

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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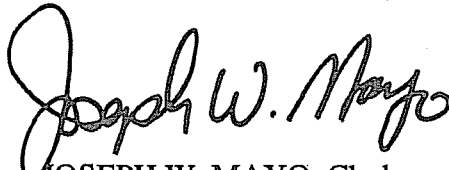
H.P. 1471

House of Representatives, March 31, 1994

**An Act Authorizing a Tribally Owned Casino in the City of Calais.**

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Reported by Report "C" from the Joint Standing Committee on Judiciary pursuant to Joint Order H.P. 1416.

  
JOSEPH W. MAYO, Clerk

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

PART A

Sec. A-1. 8 MRSA §275-D, sub-§§1 and 9, as enacted by PL 1993, c. 388, §8, are amended to read:

1. Off-track betting on simulcast racing. A person may conduct pari-mutuel wagering at a Class A restaurant, as defined in Title 28-A, section 2, subsection 15, paragraph R, or at a gaming facility licensed under Title 17, chapter 16 in this State if the restaurant or the gaming facility is licensed as an off-track betting facility under this section.

9. Annual report. The commission shall report annually by January 1st to the joint standing committee of the Legislature having jurisdiction over legal affairs matters and to the joint standing committee of the Legislature having jurisdiction over agricultural matters on the effect of off-track betting facilities, including those located at gaming facilities licensed under Title 17, chapter 16, on the local economy, the public interest, the integrity of live racing and other matters the commission finds appropriate. The commission may include in its report any recommendations for necessary changes in laws governing off-track betting.

Sec. A-2. 17 MRSA c. 16 is enacted to read:

CHAPTER 16

INDIAN GAMING

§361. Findings and purpose; tribal revenues

1. Opportunities. The Legislature recognizes the importance of providing federally recognized self-governing Indian tribes with improved opportunities for tribal self-sufficiency and self-determination, and that there are 2 such tribes, the Passamaquoddy Tribe and the Penobscot Nation, in this State.

2. Economic impact. The Legislature finds that Indian gaming has been demonstrated to be an effective means of support for tribal governments and programs and has provided economic stimulus to many of the remote areas of the United States where Indian tribes are now located, if the gaming is well managed and well regulated. The Legislature further finds that the Washington County area, where the Passamaquoddy Indian Reservations are located, has long had a declining regional economy, with few prospective economic opportunities.



2 the predominating factor or element in the winning or awarding of  
3 a prize. "Bazaar game" does not include a lottery or any game,  
4 amusement, contest or enterprise where the skill, accomplishment,  
5 art or adroitness of the operator or participant is the primary  
6 factor in the winning or awarding of a prize.

7  
8 2. Electronic gaming device. "Electronic gaming device"  
9 means any electrical device, contrivance or machine that, upon  
10 insertion of a coin, currency, token or similar object, or upon  
11 payment of any consideration, is available to play or operate and  
12 the play or operation is dependent in whole or in part upon  
13 chance, and that may deliver or entitle the person playing or  
14 operating the machine to receive cash or tokens to be exchanged  
15 for cash or to receive any merchandise or thing of value, whether  
16 the payoff is made automatically from the machine or in any other  
17 manner.

18 3. Enterprise. "Enterprise" means any individual, trust,  
19 corporation, partnership or other legal entity of any kind other  
20 than a tribal enterprise wholly owned by a tribe licensed under  
21 this chapter. With respect to a corporation, the term  
22 "enterprise" includes any other corporation or other legal entity  
23 that, directly or indirectly, controls a majority of the voting  
24 interests in the corporation. With respect to a partnership,  
25 trust, or other form of unincorporated business organization, the  
26 term "enterprise" includes any corporation or other legal entity  
27 that, directly or indirectly, controls a majority of the voting  
28 interests in that organization.

29  
30 4. Gaming employee. "Gaming employee" means any natural  
31 person employed in the operation or management of gaming  
32 facilities licensed under this chapter, whether employed by the  
33 tribal licensee or by any enterprise providing on-site services  
34 to the tribal licensee within a gaming facility. "Gaming  
35 employee" includes, but is not limited to, gaming facility  
36 managers and assistant managers; accounting personnel; gaming  
37 facility security personnel; gaming facility surveillance  
38 personnel; credit executives; gaming facility cashier  
39 supervisors; dealers or croupiers; box bosses; floorworkers; pit  
40 bosses; electronic gaming device mechanics and attendants; shift  
41 bosses; cage personnel; collection personnel; lottery ticket  
42 sellers; persons employed in the acceptance or redemption of  
43 pari-mutuel wagers; simulcasting equipment operators; computer  
44 operators and technicians; food and beverage service personnel;  
45 and any other natural person whose employment duties require or  
46 authorize access to restricted areas of the gaming facilities not  
47 otherwise opened to the public. "Gaming employee" does not  
48 include a State Police inspector or auditor who has access to  
49 those restricted areas under section 368 or section 377.  
50

2        5. Gaming equipment. "Gaming equipment" means a machine or  
3        device that is specially designed or manufactured for use in the  
4        operation of a licensed gaming activity under this chapter,  
5        including, but not limited to, electronic gaming devices, lottery  
6        tickets, lottery on-line computer equipment, lottery drawing  
7        equipment and pari-mutuel electronic totalizator systems.

8        6. Gaming facility. "Gaming facility" means any room or  
9        rooms in which gaming authorized under this chapter is conducted.

10       7. Gaming premises. "Gaming premises" means any building  
11       containing a gaming facility.

12       8. Gaming school. "Gaming school" means any enterprise  
13       organized to provide specialized training to gaming employees for  
14       the conduct of gaming under this chapter, other than programs  
15       operated by a tribal licensee, or the person or enterprise under  
16       an approved contract to a tribal licensee, for the management of  
17       the gaming facility.

18       9. Gaming services. "Gaming services" means any goods or  
19       services provided to a tribal licensee under this chapter  
20       directly in connection with the operation of gaming in a gaming  
21       facility, including, but not limited to, maintenance or security  
22       services for the gaming facility, junket services, gaming  
23       schools, printing or manufacture of lottery or pari-mutuel  
24       betting tickets, laboratory testing of gaming equipment,  
25       including electronic gaming devices or lottery tickets, and  
26       manufacture, distribution, maintenance or repair of gaming  
27       equipment.

28       10. Indian tribe. "Indian tribe" or "tribe" means any  
29       Indian tribe or nation of Indians that is recognized by the  
30       Government of the United States as eligible for the services  
31       provided by the United States to Indians and that possesses  
32       substantial powers of self-government over Indian territory as  
33       defined in Title 30, section 6205, title to which is either held  
34       in trust by the United States for the benefit of the tribe or  
35       held by the tribe subject to restriction by the United States  
36       against alienation.

37       11. Institutional investor. "Institutional investor" means  
38       any investment company registered under the Investment Company  
39       Act of 1940, 15 United States Code, Sections 80a-1 to 80a-64, any  
40       investment adviser registered under the Investment Advisers Act  
41       of 1940, 15 United States Code, Sections 80b-1 to 80b-21, and  
42       other types of institutional managers of pooled investment  
43       resources approved by rule.

2 12. Junket services. "Junket services" means an  
3 arrangement to facilitate the attendance at a gaming facility of  
4 customers selected by reason of their propensity to gamble by  
5 providing to those customers any consideration, including cash or  
6 rebates or reduced charges for goods or services such as  
7 transportation, lodging, food, beverages or entertainment.  
8 "Junket services" does not include providing common  
9 transportation to a gaming facility to the public without  
10 limitation to selected customers.

11 13. Key employee. "Key employee" means any natural person  
12 employed in the operation of licensed gaming in a supervisory  
13 capacity or empowered to make discretionary decisions that  
14 regulate gaming operations, including, but not limited to, pit  
15 bosses, shift bosses, credit executives, casino cashier  
16 supervisors, casino managers and assistant managers, and managers  
17 or supervisors of casino security employees.

18 14. Lottery. "Lottery" means any game for which tickets  
19 are sold, the winning ticket or tickets are secretly  
20 predetermined or ultimately selected in a chance drawing and the  
21 holders of winning tickets receive money or something of value.

22 15. Principal employee. "Principal employee" means any  
23 employee of an enterprise contracting to manage a gaming facility  
24 licensed under this chapter who, by reason of a management,  
25 supervisory or policy-making position or other criteria  
26 established by rules, holds or exercises authority sufficiently  
27 related to the operation of licensed gaming so as to require  
28 review by the Chief of the State Police in considering a gaming  
29 facility management contract in the protection of the public  
30 interest.

31 §363. Legislative approval of location

32 1. Legislative approval. An Indian tribe may not conduct  
33 gaming authorized under this chapter without the enactment of  
34 legislation approving a location. The legislative approval of a  
35 location required by this section is essential to the conduct of  
36 gaming under this chapter, but does not relieve the licensee from  
37 the requirements of any other applicable state or local laws or  
38 ordinances.

39 2. Passamaquoddy Tribe; Calais. Pursuant to subsection 1,  
40 the Passamaquoddy Tribe is authorized to conduct gaming in any  
41 one area not exceeding 100 acres in the City of Calais approved  
42 for that purpose by the Calais City Council within one year after  
43 the effective date of this chapter.

2           3. Geographic conditions. The location of a gaming  
3           facility not authorized under subsection 2 may not be approved  
4           under subsection 1 unless the following conditions are met at the  
5           time of approval.

6           A. A gaming facility may not be located less than 75 miles  
7           from a municipality with a population greater than 30,000 in  
8           the State.

10          B. The unemployment rate in the county where the gaming  
11          facility will be located must exceed 7% averaged over the 12  
12          months before the first day of the legislative session at  
13          which the legislation is introduced.

14          C. The gaming facility must be located closer to a  
15          municipality with a population greater than 30,000 in  
16          another state or country than it is to a municipality with a  
17          population greater than 30,000 in this State.

20        §364. Jurisdiction; law enforcement

22          Legal jurisdiction and the law enforcement authority of the  
23          State and a tribe holding a license under this chapter with  
24          respect to any gaming conducted pursuant to this chapter are  
25          allocated as set forth in the Act to Implement the Maine Indian  
26          Claims Settlement. Each applicant for a license under this  
27          chapter shall consult with the Bureau of State Police about law  
28          enforcement, security and public safety arrangements with respect  
29          to the gaming premises. The bureau and the applicant must agree  
30          on those arrangements before issuance of a license under section  
31          366.

32        §365. Specified gaming legalized

34          1. Permissible games. An Indian tribe, as defined in  
35          section 362, may apply for a license to conduct any of the games  
36          or activities identified in this section or identified by rule  
37          within each of the following types of gaming:

38            A. Games of chance, including the following:

40                (1) Blackjack;

42                (2) Poker;

44                (3) Dice;

46                (4) Money-wheels;

48                (5) Roulette;



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- (6) Baccarat;
- (7) Minibaccarat;
- (8) Chuck-a-luck;
- (9) Pan game;
- (10) Over and Under;
- (11) Horse Race game;
- (12) Acey-deucey;
- (13) Beat the Dealer;
- (14) Bouncing Ball;
- (15) Caribbean Stud Poker; and
- (16) Red Dog Poker;

B. Electronic gaming devices in which the payback value of each type of game offered by each device is at least 80%;

C. Any bazaar game, other than bingo or beano, not listed in paragraph A, but only if conducted solely for merchandise prizes;

D. Any lottery game conducted exclusively within the licensed premises; and

E. Off-track betting pursuant to Title 8, sections 275-C and 275-D.

2. Licensed gaming unrestricted. When licensed for a game or activity, an Indian tribe may conduct the game or activity without restriction as to number, hours or wagering.

3. Notice of odds. Language describing the theoretical odds of the game must be prominently displayed at each game.

4. Prohibited gaming. A tribe, or any member or agent of a tribe, may not conduct a form of gaming on the gaming premises licensed under this chapter that is not:

A. Expressly authorized by the terms of a license issued under this chapter; or

2                    B. Otherwise legal under state law.

4                    5. Prohibition on attendance of minors. A person under 21  
6                    years of age may not be admitted into any gaming facility or be  
8                    permitted to place any wager, directly or indirectly, except that  
10                   a person under the specified age may be employed in a gaming  
12                   facility operated under this chapter if that person is not  
14                   employed in the serving of alcoholic beverages or in the conduct  
16                   of gaming.

18                   6. Prohibition on gaming by gaming employees. A person  
20                   licensed as a gaming employee under section 370 may not place any  
22                   wager, directly or indirectly, or otherwise participate in gaming  
24                   at the gaming facility where the person is employed.

26                   7. Off-track betting application required. An application  
28                   for a gaming license under section 366 must include a proposal to  
30                   conduct off-track betting.

32                   **§366. Gaming license**

34                   1. License application. An Indian tribe, as defined in  
36                   section 362, may apply to the Bureau of State Police for a  
38                   license to conduct any of the games identified in section 365 or  
40                   in implementing rules. With its application, the tribe must  
42                   produce information, documentation and assurances concerning:

44                   A. The financial resources available to establish, operate  
46                   and maintain the proposed gaming premises, including all  
48                   financial backers, investors, mortgagees, bond holders, and  
50                   holders of indentures, notes or other evidences of  
indebtedness, either in effect or proposed, that bear any  
relation to the gaming operations proposed. Except with  
respect to regulated banks and other licensed lending  
institutions providing financing in the ordinary course of  
business, these submissions must include bank references;  
and those business or personal income and disbursement  
schedules, tax returns and other reports filed with  
governmental agencies, business or personal accounting and  
check records and ledgers as are appropriate or requested.  
Each applicant shall, in writing, authorize the examination  
of all bank accounts and records considered necessary by the  
Bureau of State Police;

B. The ability and experience of the applicant, by itself  
or through contractual relationships, to successfully  
operate the proposed gaming activities. The applicant shall  
produce the names of all proposed key employees as they  
become known, together with identifying personal information  
and a description of their respective or proposed  
responsibilities;

2           C. The good character, honesty and integrity of key  
4           employees of the proposed gaming facility, and of any tribal  
6           officials and tribal employees having direct authority over  
8           gaming management or operations. The application must  
10           include information pertaining to family, habits, character,  
12           reputation, criminal and arrest record, business activities,  
            financial affairs and business, professional and personal  
            associates, covering at least the 10-year period immediately  
            preceding the filing of the application. Each applicant  
            must notify the Bureau of State Police of any civil  
            judgments obtained against any such person;

14           D. The history in other gaming jurisdictions of any person  
16           or enterprise providing, writing or designing management  
18           structures, security systems or internal operating controls  
20           for the proposed gaming operations. With respect to that  
22           person or enterprise, the applicant shall produce letters of  
24           reference, when requested by the Bureau of State Police,  
26           from the gaming or casino enforcement or control agency from  
28           those jurisdictions. The letters of reference must specify  
            the experiences of the agency with the person or enterprise,  
            the person's associates and the person's gaming operation.  
            If no such letters are received within 60 days of request,  
            the applicant may submit a statement under oath that the  
            person or enterprise is or was in good standing with the  
            gaming or casino enforcement or control agency in the  
            requested jurisdiction; and

30           E. A full description of the management structures,  
32           security systems and internal operating controls and  
            standards under which the proposed gaming will be conducted.

34           2. Licensing criteria. The Bureau of State Police shall  
36           determine, as soon as practicable after receipt of a completed  
            application, whether each of the following criteria is satisfied.

38           A. The sources and means of financing the proposed gaming  
40           premises are sufficient to reasonably ensure the financial  
42           stability, integrity and responsibility of the gaming  
44           operations proposed and the applicant has or will have  
            adequate financial resources to establish, operate and  
            maintain the proposed gaming premises.

46           B. The proposed gaming will be conducted by persons with  
48           sufficient business ability and gaming experience to  
            establish the likelihood that a successful, efficient gaming  
            operation will be created and maintained.



2 D. The contract is for a definite term, not to exceed 7  
4 years, sufficient to ensure reasonable continuity, stability  
and independence in the management of the gaming; and

6 E. If the contract provides for the payment to the managing  
8 enterprise of an interest or share of revenues or profits,  
10 the payment does not exceed 40% of the net revenues of the  
12 gaming enterprise, after deduction of all payments made on  
wagers and of all ordinary and reasonable operating expenses  
other than management fees, as those expenses are defined by  
generally accepted accounting principles.

14 2. Institutional investors. An institutional investor  
16 holding less than 10% of the equity securities of an enterprise  
contracting to provide management services to a gaming licensee  
18 under this chapter or holding debt securities consisting of less  
20 than 20% of the total outstanding debt or less than 50% of any  
issue of the outstanding debt of such an enterprise is exempt  
from qualification under subsection 1 if:

22 A. The securities are those of a publicly traded  
24 corporation;

26 B. The securities were purchased for investment purposes  
28 only and the institutional investor has no intention of  
30 influencing or affecting the affairs of the issuing  
enterprise, other than by voting on matters put to the vote  
of the holders of the securities; and

32 C. The Chief of the State Police has no reason to believe  
34 that the institutional investor would be unqualified under  
licensing standards for key employees.

36 The Chief of the State Police may require any institutional  
38 investor claiming exemption under this subsection to file a  
40 certified statement to the effect that the securities were  
42 purchased for investment purposes only and that the institutional  
44 investor has no intention of influencing or affecting the affairs  
46 of the issuing enterprise, other than by voting on matters put to  
48 the vote of the holders of the securities. If an institutional  
investor changes its investment intent or if the Chief of the  
State Police has reasonable cause to believe that the  
institutional investor may be found unqualified, no action other  
than divestiture may be taken by the investor with respect to its  
security holdings in the enterprise until the directors, officers  
and each person who directly or indirectly owns or controls more  
than 5% of the institutional investor is found to be individually  
qualified for approval as a key employee under this chapter.

2 **§368. State supervision of gaming operations**

4 **1. Oversight.** The Bureau of State Police has primary  
6 responsibility for oversight of tribal gaming operations and  
8 shall, for that purpose, employ nonuniformed inspectors who are  
10 entitled to be present in all parts of any gaming premises during  
12 all hours of operation. The tribal licensee shall provide the  
14 bureau with copies of its gaming facility floor plans and  
surveillance systems and confer with the bureau regarding the  
adequacy of those plans and systems. Any tribe proposing to  
operate or operating a gaming facility licensed under this  
chapter may establish its own tribal gaming commission to provide  
tribal oversight of tribal gaming operations, in cooperation with  
the State Police and local law enforcement agencies.

16 **2. Access.** State Police inspectors must have unrestricted  
18 access to all areas of the gaming premises at all times, without  
20 prior notice, and personnel employed by the tribal gaming  
22 operation shall for that purpose provide State Police inspectors  
access to areas of the gaming premises that are locked and secure  
in accordance with the standards and management structures  
approved pursuant to section 366, subsection 2, paragraph E.

24 State Police inspectors may attend the regular count conducted by  
26 the tribal gaming operation. Auditors employed by the State  
28 Police must have unrestricted access for audit purposes during  
ordinary hours of operation, without prior notice, to inspect and  
copy all records of the tribal gaming operations, including  
30 computer log tapes and cash transaction reports required to be  
maintained under federal law, and personnel employed by the  
32 tribal gaming operation shall for those purposes provide State  
Police auditors access to areas of the gaming premises that are  
locked and secure in accordance with the standards and management  
34 structures approved pursuant to section 366, subsection 2,  
paragraph E, except that all records of the tribal gaming  
36 operations obtained by the State Police are confidential and  
proprietary financial information belonging to the tribe and may  
38 not be disclosed by the State without the express written consent  
of the tribe.

40 A tribal licensee shall provide the State Police with access to  
42 reasonable office space within the gaming premises for use of  
44 their personnel for the purpose of oversight and audit  
46 activities. Personnel employed by the State Police may not  
interfere with the conduct of the tribal gaming operations except  
as required to perform those functions provided for by law.

48 **3. Investigation.** The State Police may conduct  
50 investigations it considers appropriate to investigate violations  
of applicable law and for that purpose the Chief of the State

2 Police may issue subpoenas to compel the attendance of witnesses  
4 and the production of evidence relevant to any fact at issue. If  
6 a witness refuses to obey a subpoena issued by the Chief of the  
8 State Police or to give any evidence relevant to proper inquiry  
10 by the chief, the Attorney General may petition the Superior  
12 Court in the county where the refusal occurred to find the  
14 witness in contempt. The Attorney General shall cause to be  
served on the witness an order requiring that witness to appear  
before the Superior Court to show cause why that witness should  
not be adjudged in contempt. The court shall, in a summary  
manner, hear the evidence and, if it warrants the court to do so,  
punish the witness in the same manner and to the same extent as  
for contempt committed before the Superior Court or with  
reference to the process of the Superior Court.

16 4. Enforcement. The Bureau of State Police shall consult  
18 frequently on an informal basis with the tribal gaming commission  
20 or other designee of the licensee with respect to the conduct of  
22 gaming and may provide written notice to the tribal licensee of  
24 any violation, specifying the remedial action needed. As a  
26 temporary remedy only, pending consultation with the licensee and  
28 any remedial action by the licensee considered necessary, the  
30 bureau has the authority to require the shutdown of any machine,  
32 table or form of gaming for as long as the bureau has cause to  
34 question the integrity of the gaming. The notice specified in  
this subsection must be provided before the commencement of any  
civil enforcement action against any licensee, whether  
administrative or judicial. If a violation is not remedied to  
the satisfaction of the bureau within 5 days from delivery of  
written notice of the violation to the licensee, or any longer  
time specified in the notice, the licensee is liable for a civil  
forfeiture of \$500 per day thereafter. Any violation of this  
chapter or its implementing rules or of the terms or conditions  
of a license issued under section 366 may be enjoined in an  
action for that purpose brought in the name of the State.

36 **§369. Rulemaking**

38 1. Authority. Following consultation with any Indian tribe  
40 potentially affected, the Chief of the State Police may adopt  
42 rules, under Title 5, chapter 375, that are necessary for the  
44 administration and enforcement of this chapter and for the  
46 licensing, conduct and operation of Indian gaming under this  
48 chapter. These rules must have the sole purpose of protecting  
50 the integrity of the gaming from the dangers of unfair or illegal  
practices, methods or activities in the conduct of gaming and  
decreasing the likelihood of criminal activity resulting from the  
conduct of gaming under this chapter and must interfere as little  
as possible with the efficient management of the gaming for the  
benefit of the tribal licensee. The rules must include, but are  
not limited to, provisions for:

- 2           A. The licensing of an Indian tribe, as defined under  
4           section 362, for the conduct of specified gaming on lands  
            approved for that purpose under the terms of this chapter;
- 6           B. The individual licensing of all persons engaged in the  
8           operation or management of tribal gaming, using licensing  
            requirements reflecting the different nature of the jobs;
- 10          C. The licensing of any enterprise providing gaming  
12          services or gaming equipment to a tribal licensee;
- 14          D. Describing the criteria for licensing determinations to  
            be made under this chapter;
- 16          E. The identification by any tribal licensee of each  
18          enterprise providing nongaming goods or services with an  
20          expected value of more than \$50,000 per year and of any  
22          labor union seeking to represent gaming employees. The  
24          rules must require contracts between the tribal licensee and  
            those enterprises to give notice of the authority of the  
            State Police to investigate those enterprises, the  
            enterprises' duty to cooperate in any such investigation and  
            the authority of the State Police to bar an enterprise from  
26          providing goods or services to the gaming operation;
- 28          F. The enforcement of this chapter, of implementing rules,  
            and of the terms and conditions of any license issued under  
30          this chapter in accordance with section 368;
- 32          G. Preventing the practice of fraud or deception upon any  
            customers of the gaming facility;
- 34          H. Technical standards or specifications for gaming  
36          equipment; and
- 38          I. The establishment of a list of persons who must be  
40          excluded or ejected from any licensed gaming facility.  
            These provisions must define the standards for exclusion,  
            and must include standards relating to persons:
- 42                 (1) Who are career or professional offenders;
- 44                 (2) Who have been convicted of a criminal offense under  
46                 the laws of any state or of the United States that is  
                punishable by more than 6 months in prison or any crime  
48                 or offense involving moral turpitude; or
- 50                 (3) Whose presence in a licensed gaming facility would,  
                in the opinion of the Chief of the State Police, be



2                   inimical to the interest of the State or licensed  
3                   Indian gaming, or both.

4                   Gaming licensees shall cooperate with the State Police in  
5                   maintaining a list of persons to be excluded from the gaming  
6                   facilities under these criteria and shall keep from their  
7                   premises persons known to them to be within the  
8                   classifications declared in this paragraph and the rules  
9                   adopted under this paragraph.

10                   2. Change; consultation.    After a hearing pursuant to the  
11                   Maine Administrative Procedure Act, a substantial change may not  
12                   be made to any proposed rule except after consultation with any  
13                   Indian tribe affected.

14                   3. Tribal petition.    Any Indian tribe potentially affected  
15                   by this chapter may petition the Chief of the State Police under  
16                   the Maine Administrative Procedure Act for the adoption,  
17                   amendment or repeal of any rule pertaining to gaming conducted  
18                   under this chapter. Notwithstanding the provisions of Title 5,  
19                   section 8055, the Bureau of State Police shall initiate  
20                   appropriate rule-making proceedings within 30 days after receipt  
21                   of such a petition pertaining to what gaming is authorized, the  
22                   technical standards or specifications of gaming equipment or the  
23                   rules of conduct of authorized gaming and shall conclude the  
24                   proceeding and issue its decision not more than 120 days after  
25                   receipt of the petition, unless the licensee consents to further  
26                   proceedings. When rulemaking is commenced in response to a  
27                   petition under this subsection, the Chief of the State Police  
28                   shall take rule-making action to accomplish the objective of the  
29                   petition, except when failure to do so is supported by a written  
30                   justification for the conclusion that the requested course or  
31                   action would threaten the integrity of the gaming at issue or  
32                   enhance the likelihood of criminal activity.

33                   4. Schedule.    Initial rules governing operation of a gaming  
34                   facility in the City of Calais by the Passamaquoddy Tribe must be  
35                   proposed no later than 75 days after the effective date of this  
36                   chapter and adopted no later than 135 days after the effective  
37                   date of this chapter.

38                   §370. Licensing of gaming employees and enterprises supplying  
39                   gaming services or equipment

40                   1. Requirement for employee licensing.    A person may not be  
41                   employed as a gaming employee unless that person is the holder of  
42                   a valid gaming employee license issued by the Bureau of State  
43                   Police in accordance with the provisions of this section and  
44                   applicable rules.

2           2. Requirement for licensing providers of gaming services  
3           or equipment. An enterprise may not provide gaming services or  
4           gaming equipment to a tribal gaming facility unless the  
5           enterprise is the holder of a valid gaming services license  
6           issued by the Bureau of State Police in accordance with the  
7           provisions of this section and applicable rules.

8           3. Fee for gaming services licensing. Any enterprise  
9           filing an application for a gaming services license pursuant to  
10           this section shall pay the Bureau of State Police a fee  
11           established by the bureau and sufficient to compensate the bureau  
12           for the costs of review of the license applications.

13           4. Procedure for license applications. The Chief of the  
14           State Police shall develop appropriate license application forms  
15           after consultation with Indian tribes affected by this chapter.  
16           Each applicant for a license under this section shall submit a  
17           completed license application to the Bureau of State Police, with  
18           a copy to the tribe, on forms provided by the bureau. The  
19           application must contain a statement by the tribe or licensed  
20           gaming service enterprise that submission of the application is  
21           approved. Each employee license application submitted to the  
22           bureau pursuant to the provisions of this section must be  
23           accompanied by the applicant's fingerprint card and photograph in  
24           the form required by the bureau.

25           The application must contain, but is not limited to, the  
26           following information regarding the applicant and, in the case of  
27           an enterprise, each officer and director of the enterprise and  
28           each partner or owner of any interest in the enterprise greater  
29           than 5%:

30           A. Full name;

31           B. Full current address and addresses for the prior 5 years;

32           C. A record of previous gaming employment, gaming school  
33           education and any issuance, refusal to issue and revocation  
34           of a gaming license in any jurisdiction; and

35           D. Answers to the following questions posed in  
36           substantially the following form.

37           (1) Have you ever been convicted of a crime in this or  
38           any other jurisdiction that is punishable by  
39           imprisonment for one year or more or adjudicated as  
40           having committed a juvenile offense that involves  
41           conduct that, if committed by an adult, would be  
42           punishable by imprisonment for one year or more?

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(2) Are you a fugitive from justice?

(3) Are you an illegal alien?

(4) Are you a drug abuser, drug addict or drug-dependent person?

(5) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a crime that is punishable by imprisonment for one year or more?

(6) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that involves conduct that, if committed by an adult, would be punishable by imprisonment for one year or more?

(7) Have you been dishonorably discharged from the military forces within the past 5 years?

(8) To your knowledge, have you been the subject of an investigation by any law enforcement agency within the past 5 years regarding the alleged abuse by you of family or household members?

(9) Have you been convicted within the past 5 years of crimes punishable by imprisonment of less than one year?

(10) Have you been adjudged within the past 5 years to have committed juvenile offenses involving conduct that, if committed by an adult, would be punishable by imprisonment of less than one year?

(11) To your knowledge, have you engaged in the past 5 years in reckless or negligent conduct that has been the subject of an investigation by a governmental entity?

5. Signature as certification. The applicant, by signing the application, certifies the following:

A. That the statements made in the application and any documents made part of the application are true and correct;

B. That the applicant understands that an affirmative answer to one or more of the questions in subsection 4, paragraph D, subparagraphs (2) and (3) will result in refusal to issue a license;

2 C. That the applicant understands that the answers to  
4 questions in subsection 4, paragraph D are used by the Chief  
6 of the State Police, along with other information, in  
8 judging good moral character and an affirmative answer to  
10 one or more of those questions may be cause for refusal to  
12 issue a license; and

14 D. That the applicant understands that knowingly making any  
16 false statement in the application or in any document made a  
18 part of the application is grounds for a refusal to issue a  
20 license or revocation or suspension of a license.

22 6. Consent to review of records. At the request of the  
24 Chief of the State Police, the applicant shall take whatever  
26 action is necessary to permit an examination of the accounts and  
28 records in the applicant's possession, under the applicant's  
30 control or under the control of 3rd parties but accessible by  
32 consent of the applicant and shall authorize all 3rd parties in  
34 possession or in control of those accounts or records to allow  
36 the Chief of the State Police or the chief's designee to examine  
38 the accounts and records as the Chief of the State Police  
40 determines necessary to ascertain:

42 A. Whether the information supplied on the application or  
44 in any documents made a part of the application is true and  
46 correct;

48 B. Whether each of the requirements of this section has  
50 been met; and

C. Whether the applicant meets the requirements for  
licensure under this chapter.

The requirements of this subsection include the applicant taking  
whatever action is necessary to permit the Chief of the State  
Police or a designee to have access to confidential records held  
by banks, the courts, law enforcement agencies and the military  
for the purposes stated in this subsection.

7. Background investigation of applicants. A nontemporary  
license may not be issued under this section without an  
appropriate background check of the applicant, including the  
applicant's previous experience with gaming in any jurisdiction.  
For that purpose, any officials designated by the Chief of the  
State Police from the Department of Public Safety or from any  
official gaming commission of a tribe licensed under section 366  
are authorized to obtain criminal records information maintained  
by the Federal Bureau of Investigation or other federal agencies,  
subject to applicable restrictions on the use and dissemination  
of that information. If criminal history information is obtained

2 by designated tribal gaming commission officials, it must be  
3 submitted to the Bureau of State Police with the application or  
4 upon receipt of the information.

5  
6 Upon receipt of an application for a gaming license that does not  
7 include the necessary criminal history information, the Bureau of  
8 State Police shall promptly cause both state and federal criminal  
9 record checks to be done on the applicant to determine whether  
10 the applicant or, in the case of an applicant that is an  
11 enterprise, any of the applicant's officers, directors, partners  
12 or owners has any criminal history. The State Police may  
13 undertake any further investigation of the applicant and the  
14 applicant's background it considers appropriate and shall, as  
15 soon as is practicable after receipt of the completed license  
16 application, report to the tribe to the extent permitted by law  
17 on the results of the investigation.

18 8. Temporary licensing. Unless the state criminal record  
19 check undertaken by the State Police within 10 days of the  
20 receipt of a completed application discloses that a gaming  
21 employee applicant has a criminal history, or unless other  
22 grounds sufficient to disqualify the applicant pursuant to  
23 subsection 9 are apparent on the face of the application, the  
24 State Police shall, upon request of the tribal licensee involved,  
25 issue a temporary gaming employee license to the applicant, which  
26 expires upon the determination by the State Police of the  
27 applicant's suitability for a gaming employee license.

28  
29 Any provider of gaming services or equipment who submits a  
30 completed application for a license under this section, together  
31 with evidence of a valid nontemporary license issued by any other  
32 gaming jurisdiction, approved for the purposes of this subsection  
33 by rule of the Bureau of State Police if that license encompasses  
34 or allows the provision of substantially similar gaming services  
35 or equipment, must immediately be issued a temporary gaming  
36 services license by the State Police pending determination of the  
37 applicant's suitability or eligibility for a license as provided  
38 in subsection 9.

39  
40 The Bureau of State Police may, in the bureau's discretion, issue  
41 a temporary license to any applicant for a gaming employee  
42 license or for a license to provide gaming services or equipment,  
43 based upon the applicant's prior licensing in any other gaming  
44 jurisdiction.

45  
46 9. Action by State Police. The Bureau of State Police  
47 shall, as soon as is practicable after receipt of a completed  
48 license application, either grant or deny the license based upon  
49 the standards set forth in this subsection. An individual must  
50 be issued a license to be a gaming employee if the individual:

- 2           A. Is of good moral character as determined pursuant to  
3           subsection 10;
- 4
- 6           B. Is current in payment of all taxes, interest and  
7           penalties owed to the State, excluding property taxes and  
8           taxes, interest and penalties under formal dispute or appeal  
9           pursuant to applicable statutes or being paid according to a  
10           schedule approved by the taxing authority;
- 12           C. Has not been involved in any criminal activity or has  
13           not been convicted of a crime punishable by one year or more  
14           imprisonment in any jurisdiction unless at least 10 years  
15           have passed since satisfactory completion of the sentence or  
16           probation imposed by the court for the crime;
- 18           D. Has not been convicted of a violation of this chapter or  
19           chapter 13-A or 14 or Title 17-A, chapter 39;
- 22           E. Is not a fugitive from justice, an illegal alien or a  
23           person who was dishonorably discharged from the military  
24           forces within 5 years prior to the date of application;
- 26           F. Has completed the application form and complied with the  
27           requirements of subsection 6; and
- 29           G. Has not knowingly made a false statement of material  
30           fact to the Chief of the State Police in applying for a  
31           license under this chapter, chapter 13-A or chapter 14.
- 32           10. Determination of good moral character. The Chief of  
33           the State Police shall make a determination of moral character  
34           solely on the basis of information recorded by governmental  
35           entities within 5 years of receipt of an application, including,  
36           but not limited to, the following matters:
- 38           A. Information of record relative to incidents of abuse of  
39           family or household members by the applicant, provided  
40           pursuant to Title 19, section 770, subsection 1;
- 42           B. Information of record relative to convictions of the  
43           applicant for crimes punishable by imprisonment for less  
44           than one year or adjudications of the applicant for juvenile  
45           offenses involving conduct that, if committed by an adult,  
46           are punishable by imprisonment for less than one year;
- 48           C. Information of record indicating that the applicant is a  
49           drug abuser, a drug addict or a drug-dependent person or has  
50           engaged in reckless or negligent conduct;

2 D. Information of record relative to adjudications of the  
applicant for civil violations; and

4 E. Information of record regarding charges against the  
applicant for any crime in any jurisdiction.

6 11. Duration of license; renewal. Any gaming license  
8 issued under this section by the Bureau of State Police is  
10 effective for a term provided by rule of not less than one year  
12 and not more than 3 years, except when revoked or suspended,  
14 except that a licensee who has applied for renewal may continue  
16 to be employed or to provide gaming services or equipment under  
18 the expired license until final action is taken on the renewal  
20 application by the bureau. Previously licensed applicants or  
applicants for renewal under this section shall provide updated  
application material but may not be required to resubmit  
historical data already available to the State Police.  
Additional background investigation of an applicant for renewal  
may not be required unless new information concerning the renewal  
applicant's continuing suitability or eligibility for a license  
comes to the attention of the State Police.

22 12. Nontransferability. A license issued under this  
24 section is not transferable or assignable.

26 13. Badges. All licensed gaming employees having access to  
28 gaming facilities must, upon the commencement of employment, be  
30 provided with identification badges as required by the State  
32 Police. Badges must be displayed or carried by licensed  
employees at all times within the gaming facilities. The tribe  
shall employ its best efforts to recover badges from an employee  
upon the termination of employment at a gaming facility.

34 14. Examination of prototypes. The Chief of the State  
36 Police and the Attorney General shall examine, and the Chief of  
38 the State Police may approve, prototypes of electronic gaming  
40 devices and associated equipment necessary to the operation or  
42 monitoring of the devices provided by manufacturers or vendors  
44 seeking a license as required in this chapter. The Chief of the  
46 State Police shall require the manufacturer or vendor seeking the  
examination and approval of the electronic gaming device or  
associated equipment to pay the anticipated actual cost of the  
examination before the examination occurs. After the examination  
occurs, the Chief of the State Police shall refund overpayments  
or charge and collect amounts sufficient to reimburse for  
underpayments of actual costs. The Chief of the State Police may  
contract for the examinations of electronic gaming devices and  
associated equipment as required by this section.

2           15. Registration of electronic gaming devices. An  
3           electronic gaming device may not be placed in use or operated in  
4           a gaming facility licensed under this chapter unless the device  
5           is registered by the Chief of the State Police and employs a game  
6           or games approved by the Chief of the State Police. The  
7           registration must be prominently displayed on the device.

8           **§371. Actions relating to licenses**

10           1. Revocation or suspension of license; refusal to renew.  
11           The Chief of the State Police may refuse to renew a license  
12           issued under section 370 after a hearing in accordance with the  
13           Maine Administrative Procedure Act. The Chief of the State  
14           Police may suspend a license issued under section 370 for a  
15           period of no longer than 90 days. The Administrative Court may  
16           suspend or revoke a license issued under section 370. The Chief  
17           of the State Police may suspend or refuse to renew, and the  
18           Administrative Court may revoke or suspend, a license issued  
19           under section 370 for just cause, which includes any of the  
20           following:

22           A. The person made or caused to be made a false statement  
23           of material fact in obtaining a license or in connection  
24           with service rendered within the scope of the license issued;

26           B. The person or the person's agent violated a provision of  
27           this chapter or a rule adopted under this chapter; or

28           C. The holder of a license becomes ineligible to hold that  
29           license.

32           2. Ineligibility period following refusal to issue or renew  
33           license or revocation of license. A person may not apply to the  
34           Chief of the State Police for any license under section 370 for a  
35           period of 2 years after the effective date of a refusal to issue  
36           or renew a license or the revocation of a license issued under  
37           section 370, except that the period of ineligibility terminates  
38           immediately if the refusal or revocation is vacated or reversed  
39           in later legal proceedings.

40           **§372. Investigation of nongaming employees and enterprises**

42           The Bureau of State Police may investigate misconduct of  
43           persons who are not gaming employees but who are employed in  
44           conjunction with any tribal gaming facility and those employees  
45           must be dismissed from that employment upon notification to their  
46           employer by the bureau that their conduct in the course of their  
47           employment in those facilities poses a threat to the effective  
48           regulation of gaming or creates or enhances the dangers of unfair  
49           or illegal practices, methods and activities in the conduct of  
50           gaming licensed under this chapter.



2           Any enterprise that is expected to provide goods or services  
4           to tribal gaming operations authorized under this chapter, other  
6           than gaming services or gaming equipment, in a total amount  
8           exceeding the sum of \$50,000 in a single 12-month period or any  
10           labor organization seeking to represent gaming employees must be  
12           identified by the tribal licensee to the Bureau of State Police  
14           and that enterprise or organization shall agree to cooperate with  
16           the bureau in any investigation necessary relating to the fitness  
18           of the enterprise or labor organization to engage in business  
20           with a gaming operation or relative to the conduct of the  
22           enterprise or labor organization in connection with licensed  
24           gaming activity. The bureau may bar an enterprise from providing  
26           goods or services to the gaming operation or a labor organization  
          from receiving dues from licensed employees at the gaming  
          facility or may bar the principal of any labor organization from  
          representing licensed gaming employees, if the enterprise or  
          labor organization refuses to cooperate with an investigation or  
          upon a determination that the enterprise or labor organization or  
          a principal of the enterprise or labor organization is a person  
          or entity whose prior activities, criminal record or reputation,  
          habits and associations pose a threat to the effective regulation  
          of gaming or create or enhance the dangers of unfair or illegal  
          practices, methods and activities in the conduct of gaming or  
          enhance the likelihood of criminal activity resulting from the  
          conduct of gaming under this chapter.

28           Every agreement within the scope of this section is deemed  
30           to include a provision to the effect that, if the Bureau of State  
32           Police exercises its authority under this section to bar  
34           performance of the agreement, neither the licensee nor any agent  
36           of the licensee who is a party to the agreement or any related  
          agreement has any civil liability as a result of the action of  
          the bureau. Failure to include such a provision in the agreement  
          does not constitute a defense in any action brought with respect  
          to the agreement.

38           **§373. Violations by licensees**

40           1. Class C crimes. A licensee commits a Class C crime if  
42           the licensee, through its employees or agents, engages in the  
44           following conduct and the conduct is authorized, requested,  
46           commanded, performed or recklessly tolerated by the chair of the  
48           licensee's tribal gaming commission or by the licensee's tribal  
          council or tribal gaming commission, acting within the scope of  
          the officials' office or employment and to the benefit of the  
          licensee:

50           A. Conducts, carries on, operates or deals, or allows to be  
          conducted, carried on, operated or dealt, any cheating or  
          thieving game or device; or

2           B. Deals, conducts, carries on, operates or exposes for  
4           play any game or games played with cards, dice or any  
6           mechanical device, or any combination of games or devices,  
8           that have in any manner been marked or tampered with, or  
10           placed in a condition, or operated in a manner, the result  
            of which tends to deceive the public or tends to alter the  
            normal random selection of characteristics or the normal  
            chance of the game so as to determine or alter the result of  
            the game.

12           2. Class D crimes. A licensee commits a Class D crime if  
14           the licensee, through its employees or agents, permits a person  
16           under 21 years of age to engage in gaming in a gaming facility  
18           licensed under this chapter and the conduct is authorized,  
            requested, commanded, performed or recklessly tolerated by the  
            chair of the licensee's tribal gaming commission or by the  
            licensee's tribal council or tribal gaming commission.

20           3. Individual action not necessary. It is not a defense to  
22           criminal liability under this section that the individual upon  
24           whose conduct liability under this section is based has not been  
            prosecuted or convicted, has been convicted of a different  
            offense or is immune from prosecution.

26           **§374. Violations by managers**

28           1. Class C crimes. A natural person or enterprise under  
30           contract to manage a gaming facility commits a Class C crime if  
32           the person or enterprise, through its employees or agents,  
34           engages in the following conduct and the conduct is authorized,  
            requested, commanded, performed or recklessly tolerated by the  
            person or by the board of directors of the enterprise or a high  
            managerial agent acting within the scope of the agent's office or  
            employment and to the benefit of the enterprise:

36                   A. Conducts, carries on, operates or deals, or allows to be  
38                   conducted, carried on, operated or dealt, any cheating or  
40                   thieving game or device; or

42                   B. Deals, conducts, carries on, operates or exposes for  
44                   play any game or games played with cards, dice or any  
46                   mechanical device, or any combination of games or devices,  
48                   that have in any manner been marked or tampered with, or  
                    placed in a condition, or operated in a manner, the result  
                    of which tends to deceive the public or tends to alter the  
                    normal random selection of characteristics or the normal  
                    chance of the game so as to determine or alter the result of  
                    the game.

50

2           2. Class D crimes. A natural person or enterprise under  
3 contract to manage a gaming facility commits a Class D crime when  
4 the person or enterprise, through its employees or agents,  
5 permits a person under 21 years of age to engage in gaming in a  
6 gaming facility licensed under this chapter and the conduct is  
7 authorized, requested, commanded, performed or recklessly  
8 tolerated by the person or by the board of directors of the  
9 enterprise or a high managerial agent acting within the scope of  
10 the agent's office or employment and to the benefit of the  
11 enterprise.

12           3. High managerial agent. For purposes of this section,  
13 the term "high managerial agent" means an officer of a  
14 corporation or any other agent of an enterprise having duties of  
15 a degree of responsibility that the person's conduct may fairly  
16 be assumed to represent the policy of the enterprise.

17           4. Individual action not necessary. It is not a defense to  
18 criminal liability under this section that the individual upon  
19 whose conduct liability under this section is based has not been  
20 prosecuted or convicted, has been convicted of a different  
21 offense or is immune from prosecution.

22           **§375. Violations by any person**

23           1. Class C crimes. A natural person who knowingly performs  
24 any of the following acts commits a Class C crime:

25           A. Conducts, carries on, operates or deals, or allows to be  
26 conducted, carried on, operated or dealt, any cheating or  
27 thieving game or device;

28           B. Deals, conducts, carries on, operates or exposes for  
29 play any game or games played with cards, dice or any  
30 mechanical device, or any combination of games or devices,  
31 that have in any manner been marked or tampered with, or  
32 placed in a condition, or operated in a manner, the result  
33 of which tends to deceive the public or tends to alter the  
34 normal random selection of characteristics or the normal  
35 chance of the game so as to determine or alter the result of  
36 the game;

37           C. Tamperers with an electronic gaming device with intent to  
38 interfere with the proper operation of that device;

39           D. Manipulates or intends to manipulate the outcome, payoff  
40 or operation of gaming equipment by physical tampering or  
41 other means;

2 E. Wins or attempts to win money or property or a  
4 representative of either or reduces a losing wager or  
6 attempts to reduce a losing wager by any trick or sleight of  
8 hand performance or by a fraud or fraudulent scheme, cards,  
10 dice or device for that person or another person in  
12 connection with gaming, where the value of the money,  
14 property or representative is greater than \$1,000;

16 F. Uses or possesses on licensed gaming premises bogus or  
18 counterfeit chips or gaming billets or substitutes or uses  
20 in any licensed gaming activity cards or dice that have been  
22 marked, loaded or tampered with;

24 G. Uses or possesses any cheating device with intent to  
26 cheat or defraud;

28 H. Uses a coin or tender other than a lawful coin or legal  
30 tender of the United States, or uses any coin not of the  
32 same denomination as the coin intended to be used in any  
34 slot machine in a licensed gaming facility, except that, in  
36 the playing of any electronic gaming device, it is lawful  
38 for any person to use gaming billets, tokens or similar  
40 objects approved by the State Police;

42 I. Uses or possesses while on licensed gaming premises any  
44 cheating or thieving device, including but not limited to  
46 tools, drills, wires, coins or tokens attached to strings or  
48 wires, or electronic or magnetic devices, to facilitate the  
50 alignment of any winning combination or to remove from any  
52 electronic gaming device any money or other contents, except  
54 that a person employed in connection with a gaming facility  
56 may possess and use any of the foregoing only as required in  
58 the course of employment in the gaming facility; or

60 J. Uses or possesses while on licensed gaming premises any  
62 key or device designed for the purpose of or suitable for  
64 opening or entering any electronic gaming device or drop  
66 box, except that an authorized employee or agent of the  
68 licensee, the gaming commission of the licensee or the State  
70 may possess and use any of the foregoing only as required in  
72 the course of employment.

74 2. Class D crimes. A natural person who knowingly performs  
76 any of the following acts commits a Class D crime:

78 A. Violating any provision of this chapter or any rule  
80 adopted under this chapter for which a specific penalty is  
82 not provided;

2 B. Winning or attempting to win money or property or a  
3 representative of either or reducing a losing wager or  
4 attempting to reduce a losing wager by any trick or sleight  
5 of hand performance or by a fraud or fraudulent scheme,  
6 cards, dice or device for that person or another person in  
7 connection with gaming, where the value of the money,  
8 property or representative is \$1,000 or less;

9  
10 C. Entering any licensed gaming facility when listed among  
11 those persons excluded from those facilities pursuant to any  
12 rule of the Bureau of State Police;

13  
14 D. Wearing or presenting an employee badge or a facsimile  
15 of an employee badge in any licensed gaming facility when  
16 not licensed as an employee of the tribe operating that  
17 facility;

18 E. In playing a game in a licensed gaming facility, using  
19 or assisting another person in the use of an electronic or  
20 mechanical device that is designed, constructed or  
21 programmed specifically for use in obtaining an advantage at  
22 playing any game. A device used by any person in violation  
23 of this section is subject to forfeiture;

24  
25 F. Making any false statement or material omission in any  
26 application or in any documents made a part of an  
27 application for a license under this chapter; or

28  
29 G. Permitting a person under 21 years of age to engage in  
30 gaming in a gaming facility licensed under this chapter.

31  
32 3. Continuing offenses. A violation of any of the  
33 provisions of this chapter that is an offense of a continuing  
34 nature is a separate offense on each day during which it occurs.

35 **§376. Authority to detain persons suspected of cheating; immunity**

36  
37 A licensee or its officers, employees or agents may question  
38 any individual in a licensed gaming facility reasonably suspected  
39 of violating any of the provisions of section 373, subsection 1;  
40 section 374, subsection 1; or section 375, subsection 1. A  
41 licensee or an officer, employee or agent of the licensee is not  
42 criminally or civilly liable by reason of any questioning under  
43 this section.

44  
45 A licensee or an officer, employee or agent of the licensee  
46 who has probable cause to believe there has been a violation of  
47 section 373, subsection 1; section 374, subsection 1; or section  
48 375, subsection 1 in the gaming facility by any person may take  
49 that person into custody and detain that person in the gaming  
50 facility.

2 premises in a reasonable manner for a reasonable length of time  
4 for the purpose of requiring the person detained to provide  
6 identification, verifying the identification, notifying and  
8 surrendering the person to law enforcement authorities and, when  
10 the detained person is a minor, informing a law enforcement  
12 officer or the parents or guardian of the minor of the detention  
14 and surrendering the minor to the person so informed. The act of  
16 taking into custody and detention under this section does not  
18 render the licensee or its officers, employees or agents  
20 criminally or civilly liable, including but not limited to  
22 liability for false arrest, false imprisonment, slander or  
24 unlawful detention, unless the taking into custody or detention  
26 is unreasonable under all the circumstances.

28 A licensee or an officer, employee or agent of the licensee  
30 is not entitled to any immunity from civil or criminal liability  
32 provided in this section unless there is displayed in a  
34 conspicuous manner in the licensee's gaming facility a notice in  
36 boldface type clearly legible and in substantially this form:

38 "Any gaming licensee or any officer, employee or agent of a  
40 gaming licenses who has probable cause to believe that  
42 person is violating a provision of law prohibiting cheating  
44 or swindling in gaming may detain that person in the  
46 establishment for the purpose of notifying law enforcement  
48 authorities."

50 **§377. Independent audit**

52 Each tribal licensee under this chapter shall cause its  
54 licensed gaming operations to be subjected to an annual audit by  
56 an independent certified public accountant in accordance with  
58 procedures established by that accountant following consultation  
60 with the State Police. Each audit must include any additional  
62 procedures required by the State Police not otherwise required by  
64 the independent auditor. Additional procedures required by the  
66 State Police must be reasonable and necessary to gaming  
68 regulation.

70 **§378. Smoking permitted**

72 Any general law or rule of the State or any political  
74 subdivision of the State regulating smoking in places accessible  
76 to the general public is inapplicable to any gaming facility  
78 licensed under this chapter. This section does not restrict the  
80 power of a tribal government to regulate or restrict smoking  
82 within its Indian territory.

84 **§379. Transportation of gaming devices**

86

2 Pursuant to the provisions of 15 United States Code, Section  
3 1172 governing the transportation of gambling devices in  
4 interstate and foreign commerce, the State exempts from that  
5 statute the transportation of any gambling device used or  
6 intended for use at, and transported to or from, a gaming  
7 facility licensed under this chapter.

8 **§380. Other laws; applicability**

10 Other laws providing any penalty or disability for the  
11 conduct of games of chance or other gambling activity, or any  
12 acts done in connection with gambling activity, do not apply to  
13 games of chance or any other gambling activity authorized  
14 pursuant to this chapter. This section does not constitute a  
15 defense to any crime under the Maine Criminal Code.

16 **§381. Confidential records**

18 The following records and information furnished to the  
19 Bureau of State Police or otherwise obtained by the State Police  
20 in the administration of this chapter are confidential for  
21 purposes of Title 1, section 402, subsection 3, paragraph A and  
22 are not open for public inspection:

24 1. Personal information. All information and data  
25 pertaining to an applicant's criminal history, personal and  
26 family history and personal background submitted or obtained in  
27 connection with the issuance of a license under section 370;

30 2. Financial information. Any financial statement,  
31 supporting information, assessment of credit or financial  
32 condition or tax return of any person, Indian tribe or enterprise;

34 3. Proprietary information. Any business or marketing plan  
35 of any person, Indian tribe or enterprise when the owner or  
36 subject of that plan has requested that it be designated  
37 confidential and any record or information that would be  
38 protected from public disclosure by the United States Securities  
39 and Exchange Commission;

40 4. Internal controls. Information concerning security  
41 systems and management controls of a facility licensed or  
42 proposed to be licensed under this chapter; and

44 5. Investigative records. All records, correspondence and  
45 reports of any allegation or investigation of any violation of  
46 this chapter, or of any rule or license issued under this  
47 chapter, but the confidential nature of the records,  
48 correspondence or reports does not limit or affect the use of  
49 those materials in any prosecution or civil or criminal  
50 enforcement proceeding.

2       **§382. Disclosure**

4           **1. Gaming regulation or enforcement.** Documents or  
6       information made confidential by section 381 may be disclosed  
8       upon request to a law enforcement agency of another jurisdiction  
10       engaged in the investigation or regulation of gaming, if the  
12       requesting agency certifies that it is entitled to maintain the  
14       information under confidentiality protections similar to those  
16       provided in this chapter.

18           **2. Judicial proceedings.** Documents or information made  
20       confidential by section 381 may be used in any judicial  
22       proceeding authorized by this chapter or disclosed pursuant to  
24       the terms of any subpoena, warrant or other judicial process, if  
26       the order or process has been first served upon the person or  
28       enterprise to whom the confidential information pertains or  
30       belongs and if the order or process appears on its face or  
32       otherwise to have been issued or made upon lawful authority.

34       **§383. Education and treatment**

36           Any contributions or payments, up to a total of \$50,000 per  
38       year, made by a gaming operation under this chapter for use in  
40       the education, prevention, treatment or aftercare of compulsive  
42       or addictive disorders, including compulsive gambling, must be  
44       considered an operating expense of the gaming operation, if the  
46       contributions or payments for the programs are divided equally  
48       between the tribal licensee and any public entity or nonprofit  
50       organization providing those services in the county where the  
licensed gaming premises are located. If no public entity or  
nonprofit organization other than the licensee provides the  
services in the county where the licensed gaming premises are  
located, payments or contributions of up to \$50,000 in any year  
to the tribal licensee must be considered an operating expense of  
the gaming operation.

38       **§384. Approval of Governor**

40           **1. Conditions.** Prior to the issuance by the Bureau of  
42       State Police of any gaming license under section 366, the  
44       Governor must make a written finding that projects undertaken in  
46       connection with the license will have a significant, favorable  
48       and sustainable economic impact in the region in which it is to  
50       be located. In connection with the issuance of that finding, the  
Governor may consider the existence of such collateral economic  
development obligations and conditions upon the licensee as the  
Governor considers appropriate to ensure the economic stability  
of the region where the proposed gaming facility is located. The  
Governor may require the licensee to make such other investments



2 in the region, separate from the proposed gaming facility, as the  
3 Governor considers appropriate, whether or not the investments  
4 are directly related to the proposed gaming facility, except that  
5 the total cost of such a commitment is not required to exceed  
6 \$15,000,000 for projects not directly related to the proposed  
7 gaming facility. These requirements may include requiring the  
8 licensee to develop or cause others to develop hotel, educational  
9 and recreational infrastructures prior to, at or after the  
10 proposed gaming facility's opening.

11 2. Certificate of satisfaction. Until such time as the  
12 Governor makes the finding described in subsection 1, the Bureau  
13 of State Police may not issue a gaming license. If the Governor  
14 issues such a finding subject to designated conditions, the  
15 Bureau of State Police may not issue the gaming license until all  
16 the designated conditions have been satisfied. A separate  
17 certificate of satisfaction from the Governor is necessary to  
18 determine whether the conditions have been satisfied and both the  
19 finding and the certificate of satisfaction must exist and be  
20 delivered to the Bureau of State Police before the license may be  
21 issued.

22 Sec. A-3. 17 MRSA §3204, 2nd ¶, as amended by PL 1991, c. 315,  
23 is further amended to read:

24  
25 This section does not apply to: The ~~the~~ operation or  
26 maintenance of common, contract and private carriers; taxicabs;  
27 airplanes; newspapers; radio and television stations; hotels,  
28 motels, rooming houses, and tourist and trailer camps;  
29 restaurants; garages and motor vehicle service stations; retail  
30 monument dealers; automatic laundries; machines that vend  
31 anything of value, including, but not limited to, a product,  
32 money or service; a satellite facility approved by the  
33 Superintendent of Banking under Title 9-B; or comparable facility  
34 approved by the appropriate federal authority; pharmacies;  
35 greenhouses; seasonal stands engaged in sale of farm produce,  
36 dairy products, sea food or Christmas trees; public utilities;  
37 industries normally kept in continuous operations, including, but  
38 not limited to, pulp and paper plants and textile plants;  
39 processing plants handling agricultural produce or products of  
40 the sea; ship chandleries; marinas; establishments primarily  
41 selling boats, boating equipment, sporting equipment, souvenirs  
42 and novelties; motion picture ~~theatres~~ theaters; public dancing;  
43 Indian gaming facilities licensed under chapter 16; sports and  
44 athletic events; bowling alleys; displaying or exploding  
45 fireworks, under Title 8, chapter 9-A; musical concerts;  
46 religious, educational, scientific or philosophical lectures;  
47 scenic, historic, recreational and amusement facilities; real  
48 estate brokers and real estate sales representatives; mobile home  
49 brokers and mobile home sales representatives; provided except  
50

2 that this section does not exempt the businesses or facilities  
specified in sections 3205 and 3207 from closing in any a  
4 municipality until the requirements of those sections have been  
met; stores ~~wherein~~ where no more than 5 persons, including the  
6 proprietor, are employed in the usual and regular conduct of  
business; stores which that have no more than 5,000 square feet  
8 of interior customer selling space, excluding back room storage,  
office and processing space; and stores with more than 5,000  
10 square feet of interior customer selling space which that engage  
in retail sales and which that do not require, as a condition of  
12 employment, that their employees work on Sundays. If an employer  
declines the average weekly work hours of an employee who has  
14 declined to work on Sundays, it is prima facie evidence that the  
employer has required Sunday work as a condition of employment in  
16 violation of this section, unless the employer and employee  
agreed that the employee would work on Sundays when the employee  
18 was initially hired. ~~In no event, however, may any~~ A store  
having more than 5,000 square feet of interior customer selling  
20 space may not be open on Easter Day, Thanksgiving Day and  
Christmas Day.

22 **Sec. A-4. 17-A MRSA §951**, as amended by PL 1989, c.502, Pt.  
A, §48, is further amended to read:

24 **§951. Inapplicability of chapter**

26 Any A person licensed by the Chief of the State Police as  
28 provided in Title 17, chapter 13-A ~~or~~, chapter 14, or chapter 16  
or who is authorized to operate or conduct a raffle pursuant to  
30 Title 17, section 331, subsection 6, ~~shall be~~ is exempt from the  
application of the provisions of this chapter insofar as that  
32 person's conduct is within the scope of the license.

34 **Sec. A-5. 21-A MRSA §1015-A, sub-§2** is enacted to read:

36 **2. Indian gaming operations.** Any Indian tribe licensed  
under Title 17, chapter 16 and its gaming enterprise, whether or  
38 not incorporated, is considered a single entity for purposes of  
any contribution to a political campaign governed by this chapter.

40 **Sec. A-6. 28-A MRSA §2, sub-§15, ¶I-1** is enacted to read:

42 **I-1. "Indian gaming premises"** means gaming premises as  
44 defined in Title 17, section 362 that are operated by an  
Indian tribe.

46 **Sec. A-7. 28-A MRSA §601, sub-§1, ¶D** is enacted to read:

48 **D.** If the applicant is a federally recognized Indian tribe,  
50 it must hold a valid license issued under Title 17, chapter  
16.

2           **Sec. A-8. 28-A MRSA §705, sub-§1, ¶A**, as amended by PL 1993,  
c. 266, §9, is further amended to read:

4           A. Credit may be extended:

6                   (1) By a hotel or club to bona fide registered guests  
8                   or members;

10                   (2) By a hotel, Indian gaming premises or Class A  
12                   restaurant to the holder of a credit card that  
                    authorizes the holder to charge goods or credits; and

14                   (3) By an on-premise licensee or Indian gaming  
16                   premises to the host of a private, prearranged function  
                    without a credit card.

18           **Sec. A-9. 28-A MRSA §1001, sub-§3, ¶H-1** is enacted to read:

20           H-1. Indian gaming premises;

22           **Sec. A-10. 28-A MRSA §1054, sub-§2-A** is enacted to read:

24           2-A. Exception. A licensee for the sale of liquor on  
26           Indian gaming premises does not require a special amusement  
                    permit for the conduct of any gaming licensed under Title 17,  
28           chapter 16.

30           **Sec. A-11. 30 MRSA §6205, sub-§1, ¶B**, as amended by PL 1991,  
c. 720, §1 and affected by §2, is further amended to read:

32           B. The first 150,000 acres of land acquired by the  
34           secretary for the benefit of the Passamaquoddy Tribe from  
                    the following areas or lands to the extent that those lands  
36           are acquired by the secretary prior to January 31, 1991  
                    2001, are not held in common with ~~any-ether~~ another person  
38           or entity and are certified by the secretary by January 31,  
                    1991 2001, as held for the benefit of the Passamaquoddy  
40           Tribe:

42           The lands of Great Northern Nekoosa Corporation located in  
                    T.1, R.8, W.B.K.P. (Lowelltown), T.6, R.1, N.B.K.P. (Holeb),  
44           T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.; the land of  
                    Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond),  
46           T.4, R.5, B.K.P.W.K.R. (King and Bartlett), T.5, R.6,  
                    B.K.P.W.K.R. and T.3, R.5, B.K.P.W.K.R.; the land of the  
48           heirs of David Pingree located in T.6, R.8, W.E.L.S.; any  
                    portion of Sugar Island in Moosehead Lake; the lands of  
50           Prentiss and Carlisle Company located in T.9, S.D.; any  
                    portion of T.24, M.D.B.P.P.; the lands of Bertram C. Tackeff

2 or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.;  
any portion of T.2, R.8, N.W.P.; any portion of T.2, R.5,  
4 W.B.K.P. (Alder Stream); the lands of Dead River Company in  
T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and  
6 T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any  
portion of T.3, N.D.; any portion of T.4, N.D.; any portion  
8 of T.39, M.D.; any portion of T.40, M.D.; any portion of  
T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of  
10 Diamond International Corporation, International Paper  
Company and Lincoln Pulp and Paper Company located in  
12 Argyle; and the lands of the Dyer Interests in T.A.R.7  
W.E.L.S., T.3 R.9 N.W.P., T.3 R.3. N.B.K.P. (Alder Brook  
14 Township), T.3 R.4 N.B.K.P. (Hammond Township), T.2 R.4  
N.B.K.P. (Pittston Academy Grant), T.2 R.3 N.B.K.P.  
16 (Soldiertown Township), and T.4 R.4 N.B.K.P. (Prentiss  
Township), and any lands in Albany Township acquired by the  
18 Passamaquoddy Tribe before January 1, 1991; and any lands  
20 not exceeding 100 acres in the City of Calais approved by  
the legislative body of that city for acquisition by the  
tribe.

22 **Sec. A-12. 36 MRSA c. 373** is enacted to read:

24 **CHAPTER 373**

26 **CASINO EXCISE TAX**

28 **§2881. Casino tax**

30 **1. Excise tax imposed.** An excise tax is imposed on each  
tribal licensee under Title 17, chapter 16. The tax is imposed  
32 at the rate of 10% of gross gaming revenues for each licensed  
tribe. The tax must be paid monthly based on gross gaming  
34 revenues for the preceding month.

36 **2. Gross gaming revenues.** For purposes of this section,  
"gross gaming revenues" means the total dollar value of all  
38 receipts from licensed gaming pursuant to Title 17, chapter 16  
reduced by the dollar value of all prizes or winnings paid as a  
40 result of that gaming.

42 **3. Additional payments.** In addition to the tax imposed by  
subsection 1, the following payments to the State Tax Assessor  
44 are required.

46 **A.** Upon the first submission to the Bureau of State Police  
of a petition for initial rulemaking under Title 17, chapter  
48 16, a petitioner must make a one-time payment of \$115,000.

2 B. Upon submission to the Bureau of State Police of an  
3 application for a gaming license under Title 17, chapter 16,  
4 the applicant must pay \$1,385,000 in equal quarterly  
5 installments, with the first payment due at the time of  
6 submission of the application and each of the 3 subsequent  
7 quarterly payments due 3 months after the previous  
8 installment.

9 4. Exemption. A taxpayer under this section is allowed an  
10 exemption from the excise tax on gross gaming revenues in the  
11 following amounts.

12 A. For the 12-month period beginning with the first month  
13 in which there are gross gaming revenues, the taxpayer is  
14 entitled to a monthly exemption of \$2,084,000.

15 B. For the 13th to the 60th month after the first month in  
16 which there are gross gaming revenues, the taxpayer is  
17 entitled to a monthly exemption of \$833,333.

18 5. Carry forward of unused exemption amounts. Unused  
19 monthly exemption amounts may be carried forward. The oldest  
20 amount carried forward must be used to reduce gross gaming  
21 revenues in the earliest subsequent month or months in which  
22 gross gaming revenues exceed the exemption provided in subsection  
23 4. An unused monthly exemption amount may not be carried forward  
24 for more than 36 months.

25 6. Administration. The tax and the additional payments  
26 imposed under this section must be administered in the same  
27 manner as the tax imposed on taxable services under Part 3 unless  
28 otherwise provided by this chapter.

29 7. Transfer. Amounts received by the State Tax Assessor  
30 under this section must be deposited in the casino tax account.

31 **§2882. Casino Tax Account**

32 1. Casino regulatory costs. For the purposes of this  
33 section, "casino regulatory costs" means the reasonable and  
34 necessary costs of the State in administering the casino excise  
35 tax, regulating gaming operations and conducting law enforcement  
36 activities pursuant to Title 17, chapter 16.

37 2. Special account. The Treasurer of State shall establish  
38 the Casino Tax Account, referred to in this section as the  
39 "account," which is a special revenue account into which must be  
40 deposited any receipts under section 2881 and from license fees  
41 under Title 17, sections 366 and 370.

2           3. Purpose of account. Money in the account may be used  
3 only to pay casino regulatory costs or to make payments to the  
4 City of Calais or the Rising Tide Regional Development Program  
Fund as provided in subsection 4.

6           4. Payments from account. Beginning with the month in  
7 which there are revenues under section 2881, by the 15th day of  
8 each subsequent month, the Treasurer of State, after reserving  
9 the amount of additional payments received under section 2881,  
10 subsection 3 and 1/12 of the amount allocated for that fiscal  
11 year for casino regulatory costs plus any amount from a previous  
12 month by which the available account balance was less than the  
13 1/12 of casino regulatory costs and that was not reserved, shall  
14 pay 35% of the balance in the account to the City of Calais and  
15 65% of the balance in the account to the Rising Tide Regional  
16 Development Program Fund established in Title 10, section 1076  
17 until combined payments to the City of Calais and the Rising Tide  
18 Regional Development Program Fund equal \$2,000,000 for the year.

19           If the total amount paid in the fiscal year to the City of Calais  
20 and the Rising Tide Regional Development Program Fund is less  
21 than the payment limit for that year, the payment limit in the  
22 following year is increased by the amount of the deficiency.

23           Any remaining balance in the account must be transferred to the  
24 General Fund.

25           **§2883. Application of other taxes**

26           For purposes of taxation under this Title and Title 28-A, a  
27 tribal licensee under Title 17, chapter 16 is deemed to be acting  
28 in a business capacity under Title 30, section 6208 but is not  
29 subject to taxation under chapter 817 on income from gaming  
30 activities licensed under Title 17, chapter 16.

31           **Sec. A-13. Tribal ratification.** That section of this Part that  
32 amends the Maine Revised Statutes, Title 30, section 6205,  
33 subsection 1, paragraph B does not take effect unless, within 60  
34 days of the adjournment of the Legislature, the Secretary of  
35 State receives written notification by the Joint Tribal Council  
36 of the Passamaquoddy Tribe that the tribe has agreed to the  
37 provisions of that section pursuant to 25 United States Code,  
38 Section 1725(e)(1), copies of which must be submitted by the  
39 Secretary of State to the Secretary of the Senate, the Clerk of  
40 the House of Representatives and the Office of the Revisor of  
41 Statutes.

42           **Sec. A-14. Maine Indian Tribal-State Commission.** At a meeting  
43 held May 14, 1993, the Maine Indian Tribal-State Commission  
44 recommended  
45

2 that land in the City of Calais be included in Passamaquoddy  
3 Indian Territory for economic development purposes, if the Calais  
4 City Council approves. On February 4, 1994, the Maine Indian  
5 Tribal-State Commission voted to support the concept of  
6 casino-based tribal initiatives to foster the economic welfare of  
the tribes and the economic conditions within the State.

8 **Sec. A-15. Allocation.** The following funds are allocated from  
9 Other Special Revenue to carry out the purposes of this Part.

10 1994-95

12 **PUBLIC SAFETY, DEPARTMENT OF**

14 **Casino Tax Account**

16	Positions	(17.0)
18	Personal Services	\$519,328
	All Other	166,576
20	Capital Expenditures	247,750

22 Provides funds for one State Police  
23 Lieutenant position, 2 Sergeant positions, 7  
24 Detective positions, one Field Examiner III  
25 position, 2 Field Examiner II positions, one  
26 Clerk Steno III position and 3 Clerk Typist  
27 II positions to regulate gaming operations  
28 and conduct law enforcement activities.

30 **DEPARTMENT OF PUBLIC SAFETY**  
31 **TOTAL**

\$933,654

32 **ATTORNEY GENERAL, DEPARTMENT OF THE**

34 **Administration - Attorney General**

36	Positions	(2.0)
38	Personal Services	\$50,801
	All Other	1,750
40	Capital Expenditures	2,500

42 Provides funds from the Casino Tax Account  
43 for one Assistant Attorney General position  
44 and one Senior Legal Secretary position to  
45 provide legal services in support of the  
46 Indian gaming legislation.

2	<b>DEPARTMENT OF THE ATTORNEY GENERAL</b>	
	<b>TOTAL</b>	<u>\$55,051</u>
4		
6	<b>ADMINISTRATIVE AND FINANCIAL SERVICES,</b>	
	<b>DEPARTMENT OF</b>	
8	<b>Bureau of Taxation</b>	
10	Positions	(1.0)
	Personal Services	\$10,000
12	All Other	110,000
	Capital Expenditures	7,645
14		
16	Provides funds from the Casino Tax Account	
	for one Senior Revenue Agent position,	
18	effective April 1, 1995, computer system	
	modifications and operating expenses.	
20	<b>DEPARTMENT OF ADMINISTRATIVE AND</b>	
	<b>FINANCIAL SERVICES</b>	
22	<b>TOTAL</b>	<u>\$127,645</u>
24	<b>TOTAL ALLOCATIONS</b>	<u>\$1,116,350</u>

**PART B**

Sec. B-1. 5 MRSA §12004-F, sub-§16 is enacted to read:

<u>16. Rising Tide</u>	<u>Expenses</u>	<u>10 MRSA §1075</u>
<u>Regional Development</u>	<u>Only</u>	
<u>Program Fund Board</u>		

Sec. B-2. 10 MRSA c. 110, sub-c. IV-A is enacted to read:

**SUBCHAPTER IV-A**

**RISING TIDE REGIONAL DEVELOPMENT PROGRAM**

**§1075. Rising Tide Regional Development Program**

The Rising Tide Regional Development Program is established to provide loans to businesses for investment in the City of Calais and Washington County.

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.



2           A. "Board" means the Rising Tide Regional Development  
3           Program Fund Board.

4

5           B. "Fund" means the Rising Tide Regional Development Fund.

6

7           C. "Program" means the Rising Tide Regional Development  
8           Program.

9

10          2. Board. The board is established as follows.

11

12          A. The board consists of 3 members appointed by the Joint  
13          Tribal Council of the Passamaquoddy Tribe, at least 2 of  
14          whom must have expertise in business, commercial finance or  
15          economic development.

16

17          B. The members must be appointed for 4-year terms, except  
18          for initial appointees, and may be removed by the Joint  
19          Tribal Council of the Passamaquoddy Tribe for cause. A  
20          vacancy must be filled in the same manner as the original  
21          appointment for the unexpired term of that position.

22

23          C. The initial terms of office of members are as follows.

24

25                   (1) One member must be appointed for 2 years.

26

27                   (2) One member must be appointed for 3 years.

28

29                   (3) One member must be appointed for 4 years.

30

31          D. Members are entitled to compensation according to Title  
32          5, chapter 379.

33

34          3. Duties of board. The board has the following powers and  
35          duties.

36

37          A. The board may accept and receive transfers from the  
38          Passamaquoddy Tribe and gifts, grants, bequests or devises  
39          from any other source, including funds from the Federal  
40          Government or any of its political subdivisions.

41

42          B. The board may enter into any necessary contracts and  
43          agreements.

44

45          C. The board shall administer the Rising Tide Regional  
46          Development Program and shall contract with the authority  
47          for such assistance in administering the program as the  
48          board requires and the authority agrees to provide.

2           4. Eligibility for loans. Businesses may apply to the  
3           board for loans under the program as follows.

4           A. The projects to be financed must be located in the City  
5           of Calais, except that, to the extent of funds representing  
6           the repayment of loans made from the fund, additional loans  
7           may be made to businesses located anywhere in Washington  
8           County. Projects must provide significant public benefit in  
9           relation to the amount of the loan, as determined by the  
10           board. Public benefits include, but are not limited to,  
11           increased opportunities for employment, increased capital  
12           flows, particularly capital flowing in from outside the  
13           State, increased state and municipal tax revenues,  
14           rehabilitation of blighted or underutilized areas, enhanced  
15           quality of life and sense of community, opportunities for  
16           individual advancement of local residents and provision of  
17           necessary services. Loan proceeds may be used for any  
18           appropriate commercial purpose as determined by the board,  
19           including working capital.

20           B. The board must determine that the borrower is a  
21           for-profit or nonprofit commercial entity, including an  
22           entity owned by the Passamaquoddy Tribe, and that it is  
23           creditworthy and reasonably likely to repay the loan.

24           C. The board must determine that the loan is necessary to  
25           implementation of the project either because the borrower  
26           has insufficient access to other funds or because the  
27           borrower demonstrates and the board determines that the  
28           project would not provide the projected public benefits  
29           without the availability of the loan.

30           D. The board shall give preference to projects that it has  
31           determined to be highly sustainable economic development and  
32           that will not have a long-term adverse impact on the  
33           environment, that result in the addition of value to the  
34           natural resources of Washington County and that increase the  
35           skill levels and economic opportunities for residents of  
36           Washington County.

37           E. The board shall consider the extent to which any project  
38           will result in sustainable economic development. In  
39           considering a project's sustainability, the board shall  
40           consider the following factors: the impact on ecology, the  
41           nature and direction of the flow of income from the project  
42           and its impact on the community, the impact of the project  
43           on the quality of life for people in the community, the  
44           impact on the community's infrastructure and the impact on  
45           the community's human capital, present and future.

2 5. Loan terms and conditions. The board may establish  
3 prudent terms and conditions for loans, including limits on the  
4 amount of loans for any one project and the requirement of  
5 adequate collateral for the loans. Loan terms may not exceed 20  
6 years in the case of loans primarily secured by real estate, 10  
7 years in the case of loans secured primarily by machinery and  
8 equipment and 7 years for other loans. The interest rate charged  
9 on each loan may not be less than 1% and may not exceed the prime  
10 rate of interest less 1%, as determined by the board.

11 6. Rulemaking. The board shall adopt rules for the  
12 implementation of the program established by this subchapter,  
13 including, but not limited to, the establishment of fees that may  
14 be charged for the administration of the program.

15 §1076. Rising Tide Regional Development Program Fund

16 1. Creation. The Rising Tide Regional Development Program  
17 Fund is created under the jurisdiction and control of the board.  
18 The fund must be deposited with, maintained and administered by  
19 the authority.

20 2. Sources of money. The fund consists of the following:

21 A. All money appropriated or allocated for inclusion in the  
22 fund, from whatever source;

23 B. Subject to any pledge, contract or other obligation, all  
24 interest, dividends or other pecuniary gains from investment  
25 of money from the fund;

26 C. Subject to any pledge, contract, fee or other  
27 obligation, any money that the board receives in repayment  
28 of advances from the fund; and

29 D. Any other money available to the board and directed by  
30 the board to be paid into the fund.

31 3. Application of fund. Money in the fund may be applied  
32 to carry out any power of the board under or in connection with  
33 this subchapter or to pay obligations incurred in connection with  
34 the fund. Costs and expenses of maintaining, servicing and  
35 administering the fund may be paid out of amounts in the fund.  
36 Money in the fund not needed currently to meet the obligations of  
37 the board as provided in this section may be invested in a manner  
38 permitted by law.

39 4. Accounts within fund. The board may divide the fund  
40 into separate accounts it determines necessary or convenient for  
41 carrying out this section.  
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2 This bill imposes a 10% casino excise tax on gross gaming  
4 revenues less the value of all prizes and winnings paid. For the  
6 first 5 years of operation, the casino will be allowed to exempt  
8 \$10,000,000 of gross revenue per year to cover debt service and  
10 management fees. In addition, the casino will be allowed to  
12 exempt another \$15,000,000 of gross revenue in the first year of  
14 operation to offset its \$1,500,000 advance to cover regulation  
and enforcement costs for fiscal year 1994-95.

16 The bill also establishes the Casino Tax Account to pay  
18 regulatory costs from casino tax revenue collected as well as to  
20 make payments of up to \$2,000,000 per year to the City of Calais  
22 and the Rising Tide Regional Development Program Fund.

24 Based on projections of \$45,000,000 to \$50,000,000 annually  
26 in gaming revenues, after deducting the exemption, regulatory and  
28 enforcement costs and payments to the City of Calais and the  
30 Rising Tide Regional Development Program Fund, the General Fund  
32 will not receive any direct revenue from the casino excise tax  
34 for the next 3 to 5 years. Indirectly, the gaming and hotel  
36 complex is expected to generate additional sales and income tax  
38 revenue from incremental increases of economic activity. The  
40 amounts of this incremental revenue can not be estimated at this  
42 time.

44 The Department of Public Safety will require additional  
46 allocations of \$933,654 in fiscal year 1994-95 to provide funds  
48 for one State Police Lieutenant position, 2 Sergeant positions, 7  
50 Detective positions, one Field Examiner III position, 2 Field  
Examiner II positions, one Clerk Steno III position and 3 Clerk  
Typist II positions to provide regulatory and law enforcement  
services for casino gambling. The Department of the Attorney  
General will require additional allocations of \$55,051 in fiscal  
year 1994-95 to provide funds for an Assistant Attorney General  
and a Senior Legal Secretary to provide legal services in support  
of the Indian gaming. The Bureau of Taxation within the  
Department of Administrative and Financial Services will require  
additional allocations of \$127,645 in fiscal year 1994-95 to  
provide funds for a Senior Revenue Agent for the final quarter,  
computer system modifications and operational expenses. Ongoing  
future costs beginning in fiscal year 1995-96 are estimated to be  
approximately \$1,600,000.

50 In addition to these direct costs, the Department of Public  
Safety may require additional General Fund and Highway Fund  
resources for increased enforcement in that region. The amounts  
will depend on the increased activity in the region, which can  
not be estimated at this time.

2 Revenue required to fund regulatory and law enforcement  
activities will be generated by licensee fees and a flat fee  
4 assessed against a tribe that conducts casino gambling. These  
fees are deposited into the Casino Tax Account, a dedicated  
6 revenue account. The amount of dedicated revenue generated in  
fiscal year 1994-95 is estimated to be \$1,200,000. The dedicated  
8 revenue available in the Casino Tax Account beginning in fiscal  
year 1995-96 will be sufficient to provide for the ongoing  
regulatory costs.

10  
12 These estimates are based on the location approval of one  
casino in the City of Calais. If other tribes elect to conduct  
14 Indian gaming in other locations, future revenue estimates and  
allocations will be required.

16 This bill establishes several new Class C and Class D  
18 crimes. Sentences of more than 9 months and, beginning January  
1, 1995, more than 12 months imposed for Class C crimes must be  
20 served in a state correctional institution. The cost to the  
State per sentence is \$45,352 based upon an average length of  
22 stay of one year and 9 months. The State also must reimburse  
counties for sentences served in county jails of 9 months or less  
24 and, beginning January 1, 1995, 12 months or less for Class C  
crimes. Sentences imposed for Class D offenses must be served in  
26 a county jail. The average cost per sentence for a Class D crime  
is \$8,320 based upon an average length of stay of 119 days. The  
28 additional costs to the counties for the housing of each offender  
sentenced under this new crime are not reimbursed by the State.

30 The Judicial Department may require additional General Fund  
32 appropriations to cover indigent defense costs related to these  
new cases. The amounts can not be estimated at this time. The  
34 additional workload and administrative costs associated with the  
minimal number of new cases filed in the court system can be  
36 absorbed within the budgeted resources of the Judicial  
Department's administrative account. The collection of  
38 additional fines may also increase General Fund revenue by minor  
amounts.

40  
42 **STATEMENT OF FACT**

44 This bill is the minority recommendation of the Joint  
Standing Committee on Judiciary.

46  
48 The bill allows gaming by the Passamaquoddy Tribe in the  
City of Calais and establishes a structure for the licensing of  
gaming by either the Passamaquoddy Tribe or the Penobscot

2 Nation. The location of any gaming facility must be approved by  
the Legislature.

4 Before it may conduct gaming under this bill, a tribe must  
6 obtain licenses for a proposed gaming operation, including  
approval of its financing, management and professional  
8 qualifications and the character and integrity of each of its key  
employees. Broad rule-making power over licensing and the gaming  
10 itself is given to the State Police to protect the integrity of  
the permitted gaming.

12 A casino excise tax is enacted to fund law enforcement and  
14 regulatory costs and provide revenues for regional development  
and infrastructure improvements. Off-track betting and alcoholic  
16 beverage laws are amended to allow off-track betting and retail  
liquor sales at licensed Indian gaming premises. The bill  
18 provides for a contribution by a licensed gaming operation for  
the purpose of funding services related to compulsive gambling  
and addictive disorders.

20  
22 PART A

24 Specifically, Part A:

26 1. Authorizes off-track betting at a licensed Indian gaming  
facility;

28 2. Enacts a new chapter, authorizing and regulating gaming  
30 by the Passamaquoddy Tribe and the Penobscot Nation to provide  
the revenue necessary to enable self-sufficiency and  
32 self-government for these tribes. A comprehensive state  
regulatory system is established. Legislative approval of the  
34 location of any gaming facility is required, in addition to other  
permits required by law.

36 Indian gaming proposals, management contracts, gaming employees  
and providers of gaming services must be approved or licensed by  
38 the State Police, based upon appropriate background  
investigations. Each license is subject to revocation or  
40 suspension. Law enforcement is the responsibility of the State  
Police and local law enforcement agencies, who are given full  
42 access to gaming premises and records. Special gaming crime laws  
are enacted. Rule-making authority is given to the State Police,  
44 in consultation with the affected tribes. A contribution is  
required from a licensee toward the services for the education,  
46 prevention, treatment and aftercare of compulsive or addictive  
disorders. Before a license may be issued, the Governor must  
48 make a finding that projects undertaken in connection with the  
license will have a significant, favorable and sustainable  
50 economic impact on the region in which it is located. A special

2 account to fund regulatory, law enforcement and tax  
administration costs is established, made up of fees from  
4 licenses, the casino excise tax and initial regulatory  
assessments;

6 3. Exempts licensed Indian gaming facilities from the  
Sunday closing laws;

8  
10 4. Makes clear that gaming licensed under this bill is not  
unlawful gambling under the Maine Criminal Code;

12 5. Makes any tribe licensed to operate a gaming facility  
and its gaming operation, however organized, one entity for  
14 purposes of campaign finance laws;

16 6. Authorizes the licensing of Indian gaming premises for  
retail liquor sales and exempts any licensed games from the  
18 requirement of a separate amusement permit;

20 7. Approves taking land in the City of Calais into  
Passamaquoddy Indian Territory, provided that the Calais City  
22 Council has also approved the acquisition;

24 8. Establishes a graduated casino excise tax on the gross  
gaming revenues of Indian gaming operations. Credits are allowed  
26 for initial assessment costs and up to \$2,000,000 in  
contributions to fund infrastructure improvements for the City of  
28 Calais and for an economic development fund. The excise tax is  
administered in the same manner as the sales tax on services, but  
30 would not be subject to any reductions for state-municipal  
revenue sharing; and

32  
34 9. Provides for tribal ratification of the provision of the  
bill relating to the incorporation of land into Passamaquoddy  
Indian Territory as required by the terms of the Maine Indian  
36 Claims Settlement Act of 1980, 25 United States Code, Section  
1725(e)(1).

38  
40 PART B

42 Part B creates the Rising Tide Regional Development Program  
to provide funds to enhance the economic growth of the City of  
44 Calais and Washington County. The program would be operated by a  
local board and administered through the Finance Authority of  
46 Maine.

48 PART C

50 Part C provides that the bill will take effect only if a  
constitutional amendment is adopted that provides that the



2 Passamaquoddy Tribe and the Penobscot Nation may operate one  
casino each and that no other casino gambling may be authorized  
4 in the State. Each casino must be specifically authorized by  
legislation and must be located at least 75 miles from a  
6 municipality in this State with a population greater than 30,000  
and be closer to a municipality with a population greater than  
30,000 in another state or country than to a municipality in this  
8 State of that population.