

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

---

Legislative Document

No. 1370

I.B. 1

House of Representatives, March 18, 2003

### An Act To Enact the Maine Tribal Gaming Act

---

Transmitted to the Clerk of the 121st Maine Legislature by the Secretary of State on February 26, 2003 and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

4 **Sec. 1. 30 MRSA c. 601** is amended by repealing the chapter headnote and enacting the following in its place:

6 **CHAPTER 601**

8 **MAINE INDIAN CLAIMS SETTLEMENT**

10 **SUBCHAPTER 1**

12 **IMPLEMENTATION OF MAINE INDIAN CLAIMS SETTLEMENT**

14 **Sec. 2. 30 MRSA §6212, sub-§6**, as enacted by PL 1993, c. 600, Pt. A, §24 and affected by §25, is amended to read:

16 **6. Funding.** The commission may receive and accept, from  
18 any source, allocations, appropriations, loans, grants and  
20 contributions of money or other things of value to be held, used  
22 or applied to carry out this ~~chapter~~ subchapter, subject to the  
24 conditions upon which the loans, grants and contributions may be  
26 made, including, but not limited to, appropriations, allocations,  
28 loans, grants or gifts from a private source, federal agency or  
governmental subdivision of the State or its agencies. Notwithstanding Title 5, chapter 149, upon receipt of a written request from the commission, the State Controller shall pay the commission's full state allotment for each fiscal year to meet the estimated annual disbursement requirements of the commission.

30 **Sec. 3. 30 MRSA c. 601, sub-c. 2** is enacted to read:

32 **SUBCHAPTER 2**

34 **GAMING CONDUCTED BY PASSAMAQUODDY  
36 TRIBE AND PENOBSCOT NATION**

38 **§6301. Short title**

40 This subchapter may be known and cited as "The Maine Tribal Gaming Act."

42 **§6302. Definitions**

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

48 1. **Bazaar game.** "Bazaar game" means a game, sport,  
50 amusement, diversion, scheme, plan, project, contest, undertaking  
or enterprise in which chance, fortune, luck or lot is the  
predominating factor or element in the winning or awarding of a

2 prize but does not include a lottery or any game, sport,  
3 amusement, diversion, scheme, plan, project, contest or  
4 undertaking in which the skill, accomplishment, art or adroitness  
5 of the operator or participant is the primary factor in the  
6 winning or awarding of a prize.

7 **2. Connecticut Compact.** "Connecticut Compact" means the  
8 tribal-state gaming compact between the State of Connecticut and  
9 the Mashantucket Pequot Tribe, promulgated by the United States  
10 Secretary of the Interior under IGRA as the Mashantucket Pequot  
11 Gaming Procedures, 56 Code of Federal Regulations 24996, May 31,  
12 1991, as supplemented and amended to the date of enactment of  
13 this subchapter, including the appendices thereto.

14 **3. Enterprise.** "Enterprise" means an individual, trust,  
15 corporation, partnership or other legal entity of any kind other  
16 than a tribal gaming operator or other tribal enterprise wholly  
17 owned by the Tribes; provided, however, that with respect to any  
18 corporation, "enterprise" includes each other corporation or  
19 other legal entity that, directly or indirectly, controls a  
20 majority of the voting interests in that corporation; and further  
21 provided, that, with respect to any partnership, trust or other  
22 form of unincorporated business organization, "enterprise"  
23 includes each corporation or other legal entity that, directly or  
24 indirectly, controls a majority of the voting interests in that  
25 organization.

26 **4. Gaming.** "Gaming" means any game of chance or other  
27 gaming or wagering activity, including, but not limited to, those  
28 activities specifically identified in section 6303.

29 **5. Gaming employee.** "Gaming employee" means any natural  
30 person employed in the operation or management of gaming  
31 facilities, whether employed by a tribal gaming operator or by an  
32 enterprise providing on-site services to the tribal gaming  
33 operator within a gaming facility.

34 **6. Gaming equipment.** "Gaming equipment" means a machine or  
35 device that is specifically designed or manufactured for use in  
36 the operation of any gaming activity.

37 **7. Gaming facility.** "Gaming facility" means a room or  
38 rooms in which gaming is conducted on the site.

39 **8. Gaming operation.** "Gaming operation" means an  
40 enterprise operated by the tribal gaming operator on the site for  
41 the conduct of gaming in a gaming facility.

42 **9. Gaming school.** "Gaming school" means an enterprise  
43 organized to provide specialized training to gaming employees for  
44 the conduct of gaming in a gaming facility.

2 the conduct of gaming other than a program operated by the tribal  
3 gaming operator.

4 **10. Gaming services.** "Gaming services" means the provision  
5 of goods or services to a tribal gaming operator directly in  
6 connection with the operation of gaming in a gaming facility,  
7 including maintenance or security services for the gaming  
8 facility, junket services, gaming schools, laboratory testing of  
9 gaming equipment including video facsimile machines and lottery  
10 tickets and the manufacture, distribution, maintenance or repair  
11 of gaming equipment, but not including professional or financial  
12 services provided by persons licensed or registered under the  
13 laws of the State, the Federal Government or other states of the  
14 United States.

15 **11. IGRA.** "IGRA" or "Indian Gaming Regulatory Act" means  
16 Public Law 100-497, as amended, 25 United States Code, Section  
17 2701 et seq.

18 **12. Junket services.** "Junket services" means any  
19 arrangement to facilitate the attendance at a gaming facility of  
20 patrons selected by reason of their propensity to gamble by  
21 providing to such patrons any consideration including cash or  
22 rebates or reduced charges for goods or services such as  
23 transportation, lodging, food, beverage or entertainment.  
24 "Junket services" does not include enterprises that function  
25 solely to provide common transportation to a gaming facility for  
26 the public without limitation to selected patrons.

27 **13. Lottery.** "Lottery" means any gaming for which tickets  
28 are sold, the winning ticket or tickets being secretly  
29 predetermined or ultimately selected in a chance drawing, in  
30 which the holders of winning tickets receive money or something  
31 of value.

32 **14. Maine Implementing Act.** "Maine Implementing Act" means  
33 An Act to Implement the Maine Indian Claims Settlement.

34 **15. Passamaquoddy Tribe.** "Passamaquoddy Tribe" means the  
35 Passamaquoddy Indian Tribe, a federally recognized Indian tribe  
36 with reservations at Indian Township and Pleasant Point,  
37 represented by the Joint Tribal Council of the Passamaquoddy  
38 Tribe.

39 **16. Penobscot Nation.** "Penobscot Nation" means the  
40 Penobscot Indian Nation, a federally recognized Indian tribe with  
41 a reservation at Indian Island within the State, represented by  
42 the Penobscot Nation Chief and Council.

2           **17. Principal.** "Principal" means with respect to an  
enterprise:

4           A. Each of its officers and directors;

6           B. Each of its principal management employees, including  
8           any chief executive officer, chief financial officer, chief  
operating officer or general manager;

10          C. Each of its general partners if the enterprise is a  
12          general or limited partnership;

14          D. Each of its managing members if the enterprise is a  
limited liability company;

16          E. Each of its shareholders who owns more than 10% of the  
18          shares of the enterprise if the enterprise is a corporation;

20          F. Each of its owners or partners if the enterprise is an  
unincorporated business other than a limited partnership or  
22          a limited liability company; and

24          G. Each person, other than a banking institution, pension  
fund, commercial finance company, equipment leasing company,  
26          investment bank, qualified institutional buyer as defined in  
Rule 144A of the United States Securities and Exchange  
28          Commission, insurance company, regulated investment company,  
other financial institution, state of the United States,  
30          political subdivision of a state of the United States and  
agency, authority or instrumentality of a state or political  
32          subdivision, that has provided financing for the enterprise  
constituting more than 10% of the total financing of the  
34          enterprise provided that a person who purchases indebtedness  
of an enterprise through a nationally recognized securities  
36          exchange or bond trading system is not considered a  
principal.

38           **18. Site.** "Site" means one or more contiguous parcels of  
40           land selected by the Tribes and owned or leased by the Tribes or  
a tribal gaming operator within a single city, town or plantation  
42           of the State or within 2 or more contiguous cities, towns or  
plantations of the State provided that the legislative body of  
44           each such city, town or plantation has approved such parcel or  
parcels for the conduct of all gaming operations permitted under  
46           this subchapter. The site may not be reservation lands of either  
of the Tribes, may not be Indian lands within the meaning of 25  
48           United States Code, Section 2703, may not be Indian country  
within the meaning of the Johnson Act, 15 United States Code,  
50           Section 1175 and may not be Passamaquoddy Indian territory or  
Penobscot Indian territory within the meaning of the Maine

2 Implementing Act in section 6203. Regulation of gaming at the  
3 site must be conducted by the state gaming agency and the tribal  
4 gaming agency under this subchapter and the rules pursuant to  
5 this subchapter.

6 19. State. "State" means the State of Maine and its  
7 authorized officials, agents and representatives.

8  
9 20. State gaming agency. "State gaming agency" means the  
10 Department of Public Safety.

11 21. State law enforcement agency. "State law enforcement  
12 agency" means the Maine State Police.

13  
14 22. Tribal gaming agency. "Tribal gaming agency" means a  
15 gaming commission or such other agency formed jointly by the  
16 governments of the Tribes as the Tribes may from time to time  
17 jointly designate by written notice to the State as the single  
18 tribal agency responsible for regulatory oversight of gaming on  
19 the part of the Tribes as authorized by this subchapter. A  
20 person employed in, or in connection with, the management,  
21 supervision or conduct of any gaming activity may not be a member  
22 or employee of the tribal gaming agency.

23  
24 23. Tribal gaming operator. "Tribal gaming operator" means  
25 a corporation, partnership, limited partnership, limited  
26 liability company or other entity established by the Tribes for  
27 the purpose of developing, owning or operating a gaming facility  
28 or gaming facilities or a gaming operation or gaming operations,  
29 all of the equity and voting securities of which are owned  
30 beneficially, directly or indirectly, 50% by the Passamaquoddy  
31 Tribe and 50% by the Penobscot Nation; provided that neither a  
32 tribal gaming operator nor a Tribe may be prohibited from  
33 including in the consideration for any extension of credit or  
34 service, including without limitation any credit or service  
35 relating to a gaming facility or a gaming operation, a return  
36 based on the revenues, earnings or other measure of financial  
37 performance of the tribal gaming operator or a gaming operation  
38 or other activity of the tribal gaming operator; and provided  
39 that neither of the Tribes nor any other 3rd party is liable or  
40 responsible for any act or omission of a tribal gaming operator  
41 except as specifically provided by a contract to which such Tribe  
42 or 3rd party is a signatory or otherwise as provided by law  
43 without regard to this subchapter.

44  
45 24. Tribe. "Tribe" means each of the Passamaquoddy Tribe  
46 and the Penobscot Nation and their respective authorized  
47 officials, agents and representatives.  
48

2           **25. Video facsimile.** "Video facsimile" means any  
3 mechanical, electrical or other device, contrivance or machine  
4 that, upon insertion of a coin, currency, token or similar object  
5 or upon payment of any consideration whatsoever, is available to  
6 play or operate, the play or operation of which includes, but is  
7 not limited to, the playing of a facsimile of a game of chance or  
8 skill, and that may deliver or entitle the person playing or  
9 operating the machine to receive cash or tokens to be exchanged  
10 for cash or to receive any merchandise or thing of value, whether  
11 the payoff is made automatically from the machine or in any other  
12 manner whatsoever.

13           **§6303. Authorized gaming operations**

14           **1. Authorized games.** The Tribes may jointly, through one  
15 or more tribal gaming operators, as the Tribes may elect,  
16 conduct, on one site and subject to this subchapter and  
17 notwithstanding any other provision of the laws of the State, any  
18 and all forms of gaming and wagering, including without  
19 limitation any and all of the following:

20           A. Card games, table games and other games of chance,  
21 including without limitation blackjack, poker, dice,  
22 roulette, baccarat, money-wheels and bingo;

23           B. Any bazaar game, but only if conducted solely for  
24 merchandise prizes;

25           C. Any lottery game; and

26           D. Video facsimiles, including without limitation video  
27 facsimiles of any card game, table game or other game of  
28 chance, including without limitation those described in  
29 paragraph A.

30           **2. Prohibition on attendance of minors.** A person under the  
31 minimum age for purchase of alcoholic beverages under the laws of  
32 the State may not be admitted into any gaming facility other than  
33 facilities limited to the play of bazaar games or be permitted to  
34 place any wager, directly or indirectly, other than on bazaar  
35 games; except that minors may receive lottery tickets or chances  
36 as gifts and minors may be employed in the gaming facilities if  
37 they are licensed in accordance with section 6305 and are not  
38 employed in the service of intoxicating liquors and their  
39 employment is in all respects in conformity with the laws and  
40 rules of the State.

41           **3. Compliance with reporting requirements.** The tribal  
42 gaming operator shall comply with all applicable reporting and  
43 withholding requirements of the Internal Revenue Service relating  
44  
45  
46  
47  
48  
49  
50



2 to all forms of gaming conducted at the site, shall maintain  
3 accurate records of all such reports and returns and shall  
4 implement policies and procedures adequate to ensure compliance  
5 with such obligations in its gaming operations.

6 **4. No other operator of gaming operations.** The rights and  
7 privileges granted under this subchapter are reserved to the  
8 Tribes and, as applicable, the tribal gaming agency and tribal  
9 gaming operator. No other person, including without limitation  
10 any creditor of either of the Tribes, the tribal gaming agency or  
11 the tribal gaming operator, may conduct any gaming operation on  
12 the site. This subsection may not be interpreted to restrict any  
13 nongaming activities on the site.

14 **5. No gaming facility on Indian lands.** Gaming may not be  
15 conducted on Indian lands within the meaning of 25 United States  
16 Code, Section 2703. In the event that the land on which a gaming  
17 facility is located becomes Indian land, the authority to conduct  
18 gaming at that gaming facility as provided in subsection 1  
19 terminates.

20 **6. Expiration of authority.** Unless extended, the authority  
21 granted under this subchapter to conduct gaming operations  
22 terminates on the 20th anniversary of the date of legislative  
23 approval of the rules proposed by the state gaming agency under  
24 section 6308.

25 **§6304. Law enforcement matters**

26 **1. State criminal jurisdiction.** The State has jurisdiction  
27 to enforce all criminal laws of the State that are consistent  
28 with this subchapter on the site, including enforcement within  
29 the gaming facilities. Title 17, chapter 14 and Title 17-A,  
30 chapter 39 do not apply to gaming conducted pursuant to this  
31 subchapter.

32 **2. Powers of state law enforcement officers.** Officers of  
33 the state law enforcement agency must be accorded free access to  
34 any gaming facilities for the purpose of maintaining public order  
35 and public safety and enforcing applicable criminal laws of the  
36 State as permitted under this section; and personnel employed by  
37 the tribal gaming operator shall for such purposes provide  
38 officers of the state law enforcement agency access to locked and  
39 secure areas of the gaming facilities in accordance with the  
40 standards of management and operation adopted pursuant to section  
41 6307. The state law enforcement agency may station one or more  
42 officers at the site to coordinate law enforcement within the  
43 site generally.

44 **§6305. Licensing of gaming employees**

2           1. Requirements for employee licensing. A person may not  
3 commence or continue employment as a gaming employee unless that  
4 person is the holder of a valid current gaming employee license  
5 issued by the state gaming agency in accordance with rules  
6 adopted by the state gaming agency pursuant to section 6308.

8           2. License denial. The state gaming agency may deny a  
9 gaming employee license to an applicant who:

10           A. Has been determined to be a person whose prior  
11 activities, criminal record, if any, or reputation, habits  
12 and associations pose a threat to the effective regulation  
13 of gaming or create or increase the danger of unfair or  
14 illegal practices, methods and activities in the conduct of  
15 the gaming activities permitted under this subchapter;  
16 provided that the State may not apply standards for approval  
17 of licenses pursuant to this section more rigorously than  
18 those actually applied in the approval of employee licenses  
19 in gaming enterprises operated or regulated exclusively by  
20 the State; or

22           B. Has failed to provide any information reasonably  
23 required to investigate the application for a gaming  
24 employee license or to reveal any fact material to such  
25 application or has furnished any information that is untrue  
26 or misleading in connection with such application.

28           3. Revocation or suspension of license. The state gaming  
29 agency or the state law enforcement agency may investigate any  
30 person who holds a gaming employee license at any time and the  
31 state gaming agency may suspend or revoke any gaming employee  
32 license issued pursuant to this subchapter if new information  
33 concerning facts arising either prior to or since the issuance of  
34 the original license or any license renewal comes to the  
35 attention of the state gaming agency, which information would  
36 justify denial of such original license or any license renewal  
37 pursuant to subsection 2. A license may not be revoked or  
38 suspended except after notice and hearing as generally required  
39 for similar administrative actions under the Maine Administrative  
40 Procedure Act.

42           4. Appeal of license decisions. A decision of the state  
43 gaming agency to deny, suspend or revoke a license pursuant to  
44 this section, following any administrative review or appeal that  
45 may be permitted by the state gaming agency in accordance with  
46 procedures that it may establish, constitutes final agency action  
47 subject to judicial review in the manner provided by the laws of  
48 the State for judicial review of administrative actions affecting  
49 similar rights.  
50

2           **5. Investigation of nongaming employees.** The state law  
4 enforcement agency may investigate misconduct of employees of the  
6 tribal gaming operator or any other entity who are not gaming  
8 employees but who are employed in ancillary facilities located  
10 within the same building as any gaming facility; and such  
12 employees must be dismissed from such employment upon  
14 notification by the state law enforcement agency that their  
conduct in the course of their employment in such ancillary  
facilitates poses a threat to the effective regulation of gaming  
or creates or enhances the dangers of unfair or illegal  
practices, methods and activities in the conduct of gaming,  
subject to the same rights of appeal as are provided in the Maine  
Administrative Procedure Act.

16           **§6306. Registration of gaming services enterprises**

18           **1. Requirement for registration.** An enterprise may not  
20 provide gaming services or gaming equipment to the tribal gaming  
22 operator unless it is the holder of a valid current gaming  
24 services registration issued by the state gaming agency in  
accordance with rules adopted by the state gaming agency pursuant  
to section 6308.

26           **2. Denial of registration.** The state gaming agency may  
28 deny a gaming services registration to any applicant upon its  
determination that the applicant or any principal identified with  
such applicant:

30           **A.** Is a person or entity whose prior activities, criminal  
32 record, if any, or reputation, habits and associations pose  
34 a threat to the effective regulation of gaming or create or  
36 increase the danger of unfair or illegal practices, methods  
38 and activities in the conduct of the gaming activities  
permitted under this subchapter; provided that the State may  
not apply standards for approval of registrations pursuant  
to this section more rigorously than those actually applied  
in the approval of similar licenses in gaming enterprises  
operated or regulated exclusively by the State; or

40           **B.** Has failed to provide any information reasonably  
42 required to investigate the application for a gaming  
44 services registration or to reveal any fact material to such  
46 application or has furnished any information that is untrue  
or misleading in connection with such application.

48           **3. Revocation or suspension of registration.** The state  
50 gaming agency or the state law enforcement agency may investigate  
any enterprise or principal of such enterprise that holds a  
gaming services registration license at any time and the state

2 gaming agency may suspend or revoke any gaming services  
3 registration issued pursuant to this subchapter if new  
4 information concerning facts arising either prior to or since the  
5 issuance of the original registration or any registration renewal  
6 comes to the attention of the state gaming agency, which  
7 information would justify denial of such original registration or  
8 any registration renewal pursuant to subsection 2; provided that  
9 a registration may not be revoked or suspended except after such  
10 notice and hearing as is generally required for similar  
11 administrative actions under the administrative procedures  
12 applicable to agencies of the State; and provided that the  
13 enterprise is entitled to any payment due for services provided  
14 or goods delivered prior to the effective date of suspension or  
15 revocation of its registration.

16 **4. Appeal of registration decisions.** A decision of the  
17 state gaming agency to deny, suspend or revoke a registration  
18 pursuant to this section, following any administrative review or  
19 appeal that may be permitted by the state gaming agency in  
20 accordance with procedures that it may establish, constitutes  
21 final agency action subject to judicial review in the manner  
22 provided by the Maine Administrative Procedure Act.

24 **5. Investigation of nongaming enterprises.** Any enterprise  
25 that provides goods or services to the tribal gaming operator  
26 other than gaming services or gaming equipment in a total amount  
27 exceeding the sum of \$50,000 in a single calendar year and any  
28 labor organization seeking to represent employees of the tribal  
29 gaming operator must be identified by the tribal gaming operator  
30 to the state gaming agency and shall agree to cooperate with the  
31 state gaming agency and the state law enforcement agency in any  
32 investigation considered necessary by either agency relative to  
33 the fitness of the enterprise or labor organization to engage in  
34 business with a gaming operation or relative to the conduct of  
35 the enterprise or labor organization in connection with that  
36 activity. The state gaming agency may bar an enterprise from  
37 providing goods or services to the tribal gaming operator or a  
38 labor organization from receiving dues from licensed employees of  
39 the tribal gaming operator or may bar the principal of a labor  
40 organization from representing the employees upon a determination  
41 that the enterprise or labor organization or a principal of such  
42 labor organization is a person or entity whose prior activities,  
43 criminal record, if any, or reputation, habits and associations  
44 pose a threat to the effective regulation of gaming or create or  
45 enhance the dangers of unfair or illegal practices, methods and  
46 activities in the conduct of gaming; provided that the enterprise  
47 or labor organization may appeal a determination in the manner  
48 provided pursuant to the Maine Administrative Procedure Act.

50 **§6307. Standards of operation and management**

2           The tribal gaming agency shall adopt standards of operation  
4           and management to govern all gaming operations by the tribal  
6           gaming operator. The standards must protect the public interest  
8           in the integrity of the gaming operations and must reduce the  
10           dangers of unsuitable, unfair or illegal practices and methods  
12           and activities in the conduct of gaming. The initial standards  
14           of operation and management must be substantially identical to  
16           those currently in effect pursuant to the Connecticut Compact and  
18           must be subject to the approval of the state gaming agency. The  
20           tribal gaming agency shall notify the state gaming agency of any  
22           revision of the standards of operation and management and either  
24           shall certify that the revisions to the standards will have no  
26           material effect on the manner in which the standards protect the  
28           public interest in the integrity of the gaming operations and  
30           reduce the dangers of unsuitable, unfair or illegal practices and  
          methods and activities in the conduct of gaming or shall request  
          the approval of the state gaming agency for the revised  
          standards, which approval must be deemed granted unless  
          disapproved within 60 days of submission of the revised  
          standards. The state gaming agency shall approve the revised  
          standards upon request unless it finds that those revised  
          standards would have a materially adverse impact on the public  
          interest in the integrity of the gaming operations and shall  
          disapprove only such portions of any proposed revised standards  
          that are determined to have a materially adverse impact on the  
          public interest and shall specify the reasons for the  
          disapproval. Any disapproval of revised standards by the state  
          gaming agency is subject to review in the manner provided by the  
          Maine Administrative Procedure Act.

32           **§6308. Rules**

34           Not later than 90 days after the effective date of this  
36           subchapter, the state gaming agency shall propose rules providing  
38           for the licensing of gaming employees, the registration of gaming  
40           services enterprises and, to the extent that the scope of the  
42           standards of operation and management adopted by the tribal  
44           gaming agency pursuant to section 6307 fail to cover aspects of  
46           the operation of the gaming facility that are the subject of the  
          Connecticut Compact, such other aspects. It is intended that  
          such rules be substantially in the form and substance of the  
          corresponding provisions of the Connecticut Compact. Rules  
          proposed by the state gaming agency pursuant to this section are  
          major substantive rules pursuant to Title 5, chapter 375,  
          subchapter 2-A.

48           **§6309. State assessment for costs of oversight**

2 1. Imposition of assessment for state regulatory  
3 expenditures. The State shall make annually an assessment  
4 sufficient to compensate the State for the reasonable and  
5 necessary costs of regulating gaming operations and conducting  
6 law enforcement investigations pursuant to this subchapter. Such  
7 assessment must include any costs of fringe benefits for  
8 personnel.

9  
10 2. Procedure for assessments. On or before August 1st,  
11 annually, starting with the first such date following the  
12 commencement of gaming operations under this subchapter, the  
13 State shall render to the tribal gaming agency a statement of the  
14 total cost of regulation and law enforcement for the preceding  
15 fiscal year ending June 30th, together with proposed assessments  
16 for the forthcoming fiscal year based on the preceding fiscal  
17 year cost, except that in the first year of the effective date of  
18 this subchapter the assessment must be prospective and based upon  
19 a pro rata allocation of costs if this subchapter becomes  
20 operative in the course of a fiscal year and must be established  
21 following consultation with the tribal gaming agency. On  
22 September 1st annually, the State, after receiving any objections  
23 to the proposed assessments and making such changes or  
24 adjustments as may be indicated, shall provide a written notice  
25 that assesses the tribal gaming operator for the costs of  
26 regulation and law enforcement. Annually, the tribal gaming  
27 operator shall pay 1/3 of the assessment within 20 days of the  
28 receipt of the written notice and shall pay the remaining 2/3 of  
29 the assessment in 2 equal payments on January 1st and April 1st.  
30 Such payments must be deposited with the State Treasurer. The  
31 money deposited must be credited to the General Fund and must be  
32 accounted for as the State considers appropriate.

33  
34 3. Procedure for appeal of assessments. If the Tribes are  
35 aggrieved because of any assessment levied pursuant to this  
36 subchapter, either or both of the Tribes or the tribal gaming  
37 operator may, not later than one month from the time provided for  
38 the payment of such assessment, appeal an assessment to the  
39 Superior Court for Kennebec County.

40  
41 4. Adjustment of excess assessments. In the event that the  
42 total assessment paid by the tribal gaming operator during any  
43 fiscal year of the State exceeds the reasonable and necessary  
44 costs of regulating gaming operations and conducting law  
45 enforcement investigations pursuant to this subchapter during  
46 that fiscal year, the State shall adjust the assessment for the  
47 succeeding fiscal year in the amount necessary to offset such  
48 excess assessment. If the Tribes are aggrieved because of any  
49 failure by the State to make such an adjustment, any claim for  
50 such an adjustment must be presented in the appeal of the  
assessment as provided in subsection 3.

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

**§6310. Enforcement**

**1. Tribal gaming agency.** The tribal gaming agency shall employ nonuniformed inspectors who are present in all gaming facilities during all hours of operation and who are under the supervision of personnel accountable solely to the tribal gaming agency and not to any management employees of the tribal gaming operator. Such inspectors must have unfettered access to all areas of the gaming facilities at all times, and personnel employed by the tribal gaming operator shall for such purposes provide such inspectors access to locked and secure areas of the gaming facilities in accordance with the standards of management and operation adopted pursuant to section 6307. Such inspectors shall report to the tribal gaming agency regarding any failure by the tribal gaming operator to comply with this subchapter. Inspectors assigned by the tribal gaming agency shall also receive consumer complaints within the gaming facilities and shall assist in seeking voluntary resolution of such complaints. The tribal gaming agency may investigate any report of a failure to comply with this subchapter or the applicable regulations of the tribal gaming agency and may require the tribal gaming operator to correct such failure upon such terms and conditions as the tribal gaming agency may determine necessary. Inspectors employed by the tribal gaming agency for the purposes set forth in this section shall obtain gaming employee licenses pursuant to section 6305. The tribal gaming operator shall prepare a plan for the protection of public safety and the physical security of patrons in its gaming facilities, following consultation and agreement with the state law enforcement agency, the security department of the tribal gaming operator and the state gaming agency. The tribal gaming agency shall provide the state gaming agency with copies of its floor plans and surveillance systems for its gaming facilities and confer with the state gaming agency regarding the adequacy of such plans and systems.

**2. State supervision.** The state gaming agency may review the gaming operations in order to determine whether such operations are conducted in compliance with this subchapter, and for that purpose personnel employed by the state gaming agency must have access to all areas of the gaming facilities without prior notice for the purpose of audits of the tribal gaming operator, and personnel employed by the tribal gaming operator shall provide for such purposes such state personnel access to locked and secure areas of the gaming facilities in accordance with the standards of management and operation adopted pursuant to section 6307. Such state personnel shall report to the state gaming agency regarding any failure by the tribal gaming operator to comply with any of the provisions of this subchapter. The tribal gaming operator shall provide the state law enforcement

2 agency and state gaming agency with access to reasonable office  
3 space for the use of their personnel for the purposes of such  
4 review activities. Personnel employed by the state gaming agency  
5 may attend the regular count conducted by the tribal gaming  
6 operator in accordance with the standards of operation and  
7 management adopted pursuant to section 6307. Personnel employed  
8 by the state gaming agency may not interfere with the conduct of  
9 the gaming operations at the site except as may be required to  
10 perform such review functions. Auditors employed by the state  
11 gaming agency must have unfettered access during ordinary hours  
12 of operation to inspect and copy all records, including computer  
13 log tapes, of the tribal gaming agency and the tribal gaming  
14 operator; provided that all records of the tribal gaming operator  
15 and the tribal gaming agency must be considered confidential and  
16 proprietary financial information belonging to the Tribes and  
17 must be protected by the State from public disclosure without the  
18 express written consent of the Tribes. The state gaming agency  
19 may conduct such investigations and may employ subpoena powers  
20 with which it may be vested under the laws of the State as it  
21 considers appropriate to investigate violations of this  
22 subchapter with respect to the tribal gaming operator. The  
23 tribal gaming agency shall require that all security incidents  
24 and patron complaints reported by or to the security department  
25 of the tribal gaming operator or to the tribal gaming agency be  
26 reported on a daily basis to the state gaming agency. The tribal  
27 gaming operator shall cause its gaming operations to be subjected  
28 to an annual audit by an independent certified public accountant  
29 in accordance with procedures adopted by the independent auditor  
30 following consultation with the state gaming agency. Such audit  
31 must include any additional procedures required by the state  
32 gaming agency not otherwise required by the independent auditor,  
33 which additional procedures must be performed at the sole expense  
34 of the state gaming agency. The state gaming agency must be  
35 provided with an opportunity to review the audit findings with  
36 the independent auditor prior to issuance of the audit report and  
37 must receive copies of the audit report, engagement letter,  
38 management's representation letter, lawyer's contingency letter  
39 and such other workpapers as the state gaming agency considers  
40 necessary.

41 **3. Enforcement authority of state gaming agency.** If the  
42 state gaming agency determines that the tribal gaming operator is  
43 not in compliance with the provisions of this subchapter, the  
44 state gaming agency shall deliver a notice of noncompliance to  
45 the tribal gaming agency and the tribal gaming operator setting  
46 forth the nature of such noncompliance and the action required to  
47 remedy such noncompliance before commencing any enforcement  
48 action.



2        **4. Civil penalties.** Subject to such regulations as may be  
3        prescribed by the state gaming agency, the state gaming agency  
4        may levy and collect appropriate civil penalties, not to exceed  
5        \$25,000 per violation, against the tribal gaming operator or any  
6        gaming services enterprise subject to section 6306, subsection 1  
7        for any violation of this subchapter or standard of operation  
8        adopted under this subchapter. A penalty may not be levied under  
9        this subsection except upon a written complaint delivered by the  
10       state gaming agency to the tribal gaming operator and, if  
11       applicable, the affected gaming services enterprise, with a copy  
12       in each case to the tribal gaming agency, stating in common and  
13       concise language the alleged acts or omissions that provide the  
14       basis for such penalty and the specific statutory provisions  
15       alleged to have been violated. The state gaming agency shall, by  
16       rule, provide an opportunity for appeal and hearing before the  
17       state gaming agency of any penalty levied by the state gaming  
18       agency under this subsection. A decision of the state gaming  
19       agency to levy a civil penalty under this subsection, following  
20       any such review, constitutes final agency action subject to  
21       judicial review in the manner provided by the Maine  
22       Administrative Procedure Act.

23       **§6311. Application of state regulatory standards**

24       **1. Health and safety standards.** Each gaming facility is  
25       subject to the laws and regulations of the State relating to  
26       public facilities with regard to building, sanitary and health  
27       standards and fire safety and to the laws and rules of the State  
28       relating to water discharges by public facilities.

29       **2. Regulation of alcoholic beverages.** Service of alcoholic  
30       beverages within a gaming facility is subject to the laws and  
31       regulations of the State applicable to the sale or distribution  
32       of alcoholic beverages. The tribal gaming operator is entitled  
33       to a hotel permit for the sale of liquor for gaming facilities  
34       that are contained in the same building as a hotel, or a cafe  
35       permit for the sale of liquor for gaming facilities that are not  
36       contained in the same building as a hotel, or such equivalent  
37       permits or licenses as may from time to time be available to  
38       similar enterprises operated pursuant to the laws of the State,  
39       and the price of an alcoholic beverage sold to a gaming customer  
40       in partial consideration for amounts wagered need not be billed  
41       by separate charge to the individual customer; provided that the  
42       price of each alcoholic beverage determined sold to a gaming  
43       customer in partial consideration for amounts wagered may be no  
44       less than the price required for such sales pursuant to the laws  
45       of the State and must be separately accounted for by the tribal  
46       gaming operator. Any tax due under the laws of the State for the  
47       retail sale of such beverages must be paid with respect to such  
48       sales, and daily and monthly records must be maintained with  
49

2 respect to such sales and be available for inspection by the  
3 state gaming agency and by the Department of Public Safety,  
4 Bureau of Liquor Enforcement.

6 3. Traffic standards. The tribal gaming operator shall  
7 provide access from gaming facilities located on the site onto  
8 public highways of the State adequate to meet standards of the  
9 Department of Transportation or shall enter into agreements with  
10 the Department of Transportation for the provision of such access  
11 by the State, including provisions for compensation by the tribal  
12 gaming operator of the costs incurred by the State in  
13 constructing such improvements to the public highways, including  
14 traffic control signals, as may be necessary. The State shall  
15 cooperate with the Tribes in providing at the expense of the  
16 tribal gaming operator such signs as are reasonable and  
17 appropriate in order to permit members of the traveling public to  
18 locate the site from the major road approaches.

20 **§6312. State taxation and revenue sharing**

22 1. Property taxes. In accordance with section 6208,  
23 subsection 2, all real or personal property owned by the Tribes  
24 or the tribal gaming operator in connection with gaming  
25 operations and other activities at the site are subject to levy  
26 and collection of real and personal property taxes by any taxing  
27 authorities, including municipalities having jurisdiction over  
28 the site.

30 2. State corporation taxes. In accordance with section  
31 6208, subsection 3, so long as the Tribes are exempt from the  
32 payment of federal income taxes on business corporations, they  
33 are not subject to taxation under the laws of the State  
34 applicable to business corporations. The tribal gaming operator  
35 is subject to state corporation taxes in accordance with its  
36 particular form of organization. With respect to gaming  
37 operations and other activities at the site, the Tribes and the  
38 tribal gaming operator, as applicable, are subject to all sales  
39 and use taxes, including liquor and tobacco taxes, of general  
40 application within the State.

42 3. Video facsimile revenues. So long as no change in state  
43 law occurs to tax or exact any fee on the gaming operations or  
44 other activities at the site except as provided in subsections 1  
45 and 2, the tribal gaming operator shall pay to the State an  
46 annual fee equal to 25% of the gross revenues of video facsimiles  
47 operated by the tribal gaming operator, such fee to be deemed for  
48 all purposes of state law a valid business expense. Provided,  
49 however, if a like facility or gaming device is authorized by the  
50 State, and subject to a tax more favorable than the tax  
contemplated herein, the annual fee payable to the State must be

2 adjusted to the equivalent. For purposes of this subsection, the  
3 term "gross revenues" means the total sum wagered less amounts  
4 paid out as prizes. Such fee is payable on or before the 15th  
5 day of each month. On each such day other than July 15th, the  
6 fee is 25% of the gross revenues of the tribal gaming operator  
7 from the operation of video facsimiles during the portion of the  
8 fiscal year of the State concluding on the last day of the  
9 preceding calendar month. On July 15th of each year, the fee is  
10 25% of the gross revenues of the tribal gaming operator from the  
11 operation of video facsimiles during the preceding fiscal year of  
12 the State. In either case, the cumulative amount of such fee  
13 paid by the tribal gaming operator prior to such date with  
14 respect to the operation of video facsimiles during the  
15 applicable fiscal year of the State must be deducted from the fee  
16 due on the 15th day of each month. The tribal gaming operator  
17 shall provide the State with detailed reporting of the gross  
18 revenues of video facsimile devices and the determination of the  
19 fee under this subsection, which is subject to audit by the State  
20 in accordance with this subchapter. In the event that the Tribes  
21 or the tribal gaming operator is subject to taxation of the State  
22 referred to in subsection 2, except for sales and use, liquor and  
23 tobacco taxes, they are entitled to a credit against such taxes  
24 for each year in an amount equal to the fee paid under this  
25 subsection with respect to such year; provided that such credit  
26 does not apply with respect to property taxes described in  
27 subsection 1.

28 **4. Use of revenue.** The amounts paid to the State pursuant  
29 to subsection 3 must be deposited by the State Treasurer and  
30 allocated as follows:

32 A. A portion of amounts paid to the State pursuant to  
33 subsection 3 must be allocated by the State in each year to  
34 pay for mitigation of costs resulting from gaming operations  
35 conducted pursuant to this subchapter; and

36 B. Of the amounts paid to the State pursuant to subsection  
37 3 that are not allocated pursuant to paragraph A:

38 (1) Fifty percent must be allocated each year to  
39 supplement, not supplant, the statutorily required  
40 deposits to be made to the Local Government Fund  
41 established under Title 30-A, section 5681 to be used  
42 for residential property tax relief;

43 (2) Forty percent must be allocated in each year to  
44 supplement, not supplant, the state appropriation for  
45 the program cost portion of general purpose aid to  
46 local schools;

47

2           (3) Five percent must be allocated in each year to the  
3           Maine State Grant Program, Title 20-A, chapter 419-A;  
4           and

6           (4) Five percent must be allocated to and distributed  
7           by the Finance Authority of Maine each year to private  
8           nonprofit organizations that have the principal purpose  
9           of providing scholarships to and otherwise enhancing  
10           the postsecondary educational opportunities of students  
11           in this State enrolled in eligible programs in  
12           institutions of higher education in this State.  
13           Allocations must be administered and made by the  
14           Finance Authority of Maine annually on or before March  
15           1st of each year. Any unexpended funds allocated for  
16           this purpose do not lapse and must be carried forward  
17           for continued use of the program in future years.

18           The Department of Administrative and Financial Services,  
19           Bureau of Revenue Services shall issue an annual report to the  
20           Legislature, on or before February 1st, which must include a  
21           detailed statement of the aggregate gross revenues paid to the  
22           State pursuant to subsection 3 and the allocations made by the  
23           State pursuant subsection 4.

24           **§6313. Johnson Act exemption**

26           Pursuant to the provisions of 15 United States Code, Section  
27           1172 governing the transportation of gambling devices in  
28           interstate and foreign commerce, the State exempts from that  
29           statute the transportation of any gambling device used or  
30           intended for use at, and transported to or from, a gaming  
31           facility operated under this subchapter.

34           **§6314. Interpretation**

36           This subchapter must be liberally construed in favor of  
37           gaming by and on behalf of the Tribes. Without limitation of the  
38           foregoing, the grant under this subchapter of authority to the  
39           Tribes and the tribal gaming operator to conduct gaming  
40           operations at the site and the other provisions of this  
41           subchapter may not be interpreted to decrease or derogate from  
42           the authority of the Tribes under existing law to conduct any  
43           activity permitted to be conducted by them, whether on their  
44           respective reservations or elsewhere.

46           **Sec. 4. Effective date.** This Act does not take effect with  
47           respect to the Passamaquoddy Tribe unless, within 60 days after  
48           the adjournment of the Legislature if the Legislature enacts this  
49           Act, or within 90 days of the Governor's proclamation of the  
50           result of the vote if this Act is approved by the voters, the

2 Secretary of State receives written certification by the Joint  
3 Tribal Council of the Passamaquoddy Tribe that the Tribe has  
4 agreed to the provisions of this Act pursuant to 25 United States  
5 Code, Section 1725(e), copies of which must be submitted by the  
6 Secretary of State to the Secretary of the Senate, the Clerk of  
7 the House of Representatives and the Revisor of Statutes.

8 This Act does not take effect with respect to the Penobscot  
9 Nation unless, within 60 days after the adjournment of the  
10 Legislature if the Legislature enacts this Act, or within 90 days  
11 of the Governor's proclamation of the result of the vote if this  
12 Act is approved by the voters, the Secretary of State receives  
13 written certification by the Chief and Council of the Penobscot  
14 Nation that the Tribe has agreed to the provisions of this Act  
15 pursuant to 25 United States Code, Section 1725(e), copies of  
16 which must be submitted by the Secretary of State to the  
17 Secretary of the Senate, the Clerk of the House of  
18 Representatives and the Revisor of Statutes.

19 In the event that one of the Passamaquoddy Tribe or the  
20 Penobscot Nation, but not both, fails to provide written  
21 certification of its agreement to the provisions of this Act  
22 within the time provided in this section, this Act is effective  
23 to permit the Tribe not so failing to conduct gaming in  
24 accordance with the provisions of this Act; and in such event  
25 this Act continues to permit the Tribe not so failing to have and  
26 exercise all of the rights and privileges, and to bear all of the  
27 obligations, allocated to the other Tribe under this Act.

28 In no event may this Act become effective until 90 days  
29 after the adjournment of the Legislature, as required by the  
30 Constitution of Maine, Article IV, Part Third, Section 16.  
31

32

### 33 SUMMARY

34

35 This initiated bill allows the Passamaquoddy Tribe and the  
36 Penobscot Nation to conduct gaming and wagering at a single  
37 site. The legislative body of a municipality in which the site  
38 is located must approve the site for the conduct of gaming and  
39 wagering. The authority granted to the Passamaquoddy Tribe and  
40 the Penobscot Nation to conduct gaming and wagering at a single  
41 site terminates in 20 years, unless extended, and may not be  
42 amended or repealed without the consent of the Passamaquoddy  
43 Tribe and the Penobscot Nation. The gaming and wagering  
44 authorized by this initiated bill is regulated by the Department  
45 of Public Safety and a tribal gaming agency formed jointly by the  
46 governments of the Passamaquoddy Tribe and the Penobscot Nation.  
47  
48

2 The tribal gaming operator must pay to the State an annual  
fee equal to 25% of the gross revenues of video facsimiles  
4 operated by the tribal gaming operator. After an allowance for  
costs resulting from gaming and wagering operations, the annual  
6 fee paid to the State must be used for the following purposes:

8 1. Fifty percent must be deposited in the Local Government  
Fund established in the Maine Revised Statutes, Title 30-A,  
10 section 5681 and distributed in accordance with the provisions of  
that section for revenue sharing with municipalities, with the  
12 intent of providing local property tax relief;

14 2. Forty percent must be allocated for the program cost  
portion of general purpose aid to local schools;

16 3. Five percent must be allocated to the Maine State Grant  
Program established in Title 20-A, chapter 419-A for grants for  
18 students who are pursuing higher education; and

20 4. Five percent must be allocated to the Finance Authority  
of Maine to distribute to private, nonprofit organizations that  
22 have the principal purpose of providing scholarships to and  
otherwise enhancing the postsecondary educational opportunities  
24 of students in this State enrolled in eligible programs in  
institutions of higher education in this State.