

MAINE STATE LEGISLATURE

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1 (Governor's Bill)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TENTH LEGISLATURE
5

6 **Legislative Document**

No. 2076

8
9 S. P. 931 In Senate, March 18, 1982
Referred to the Committee on Judiciary. Sent down for concur-
rence. Ordered Sent Forthwith.

Presented by Senator Carpenter of Aroostook.
Cosponsor: Representative Ingraham of Houlton.

10
11 STATE OF MAINE
12

13 IN THE YEAR OF OUR LORD
14 NINETEEN HUNDRED AND EIGHTY-TWO
15

16 AN ACT to Amend the Maine Implementing
17 Act with Respect to the Houlton Band
18 of Maliseet Indians.
19

20 Be it enacted by the People of the State of Maine as follows:

21 **Sec. 1.** 30 MRSA §6203, sub-§2-A is enacted to read:

22 2-A. Houlton Band Trust Land. "Houlton Band Trust
23 Land" means land or natural resources acquired by the secre-
24 tary in trust for the Houlton Band of Maliseet Indians, in
25 compliance with the terms of this Act and the Maine Indian
26 Claims Settlement Act of 1980, United States Public Law
27 96-420, with moneys from the original \$900,000 congressional
28 appropriation and interest thereon deposited in the Land Ac-
29 quisition Fund established for the Houlton Band of Maliseet
30 Indians pursuant to United States Public Law 96-420, Section
31 5, United States Code, Title 25, Section 1724, or with pro-
32 ceeds from a taking of Houlton Band Trust Land for public
33 uses pursuant to the laws of this State or the United
34 States.

1 Sec. 2. 30 MRSA §6205-A is enacted to read:

2 §6205-A. Acquisition of Houlton Band Trust Land

3 1. Approval. The State of Maine approves the acquisition,
4 by the secretary, of Houlton Band Trust Land within
5 the State of Maine provided as follows.

6 A. No land or natural resources acquired by the secre-
7 tary may have the status of Houlton Band Trust Land, or
8 be deemed to be land or natural resources held in trust
9 by the United States, until the secretary files with
10 the Maine Secretary of State a certified copy of the
11 deed, contract or other instrument of conveyance,
12 setting forth the location and boundaries of the land
13 or natural resources so acquired. Filing by mail shall
14 be complete upon mailing.

15 B. No land or natural resources may be acquired by the
16 secretary for the Houlton Band of Maliseet Indians
17 until the secretary files with the Maine Secretary of
18 State a certified copy of the instrument creating the
19 trust described in section 6208-A, together with a
20 letter stating that he holds not less than \$100,000 in
21 a trust account for the payment of Houlton Band of
22 Maliseet Indians' obligations, and a copy of the claim
23 filing procedures he has adopted.

24 C. No land or natural resources located within any
25 city, town, village or plantation may be acquired by
26 the secretary for the Houlton Band of Maliseet Indians
27 without the approval of the legislative body of the
28 city, town, village or plantation.

29 2. Takings for public uses. Houlton Band Trust Land
30 may be taken for public uses in accordance with the laws of
31 the State of Maine to the same extent as privately-owned
32 land. The proceeds from any such taking shall be deposited
33 in the Land Acquisition Fund. The United States shall be a
34 necessary party to any such condemnation proceeding. After
35 exhausting all state administrative remedies, the United
36 States shall have an absolute right to remove any action
37 commenced in the courts of this State to a United States'
38 court of competent jurisdiction.

39 3. Restraints on alienation. Any transfer of Houlton
40 Band Trust Land shall be void ab initio and without any
41 validity in law or equity, except:

42 A. Takings for public uses pursuant to the laws of
43 this State;

1 B. Takings for public uses pursuant to the laws of the
2 United States;

3 C. Transfers of individual use assignments from one
4 member of the Houlton Band of Maliseet Indians to
5 another band member;

6 D. Transfers authorized by United States Public Law
7 96-420, Section 5(g)(3), United States Code, Title 25,
8 Section 1724(g)(3); and

9 E. Transfers made pursuant to a special act of Con-
10 gress.

11 If the fee to the Houlton Band Trust Fund Land is lawfully
12 transferred to any person or entity, the land so transferred
13 shall cease to have the status of Houlton Band Trust Land.

14 **Sec. 3. 30 MRSA §6206-A is enacted to read:**

15 §6206-A. Powers of the Houlton Band of Maliseet Indians

16 The Houlton Band of Maliseet Indians shall not exercise
17 nor enjoy the powers, privileges and immunities of a municipi-
18 ality nor exercise civil or criminal jurisdiction within
19 their lands prior to the enactment of additional legislation
20 specifically authorizing the exercise of those governmental
21 powers.

22 **Sec. 4. 30 MRSA §6208, sub-§2, as enacted by PL 1979,**
23 **c. 732, §§1 and 31, is amended by adding after the first**
24 **sentence a new sentence to read:**

25 The Houlton Band of Maliseet Indians shall make payments in
26 lieu of taxes on Houlton Band Trust Land in an amount equal
27 to that which would otherwise be imposed by a municipality,
28 county, district, the State or other taxing authority on
29 that land or natural resource.

30 **Sec. 5. 30 MRSA §6208, sub-§2, as enacted by PL 1979,**
31 **c. 732, §§1 and 31, is amended by adding at the end a new**
32 **sentence to read:**

33 The Houlton Band of Maliseet Indians shall not be deemed to
34 own or use any property for governmental purposes.

35 **Sec. 6. 30 MRSA §6208, sub-§3, as enacted by PL 1979,**
36 **c. 732, §§1 and 31, is amended by adding at the end a new**
37 **sentence to read:**

1 The Houlton Band of Maliseet Indians shall not be deemed to
2 be a governmental entity or to have the powers of a municipi-
3 ality.

4 **Sec. 7. 30 MRSA §6208-A is enacted to read:**

5 §6208-A. Houlton Band Tax Fund

6 1. Fund. The satisfaction of obligations, described
7 in section 6208, owed to a governmental entity by the
8 Houlton Band of Maliseet Indians shall be assured by a trust
9 fund to be known as the Houlton Band Tax Fund. The secre-
10 tary shall administer the fund in accordance with reasonable
11 and prudent trust management standards. The initial prin-
12 cipal of the fund shall be not less than \$100,000. The
13 principal shall be formed with moneys transferred from the
14 Land Acquisition Fund established for the Houlton Band of
15 Maliseet Indians pursuant to United States Public Law
16 96-420, Section 5, United States Code, Title 25, Section
17 1724. Any interest earned by the Houlton Band Tax Fund
18 shall be added to the principal as it accrues and that
19 interest shall be exempt from taxation. The secretary shall
20 maintain a permanent reserve of \$25,000 at all times and
21 that reserve shall not be made available for the payment of
22 claims. The interest earned by the reserved funds shall
23 also be added to the principal available for the payment of
24 obligations.

25 2. Claims. The secretary shall pay from the fund all
26 valid claims for taxes, payments in lieu of property taxes
27 and fees, together with any interest and penalties thereon,
28 for which the Houlton Band of Maliseet Indians is liable
29 pursuant to section 6208, provided that such obligation is
30 final and not subject to further direct administrative or
31 judicial review under the laws of the State of Maine. No
32 payment of a valid claim may be satisfied with moneys from
33 the fund unless the secretary finds, as a result of his own
34 inquiry, that no other source of funds controlled by the
35 secretary is available to satisfy the obligation. The
36 secretary shall adopt written procedures, consistent with
37 this section, governing the filing and payment of claims
38 after consultation with the Maine Commissioner of Finance
39 and Administration and the Houlton Band of Maliseet Indians.

40 3. Distributions. If the unencumbered principal
41 available for the payment of claims exceeds the sum of
42 \$100,000, the secretary shall, except for good cause shown,
43 provide for the transfer of such excess principal to the
44 Houlton Band of Maliseet Indians. The secretary shall give
45 30 days' written notice to the Commissioner of Finance and

1 Administration of a proposed transfer of excess principal to
2 the Houlton Band of Maliseet Indians. Any distribution of
3 excess principal to the Houlton Band of Maliseet Indians
4 shall be exempt from taxation.

5 4. Other remedies. The existence of the Houlton Band
6 Tax Fund as a source for the payment of Houlton Band of
7 Maliseet Indians' obligations shall not abrogate any other
8 remedy available to a governmental entity for the collection
9 of taxes, payments in lieu of taxes and fees, together with
10 any interest or penalty thereon.

11 **Sec. 8. Effective date.** This Act shall be effective
12 only upon enactment of legislation by the United States:

13 1. Ratifying and approving this Act without modifi-
14 cation;

15 2. Amending United States Public Law 96-420, Section
16 6(e)(1), United States Code, Title 25, Section 1725(e)(1),
17 in order to provide the consent of the United States to the
18 amendment of the Maine Implementing Act with respect to the
19 Houlton Band of Maliseet Indians, provided that the amend-
20 ment of the Maine Implementing Act is made with the agree-
21 ment of the Houlton Band of Maliseet Indians; and

22 3. Amending United States Public Law 96-420, Section
23 5(d), United States Code, Title 25, Section 1724(d), in
24 order to provide the consent of the United States to the
25 transfer of funds from the Land Acquisition Fund established
26 for the Houlton Band of Maliseet Indians to the Houlton Band
27 Tax Fund described in this Act and also to provide for a
28 reversionary interest of the Penobscot Nation and the
29 Passamaquoddy Tribe in the funds so transferred in the event
30 the Houlton Band of Maliseet Indians should terminate its
31 interest in the Houlton Band Trust Fund.

32 In no event shall this Act become effective until 90
33 days after the adjournment of the Legislature, as required
34 by the Constitution of Maine, Article IV, Part 3, section
35 16.

36 STATEMENT OF FACT

37 The Maine Indian Claims Settlement Act of 1980, Public
38 Law 96-420, enacted by Congress created a \$900,000 Land Ac-
39 quisition Fund for the Houlton Band of Maliseet Indians.
40 Under the provisions of that federal act, the Secretary of
41 the Interior of the United States cannot use fund moneys to

1 acquire land for the Houlton Band of Maliseet Indians until
2 the State enacts appropriate legislation approving such land
3 acquisitions. This bill is intended to satisfy that re-
4 quirement. The bill is the product of negotiations between
5 the State and the Houlton Band of Maliseet Indians.

6 Under the provisions of this Act, the lands acquired by
7 the secretary for the Houlton Band of Maliseet Indians, to
8 be called Houlton Band Trust Land, will be subject to the
9 general laws of the State with certain limited exceptions;
10 they will be subject to payments in lieu of property taxes
11 and they will be subject to certain special restraints on
12 alienation. This Act provides for the creation of a special
13 trust fund of \$100,000 to assure the satisfaction of tax
14 obligations owed to Maine governmental entities.

15 This Act is effective only upon enactment of legis-
16 lation by the United States ratifying and approving this Act
17 without modification, providing for the transfer of moneys
18 from the Land Acquisition Fund to the Houlton Band Tax Fund
19 and authorizing the Legislature to modify the Maine Imple-
20 menting Act as it relates to the Houlton Band of Maliseet
21 Indians, with the consent of the band.

22 Section 1 defines the term "Houlton Band Trust Land."
23 Houlton Band Trust Land may be acquired only by the Secre-
24 tary of the Interior of the United States. It must be pur-
25 chased with moneys from the Land Acquisition Fund estab-
26 lished by Congress for the Houlton Band of Maliseet Indians.
27 The secretary must comply with the conditions set forth in
28 the Maine Revised Statutes, Title 30, section 6205-A, when
29 he acquires such land.

30 Section 2 states that the Secretary of the Interior of
31 the United States may not purchase trust land for the
32 Houlton Band of Maliseet Indians until he creates a special
33 tax fund, described in the Maine Revised Statutes, Title 30,
34 section 6208-A, and files with the Maine Secretary of State
35 a copy of the tax fund trust document, a copy of the claim
36 filing procedures and a statement certifying that the tax
37 fund, containing at least \$100,000, is available for pay-
38 ment. This section requires the Secretary of the Interior
39 of the United States to notify the Maine Secretary of State
40 when he purchases Houlton Band Trust Land. The secretary
41 may not purchase land located within the confines of a
42 municipality without the approval of the municipality.

43 Section 6205-A, subsection 2, provides that Houlton
44 Band Trust Land may be taken for public uses under the laws
45 of this State. The United States is a necessary party to

1 such condemnation proceedings. The compensation paid in
2 connection with a condemnation of Houlton Band Trust Land
3 must be deposited in the Land Acquisition Fund to be used
4 for the purchase of additional Houlton Band Trust Land.

5 Section 6205-A, subsection 3, prohibits the alienation
6 of Houlton Band Trust Land, except as provided in paragraphs
7 A to E. When the fee to Houlton Band Trust Land is properly
8 transferred, it loses its special trust status.

9 Section 3 states that the Houlton Band of Maliseet
10 Indians may not exercise municipal powers or civil and crim-
11 inal jurisdiction until such time as the Legislature enacts
12 new legislation authorizing the exercise of such powers.

13 Sections 4 and 5 state that the Houlton Band Trust
14 Land, like Penobscot and Passamaquoddy Indian Territory, is
15 subject to payments in lieu of property taxes. The Houlton
16 Band of Maliseet Indians is not deemed to own or use prop-
17 erty for governmental purposes.

18 Section 6 states that the Houlton Band of Maliseet
19 Indians is liable for the payment of all taxes and fees
20 other than, as explained previously, for property taxes on
21 Houlton Band Trust Land. The Houlton Band of Maliseet
22 Indians is not deemed to be a governmental entity or to have
23 the powers of a municipality.

24 Section 7 states that the Secretary of the Interior of
25 the United States may not purchase land for the Houlton Band
26 of Maliseet Indians until he establishes a special tax fund.
27 The fund will contain at least \$100,000 and will be avail-
28 able for the payment of taxes, payments in lieu of property
29 taxes and fees owed to Maine governmental entities by the
30 Houlton Band of Maliseet Indians. No private obligations
31 may be satisfied with fund moneys. The unencumbered portion
32 of the tax fund in excess of \$100,000 may be transferred to
33 the Houlton Band of Maliseet Indians.

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