United States shall not have any criminal jurisdiction in the State of Maine under sections 1152, 1153, 1154, 1155, 1156, 1160, 1161, and 1165 of title 18 of the United States Code.” But, if state criminal jurisdiction laws do not apply (because they would be affected or preempted by these otherwise-generally-applicable federal criminal jurisdiction laws), there may be a gap in	
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Proposed Recommendations & Concerns Raised

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	criminal jurisdiction over offenses not within tribal court jurisdiction. ★ Other laws: Legislative history may be problematic if litigation is brought to challenge application of certain federal beneficial laws. <i>See</i> Senate Report 96-957 at 31 (stating, as an example, that under MICSA §6(h),“although the federal Clean Air Act...accords special rights to Indian tribes and Indian lands, such rights will not apply in Maine because...they would interfere with State air quality laws which will be applicable to [tribal lands].”). <u>Other concerns?</u> ★ ★	
B. Amend MIA and MNRA to expand definition of “internal tribal matters ... not subject to regulation by the State.” <u>Question:</u> what new definition of “internal tribal affairs” does the Working Group recommend, if any? See attachment B. <u>Current law:</u> MIA §6206(1): “<i>internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections, the use or disposition of settlement fund income and the exercise of power by the Passamaquoddy Tribe ... and by the Penobscot Nation pursuant to [federal safe drinking water laws and tribal</i>	★ Concerns outlined above likely also apply here, although it may be viewed as less of a direct override of MICSA §6(h) and §16(b), perhaps weakening any preemption argument? <u>Concerns about scope:</u> ★ MIA §6206(1) provides that the “internal tribal matters” of the Passamaquoddy Tribe and the Penobscot Nation are not subject to State regulation. No provision of the MIA creates this same jurisdictional rule for the Houlton Band of Maliseet Indians. ★ MNRA §7205 provides that the “internal tribal matters” of the Mi’kmaq Nation are not subject to State regulation, but only within “Mi’kmaq Nation Jurisdiction Land” — defined in a way that may not include all future Mi’kmaq Nation trust lands. See attachment B.	★ Application could be very broad ★ Potentially avoids the analysis required by MICSA §6(h) and §16(b) <u>Other benefits?</u> ★ ★

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<i>ordinance enforcement provisions of the MIA] is not subject to regulation by the State. ...”</i> MNRA §7205(2): “<i>Except as otherwise provided in this Act, the Mi’kmaq Nation, within Mi’kmaq Nation Jurisdiction Land, may, separate and distinct from the State, exercise exclusive jurisdiction, including by enacting ordinances, over internal tribal matters, including membership in the nation, the right to reside within Mi’kmaq Nation Jurisdiction Land, tribal organization, tribal government and tribal elections and the exercise of power pursuant to [federal safe drinking water laws and tribal ordinance enforcement provisions of the MNRA] and such matters are not subject to regulation by the State. ...”</i>	★ This approach may have effects beyond whether federal beneficial laws will apply in Maine. For example, if “internal tribal affairs” is defined broadly, it could prevent application of certain categories of state laws on tribal land even if there is no federal beneficial law addressing those categories. <u>Other concerns?</u> ★ ★	
C. Express the State of Maine’s support for federal legislation repealing §6(h) and §16(b) of MICSA. <u>Options:</u> • A resolve or unallocated language indicating State’s support? • Joint Resolution of the Legislature? • Request Governor send letter to Congressional delegation? • Working Group letter to Congressional delegation?	★ Eliminates concerns about state authority over federal law and federal officials (but not concerns about potential confusion caused by conflicting language in existing state laws). ★ While the State and Wabanaki Nations can request that Congress enact federal legislation, there is no guarantee Congress will do so. ★ Likely to take longer to accomplish than amending state law. ★ Possibility that application of certain federal beneficial laws will have impacts off of tribal land — see examples from testimony on LD 2004: federal Water Quality Act of 1987 and Clean Water Act. ★ The federal government ceded the criminal jurisdiction it ordinarily has in Indian territory	★ Makes clear the standpoint of the tribes and the State ★ If successful, ensures that the federal government is in alignment with the tribes and the State. <u>Other benefits?</u> ★ ★

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	through MICSA §6(c), which would not be affected by this proposal. Is this intended / clear? <u>Other concerns?</u> ★ ★	
2. Establish new default rule: all federal beneficial laws apply to each of the Wabanaki Nations within the State; however, establish a mechanism by which the State may object to the application of specific federal beneficial laws within the State. <u>Questions:</u> • Would this be a prospective-only approach, applicable only to future-enacted federal beneficial laws? • See also questions below related to possible mechanisms for implementing this approach.		
Not yet discussed. A few possible options are listed below. ➤ Is the idea to recommend Congress enact legislation repealing §6(h) and §16(b) of MICSA — so that federal beneficial laws apply to the Wabanaki Nations as a default rule — recognizing that state officials (perhaps in concert with the Wabanaki Nations) may lobby Congress to expressly exclude Maine from the scope of specific existing and future federal beneficial laws that would not work well in Maine? <u>Question:</u> Is this any different from mechanism 1(C) above?	★ Eliminates concerns about state authority over federal law and federal officials (but not concerns about potential confusion caused by conflicting language in existing state laws). ★ While the State and Wabanaki Nations can request that Congress enact federal legislation, there is no guarantee Congress will do so. ★ Likely to take longer to accomplish than amending state law. <u>Other concerns?</u> ★ ★	★ If State is in agreement with tribes, this approach provides certainty to the tribes that might otherwise be lacking. <u>Other benefits?</u> ★ ★
➤ Is the idea to create, in state law, a mechanism by which the State may object to (or prevent?) the application of specific federal beneficial laws in Maine? What will that mechanism be? Would the mechanism be within MIA/MNRA or other state law?	★ Concerns related to first proposal described in the chart — about state authority over federal law and federal officials and the possibility of conflicts between federal beneficial laws and existing state laws — may also apply here	

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Is the State’s ability to object dependent certain factors, for example, that application of the federal law will have “specific and substantial disruptive and harmful effect[s] on the State and its citizens” as in the Working Group’s authorizing legislation? If so, what is the test for these disruptive and harmful effects and who decides whether the State is correct and the beneficial law should not apply in Maine? Will there be a deadline for the State to object?	★ Mechanism adopted is likely to involve additional tribal and sate resources (time and expense) regarding each federal beneficial law ★ Depending on the mechanism proposed and the length of time it would take to work through that mechanism for each federal beneficial law, it could lead to less certainty about which of these laws apply in Maine than some of the other proposed recommendations <u>Other concerns?</u> ★ ★	
3. Expand the list of federal beneficial laws that apply in the State on a case-by-case basis.		
A. Amend the MIA & MNRA in two ways: • To adjust jurisdiction between the State and Wabanaki Nations with respect to certain federal cooperative regulatory statutes — similar to existing MIA/MNRA provisions regarding the federal Safe Drinking Water Act. • To achieve outcomes similar to having specific other types of federal beneficial laws apply in the State — similar to the 2019 amendments to MIA that adjusted tribal court criminal jurisdiction to more closely track tribal jurisdiction under the Violence Against Women Act.	★ Concerns related to first proposal described in the chart — about state authority over federal law and federal officials and possibility of conflicts between federal beneficial laws and existing state laws — may also apply here ★ Requires additional tribal and sate resources (time and expense) regarding each federal beneficial law ★ Default rule of MICSA §6(h) & §16(b) will continue to limit application of some (?) / many (?) federal beneficial laws to the Wabanaki Nations <u>Other concerns?</u> ★ ★	★ This approach would make the application of specific federal beneficial laws clear <u>Other benefits?</u> ★ ★
B. Amend state law (outside of the MIA & MNRA) to achieve outcomes similar to having specific federal beneficial laws apply in the State — similar to the amendments to state tax	★ Requires additional tribal and sate resources (time and expense) regarding each federal beneficial law	★ Eliminates concerns about potential confusion caused by

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laws in Title 36 and the recent Internet gaming law.	★ Nothing prevents the State from amending these laws without tribal consent in the future <u>Other concerns?</u> ★ ★	conflicts between federal beneficial laws and existing state laws ★ This approach would make the application of specific federal beneficial laws clear. <u>Other benefits?</u> ★ ★
C. Express the State’s support for federal legislation specifying which specific federal beneficial laws should apply in Maine — similar to amendments to Violence Against Women Act enacted by Congress in 2022.	★ Requires additional tribal and sate resources (time and expense) regarding each federal beneficial law ★ While the State and Wabanaki Nations can request that Congress enact federal legislation, there is no guarantee Congress will do so. <u>Other concerns?</u> ★ ★	★ Eliminates concerns about state authority over federal law and federal officials (but not concerns about potential confusion caused by conflicting language in existing state laws). <u>Other benefits?</u> ★ ★
4. Require the State and Wabanaki Nations to provide input whether future federal beneficial laws should apply in the State. <u>Questions:</u> See questions below about the details of the mechanism to implement this approach.		
A. Working within the limitations of §16(b) of MICA, amend state law to create the following process: Fund a new position in state government responsible for monitoring federal legislation. If the official determines federal legislation may benefit the Wabanaki Nations, the official must consult (or make a good faith attempt to consult) with the Wabanaki Nations about	<u>Questions:</u> Proposal needs more fleshing out, for example: - Should the process be in MIA/MNRA or other state law? - Should the timeline be specified, or is it better to have a flexible “time reasonably calculated” requirement? - Is more detail required for the consultation process?	★ Would create a clear record as to a tribe’s position on the application of specific federal beneficial laws. <u>Other benefits?</u> ★ ★

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whether the proposed federal legislation should apply in Maine. • This official must submit a report to members of the Congressional Delegation on the outcome of the consultation within a time reasonably calculated to allow the members to introduce amendments to the pending federal legislation, as necessary. • The report <u>must</u> request that the pending federal legislation expressly state that it applies in Maine as described in §16(b) of MICSA <u>unless</u> either: ★ One or more Wabanaki Nations prefer that the federal legislation not apply in Maine; or ★ The official makes written findings — according to statutory criteria — that the federal legislation would have disruptive effects if applied in Maine. Possible criteria: (a) not applying federal gaming, criminal or environmental laws in Maine; and (b) not applying federal laws intended to fill a void in federal Indian law if currently applicable state law is preferable.	• Should “disruptive effects” be changed to “specific and substantial disruptive and harmful effect[s] on the State and its citizens” as in the Working Group’s authorizing legislation? What should the criteria be for this test and what happens if the tribes disagree with the official’s analysis? • Must Governor or Legislature sign off on official’s report, or is this official more akin to a quasi-independent agency? • Can the report suggest applying a federal beneficial law to fewer than all of the Wabanaki Nations? <u>Concerns</u> ★ Requires additional tribal and state resources (time and expense) regarding each federal beneficial law ★ State could eliminate the new position in the future ★ While each report can request that Congress include or exclude Maine from pending federal legislation, this is no guarantee Congress will always adopt the requested approach ★ If the consultation process does not work as described, if the “disruptive effects” criteria are not narrowly tailored and/or Congress does not accept the report recommendations, default rule of MICSA §6(h) & §16(b) will continue to limit application of some (?) / many (?) federal beneficial laws to the Wabanaki Nations <u>Other concerns?</u>	
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	★ ★	
5. Renegotiate the federal-state-tribal jurisdictional framework in the settlement acts.		
A. Requires negotiations between the federal government, state government and each of the Wabanaki Nations.	★ Requires significant state, federal and tribal time and resources. ★ Without the pressure of a pending land claims lawsuit (as in the past), unclear how long it may take to reach a new agreement or whether a new agreement can be reached. <u>Other concerns?</u> ★ ★	★ Would add clarity / legal certainty re: applicability of federal law. ★ A wholesale renegotiation of the settlement acts could allow for the clear recognition of tribal sovereignty and align the Wabanaki Nations with other tribes regarding their relationship to the State and to the federal government. <u>Other benefits?</u> ★ ★