Sponsor's Proposed Amend. to LD 395
for Work session 3/17/26

Beneficial Federal Laws – Working Group – Study and Recommendation

1. Working Group – The Working Group comprises representatives from the Wabanaki Nations, members of the Judiciary Committee and/or other Senators and Representatives, a representative from the Governor's Office, and a representative from the Attorney General's Office.
   (Note: use membership from HP 1307 (129th) but ↓ to 2 members of the House)
2. Purpose – The purpose of the Working Group is to study, develop, and recommend legislative mechanisms to extend to the Wabanaki Nations all existing and future laws and regulations of the United States which are generally applicable to or enacted for the benefit of Indians or relate to a special status or right of 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 (collectively, "beneficial federal laws"), notwithstanding Sections 6(h) and 16(b) of United States Public Law 96-420.

3. Outcome – The outcome of the Working Group will be a report to the Legislature no later than December 31, 2026, with one or more recommendations for legislation that would extend beneficial federal laws to the Wabanaki Nations, regardless of any effect on or preemption of the civil, criminal, or regulatory jurisdiction of the State of Maine. The recommendation(s) may include exceptions or a review process for any beneficial federal laws where it is shown that the application of the law or regulation to the Wabanaki Nations would have specific and substantial disruptive and harmful effects on the State of Maine and its citizens.

Analyst Questions:

(1) emergency preamble?

(2) Appointments within 15 days (as in HP 1307) or 30 days, as is standard with other legislative studies?

(3) change quorum, given change in number of legislators?

(4) follow "consensus recommendations" model?
(does this mean 3 legislators must agree?)

(5) Change reporting date? Joint Rule 353 has standard reporting date of Nov. 4, 2026. This may not be extended past Dec. 2, 2026.

Framework for Sponsor's Proposed Amend. to LD 395

PLEASE NOTE: Legislative Information ***cannot*** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Note: will be a Resolve, not a Joint order

Joint Order, Establishing the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act

WHEREAS, the ancestors of the members of the federally recognized tribes located in what is now the State of Maine inhabited these lands since time immemorial; and

WHEREAS, the tribal nations entered into the first treaty with the United States of America in July 1776 following its Declaration of Independence; and

WHEREAS, the United States adopted its Constitution in 1787 and the people of the State of Maine adopted their Constitution in 1819; and

WHEREAS, Indian tribes and their members have a legal political status recognized by the United States Constitution, including in Article I, Section 8, and by the Constitution of Maine, including in Article X, Section 5, and pursuant to various treaties entered into by the tribal nations and what is now the State of Maine; and

WHEREAS, in 1972, the Passamaquoddy Tribe initiated a claim against the United States government alleging that the transfer of a significant amount of tribal lands to the Commonwealth of Massachusetts, including the District of Maine, was legally invalid because such transfers were not approved by the United States government, as required by the federal Non-Intercourse Act; and

WHEREAS, in 1975, the U.S. Court of Appeals for the First Circuit in Joint Tribal Council of the Passamaquoddy Tribe v. Morton affirmed that a trust relationship, similar to that between the United States and other tribes, exists between the Maine tribal nations and the United States that would require the approval by the Federal Government of such land transfers and that the claims of the tribal nations could proceed; and

WHEREAS, the other Maine tribal nations alleged similar claims; and

WHEREAS, recognizing that protracted litigation would result in substantial economic and social hardship for large numbers of landowners, citizens and communities within the State, the tribal nations decided it was more prudent to negotiate a settlement of the land claims and other claims rather than continue litigation; and

WHEREAS, the tribal nations and Executive Branch of the United States negotiated terms of settlement that were encompassed in the February 10, 1978 Memorandum of Understanding; and

WHEREAS, the tribal nations were asked by the Maine Congressional Delegation to negotiate terms related to jurisdictional matters as a part of an overall settlement; and

WHEREAS, negotiations between the tribal nations and the State led to the passage of An Act To Implement the Maine Indian Claims Settlement in April, 1980 by the Maine Legislature, but the Act was not effective until the United States Congress in October, 1980 enacted the Maine Indian Claims Settlement Act of 1980, Public Law 96-420; and

WHEREAS, An Act To Implement the Maine Indian Claims Settlement was passed into law in 1980 and the Micmac Settlement Act was passed into law in 1989; and

WHEREAS, the tribal nations and the State have engaged in significant litigation over many issues in the intervening years; and

WHEREAS, differing interpretations of the Acts have caused disagreements between the State and the tribal nations and have negatively affected the Wabanaki communities and hindered their ability to exercise tribal sovereignty for the benefit of their people; and

WHEREAS, the relationship between the tribal nations and the State would benefit from a reduction in litigation; and

WHEREAS, the tribal nations and the State desire that all of Maine's citizenry prospers, now, therefore, be it

ORDERED, the Senate concurring, that, notwithstanding Joint Rule 353, the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act, referred to in this order as "the task force," is established as follows.

1. Appointments; composition. The task force consists of the following members:

A. Two members of the Senate, appointed by the President of the Senate, including at least one member of the party holding the 2nd-largest number of seats in the Senate;

B. ~~Three~~ Two members of the House of Representatives, appointed by the Speaker of the House of Representatives, including at least one member of the party holding the 2nd-largest number of seats in the House.

The President of the Senate and the Speaker of the House shall invite to participate as voting members of the task force the Chief of the ~~Aroostook Band of Micmacs~~ Mi'kmaq Nation or the chief's designee; the Chief of the Houlton Band of Maliseet Indians or the chief's designee; the Chief of the Passamaquoddy Tribe at Indian Township or the chief's designee; the Chief of the Passamaquoddy Tribe at Pleasant Point or the chief's designee; and the Chief of the Penobscot Nation or the chief's designee;

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

2. Chairs. The first-named Senator is the Senate chair of the task force and the first-named member of the House of Representatives is the House chair of the task force.

3. Appointments; convening. All appointments must be made no later than 15 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment and invitation of all members has been completed, the chairs of the task force shall call and convene the first meeting of the task force. If 15 days or more after the passage of this order a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business.

See Sponsor's description of duties

4. Duties. The task force shall review An Act To Implement the Maine Indian Claims Settlement and the Micmac Settlement Act and make recommendations to the Legislature for legislation regarding any suggested changes to those Acts. Recommendations of the task force must be made by consensus. For the purpose of this order, "consensus" means consensus between representatives on the task force of the tribe or tribes affected by the suggested changes and a majority of the other voting members of the task force.

5. Quorum. A quorum is a majority of the voting members of the task force, as long as the quorum consists of at least 3 representatives of the tribal nations and at least 3 members of the Legislature. ?

6. Staffing. The Legislative Council shall provide necessary staffing services to the task force, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session.

See Sponsor's description of "outcome"

7. Reports. No later than December 4, 2019, the task force shall submit a report to the Joint Standing Committee on Judiciary that includes its findings and consensus-based recommendations, including suggested legislation, for introduction to the Second Regular Session of the 129th Legislature. In addition, the task force shall compile an official record of its activities, which must include reports, testimony and other materials submitted to the task force, as well as documentation of all recommendations considered by the task force regardless of whether such recommendations were adopted. The Joint Standing Committee on Judiciary shall report out legislation based on the consensus-based recommendations of the task force. Any law enacted by the Legislature pursuant to this order that affects An Act To Implement the Maine Indian Claims Settlement or the Micmac Settlement Act is also subject to approval by the affected tribe or tribes through their own governmental processes.