## MAINE STATE LEGISLATURE

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## STATE OF MAINE SENATE 110TH LEGISLATURE FIRST REGULAR SESSION

SENATE AMENDMENT"A"to H.P. 816, L.D. 940, Bill, "AN ACT Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1981, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government."

Amend the bill in PART A by inserting after "DEPARTMENT OF HUMAN SERVICES" the following:

## 'INDIAN HOUSING AUTHORITIES

Penobscot Tribal Reservation

All Other

\$ 41,385

Indian Township Passamaquoddy

All Other

55,645

Pleasant Point Passamaquoddy

All Other

57,970

There exists a dispute between the Executive Branch and the Tribal Housing Authorities as to the validity of certain co-operation agreements originating in 1969 and signed by the Tribal Housing Authorities and the State. This appropriation is intended to continue financial assistance to the Tribal Housing Authorities pending resolution of this dispute.

INDIAN HOUSING AUTHORITIES

Total Current Services

\$155,000

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Further amend the bill in PART A by striking out all of the last line and inserting in its place the following:

'TOTAL PART A

\$8,026,367'

## Statement of Fact

This bill provides interim funding for the 3 Maine Indian
Housing Authorities. These Authorities were created by the State in
1967. In that same year, the Legislature authorized the Executive
Branch ( )to provide "facilities, services and financial aid "
to these Authorities through "agreements which may extend over any
period," as long as such agreements did not violate any "constitutional
provision or treaty." Acting pursuant to this authority, Governors
Curtis and Longley entered into various Cooperation Agreements with
the Indian Housing Authorities in which the State pledged to provide
various services to the Authorities during the life of certain projects.
Deputy Attorney General George West certified that the Agreements signed
by Governor Curtis were valid. Deputy Attorney General John Paterson
certified that the Agreements signed by Governor Longley were valid.
The State has provided funds for the fulfillment of these Agreements
during each of the last 10 years.

The Indians raised the Indian Housing Authority Agreements during their negotiations with the Attorney General's office concerning settlement of the Indian Land Claims, and cited the Housing Authority Agreements as an example of obligations which would continue after the

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Despite this history, the Governor's office now takes the position that Section 12 of the federal settlement legislation, which relieves the State from obligations arising from "treaties or agreements" with Indian tribes, wiped out the Cooperative Agreements. In the alternative the Governor's office contends that the Agreements were invalid from the outset because they committed future Legislatures to funding. The Indians maintain that the Agreements were not affected by Section 12 because it only relates to treaties or agreements with tribes, and the Tousing Authorities are separate legal entities. They also maintain that Deputy Attorneys General West and Paterson were correct in certifying that the Agreements were valid because the Agreements give the State the option of providing state officials to perform the required services.

The State provided inadequate funding for the Housing Authorities during fiscal year 1981. In recognition of the dire financial situation created by this inadequate funding, the Governor requested \$155,000 for the authorities in Legislative Document 63, "AN ACT Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1981, and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government." However because the Governor also included language in L.D. 63 to the effect that the State had no legal obligation to provide even these funds, the Appropriations Committee deleted the amount.

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This amendment restores the funds recommended by the Governor and deletes the language in L.D. 63 which denies the State's legal obligation to continue to honor these Cooperative Agreements.

This amendment would also make changes in the fiscal note of the LD as follows.

Under PART A - the figure \$7,871,367 would be changed to \$8.026,367.

Under TOTAL - the figure \$8,287,547 would be changed to \$8,442,547.

(Sen. Najarian)

NAME: Mary Majariax

COUNTY: Cumberland

Reproduced and distributed pursuant to Senate Rule 11-A. February 25, 1981 (Filing No. S-26)