

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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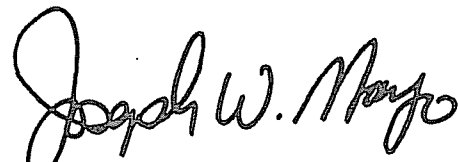
House of Representatives, March 31, 1994

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

(EMERGENCY)

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

  
JOSEPH W. MAYO, Clerk

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Passamaquoddy Tribe is in the process of developing a proposal to operate a gambling casino for the purposes of employment and revenues for the Tribe and economic development for the State; and

Whereas, Indian gaming has been demonstrated to be an effective means of support for tribal governments and programs, and gaming, in general, has provided economic stimulus to many remote areas of the United States; and

Whereas, state laws must be enacted before the casino project may go forward; and

Whereas, it is necessary to act rapidly so as not to lose the potential for the benefits expected through the development related to Indian gaming; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

#### PART A

Sec. A-1. 5 MRSA §12004-G, sub-§13-D is enacted to read:

13-D. Finance State Gaming Board Legislative 17 MRSA §363  
Per Diem

A. The chair may not receive more than \$5,000 per year, including per diem and expenses.

B. The other board members may not receive more than \$3,500 per year, including per diem and expenses.

Sec. A-2. 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 gaming facility is licensed as an off-track betting facility under this section.

2 9. **Annual report.** The commission shall report annually by  
4 January 1st to the joint standing committee of the Legislature  
6 having jurisdiction over legal affairs matters and to the joint  
8 standing committee of the Legislature having jurisdiction over  
10 agricultural matters on the effect of off-track betting  
12 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.

14 Sec. A-3. 17 MRSA c. 16 is enacted to read:

16 CHAPTER 16

18 GAMING

20 §361. Findings and purpose

22 1. Opportunities. The Legislature recognizes the  
24 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  
26 this State.

28 2. Economic impact. The Legislature finds that Indian  
30 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  
32 Indian tribes are now located if the gaming is well managed and  
well regulated. The Legislature further recognizes that gaming  
34 by other entities can be an effective means of contributing to  
the economic interests of the State as a whole. The Legislature  
36 further finds that the Washington County area, where the  
Passamaquoddy Indian Reservations are located, has long had a  
38 declining regional economy, with few prospective economic  
opportunities.

40 3. Oversight. The Legislature finds that effective state  
42 oversight and regulation is expected to maintain the integrity of  
gaming conducted at individual facilities and adequately protect  
44 the health, welfare and safety of the citizens of the State.

46 4. Purposes. The purposes of this chapter are:

48 A. To provide a statutory basis for the operation of gaming  
50 by Indian tribes and others as a means of promoting tribal  
economic development, tribal self-sufficiency, strong tribal  
governments and the best economic interests of the State as  
52 a whole;

2 B. To provide a statutory basis for the regulation of  
4 gaming adequate to shield it from organized crime and other  
corrupting influences to ensure that gaming is conducted  
6 fairly and honestly by both the operator and the players;

8 C. To establish a regulatory structure encompassing both  
licensee and state responsibilities, which is determined to  
10 be necessary to alleviate legislative concerns about gaming  
as an economic enterprise, and to protect gaming as a means  
12 of generating tribal revenues and fostering the best  
economic interests of the State;

14 D. To provide the State and Indian tribes with revenues  
from gaming operations licensed under this chapter:

16 (1) To fund tribal government operations or programs;

18 (2) To provide for the general welfare of Indian  
20 tribes and their members;

22 (3) To promote tribal economic development;

24 (4) To donate to charitable organizations; or

26 (5) To help fund operations of state or local  
28 government; and

30 E. To provide capital for local economic development and  
for the costs of regulation of gaming under this chapter.

32 **§362. Definitions**

34 As used in this chapter, unless the context otherwise  
36 indicates, the following terms have the following meanings.

38 1. Bazaar game. "Bazaar game" means a game, amusement,  
contest or enterprise in which chance, fortune, luck or lot is  
40 the predominating factor or element in the winning or awarding of  
a prize. "Bazaar game" does not include a lottery or any game,  
42 amusement, contest or enterprise where the skill, accomplishment,  
art or adroitness of the operator or participant is the primary  
44 factor in the winning or awarding of a prize.

46 2. Board. "Board" means the State Gaming Board established  
in section 363.

48 3. Electronic gaming device. "Electronic gaming device"  
means an electrical device, contrivance or machine that, upon  
50 insertion of a coin, currency, token or similar object, or upon  
payment of any consideration, is available to play or operate and  
52 the play or operation is dependent in whole or in part upon

2 chance, and that may deliver or entitle the person playing or  
3 operating the machine to receive cash or tokens to be exchanged  
4 for cash or to receive merchandise or a thing of value, whether  
5 the payoff is made automatically from the machine or in another  
6 manner.

7  
8 4. Enterprise. "Enterprise" means an individual, trust,  
9 corporation, partnership or other legal entity of any kind other  
10 than a tribal enterprise wholly owned by a tribe licensed under  
11 this chapter. With respect to a corporation, "enterprise"  
12 includes any other corporation or other legal entity that,  
13 directly or indirectly, controls a majority of the voting  
14 interests in the corporation. With respect to a partnership,  
15 trust or other form of unincorporated business organization,  
16 "enterprise" includes a corporation or other legal entity that,  
17 directly or indirectly, controls a majority of the voting  
18 interests in that organization.

19  
20 5. Gaming employee. "Gaming employee" means a natural  
21 person employed in the operation or management of a gaming  
22 facility licensed under this chapter, whether employed by the  
23 licensee or by an enterprise providing on-site services to the  
24 tribal licensee within a gaming facility. "Gaming employee"  
25 includes, but is not limited to, gaming facility managers and  
26 assistant managers, accounting personnel, gaming facility  
27 security personnel, gaming facility surveillance personnel,  
28 credit executives, gaming facility cashier supervisors, dealers  
29 or croupiers, box bosses, floorworkers, pit bosses, electronic  
30 gaming device mechanics and attendants, shift bosses, cage  
31 personnel, collection personnel, lottery ticket sellers, persons  
32 employed in the acceptance or redemption of pari-mutuel wagers,  
33 simulcasting equipment operators, computer operators and  
34 technicians, food and beverage service personnel, and any other  
35 natural person whose employment duties require or authorize  
36 access to restricted areas of the gaming facility not otherwise  
37 opened to the public. "Gaming employee" does not include a State  
38 Police inspector or auditor who has access to those restricted  
39 areas under section 369 or section 378.

40  
41 6. Gaming equipment. "Gaming equipment" means a machine or  
42 device that is specially designed or manufactured for use in the  
43 operation of a licensed gaming activity under this chapter,  
44 including, but not limited to, electronic gaming devices, lottery  
45 tickets, lottery on-line computer equipment, lottery drawing  
46 equipment and pari-mutuel electronic totalizator systems.

47  
48 7. Gaming facility. "Gaming facility" means a room or  
49 rooms in which gaming authorized under this chapter is conducted.

50  
51 8. Gaming premises. "Gaming premises" means a building  
52 containing a gaming facility.

2 9. Gaming school. "Gaming school" means an enterprise  
3 organized to provide specialized training to gaming employees for  
4 the conduct of gaming under this chapter, other than programs  
5 operated by a licensee, or the person or enterprise under an  
6 approved contract to a licensee, for the management of a gaming  
7 facility.

8 10. Gaming services. "Gaming services" means goods or  
9 services provided to a licensee under this chapter directly in  
10 connection with the operation of gaming in a gaming facility,  
11 including, but not limited to, maintenance or security services  
12 for the gaming facility, junket services, gaming schools,  
13 printing or manufacture of lottery or pari-mutuel betting  
14 tickets, laboratory testing of gaming equipment, including  
15 electronic gaming devices or lottery tickets and manufacture,  
16 distribution, maintenance or repair of gaming equipment.

17 11. Indian tribe. "Indian tribe" or "tribe" means an  
18 Indian tribe or nation of Indians that is recognized by the  
19 Government of the United States as eligible for the services  
20 provided by the United States to Indians and that possesses  
21 substantial powers of self-government over Indian territory as  
22 defined in Title 30, section 6205, title to which is either held  
23 in trust by the United States for the benefit of the tribe or  
24 held by the tribe subject to restriction by the United States  
25 against alienation.

26 12. Institutional investor. "Institutional investor" means  
27 an investment company registered under the Investment Company Act  
28 of 1940, 15 United States Code, Sections 80a-1 to 80a-64, an  
29 investment adviser registered under the Investment Advisers Act  
30 of 1940, 15 United States Code, Sections 80b-1 to 80b-21 and  
31 other types of institutional managers of pooled investment  
32 resources approved by rule.

33 13. Junket services. "Junket services" means an  
34 arrangement to facilitate the attendance at a gaming facility of  
35 customers selected by reason of their propensity to gamble by  
36 providing to those customers consideration, including cash,  
37 rebates or reduced charges for goods or services such as  
38 transportation, lodging, food, beverages or entertainment.  
39 "Junket services" does not include providing common  
40 transportation to a gaming facility to the public without  
41 limitation to selected customers.

42 14. Key employee. "Key employee" means a natural person  
43 employed in the operation of licensed gaming in a supervisory  
44 capacity or empowered to make discretionary decisions that  
45 regulate gaming operations, including, but not limited to, pit  
46 bosses, shift bosses, credit executives, casino cashier  
47 supervisors, casino managers and assistant managers and managers  
48 or supervisors of casino security employees.

2           15. Lottery. "Lottery" means a game for which tickets are  
3 sold, the winning ticket or tickets are secretly predetermined or  
4 ultimately selected in a chance drawing and the holders of  
5 winning tickets receive money or something of value.

6           16. Principal employee. "Principal employee" means any  
7 employee of an enterprise contracting to manage a gaming facility  
8 licensed under this chapter who, by reason of a management,  
9 supervisory or policy-making position or other criteria  
10 established by rules, holds or exercises authority sufficiently  
11 related to the operation of licensed gaming so as to require  
12 review by the board in considering a gaming facility management  
13 contract for the protection of the public interest.

14           **§363. State Gaming Board**

15           1. Established. There is established, pursuant to Title 5,  
16 section 12004-G, subsection 13-D, the State Gaming Board for the  
17 purpose of regulating gaming under this chapter.

18           2. Membership. The board is composed of 5 members  
19 appointed by the Governor and subject to confirmation by the  
20 Legislature.

21           3. Terms. The members of the board serve for 6 years. Of  
22 the members first appointed, 2 members must be appointed for a  
23 term of 2 years, 2 members must be appointed for a term of 4  
24 years and one member must be appointed for a term of 6 years.  
25 Vacancies must be filled in the same manner as the original  
26 appointment for the remainder of the vacant term.

27           4. Chair. The Governor shall designate one member to serve  
28 as chair. The chair:

29           A. Is the principal executive officer of the board in  
30 carrying out its policies;

31           B. Presides at meetings of the board; and

32           C. Is responsible for the expedient organization of the  
33 board's work.

34           5. Staff. The board may employ staff as necessary to  
35 perform its duties under this chapter.

36           6. Quorum. A majority of the board constitutes a quorum.

37           7. Duties. Except as otherwise provided, the board is the  
38 agency of State Government with responsibility for licensing,  
39 regulation and enforcement under the provisions of this chapter  
40 relating to casino gambling.



2           8. Compensation. Members of the board do not receive  
3 salaries and are entitled to compensation as provided in Title 5,  
4 chapter 379. In addition, members of the board are not entitled  
5 to compensation for more than 20 meetings per year.

6           **§364. Legislative approval of location**

8           1. Legislative approval. A person may not conduct gaming  
9 authorized under this chapter without the enactment of  
10 legislation approving a location. The legislative approval of a  
11 location required by this section is essential to the conduct of  
12 gaming under this chapter, but does not relieve the licensee from  
13 the requirements of other applicable state or local laws or  
14 ordinances.

16           2. Passamaquoddy Tribe; Calais. Pursuant to subsection 1,  
17 the Passamaquoddy Tribe is authorized to conduct gaming in any  
18 one area not exceeding 100 acres in the City of Calais approved  
19 for that purpose by the Calais City Council on or before December  
20 31, 1995.

22           **§365. Jurisdiction; law enforcement**

24           Legal jurisdiction and the law enforcement authority of the  
25 State and a tribe holding a license under this chapter with  
26 respect to gaming conducted pursuant to this chapter are  
27 allocated as set forth in the Act to Implement the Maine Indian  
28 Claims Settlement. Each applicant for a license under this  
29 chapter shall consult with the board and the Bureau of State  
30 Police about law enforcement, security and public safety  
31 arrangements with respect to the gaming premises. The bureau and  
32 the applicant must agree on those arrangements before issuance of  
33 a license under section 367.

34           **§366. Specified gaming legalized**

36           1. Permissible games. A person or an Indian tribe, as  
37 defined in section 362, may apply for a license to conduct the  
38 games or activities identified in this section or by rule within  
39 each of the following types of gaming:

42           A. Games of chance, including the following:

44                   (1) Blackjack;

46                   (2) Poker;

48                   (3) Dice;

50                   (4) Money-wheels;

52                   (5) Roulette;

- 2                   (6) Baccarat;
- 4                   (7) Minibaccarat;
- 6                   (8) Chuck-a-luck;
- 8                   (9) Pan game;
- 10                  (10) Over and Under;
- 12                  (11) Horse Race game;
- 14                  (12) Acey-deucey;
- 16                  (13) Beat the Dealer;
- 18                  (14) Bouncing Ball;
- 20                  (15) Caribbean Stud Poker; and
- 22                  (16) Red Dog Poker;
  
- 24                  B. Electronic gaming devices in which the payback value of  
each type of game offered by each device is at least 80%;
  
- 26                  C. A bazaar game other than bingo or beano not listed in  
paragraph A, but only if conducted solely for merchandise  
prizes;
  
- 30                  D. A lottery game conducted exclusively within the licensed  
premises; and
  
- 34                  E. Off-track betting pursuant to Title 8, sections 275-C  
and 275-D.
  
- 36                  2. Licensed gaming unrestricted. When licensed for a game  
or activity, a person or Indian tribe may conduct the game or  
activity without restriction as to number, hours or wagering.
  
- 40                  3. Notice of odds. Language describing the theoretical  
odds of the game must be prominently displayed at each game.
  
- 44                  4. Prohibited gaming. A person, tribe or a member or agent  
of a tribe may not conduct a form of gaming on the gaming  
premises licensed under this chapter that is not either:
  
- 46                   A. Expressly authorized by the terms of a license issued  
under this chapter; or
  
- 50                   B. Otherwise legal under state law.

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

10       6. Prohibition on gaming by gaming employees. A person  
12       licensed as a gaming employee under section 371 may not place a  
14       wager, directly or indirectly, or otherwise participate in gaming  
16       at the gaming facility where the person is employed.

14       7. Off-track betting application required. An application  
16       for a gaming license under section 367 must include a proposal to  
18       conduct off-track betting.

18       §367. Gaming license

20       1. License application. A person or an Indian tribe, as  
22       defined in section 362, may apply to the board for a license to  
24       conduct the games identified in section 366 or in implementing  
26       rules. Before granting a license under this chapter, the board  
28       shall make the determination that the proposed gaming is in the  
30       best economic interests of the State. With its application, the  
32       applicant must produce information, documentation and assurances  
34       concerning:

30       A. The financial resources available to establish, operate  
32       and maintain the proposed gaming premises, including all  
34       financial backers, investors, mortgagees, bond holders and  
36       holders of indentures, notes or other evidences of  
38       indebtedness, either in effect or proposed, that bear a  
40       relation to the gaming operations proposed. Except with  
42       respect to regulated banks and other licensed lending  
44       institutions providing financing in the ordinary course of  
46       business, these submissions must include bank references;  
48       and those business or personal income and disbursement  
50       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  
      board;

46       B. The ability and experience of the applicant, by itself  
48       or through contractual relationships, to successfully  
50       operate the proposed gaming activities. The applicant shall  
      produce the names of all proposed key employees as they  
      become known, together with identifying personal

2 information and a description of their respective or  
3 proposed responsibilities;

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

15 D. The history in other gaming jurisdictions of a person or  
16 enterprise providing, writing or designing management  
17 structures, security systems or internal operating controls  
18 for the proposed gaming operations. With respect to that  
19 person or enterprise, the applicant shall produce letters of  
20 reference, when requested by the board, from the gaming or  
21 casino enforcement or control agency from those  
22 jurisdictions. The letters of reference must specify the  
23 experiences of the agency with the person or enterprise, the  
24 person's associates and the person's gaming operation. If  
25 such letters are not received within 60 days of request, the  
26 applicant may submit a statement under oath that the person  
27 or enterprise is or was in good standing with the gaming or  
28 casino enforcement or control agency in the requested  
29 jurisdiction; and

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

33 2. Licensing criteria. The board shall determine, as soon  
34 as practicable after receipt of a completed application, whether  
35 each of the following criteria is satisfied.

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

42 B. The proposed gaming is conducted by persons with  
43 sufficient business ability and gaming experience to  
44 establish the likelihood that a successful, efficient gaming  
45 operation is created and maintained.

2 C. The key employees of the proposed gaming facility and  
3 officials and employees having direct authority over gaming  
4 management or operations are persons of good character,  
5 honesty and integrity.

6 D. A person or enterprise providing, writing or designing  
7 management structures, security systems or internal  
8 operating controls for the proposed gaming operations who  
9 has performed similar functions in another gaming  
10 jurisdiction is or was in good standing in that gaming  
11 jurisdiction.

12 E. The management structures, security systems and internal  
13 operating controls and standards under which the proposed  
14 gaming is conducted are adequate for the proper operation of  
15 the gaming proposed and to carry out the purposes set forth  
16 in section 361.

17 3. Issuance. If the board finds that the proposal  
18 satisfies the criteria of subsection 2, the board shall promptly  
19 issue the applicant a license for the conduct of gaming subject  
20 to the terms of the license and the provisions of this chapter.  
21

22 **§368. Management contracts**

23 1. Approval required. A written agreement between a gaming  
24 licensee or a tribe, as defined in section 362, and a person or  
25 enterprise for the management of a gaming facility is not valid  
26 and enforceable unless submitted to and approved by the board. A  
27 management contract may not be approved unless:  
28

29 A. Each director, each principal employee, each person who  
30 directly or indirectly owns or controls more than 5% of the  
31 managing enterprise and each person who in the opinion of  
32 the board has the ability to control the contracting  
33 enterprise or elect a majority of its directors, other than  
34 a banking or other licensed lending institution that holds a  
35 mortgage or other lien acquired in the ordinary course of  
36 business, is individually qualified for approval as a key  
37 employee pursuant to the provisions of this chapter or is an  
38 institutional investor exempted under subsection 2;  
39

40 B. The contract provides for adequate accounting procedures  
41 to be maintained, and for verifiable financial reports to be  
42 prepared, by or for the licensee on a monthly basis;  
43

44 C. If the licensee is a tribe, the contract provides for  
45 minimum guaranteed payments to the tribal licensee that have  
46 preference over the retirement of development and  
47 construction costs;  
48  
49  
50

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 operation;  
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  
18 contracting to provide management services to a gaming licensee  
20 under this chapter or holding debt securities consisting of less  
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 board has no reason to believe that the  
34 institutional investor would be unqualified under licensing  
standards for key employees.

36 The board may require an institutional investor claiming  
38 exemption under this subsection to file a certified statement to  
40 the effect that the securities were purchased for investment  
42 purposes only and that the institutional investor has no  
44 intention of influencing or affecting the affairs of the issuing  
46 enterprise, other than by voting on matters put to the vote of  
48 the holders of the securities. If an institutional investor  
changes its investment intent or if the board has reasonable  
cause to believe that the institutional investor may be found  
unqualified, action other than divestiture may not 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.

50 **§369. State supervision of gaming operations**

52

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

14           2. Access. State Police inspectors and board inspectors  
15 must have unrestricted access to all areas of the gaming premises  
16 at all times, without prior notice, and personnel employed by the  
17 gaming operation shall for that purpose provide State Police  
18 inspectors and board inspectors access to areas of the gaming  
19 premises that are locked and secure in accordance with the  
20 standards and management structures approved pursuant to section  
21 367, subsection 2, paragraph E.

22           State Police inspectors and board inspectors may attend the  
23 regular count conducted by the gaming operation. Auditors  
24 employed by the Bureau of State Police or the board must have  
25 unrestricted access for audit purposes during ordinary hours of  
26 operation, without prior notice, to inspect and copy all records  
27 of the gaming operations, including computer log tapes and cash  
28 transaction reports required to be maintained under federal law,  
29 and personnel employed by the gaming operation shall for those  
30 purposes provide State Police auditors and board auditors access  
31 to areas of the gaming premises that are locked and secure in  
32 accordance with the standards and management structures approved  
33 pursuant to section 367, subsection 2, paragraph E, except that  
34 all records of the gaming operations obtained by the Bureau of  
35 State Police or the board are confidential and proprietary  
36 financial information belonging to the licensee and may not be  
37 disclosed by the State without the express written consent of the  
38 licensee.

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

46           3. Investigation. The State Police may conduct the  
47 investigations it considers appropriate to investigate violations  
48 of applicable law and for that purpose the Chief of the State  
49 Police may issue subpoenas to compel the attendance of witnesses  
50 and  
51 and  
52 and

2 and the production of evidence relevant to the fact at issue. If  
4 a witness refuses to obey a subpoena issued by the Chief of the  
6 State Police or to give any evidence relevant to proper inquiry  
8 by the chief, the Attorney General may petition the Superior  
10 Court in the county where the refusal occurred to find the  
12 witness in contempt. The Attorney General shall serve on the  
14 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 board shall consult frequently on an  
18 informal basis with a tribal gaming commission or other designee  
20 of a licensee with respect to the conduct of gaming and may  
22 provide written notice to the licensee of a violation, specifying  
24 the remedial action needed. As a temporary remedy only, pending  
26 consultation with the licensee and any remedial action by the  
28 licensee considered necessary, the board has the authority to  
30 require the shutdown of a machine, table or form of gaming for as  
32 long as the board has cause to question the integrity of the  
34 gaming. The notice specified in this subsection must be provided  
before the commencement of a civil enforcement action against a  
licensee, whether administrative or judicial. If a violation is  
not remedied to the satisfaction of the board within 5 days from  
delivery of written notice of the violation to the licensee, or a  
longer time specified in the notice, the licensee is liable for a  
civil forfeiture of \$500 per day after the time specified. A  
violation of this chapter or its implementing rules or of the  
terms or conditions of a license issued under section 367 may be  
enjoined in an action for that purpose brought in the name of the  
State.

36 **§370. Rulemaking**

38 1. Authority. Following consultation with an Indian tribe  
40 potentially affected, the board may adopt rules, under Title 5,  
42 chapter 375, that are necessary for the administration and  
44 enforcement of this chapter and for the licensing, conduct and  
46 operation of gaming under this chapter. These rules must have  
48 the sole purpose of protecting 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. The rules must include, but  
are not limited to, provisions for:

50 A. The licensing of an applicant for the conduct of  
52 specified gaming under the terms of this chapter;



2 B. The individual licensing of all persons engaged in the  
3 operation or management of gaming, using licensing  
4 requirements reflecting the different nature of the jobs;

6 C. The licensing of an enterprise providing gaming services  
7 or gaming equipment to a licensee;

8  
9  
10 D. Describing the criteria for licensing determinations to  
11 be made under this chapter;

12 E. The identification by a licensee of each enterprise  
13 providing nongaming goods or services with an expected value  
14 of more than \$50,000 per year and of a labor union seeking  
15 to represent gaming employees. The rules must require  
16 contracts between the licensee and those enterprises to give  
17 notice of the authority of the board and the State Police to  
18 investigate those enterprises, the enterprises' duty to  
19 cooperate in any investigation and the authority of the  
20 board and the State Police to bar an enterprise from  
21 providing goods or services to the gaming operation;

22  
23 F. The enforcement of this chapter, of implementing rules,  
24 and of the terms and conditions of a license issued under  
25 this chapter in accordance with section 369;

26  
27 G. Preventing the practice of fraud or deception upon  
28 customers of the gaming facility;

29  
30 H. Technical standards or specifications for gaming  
31 equipment; and

32  
33 I. The establishment of a list of persons who must be  
34 excluded or ejected from a licensed gaming facility. These  
35 provisions must define the standards for exclusion and must  
36 include standards relating to persons:

37 (1) Who are career or professional offenders;

38  
39 (2) Who have been convicted of a criminal offense under  
40 the laws of any state or of the United States that is  
41 punishable by more than 6 months in prison or a crime  
42 or offense involving moral turpitude; or

43  
44 (3) Whose presence in a licensed gaming facility would,  
45 in the opinion of the board, be inimical to the  
46 interest of the State or licensed gaming, or both.

47  
48 Gaming licensees shall cooperate with the board in  
49 maintaining a list of persons to be excluded from the gaming  
50 facilities under these criteria and shall keep from their  
51 premises persons known to them to be within the  
52

2 classifications declared in this paragraph and the rules  
3 adopted under this paragraph.

4 2. Change; consultation. After a hearing pursuant to the  
5 Maine Administrative Procedure Act, a substantial change may not  
6 be made to a proposed rule except after consultation with any  
7 Indian tribe affected.

8  
9 3. Tribal petition. An Indian tribe potentially affected  
10 by this chapter may petition the board under the Maine  
11 Administrative Procedure Act for the adoption, amendment or  
12 repeal of any rule pertaining to gaming conducted under this  
13 chapter. Notwithstanding the provisions of Title 5, section  
14 8055, the board shall initiate appropriate rule-making  
15 proceedings within 30 days after receipt of such a petition  
16 pertaining to what gaming is authorized, the technical standards  
17 or specifications of gaming equipment or the rules of conduct of  
18 authorized gaming and shall conclude the proceeding and issue its  
19 decision not more than 120 days after receipt of the petition,  
20 unless the licensee consents to further proceedings. When  
21 rulemaking is commenced in response to a petition under this  
22 subsection, the board shall take rule-making action to accomplish  
23 the objective of the petition, except when failure to do so is  
24 supported by a written justification for the conclusion that the  
25 requested course or action would threaten the integrity of the  
26 gaming at issue or enhance the likelihood of criminal activity.

27 4. Schedule. Initial rules governing operation of a gaming  
28 facility in the City of Calais by the Passamaquoddy Tribe must be  
29 proposed no later than September 15, 1994 and adopted no later  
30 than November 15, 1994.

31 §371. Licensing of gaming employees and enterprises supplying  
32 gaming services or equipment

33 1. Requirement for employee licensing. A person may not be  
34 employed as a gaming employee unless that person is the holder of  
35 a valid gaming employee license issued by the board in accordance  
36 with the provisions of this section and applicable rules.

37 2. Requirement for licensing providers of gaming services  
38 or equipment. An enterprise may not provide gaming services or  
39 gaming equipment to a gaming facility unless the enterprise is  
40 the holder of a valid gaming services license issued by the board  
41 in accordance with the provisions of this section and applicable  
42 rules.

43 3. Fee for gaming services licensing. An enterprise filing  
44 an application for a gaming services license pursuant to this  
45 section shall pay the board a fee established by the board and  
46 sufficient to compensate the board for the costs of review of the  
47 license applications.

2           4. Procedure for license applications. The board shall  
3 develop appropriate license application forms after consultation  
4 with Indian tribes affected by this chapter. Each applicant for  
5 a license under this section shall submit a completed license  
6 application to the board with a copy to the licensee, on forms  
7 provided by the board. The application must contain a statement  
8 by the licensee or licensed gaming service enterprise that  
9 submission of the application is approved. Each employee  
10 license application submitted to the board pursuant to the  
11 provisions of this section must be accompanied by the applicant's  
12 fingerprint card and photograph in the form required by the board.

13 The application must contain, but is not limited to, the  
14 following information regarding the applicant and, in the case of  
15 an enterprise, each officer and director of the enterprise and  
16 each partner or owner of any interest in the enterprise greater  
17 than 5%:

18           A. Full name;

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

20           C. A record of previous gaming employment, gaming school  
21 education and any issuance, refusal to issue and revocation  
22 of a gaming license in any jurisdiction; and

23           D. Answers to the following questions posed in  
24 substantially the following form.

25           (1) Have you ever been convicted of a crime in this or  
26 another jurisdiction that is punishable by imprisonment  
27 for one year or more or adjudicated as having committed  
28 a juvenile offense that involves conduct that, if  
29 committed by an adult, would be punishable by  
30 imprisonment for one year or more?

31           (2) Are you a fugitive from justice?

32           (3) Are you an illegal alien?

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

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

38           (6) Is there a formal charging instrument now pending  
39 against you in this or another jurisdiction for a  
40 juvenile offense that involves conduct that, if

- 2 committed by an adult, would be punishable by  
imprisonment for one year or more?
- 4 (7) Have you been dishonorably discharged from the  
military forces within the past 5 years?
- 6 (8) To your knowledge, have you been the subject of an  
8 investigation by a law enforcement agency within the  
10 past 5 years regarding the alleged abuse by you of  
family or household members?
- 12 (9) Have you been convicted within the past 5 years of  
crimes punishable by imprisonment of less than one year?
- 14 (10) Have you been adjudged within the past 5 years to  
16 have committed juvenile offenses involving conduct  
18 that, if committed by an adult, would be punishable by  
imprisonment of less than one year?
- 20 (11) To your knowledge, have you engaged in the past 5  
22 years in reckless or negligent conduct that has been  
the subject of an investigation by a governmental  
24 entity?

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

- 28 A. That the statements made in the application and in  
30 documents made part of the application are true and correct;
- 32 B. That the applicant understands that an affirmative  
34 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;
- 36 C. That the applicant understands that the answers to  
38 questions in subsection 4, paragraph D are used by the  
board, along with other information, in judging good moral  
40 character and an affirmative answer to one or more of those  
questions may be cause for refusal to issue a license; and
- 42 D. That the applicant understands that knowingly making a  
44 false statement in the application or in a document made a  
part of the application is grounds for a refusal to issue a  
46 license or revocation or suspension of a license.

48 **6. Consent to review of records.** At the request of the  
board, the applicant shall take whatever action is necessary to  
50 permit an examination of the accounts and records in the  
applicant's possession, under the applicant's control or under  
52 the control of 3rd parties but accessible by consent of the  
applicant and shall authorize all 3rd parties in possession or in

2 control of those accounts or records to allow the board or the  
3 board's designee to examine the accounts and records as the board  
4 determines necessary to ascertain:

6 A. Whether the information supplied on the application or  
7 in documents made a part of the application is true and  
8 correct;

10 B. Whether each of the requirements of this section has  
11 been met; or

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

14 The requirements of this subsection include the applicant taking  
15 whatever action is necessary to permit the board or the board's  
16 designee to have access to confidential records held by banks,  
17 the courts, law enforcement agencies and the military for the  
18 purposes stated in this subsection.

20 7. Background investigation of applicants. A nontemporary  
21 license may not be issued under this section without an  
22 appropriate background check of the applicant, including the  
23 applicant's previous experience with gaming in any jurisdiction.  
24 Officials designated by the Chief of the State Police from the  
25 Department of Public Safety or from an official gaming commission  
26 of a tribe licensed under section 367 are authorized to obtain  
27 criminal records information maintained by the Federal Bureau of  
28 Investigation or other federal agencies, subject to applicable  
29 restrictions on the use and dissemination of that information.  
30 If criminal history information is obtained by designated tribal  
31 gaming commission officials, it must be submitted to the board  
32 with the application or upon receipt of the information.

34 Upon receipt of an application for a gaming license that does not  
35 include the necessary criminal history information, the board  
36 shall request the State Police promptly to cause both state and  
37 federal criminal record checks to be done on the applicant to  
38 determine whether the applicant or, in the case of an applicant  
39 that is an enterprise, the applicant's officers, directors,  
40 partners or owners have a criminal history. The board may  
41 undertake any further investigation of the applicant and the  
42 applicant's background it considers appropriate and shall, as  
43 soon as is practicable after receipt of the completed license  
44 application, report to the gaming licensee to the extent  
45 permitted by law on the results of the investigation.

48 8. Temporary licensing. Unless the state criminal record  
49 check undertaken by the State Police within 10 days of the  
50 receipt of a completed application discloses that a gaming  
51 employee applicant has a criminal history, or unless other  
52 grounds sufficient to disqualify the applicant pursuant to

2 subsection 9 are apparent on the face of the application, the  
3 board shall, upon request of the licensee involved, issue a  
4 temporary gaming employee license to the applicant, which expires  
5 upon the determination by the board of the applicant's  
6 suitability for a gaming employee license.

7 A provider of gaming services or equipment who submits a  
8 completed application for a license under this section, together  
9 with evidence of a valid nontemporary license issued by another  
10 gaming jurisdiction, approved for the purposes of this subsection  
11 by rule of the board if that license encompasses or allows the  
12 provision of substantially similar gaming services or equipment,  
13 must immediately be issued a temporary gaming services license by  
14 the board pending determination of the applicant's suitability or  
15 eligibility for a license as provided in subsection 9.

16 The board may, in the board's discretion, issue a temporary  
17 license to an applicant for a gaming employee license or for a  
18 license to provide gaming services or equipment, based upon the  
19 applicant's prior licensing in another gaming jurisdiction.

20  
21  
22 9. Action by board. The board shall, as soon as is  
23 practicable after receipt of a completed license application,  
24 either grant or deny the license based upon the standards set  
25 forth in this subsection. An individual must be issued a license  
26 to be a gaming employee if the individual:

27  
28 A. Is of good moral character as determined pursuant to  
29 subsection 10;

30  
31  
32 B. Is current in payment of all taxes, interest and  
33 penalties owed to the State, excluding property taxes and  
34 taxes, interest and penalties under formal dispute or appeal  
35 pursuant to applicable statutes or being paid according to a  
36 schedule approved by the taxing authority;

37  
38 C. Has not been involved in any criminal activity or has  
39 not been convicted of a crime punishable by one year or more  
40 imprisonment in a jurisdiction unless at least 10 years have  
41 passed since satisfactory completion of the sentence or  
42 probation imposed by the court for the crime;

43  
44 D. Has not been convicted of a violation of this chapter,  
45 chapter 13-A or 14 or Title 17-A, chapter 39;

46  
47 E. Is not a fugitive from justice, an illegal alien or a  
48 person who was dishonorably discharged from the military  
49 forces within 5 years prior to the date of application;

50  
51 F. Has completed the application form and complied with the  
52 requirements of subsection 6; and

2 G. Has not knowingly made a false statement of material  
4 fact to the board in applying for a license under this  
6 chapter, chapter 13-A or chapter 14.

8 10. Determination of good moral character. The board shall  
10 make a determination of moral character solely on the basis of  
12 information recorded by governmental entities within 5 years of  
14 receipt of an application, including, but not limited to, the  
16 following matters:

18 A. Information of record relative to incidents of abuse of  
20 family or household members by the applicant, provided  
22 pursuant to Title 19, section 770, subsection 1;

24 B. Information of record relative to convictions of the  
26 applicant for crimes punishable by imprisonment for less  
28 than one year or adjudications of the applicant for juvenile  
30 offenses involving conduct that, if committed by an adult,  
32 are punishable by imprisonment for less than one year;

34 C. Information of record indicating that the applicant is a  
36 drug abuser, a drug addict or a drug-dependent person or has  
38 engaged in reckless or negligent conduct;

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

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

48 11. Duration of license; renewal. A gaming license issued  
50 under this section by the board is effective for a term provided  
52 by rule of not less than one year and not more than 3 years,  
except when revoked or suspended, except that a licensee who has  
applied for renewal may continue to be employed or to provide  
gaming services or equipment under the expired license until  
final action is taken on the renewal application by the board.  
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 board. 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 board.

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

13. Badges. All licensed gaming employees having access to  
gaming facilities must, upon the commencement of employment, be  
provided with identification badges as required by the board.  
Badges must be displayed or carried by licensed employees at all

2 times within the gaming facilities. The licensee shall employ  
3 the licensee's best efforts to recover badges from an employee  
4 upon the termination of employment at a gaming facility.

6 14. Examination of prototypes. The board and the Attorney  
7 General shall examine, and the board may approve, prototypes of  
8 electronic gaming devices and associated equipment necessary to  
9 the operation or monitoring of the devices provided by  
10 manufacturers or vendors seeking a license as required in this  
11 chapter. The board shall require the manufacturer or vendor  
12 seeking the examination and approval of the electronic gaming  
13 device or associated equipment to pay the anticipated actual cost  
14 of the examination before the examination occurs. After the  
15 examination occurs, the board shall refund overpayments or charge  
16 and collect amounts sufficient to reimburse for underpayments of  
17 actual costs. The board may contract for the examinations of  
18 electronic gaming devices and associated equipment as required by  
19 this section.

20 15. Registration of electronic gaming devices. An  
21 electronic gaming device may not be placed in use or operated in  
22 a gaming facility licensed under this chapter unless the device  
23 is registered by the board and employs a game or games approved  
24 by the board. The registration must be prominently displayed on  
25 the device.

26 **§372. Actions relating to licenses**

28 1. Revocation or suspension of license; refusal to renew.  
29 The board may refuse to renew a license issued under section 371  
30 after a hearing in accordance with the Maine Administrative  
31 Procedure Act. The board may suspend a license issued under  
32 section 371 for a period of no longer than 90 days. The  
33 Administrative Court may suspend or revoke a license issued under  
34 section 371. The board may suspend or refuse to renew, and the  
35 Administrative Court may revoke or suspend, a license issued  
36 under section 371 for just cause, which includes any of the  
37 following:

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

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

46 C. The holder of a license becomes ineligible to hold that  
47 license.

50 2. Ineligibility period following refusal to issue or renew  
51 license or revocation of license. A person may not apply to the  
52 board for a license under section 371 for a period of 2 years



2 after the effective date of a refusal to issue or renew a license  
3 or the revocation of a license issued under section 371, except  
4 that the period of ineligibility terminates immediately if the  
5 refusal or revocation is vacated or reversed in later legal  
6 proceedings.

7 **§373. Investigation of nongaming employees and enterprises**

8  
9 The State Police may investigate misconduct of persons who  
10 are not gaming employees but who are employed in conjunction with  
11 a gaming facility and those employees must be dismissed from that  
12 employment upon notification to their employer by the State  
13 Police that their conduct in the course of their employment in  
14 those facilities poses a threat to the effective regulation of  
15 gaming or creates or enhances the dangers of unfair or illegal  
16 practices, methods and activities in the conduct of gaming  
17 licensed under this chapter.

18  
19 An enterprise that is expected to provide goods or services  
20 to gaming operations authorized under this chapter, other than  
21 gaming services or gaming equipment, in a total amount exceeding  
22 the sum of \$50,000 in a single 12-month period or a labor  
23 organization seeking to represent gaming employees must be  
24 identified by the licensee to the Bureau of State Police and that  
25 enterprise or organization shall agree to cooperate with the  
26 State Police in any investigation necessary relating to the  
27 fitness of the enterprise or labor organization to engage in  
28 business with a gaming operation or relative to the conduct of  
29 the enterprise or labor organization in connection with licensed  
30 gaming activity. The Bureau of State Police may bar an  
31 enterprise from providing goods or services to the gaming  
32 operation or a labor organization from receiving dues from  
33 licensed employees at the gaming facility or may bar the  
34 principal of a labor organization from representing licensed  
35 gaming employees, if the enterprise or labor organization refuses  
36 to cooperate with an investigation or upon a determination that  
37 the enterprise or labor organization or a principal of the  
38 enterprise or labor organization is a person or entity whose  
39 prior activities, criminal record or reputation, habits and  
40 associations pose a threat to the effective regulation of gaming  
41 or create or enhance the dangers of unfair or illegal practices,  
42 methods and activities in the conduct of gaming or enhance the  
43 likelihood of criminal activity resulting from the conduct of  
44 gaming under this chapter.

45 Every agreement within the scope of this section is deemed  
46 to include a provision to the effect that, if the Bureau of State  
47 Police exercises its authority under this section to bar  
48 performance of the agreement, neither the licensee nor an agent  
49 of the licensee who is a party to the agreement or a related  
50 agreement has a civil liability as a result of the action of the  
51 State Police. Failure to include such a provision in the  
52 State Police.

2 agreement does not constitute a defense in an action brought with  
3 respect to the agreement.

4 **§374. Violations by licensees**

6 1. Class C crimes. A licensee commits a Class C crime if  
7 the licensee, through its employees or agents:

8  
9 A. Conducts, carries on, operates or deals, or allows to be  
10 conducted, carried on, operated or dealt, a cheating or  
11 thieving game or device; or

12  
13 B. Deals, conducts, carries on, operates or exposes for  
14 play a game or games played with cards, dice or a mechanical  
15 device, or a combination of games or devices, that have been  
16 marked or tampered with, or placed in a condition, or  
17 operated in a manner, the result of which tends to deceive  
18 the public or tends to alter the normal random selection of  
19 characteristics or the normal chance of the game so as to  
20 determine or alter the result of the game.

21 If the licensee is an Indian tribe, the licensee commits a Class  
22 C crime if the licensee, through its employees or agents, engages  
23 in conduct listed in paragraph A or B and the conduct is  
24 authorized, requested, commanded, performed or recklessly  
25 tolerated by the chair of the licensee's tribal gaming commission  
26 or by the licensee's tribal council or tribal gaming commission,  
27 acting within the scope of the officials' office or employment  
28 and to the benefit of the licensee.

29  
30 2. Class D crimes. A licensee commits a Class D crime if  
31 the licensee, through its employees or agents, permits a person  
32 under 21 years of age to engage in gaming in a gaming facility  
33 licensed under this chapter and, if the licensee is an Indian  
34 tribe, the conduct is authorized, requested, commanded, performed  
35 or recklessly tolerated by the chair of the licensee's tribal  
36 gaming commission or by the licensee's tribal council or tribal  
37 gaming commission.

38  
39 3. Individual action not necessary. It is not a defense to  
40 criminal liability under this section that the individual upon  
41 whose conduct liability under this section is based has not been  
42 prosecuted or convicted, has been convicted of a different  
43 offense or is immune from prosecution.

44  
45 **§375. Violations by managers**

46  
47 1. Class C crimes. A natural person or enterprise under  
48 contract to manage a gaming facility commits a Class C crime if  
49 the person or enterprise, through its employees or agents,  
50 engages in the following conduct and the conduct is authorized,  
51 requested, commanded, performed or recklessly tolerated by the  
52

2 person or by the board of directors of the enterprise or a high  
3 managerial agent acting within the scope of the agent's office or  
4 employment and to the benefit of the enterprise:

5 A. Conducts, carries on, operates or deals, or allows to be  
6 conducted, carried on, operated or dealt, a cheating or  
7 thieving game or device; or

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

16 2. Class D crimes. A natural person or enterprise under  
17 contract to manage a gaming facility commits a Class D crime when  
18 the person or enterprise, through its employees or agents,  
19 permits a person under 21 years of age to engage in gaming in a  
20 gaming facility licensed under this chapter and the conduct is  
21 authorized, requested, commanded, performed or recklessly  
22 tolerated by the person or by the board of directors of the  
23 enterprise or a high managerial agent acting within the scope of  
24 the agent's office or employment and to the benefit of the  
25 enterprise.

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

31 4. Individual action not necessary. It is not a defense to  
32 criminal liability under this section that the individual upon  
33 whose conduct liability under this section is based has not been  
34 prosecuted or convicted, has been convicted of a different  
35 offense or is immune from prosecution.

36 **§376. Violations by persons**

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

39 A. Conducts, carries on, operates or deals, or allows to be  
40 conducted, carried on, operated or dealt, a cheating or  
41 thieving game or device;

42 B. Deals, conducts, carries on, operates or exposes for  
43 play a game or games played with cards, dice or a mechanical  
44 device, or a combination of games or devices, that have been  
45

2 marked or tampered with, or placed in a condition or  
3 operated in a manner, the result of which tends to deceive  
4 the public or tends to alter the normal random selection of  
5 characteristics or the normal chance of the game so as to  
6 determine or alter the result of the game;

7 C. Tamper with an electronic gaming device with intent to  
8 interfere with the proper operation of that device;

9 D. Manipulates or intends to manipulate the outcome, payoff  
10 or operation of gaming equipment by physical tampering or  
11 other means;

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

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

23 G. Uses or possesses a cheating device with intent to cheat  
24 or defraud;

25 H. Uses a coin or tender other than a lawful coin or legal  
26 tender of the United States or uses a coin not of the same  
27 denomination as the coin intended to be used in a slot  
28 machine in a licensed gaming facility, except that, in the  
29 playing of an electronic gaming device, it is lawful for a  
30 person to use gaming billets, tokens or similar objects  
31 approved by the board;

32 I. Uses or possesses while on licensed gaming premises a  
33 cheating or thieving device, including but not limited to  
34 tools, drills, wires, coins or tokens attached to strings or  
35 wires, or electronic or magnetic devices, to facilitate the  
36 alignment of a winning combination or to remove from an  
37 electronic gaming device any money or other contents, except  
38 that a person employed in connection with a gaming facility  
39 may possess and use any of the foregoing only as required in  
40 the course of employment in the gaming facility; or

41 J. Uses or possesses while on licensed gaming premises a  
42 key or device designed for the purpose of or suitable for  
43 opening or entering an electronic gaming device or drop box,  
44 except that an authorized employee or agent of the licensee,  
45 except that an authorized employee or agent of the licensee,  
46 except that an authorized employee or agent of the licensee,  
47 except that an authorized employee or agent of the licensee,  
48 except that an authorized employee or agent of the licensee,  
49 except that an authorized employee or agent of the licensee,  
50 except that an authorized employee or agent of the licensee,

2           the gaming commission of the licensee or the State may  
3           possess and use the foregoing only as required in the course  
4           of employment.

5           2. Class D crimes. A natural person who knowingly  
6           performs the following acts commits a Class D crime:

7           A. Violating a provision of this chapter or a rule adopted  
8           under this chapter for which a specific penalty is not  
9           provided;

10           B. Winning or attempting to win money or property or a  
11           representative of either or reducing a losing wager or  
12           attempting to reduce a losing wager by a trick or sleight of  
13           hand performance or by a fraud or fraudulent scheme, cards,  
14           dice or device for that person or another person in  
15           connection with gaming, where the value of the money,  
16           property or representative is \$1,000 or less;

17           C. Entering a licensed gaming facility when listed among  
18           those persons excluded from those facilities pursuant to a  
19           rule of the board;

20           D. Wearing or presenting an employee badge or a facsimile  
21           of an employee badge in a licensed gaming facility when not  
22           licensed as an employee of the tribe or person operating  
23           that facility;

24           E. In playing a game in a licensed gaming facility, using  
25           or assisting another person in the use of an electronic or  
26           mechanical device that is designed, constructed, or  
27           programmed specifically for use in obtaining an advantage at  
28           playing any game. A device used by a person in violation of  
29           this section is subject to forfeiture;

30           F. Making a false statement or material omission in an  
31           application or in documents made a part of an application  
32           for a license under this chapter; or

33           G. Permitting a person under 21 years of age to engage in  
34           gaming in a gaming facility licensed under this chapter.

35           3. Continuing offenses. A violation of the provisions of  
36           this chapter that is an offense of a continuing nature is a  
37           separate offense on each day during which it occurs.

38           §377. Authority to detain persons suspected of cheating; immunity

39           A licensee or its officers, employees or agents may question  
40           an individual in a licensed casino reasonably suspected of  
41           violating the provisions of section 374, subsection 1; section  
42           375, subsection 1; or section 376, subsection 1. A licensee or  
43           its officers, employees or agents may question an individual in a  
44           licensed casino reasonably suspected of violating the provisions of  
45           section 374, subsection 1; section 375, subsection 1; or section 376,  
46           subsection 1. A licensee or its officers, employees or agents may  
47           question an individual in a licensed casino reasonably suspected of  
48           violating the provisions of section 374, subsection 1; section 375,  
49           subsection 1; or section 376, subsection 1. A licensee or its  
50           officers, employees or agents may question an individual in a  
51           licensed casino reasonably suspected of violating the provisions of  
52           section 374, subsection 1; section 375, subsection 1; or section 376,

2 an officer, employee or agent of the licensee is not criminally  
or civilly liable by reason of questioning under this section.

4 A licensee or an officer, employee or agent of the licensee  
6 who has probable cause to believe there has been a violation of  
8 section 374, subsection 1; section 375, subsection 1; or section  
10 376, subsection 1 in the gaming facility by any person may take  
12 that person into custody and detain that person in the gaming  
14 premises in a reasonable manner for a reasonable length of time  
16 for the purpose of requiring the person detained to provide  
18 identification, verifying the identification, notifying and  
20 surrendering the person to law enforcement authorities and, when  
22 the detained person is a minor, informing a law enforcement  
officer or the parents or guardian of the minor of the detention  
and surrendering the minor to the person so informed. The act of  
taking into custody and detention under this section does not  
render the licensee or its officers, employees or agents  
criminally or civilly liable, including but not limited to  
liability for false arrest, false imprisonment, slander or  
unlawful detention, unless the taking into custody or detention  
is unreasonable under all the circumstances.

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

30 "A gaming licensee or an officer, employee or agent of a  
32 gaming licensee who has probable cause to believe that a  
34 person is violating a provision of law prohibiting cheating  
or swindling in gaming may detain that person in the  
establishment for the purpose of notifying law enforcement  
authorities."

36 **§378. Independent audit**

38 Each licensee under this chapter shall cause its licensed  
40 gaming operations to be subjected to an annual audit by an  
42 independent certified public accountant in accordance with  
44 procedures established by that accountant following consultation  
46 with the board. Each audit must include any additional  
procedures required by the board not otherwise required by the  
independent auditor. Additional procedures required by the board  
must be reasonable and necessary to gaming regulation.

48 **§379. Smoking permitted**

50 Any general law or rule of the State or any political  
52 subdivision of the State regulating smoking in places accessible  
to the general public is inapplicable to any gaming facility  
licensed under this chapter. This section does not restrict the

2 power of a tribal government to regulate or restrict smoking  
3 within its Indian territory.

4 **§380. Transportation of gaming devices**

6 Pursuant to the provisions of 15 United States Code, Section  
7 1172 governing the transportation of gambling devices in  
8 interstate and foreign commerce, the State exempts from that law  
9 the transportation of a gambling device used or intended for use  
10 at, and transported to or from, a gaming facility licensed under  
11 this chapter.

12 **§381. Other laws; applicability**

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

20 **§382. Confidential records**

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

27 1. Personal information. All information and data  
28 pertaining to an applicant's criminal history, personal and  
29 family history and personal background submitted or obtained in  
30 connection with the issuance of a license under section 371;

31 2. Financial information. A financial statement,  
32 supporting information, assessment of credit or financial  
33 condition or tax return of a person, Indian tribe or enterprise;

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

43 5. Investigative records. All records, correspondence and  
44 reports of an allegation or investigation of a violation of this  
45 chapter, or of a rule or license issued under this chapter, but  
46 not

2 the confidential nature of the records, correspondence or reports  
3 does not limit or affect the use of those materials in a  
4 prosecution or civil or criminal enforcement proceeding.

6 **§383. Disclosure**

8 1. Gaming regulation or enforcement. Documents or  
9 information made confidential by section 382 may be disclosed  
10 upon request to a law enforcement agency of another jurisdiction  
11 engaged in the investigation or regulation of gaming, if the  
12 requesting agency certifies that it is entitled to maintain the  
13 information under confidentiality protections similar to those  
14 provided in this chapter.

16 2. Judicial proceedings. Documents or information made  
17 confidential by section 382 may be used in a judicial proceeding  
18 authorized by this chapter or disclosed pursuant to the terms of  
19 a subpoena, warrant or other judicial process, if the order or  
20 process has been first served upon the person or enterprise to  
21 whom the confidential information pertains or belongs and if the  
22 order or process appears on its face or otherwise to have been  
23 issued or made upon lawful authority.

24 **§384. Education and treatment**

26 Contributions or payments, up to a total of \$50,000 per  
27 year, by a gaming operation under this chapter for use in the  
28 education, prevention, treatment or aftercare of compulsive or  
29 addictive disorders, including compulsive gambling, must be  
30 considered an operating expense of the gaming operation, but, if  
31 the licensee is a tribal licensee, the contributions or payments  
32 for the programs are divided equally between the tribal licensee  
33 and any public entity or nonprofit organization providing those  
34 services in the county where the licensed gaming premises are  
35 located. If no public entity or nonprofit organization other  
36 than the tribal licensee provides the services in the county  
37 where the licensed gaming premises are located, payments or  
38 contributions of up to \$50,000 in any year to the tribal licensee  
39 must be considered an operating expense of the gaming operation.

40 Sec. A-4. 17 MRSA §3204, 2nd ¶, as amended by PL 1991, c. 315,  
41 is further amended to read:

44 This section does not apply to: The the operation or  
45 maintenance of common, contract and private carriers; taxicabs;  
46 airplanes; newspapers; radio and television stations; hotels,  
47 motels, rooming houses, and tourist and trailer camps;  
48 restaurants; garages and motor vehicle service stations; retail  
49 monument dealers; automatic laundries; machines that vend  
50 anything of value, including, but not limited to, a product,  
51 money or service; a satellite facility approved by the  
52 Superintendent of Banking under Title 9-B+ or comparable facility



2 approved by the appropriate federal authority; pharmacies;  
3 greenhouses; seasonal stands engaged in sale of farm produce,  
4 dairy products, sea food or Christmas trees; public utilities;  
5 industries normally kept in continuous operations, including, but  
6 not limited to, pulp and paper plants and textile plants;  
7 processing plants handling agricultural produce or products of  
8 the sea; ship chandleries; marinas; establishments primarily  
9 selling boats, boating equipment, sporting equipment, souvenirs  
10 and novelties; motion picture theatres; public dancing; gaming  
11 facilities licensed under chapter 16; sports and athletic events;  
12 bowling alleys; displaying or exploding fireworks, under Title 8,  
13 chapter 9-A; musical concerts; religious, educational, scientific  
14 or philosophical lectures; scenic, historic, recreational and  
15 amusement facilities; real estate brokers and real estate sales  
16 representatives; mobile home brokers and mobile home sales  
17 representatives; ~~provided~~ except that this section does not  
18 exempt the businesses or facilities specified in sections 3205  
19 and 3207 from closing in any a municipality until the  
20 requirements of those sections have been met; stores wherein  
21 where no more than 5 persons, including the proprietor, are  
22 employed in the usual and regular conduct of business; stores  
23 which that have no more than 5,000 square feet of interior  
24 customer selling space, excluding back room storage, office and  
25 processing space; and stores with more than 5,000 square feet of  
26 interior customer selling space which that engage in retail sales  
27 and which that do not require, as a condition of employment, that  
28 their employees work on Sundays. If an employer decreases the  
29 average weekly work hours of an employee who has declined to work  
30 on Sundays, it is prima facie evidence that the employer has  
31 required Sunday work as a condition of employment in violation of  
32 this section, unless the employer and employee agreed that the  
33 employee would work on Sundays when the employee was initially  
34 hired. ~~In no event, however, may any~~ A store having more than  
35 5,000 square feet of interior customer selling space may not be  
36 open on Easter Day, Thanksgiving Day and Christmas Day.

37 **Sec. A-5. 17-A MRSA §951**, as amended by PL 1989, c. 502, Pt.  
38 A, §48, is further amended to read:

39 **§951. Inapplicability of chapter**

40  
41 Any A person licensed by the Chief of the State Police as  
42 provided in Title 17, chapter 13-A ~~or~~, chapter 14, or chapter 16  
43 or who is authorized to operate or conduct a raffle pursuant to  
44 Title 17, section 331, subsection 6, ~~shall be~~ is exempt from the  
45 application of the provisions of this chapter insofar as that  
46 person's conduct is within the scope of the license.

47  
48 **Sec. A-6. 21-A MRSA §1015-A, sub-§2** is enacted to read:

49  
50 2. Indian gaming operations. An Indian tribe licensed  
51 under Title 17, chapter 16 and its gaming enterprise, whether or  
52

2 not incorporated, is considered a single entity for purposes of a  
3 contribution to a political campaign governed by this chapter.

4 **Sec. A-7. 28-A MRSA §2, sub-§15, ¶F-1** is enacted to read:

6 F-1. "Gaming premises" means gaming premises as defined in  
7 Title 17, section 362.

8 **Sec. A-8. 28-A MRSA §601, sub-§1, ¶D** is enacted to read:

10 D. If the applicant is a gaming operation, it must hold a  
12 valid license issued under Title 17, chapter 16.

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

18 A. Credit may be extended:

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

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

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

30 **Sec. A-10. 28-A MRSA §1001, sub-§3, ¶F-1** is enacted to read:

32 F-1. Gaming premises:

34 **Sec. A-11. 28-A MRSA 1054, sub-§2-A** is enacted to read:

36 2-A. Exception. A license for the sale of liquor on gaming  
38 premises does not require a special amusement permit for the  
conduct of any gaming licensed under Title 17, chapter 16.

40 **Sec. A-12. 30 MRSA §6205, sub-§1, ¶B**, as amended by PL 1991,  
42 c. 720, §1 and affected by §2, is further amended to read:

44 B. The first 150,000 acres of land acquired by the  
secretary for the benefit of the Passamaquoddy Tribe from  
46 the following areas or lands to the extent that those lands  
are acquired by the secretary prior to January 31, 1991  
48 2001, are not held in common with ~~any-other~~ another person  
or entity and are certified by the secretary by January 31,  
50 1991 2001, as held for the benefit of the Passamaquoddy  
Tribe:

2 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),  
4 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),  
6 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  
8 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  
10 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  
12 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,  
14 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  
16 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  
18 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  
20 Diamond International Corporation, International Paper  
Company and Lincoln Pulp and Paper Company located in  
22 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  
24 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.  
26 (Soldiertown Township), and T.4 R.4 N.B.K.P. (Prentiss  
Township), and any lands in Albany Township acquired by the  
28 Passamaquoddy Tribe before January 1, 1991; and lands  
not exceeding 100 acres in the City of Calais approved by  
the legislative body of that city for acquisition by the  
30 tribe.

32 **Sec. A-13. 36 MRSA c. 373** is enacted to read:

34 **CHAPTER 373**

36 **CASINO EXCISE TAX**

38 **§2881. Casino tax**

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

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

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

6       A. Upon the first submission to the Bureau of State Police  
7       of a petition for initial rulemaking under Title 17, chapter  
8       16, a petitioner must make a one-time payment of \$115,000.

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

18       4. Exemption. A taxpayer under this section is allowed an  
19       exemption from the excise tax on gross gaming revenues in the  
20       following amounts.

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

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

30       5. Carry forward of unused exemption amounts. Unused  
31       monthly exemption amounts may be carried forward. The oldest  
32       amount carried forward must be used to reduce gross gaming  
33       revenues in the earliest subsequent month or months in which  
34       gross gaming revenues exceed the exemption provided in subsection  
35       4. An unused monthly exemption amount may not be carried forward  
36       for more than 36 months.

38       6. Administration. The tax and the additional payments  
39       imposed under this section must be administered in the same  
40       manner as the tax imposed on taxable services under Part 3 unless  
41       otherwise provided by this chapter.

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

44       \$2882. Casino tax account

46       1. Casino regulatory costs. For the purposes of this  
47       section, "casino regulatory costs" means the reasonable and  
48       necessary costs of the State in administering the casino excise  
49       tax, regulating gaming operations and conducting law enforcement  
50       activities pursuant to Title 17, chapter 16.

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

7           3. Purpose of account. Money in the account may be used  
8 only to pay casino regulatory costs.

9           4. Payments from account. Beginning with the first month  
10 in which there are revenues under section 2881, by the 15th day  
11 of each subsequent month, the Treasurer of State, after reserving  
12 the amount of additional payments received under section 2881,  
13 subsection 3 and 1/12 of the amount allocated for that fiscal  
14 year for casino regulatory costs plus any amount from a previous  
15 month by which the available account balance was less than the  
16 1/12 of casino regulatory costs and that was not reserved, shall  
17 pay the balance to the General Fund.

18  
19 **§2883. Application of other taxes**

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

25  
26           **Sec. A-14. Tribal ratification.** That section of this Part that  
27 amends the Maine Revised Statutes, Title 30, section 6205,  
28 subsection 1, paragraph B does not take effect unless, within 60  
29 days of the adjournment of the Legislature, the Secretary of  
30 State receives written notification by the Joint Tribal Council  
31 of the Passamaquoddy Tribe that the tribe has agreed to the  
32 provisions of that section pursuant to 25 United States Code,  
33 Section 1725(e)(1), copies of which must be submitted by the  
34 Secretary of State to the Secretary of the Senate, the Clerk of  
35 the House of Representatives and the Office of the Revisor of  
36 Statutes.  
37

38  
39           **Sec. A-15. Maine Indian Tribal-State Commission.** At a meeting  
40 held May 14, 1993, the Maine Indian Tribal-State Commission  
41 recommended that land in the City of Calais be included in  
42 Passamaquoddy Indian Territory for economic development purposes,  
43 if the Calais City Council approves. On February 4, 1994, the  
44 Maine Indian Tribal-State Commission voted to support the concept  
45 of casino-based tribal initiatives to foster the economic welfare  
46 of the tribes and the economic conditions within the State.  
47  
48



2 Provides funds from the Casino Tax Account  
3 for one Senior Revenue Agent position,  
4 effective April 1, 1995, computer system  
5 modifications and operating expenses.

6 DEPARTMENT OF ADMINISTRATIVE AND  
7 FINANCIAL SERVICES

8 TOTAL \$127,645

10 TOTAL ALLOCATIONS \$1,854,804

12

14

PART B

16 Sec. B-1. Emergency clause; statutory referendum procedure;  
17 submission at primary election; form of question; effective date. In view  
18 of the emergency cited in the preamble, this Act takes effect  
19 when approved only for the purpose of permitting its submission  
20 to the legal voters of the State at the June 1994 primary  
21 election following passage of this Act. The municipal officers  
22 of this State shall notify the inhabitants of their respective  
23 cities, towns and plantations to meet, in the manner prescribed  
24 by law for holding a general election, to vote on the acceptance  
25 or rejection of this Act by voting on the following question:

26

28

"Do you favor permitting gambling casinos in Maine?"

30

32

34

36

38

40

The legal voters of each city, town and plantation shall  
vote by ballot on this question and designate their choice by a  
cross or check mark placed within a corresponding square below  
the word "Yes" or "No." The ballots must be received, sorted,  
counted and declared in open ward, town and plantation meetings  
and returns made to the Secretary of State in the same manner as  
votes for members of the Legislature. The Governor shall review  
the returns and, if a majority of the legal votes are cast in  
favor of the Act, the Governor shall proclaim the result without  
delay, and the Act takes effect 30 days after the date of  
proclamation.

42

44

The Secretary of State shall prepare and furnish to each  
city, town and plantation all ballots, returns and copies of this  
Act necessary to carry out the purpose of this referendum.

FISCAL NOTE

1994-95

2

4

APPROPRIATIONS/ALLOCATIONS

6

Other Funds \$1,854,804

8

10 REVENUES

12 Other Funds \$1,900,000

14

16 This bill must be submitted to referendum at the June 1994  
18 primary election in order to become effective. The estimated  
20 cost of sending this issue out to referendum will vary according  
22 to the total number of referenda enacted during the Second  
24 Regular Session of the 116th Legislature. The estimated cost to  
the Secretary of State if one to 6 referenda are enacted is  
\$95,000. Each additional referendum costs an additional \$7,000.

26 If approved by the voters, this bill will have the following  
28 fiscal impact.

30 The bill imposes a 10% casino excise tax on gross gaming  
32 revenues less the value of all prizes and winnings paid. For the  
34 first 5 years of operation, the casino will be allowed to exempt  
\$10,000,000 of gross revenue per year to cover debt service and  
management fees. In addition, the casino will be allowed to  
exempt another \$15,000,000 of gross revenue in the first year of  
operation to offset its \$1,500,000 advance to cover regulation  
and enforcement costs for fiscal year 1994-95.

36 The bill also establishes the Casino Tax Account to pay  
regulatory costs from casino tax revenue collected.

38 Based on projections of \$45,000,000 to \$50,000,000 annually  
40 in gaming revenues, after deducting the exemption and regulatory  
42 costs, the General Fund may receive additional revenue from the  
44 casino excise tax. The amounts can not be determined at this  
46 time. Indirectly, the gaming and hotel complex is expected to  
generate additional sales and income tax revenue from incremental  
increases of economic activity. The amounts of this incremental  
revenue also can not be estimated at this time.

48 The State Gaming Board, established by the bill, will  
require allocations of \$1,619,558 in fiscal year 1994-95 to  
provide funds for staff and related costs to provide regulatory



2 services for casino gambling. The Department of Public Safety  
3 will require additional allocations in fiscal year 1994-95 to  
4 provide funds for necessary staff to provide law enforcement  
5 activities to protect the integrity of the casino gambling. The  
6 amounts can not be determined at this time. The Department of  
7 the Attorney General will require additional allocations of  
8 \$107,601 in fiscal year 1994-95 to provide funds for an Assistant  
9 Attorney General and a Senior Legal Secretary to provide legal  
10 services in support of the Indian gaming. The Bureau of Taxation  
11 within the Department of Administrative and Financial Services  
12 will require additional allocations of \$127,645 in fiscal year  
13 1994-95 to provide funds for a Senior Revenue Agent position for  
14 the final quarter, computer system modifications and operational  
15 expenses. Ongoing future costs beginning in fiscal year 1995-96  
16 can not be determined at this time.

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

22 Revenue required to fund regulatory and law enforcement  
23 activities will be generated by licensee fees and a flat fee  
24 assessed against a tribe that conducts casino gambling. These  
25 fees are deposited into the Casino Tax Account, a dedicated  
26 revenue account. The amount of dedicated revenue generated in  
27 fiscal year 1994-95 is estimated to be \$1,900,000. The dedicated  
28 revenue available in the Casino Tax Account beginning in fiscal  
29 year 1995-96 will be sufficient to provide for the ongoing  
30 regulatory costs.

31 These estimates are based on the location approval of one  
32 casino in the City of Calais. If other casinos are proposed for  
33 other locations, future revenue estimates and allocations will be  
34 required.

35 This bill establishes several new Class C and Class D  
36 crimes. Sentences of more than 9 months and, beginning January  
37 1, 1995, more than 12 months imposed for Class C crimes must be  
38 served in a state correctional institution. The cost to the  
39 State per sentence is \$45,352 based upon an average length of  
40 stay of one year and 9 months. The State also must reimburse  
41 counties for sentences served in county jails of 9 months or less  
42 and, beginning January 1, 1995, 12 months or less for Class C  
43 crimes. Sentences imposed for Class D offenses must be served in  
44 a county jail. The average cost per sentence for a Class D crime  
45 is \$8,320 based upon an average length of stay of 119 days. The  
46 additional costs to the counties for the housing of each offender  
47 sentenced under this new crime are not reimbursed by the State.  
48  
49  
50

2           The Judicial Department may require additional General Fund  
4 appropriations to cover indigent defense costs related to these  
6 new cases. The amounts can not be estimated at this time. The  
8 additional workload and administrative costs associated with the  
10 minimal number of new cases filed in the court system can be  
12 absorbed within the budgeted resources of the Judicial  
14 Department's administrative account. The collection of  
16 additional fines may also increase General Fund revenue by minor  
18 amounts.

### STATEMENT OF FACT

14           This bill is a minority recommendation of the Joint Standing  
16 Committee on Judiciary.

18           The bill allows gaming by the Passamaquoddy Tribe in the  
20 City of Calais and establishes a structure for the licensing of  
22 gaming by either the Passamaquoddy Tribe or the Penobscot Nation  
or by other qualified applicants. The location of any gaming  
facility must be approved by the Legislature.

24           Before it may conduct gaming under this bill, an applicant  
26 must obtain licenses for a proposed gaming operation, including  
28 approval of its financing, management and professional  
30 qualifications and the character and integrity of each of its key  
employees. Regulation of licensing and the gaming itself is  
32 given to a State Gaming Board with law enforcement jurisdiction  
remaining with the Bureau of State Police to protect the  
integrity of the permitted gaming.

34           A casino excise tax is enacted to fund law enforcement and  
36 regulatory costs and provide revenues to the General Fund.  
Off-track betting and alcoholic beverage laws are amended to  
38 allow off-track betting and retail liquor sales at licensed  
Indian gaming premises. The bill provides for a contribution by  
40 a licensed gaming operation for the purpose of funding services  
related to compulsive gambling and addictive disorders.

42           The bill is effective only if approved by referendum at the  
primary election in June.

#### PART A

46           Specifically, Part A:

48           1. Establishes the State Gaming Board;

2. Authorizes off-track betting at a licensed gaming facility;

3. Enacts a new chapter, authorizing and regulating gaming by the Passamaquoddy Tribe and the Penobscot Nation to provide the revenue necessary to enable self-sufficiency and self-government for these tribes. Other organizations may be licensed to operate gaming if the State Gaming Board finds that it is in the best economic interests of the State. A comprehensive state regulatory system is established. Legislative approval of the location of any gaming facility is required, in addition to any other permits required by law.

Gaming proposals, management contracts, gaming employees and providers of gaming services must be approved or licensed by the State Gaming Board, based upon appropriate background investigations. Each license is subject to revocation or suspension. Law enforcement is the responsibility of the State Police and local law enforcement agencies, who are given full access to gaming premises and records. Special gaming crime laws are enacted. Rule-making authority is given to the State Gaming Board. A contribution is required from a licensee toward the services for the education, prevention, treatment and aftercare of compulsive or addictive disorders. A special account to fund regulatory, law enforcement and tax administration costs is established, made up of fees from licenses, the casino excise tax and initial regulatory assessments;

4. Exempts licensed gaming facilities from the Sunday closing laws;

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

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

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

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

9. Establishes a graduated casino excise tax on the gross gaming revenues of gaming operations. The excise tax is administered in the same manner as the sales tax on services, but would not be subject to any reductions for state-municipal revenue sharing; and

2            10. Provides for tribal ratification of the provision of  
the bill relating to the incorporation of land into Passamaquoddy  
4 Indian Territory as required by the terms of the Maine Indian  
Claims Settlement Act of 1980, 25 United States Code, Section  
6 1725(e)(1).

8

PART B

10            Part B requires that the bill be submitted to referendum in  
order to become effective.