

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 967, L.D. 1377, Bill, "An Act To Amend the 1980 Maine Implementing Act To Authorize the Establishment of a Tribal Court for the Houlton Band of Maliseet Indians and Related Matters"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

PART A

Sec. A-1. 30 MRSA §6206-B, sub-§6, as enacted by PL 2005, c. 310, §1 and affected by §2, is repealed.

Sec. A-2. 30 MRSA §6208, sub-§2-A is enacted to read:

2-A. Payments in lieu of taxes; authority. Any municipality in which Houlton Band Trust Land is located has the authority, at its sole discretion, to enter into agreements with the Houlton Band of Maliseet Indians to accept other funds or other things of value that are obtained by or for the Houlton Band of Maliseet Indians by reason of the trust status of the trust land as replacement for payments in lieu of taxes.

Any agreement between the Houlton Band of Maliseet Indians and the municipality must be jointly executed by persons duly authorized by the Houlton Band of Maliseet Indians and the municipality and must set forth the jointly agreed value of the funds or other things identified serving as replacement of payments in lieu of taxes and the time period over which such funds or other things may serve in lieu of the obligations of the Houlton Band of Maliseet Indians provided in this section.

Sec. A-3. 30 MRSA §6211, as amended by PL 1997, c. 626, §§1 and 2 and affected by §3, is further amended to read:

§6211. Eligibility of Indian tribes and state funding

1. Eligibility generally. The Passamaquoddy Tribe and the Penobscot Nation shall be and the Houlton Band of Maliseet Indians are eligible for participation and entitled to



1 receive benefits from the State under any state program ~~which that~~ provides financial
2 assistance to all municipalities as a matter of right. Such entitlement ~~shall~~ must be
3 determined using statutory criteria and formulas generally applicable to municipalities in
4 the State. To the extent that any such program requires municipal financial participation
5 as a condition of state funding, the share for ~~either~~ the Passamaquoddy Tribe ~~or,~~ the
6 Penobscot Nation or the Houlton Band of Maliseet Indians may be raised through any
7 source of revenue available to the respective tribe ~~or,~~ nation or band, including but
8 without limitation taxation to the extent authorized within its respective Indian territory.
9 In the event that any applicable formula regarding distribution of ~~moneys~~ money employs
10 a factor for the municipal real property tax rate, and in the absence of such tax within
11 ~~either the~~ Indian territory, the formula applicable to such Indian territory ~~shall~~ must be
12 computed using the most current average equalized real property tax rate of all
13 municipalities in the State as determined by the State Tax Assessor. In the event any
14 such formula regarding distribution of ~~moneys~~ money employs a factor representing
15 municipal valuation, the valuation applicable to such Indian territory ~~shall~~ must be
16 determined by the State Tax Assessor in the manner generally provided by the laws of the
17 State, ~~provided, however, that~~ as long as property owned by or held in trust for ~~either a~~
18 tribe ~~or,~~ nation or band and used for governmental purposes ~~shall be~~ is treated for
19 purposes of valuation as like property owned by a municipality.

20 **2. Limitation on eligibility.** In computing the extent to which ~~either~~ the
21 Passamaquoddy Tribe ~~or,~~ the Penobscot Nation or the Houlton Band of Maliseet Indians
22 is entitled to receive state funds under subsection 1, other than funds in support of
23 education, any money received by the respective tribe ~~or,~~ nation or band from the United
24 States within substantially the same period for which state funds are provided, for a
25 program or purpose substantially similar to that funded by the State, and in excess of any
26 local share ordinarily required by state law as a condition of state funding, must be
27 deducted in computing any payment to be made to the respective tribe ~~or,~~ nation or band
28 by the State. Unless otherwise provided by federal law, in computing the extent to which
29 ~~either~~ the Passamaquoddy Tribe ~~or,~~ the Penobscot Nation or the Houlton Band of
30 Maliseet Indians is entitled to receive state funds for education under subsection 1, the
31 state payment must be reduced by 15% of the amount of federal funds for school
32 operations received by the respective tribe ~~or,~~ nation or band within substantially the
33 same period for which state funds are provided, and in excess of any local share
34 ordinarily required by state law as a condition of state funding. A reduction in state
35 funding for secondary education may not be made under this section except as a result of
36 federal funds received within substantially the same period and allocated or allocable to
37 secondary education.

38 **3. Eligibility for discretionary funds.** The Passamaquoddy Tribe ~~and,~~ the
39 Penobscot Nation ~~shall be~~ and the Houlton Band of Maliseet Indians are eligible to apply
40 for any discretionary state grants or loans to the same extent and subject to the same
41 eligibility requirements, including availability of funds, applicable to municipalities in the
42 State.

43 **4. Eligibility of individuals for state funds.** Residents of ~~either the~~ Indian territory
44 ~~shall be~~ territories or Houlton Band Trust Land are eligible for and entitled to receive any
45 state grant, loan, unemployment compensation, medical or welfare benefit or other social
46 service to the same extent as and subject to the same eligibility requirements applicable to

COMMITTEE AMENDMENT

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1 other persons in the State, ~~provided, however, that~~ as long as in computing the extent to
2 which any person is entitled to receive any such funds, any ~~moneys~~ money received by
3 such person from the United States within substantially the same period of time for which
4 state funds are provided and for a program or purpose substantially similar to that funded
5 by the State, ~~shall be~~ is deducted in computing any payment to be made by the State.

6 **Sec. A-4. Contingent effective date.** This Part takes effect October 1, 2009 only
7 if, within 90 days after the adjournment of the First Regular Session of the 124th
8 Legislature, the Secretary of State receives written certification from the Houlton Band
9 Council of the Houlton Band of Maliseet Indians that the band has agreed to the
10 provisions of this Part pursuant to 25 United States Code, Section 1725(e)(2). Copies of
11 the written certification must be submitted by the Secretary of State to the Secretary of
12 the Senate, the Clerk of the House and the Revisor of Statutes.

13 **PART B**

14 **Sec. B-1. 30 MRSA §6209-C** is enacted to read:

15 **§6209-C. Jurisdiction of the Houlton Band of Maliseet Indians Tribal Court**

16 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections
17 3 and 4, the Houlton Band of Maliseet Indians has the right to exercise exclusive
18 jurisdiction, separate and distinct from the State, over:

19 A. Criminal offenses for which the maximum potential term of imprisonment does
20 not exceed one year and the maximum potential fine does not exceed \$5,000 and that
21 are committed on the Houlton Band Jurisdiction Land by a member of the Houlton
22 Band of Maliseet Indians, except when committed against a person who is not a
23 member of the Houlton Band of Maliseet Indians or against the property of a person
24 who is not a member of the Houlton Band of Maliseet Indians;

25 B. Juvenile crimes against a person or property involving conduct that, if committed
26 by an adult, would fall within the exclusive jurisdiction of the Houlton Band of
27 Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15,
28 section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of
29 the Houlton Band of Maliseet Indians on the Houlton Band Jurisdiction Land;

30 C. Civil actions between members of the Houlton Band of Maliseet Indians arising
31 on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws
32 of the State and civil actions against a member of the Houlton Band of Maliseet
33 Indians under Title 22, section 2383 involving conduct on the Houlton Band
34 Jurisdiction Land by a member of the Houlton Band of Maliseet Indians;

35 D. Indian child custody proceedings to the extent authorized by applicable federal
36 law; and

37 E. Other domestic relations matters, including marriage, divorce and support,
38 between members of the Houlton Band of Maliseet Indians, both of whom reside
39 within the Houlton Band Jurisdiction Land.

40 The governing body of the Houlton Band of Maliseet Indians shall decide whether to
41 exercise or terminate the exercise of the exclusive jurisdiction authorized by this

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1 subsection. The decision to exercise, to terminate the exercise of or to reassert the
2 exercise of jurisdiction under each of the subject areas described by paragraphs A to E
3 may be made separately. Until the Houlton Band of Maliseet Indians notifies the
4 Attorney General that the band has decided to exercise exclusive jurisdiction set forth in
5 any or all of the paragraphs in this subsection, the State has exclusive jurisdiction over
6 those matters. If the Houlton Band of Maliseet Indians chooses not to exercise or chooses
7 to terminate its exercise of exclusive jurisdiction set forth in any or all of the paragraphs
8 in this subsection, the State has exclusive jurisdiction over those matters until the Houlton
9 Band of Maliseet Indians chooses to exercise its exclusive jurisdiction. When the Houlton
10 Band of Maliseet Indians chooses to reassert the exercise of exclusive jurisdiction over
11 any or all of the areas of the exclusive jurisdiction authorized by this subsection it must
12 first provide 30 days' notice to the Attorney General. Except as provided in subsections 2
13 and 3, all laws of the State relating to criminal offenses and juvenile crimes apply within
14 the Houlton Band Trust Land and the State has exclusive jurisdiction over those offenses
15 and crimes.

16 **2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
17 under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed
18 to be enforcing tribal law of the Houlton Band of Maliseet Indians. The definitions of the
19 criminal offenses and juvenile crimes and the punishments applicable to those criminal
20 offenses and juvenile crimes over which the Houlton Band of Maliseet Indians has
21 exclusive jurisdiction under this section are governed by the laws of the State. Issuance
22 and execution of criminal process are also governed by the laws of the State. The
23 procedures for the establishment and operation of tribal forums created to effectuate the
24 purposes of this section are governed by federal statute, including, without limitation, the
25 provisions of 25 United States Code, Sections 1301 to 1303 and rules and regulations
26 generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal
27 Indian reservations.

28 **3. Lesser included offenses in state courts.** In any criminal proceeding in the
29 courts of the State in which a criminal offense under the exclusive jurisdiction of the
30 Houlton Band of Maliseet Indians constitutes a lesser included offense of the criminal
31 offense charged, the defendant may be convicted in the courts of the State of the lesser
32 included offense. A lesser included offense is as defined under the laws of the State.

33 **4. Double jeopardy; collateral estoppel.** A prosecution for a criminal offense or
34 juvenile crime over which the Houlton Band of Maliseet Indians has exclusive
35 jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile
36 crime arising out of the same conduct over which the State has exclusive jurisdiction. A
37 prosecution for a criminal offense or juvenile crime over which the State has exclusive
38 jurisdiction does not bar a prosecution for a criminal offense or juvenile crime arising out
39 of the same conduct over which the Houlton Band of Maliseet Indians has exclusive
40 jurisdiction under this section. The determination of an issue of fact in a criminal or
41 juvenile proceeding conducted in a tribal forum does not constitute collateral estoppel in
42 a criminal or juvenile proceeding conducted in a state court. The determination of an
43 issue of fact in a criminal or juvenile proceeding conducted in a state court does not
44 constitute collateral estoppel in a criminal or juvenile proceeding conducted in a tribal
45 forum.

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5. Houlton Band Jurisdiction Land. For the purposes of this section, "Houlton Band Jurisdiction Land" means only the Houlton Band Trust Land described as follows:

A. Lands transferred from Ralph E. Longstaff and Justina Longstaff to the United States of America in trust for the Houlton Band of Maliseet Indians, located in Houlton, Aroostook County and recorded in the Aroostook County South Registry of Deeds in Book 2144, Page 198; and

B. Lands transferred from F. Douglas Lowrey to the United States of America in trust for the Houlton Band of Maliseet Indians, located in Houlton and Littleton, Aroostook County and recorded in the Aroostook County South Registry of Deeds in Book 2847, Page 114.

The designation of Houlton Band Jurisdiction Land in this subsection in no way affects the acquisition of additional Houlton Band Trust Land pursuant to applicable federal and state law, nor limits the Houlton Band of Maliseet Indians from making additional requests that portions of the trust land be included in this subsection.

6. Effective date; full faith and credit. This section takes effect only if the State, the Passamaquoddy Tribe and the Penobscot Nation agree to give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians and the Houlton Band of Maliseet Indians agrees to give full faith and credit to the judicial proceedings of the State, the Passamaquoddy Tribe and the Penobscot Nation.

Sec. B-2. Contingent effective date. This Part takes effect October 1, 2009 only if, within 90 days after the adjournment of the First Regular Session of the 124th Legislature, the Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part pursuant to 25 United States Code, Section 1725(e)(2). Copies of the written certification must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART C

Sec. C-1. 30 MRSA §6209-D is enacted to read:

§6209-D. Full faith and credit

The Passamaquoddy Tribe, the Penobscot Nation and the State shall give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians.

The Houlton Band of Maliseet Indians shall give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Penobscot Nation and the State.

Sec. C-2. Contingent effective date. This Part takes effect 30 days after the Secretary of State receives the written certifications under subsection 2, except that in no event may this Part become effective before October 1, 2009, only if:

1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B, section 2; and

2. The Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the

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1 provisions of this Part, written certification from the Joint Tribal Council of the
2 Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part and written
3 certification from the Governor and the Council of the Penobscot Nation that the nation
4 has agreed to the provisions of this Part, pursuant to 25 United States Code, Section
5 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of
6 the Senate, the Clerk of the House and the Revisor of Statutes.

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PART D

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Sec. D-1. 30 MRS §6209-C, sub-§1-A is enacted to read:

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1-A. Exclusive jurisdiction over Penobscot Nation members. The Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

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A. Criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed \$5,000 and that are committed on the Houlton Band Jurisdiction Land by a member of the Penobscot Nation against a member or property of a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection, and by a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection against a member or the property of a member of the Penobscot Nation;

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B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the Penobscot Nation on the Houlton Band Jurisdiction Land;

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C. Civil actions between a member of those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection and members of the Penobscot Nation arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Penobscot Nation under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Penobscot Nation;

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D. Indian child custody proceedings to the extent authorized by applicable federal law; and

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E. Other domestic relations matters, including marriage, divorce and support, between members of either those federally recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this subsection or the Penobscot Nation, both of whom reside on the Houlton Band Jurisdiction Land.

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The Houlton Band of Maliseet Indians may assert, terminate or reassert exclusive jurisdiction over these areas as described in subsection 1.

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1 **Sec. D-2. Contingent effective date.** This Part takes effect 30 days after the
2 Secretary of State receives the written certifications under subsection 3, except that in no
3 event may this Part become effective before October 1, 2009, only if:

4 1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B,
5 section 2;

6 2. The Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the
7 Penobscot Nation approve Part C as provided in Part C, section 2; and

8 3. The Secretary of State receives written certification from the Houlton Band
9 Council of the Houlton Band of Maliseet Indians that the band has agreed to the
10 provisions of this Part and written certification from the Governor and the Council of the
11 Penobscot Nation that the nation has agreed to the provisions of this Part, pursuant to 25
12 United States Code, Section 1725(e), copies of which must be submitted by the Secretary
13 of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART E

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15 **Sec. E-1. 30 MRSA §6209-A, sub-§1,** as amended by PL 2009, c. 93, §14, is
16 further amended to read:

17 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections 3
18 and 4, the Passamaquoddy Tribe has the right to exercise exclusive jurisdiction, separate
19 and distinct from the State, over:

20 A. Criminal offenses for which the maximum potential term of imprisonment is less
21 than one year and the maximum potential fine does not exceed \$5,000 and that are
22 committed on the Indian reservation of the Passamaquoddy Tribe by a member of
23 either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the
24 Penobscot Nation, except when committed against a person who is not a member of
25 either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the
26 Penobscot Nation or against the property of a person who is not a member of either
27 the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot
28 Nation;

29 B. Juvenile crimes against a person or property involving conduct that, if
30 committed by an adult, would fall within the exclusive jurisdiction of the
31 Passamaquoddy Tribe under paragraph A, and juvenile crimes, as defined in Title 15,
32 section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of
33 either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the
34 Penobscot Nation on the reservation of the Passamaquoddy Tribe;

35 C. Civil actions between members of either the Passamaquoddy Tribe, the Houlton
36 Band of Maliseet Indians or the Penobscot Nation arising on the Indian reservation of
37 the Passamaquoddy Tribe and cognizable as small claims under the laws of the State,
38 and civil actions against a member of either the Passamaquoddy Tribe, the Houlton
39 Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383
40 involving conduct on the Indian reservation of the Passamaquoddy Tribe by a
41 member of either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or
42 the Penobscot Nation;

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1 D. Indian child custody proceedings to the extent authorized by applicable federal
2 law; and

3 E. Other domestic relations matters, including marriage, divorce and support,
4 between members of either the Passamaquoddy Tribe, the Houlton Band of Maliseet
5 Indians or the Penobscot Nation, both of whom reside within the Indian reservation
6 of the Passamaquoddy Tribe.

7 The governing body of the Passamaquoddy Tribe shall decide whether to exercise or
8 terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the
9 Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of,
10 jurisdiction over the criminal, juvenile, civil and domestic matters described in this
11 subsection, the State has exclusive jurisdiction over those matters. Except as provided in
12 paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes
13 apply within the Passamaquoddy Indian reservation and the State has exclusive
14 jurisdiction over those offenses and crimes.

15 Sec. E-2. 30 MRSa §6209-C, sub-§1-A is enacted to read:

16 1-A. Exclusive jurisdiction over Passamaquoddy Tribe members. The Houlton
17 Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and
18 distinct from the State, over:

19 A. Criminal offenses for which the maximum potential term of imprisonment does
20 not exceed one year and the maximum potential fine does not exceed \$5,000 and that
21 are committed on the Houlton Band Jurisdiction Land by a member of the
22 Passamaquoddy Tribe against a member or property of a member of those federally
23 recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton
24 Band of Maliseet Indians under this subsection, and by a member of those federally
25 recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton
26 Band of Maliseet Indians under this subsection against a member or the property of a
27 member of the Passamaquoddy Tribe;

28 B. Juvenile crimes against a person or property involving conduct that, if committed
29 by an adult, would fall within the exclusive jurisdiction of the Houlton Band of
30 Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15,
31 section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of
32 the Passamaquoddy Tribe on the Houlton Band Jurisdiction Land;

33 C. Civil actions between a member of those federally recognized Indian tribes
34 otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet
35 Indians under this subsection and members of the Passamaquoddy Tribe arising on
36 the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of
37 the State and civil actions against a member of the Passamaquoddy Tribe under Title
38 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a
39 member of the Passamaquoddy Tribe;

40 D. Indian child custody proceedings to the extent authorized by applicable federal
41 law; and

42 E. Other domestic relations matters, including marriage, divorce and support,
43 between members of either those federally recognized Indian tribes otherwise subject

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1 to the exclusive jurisdiction of the Houlton Band of Maliseet Indians under this
2 subsection or the Passamaquoddy Tribe, both of whom reside on the Houlton Band
3 Jurisdiction Land.

4 The Houlton Band of Maliseet Indians may assert, terminate or reassert exclusive
5 jurisdiction over these areas as described in subsection 1.

6 **Sec. E-3. Contingent effective date.** This Part takes effect 30 days after the
7 Secretary of State receives the written certifications under subsection 3, except that in no
8 event may this Part become effective before October 1, 2009, only if:

9 1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B,
10 section 2;

11 2. The Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the
12 Penobscot Nation approve Part C as provided in Part C, section 2; and

13 3. The Secretary of State receives written certification from the Houlton Band
14 Council of the Houlton Band of Maliseet Indians that the band has agreed to the
15 provisions of this Part and written certification from the Joint Tribal Council of the
16 Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part, pursuant to
17 25 United States Code, Section 1725(e), copies of which must be submitted by the
18 Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor
19 of Statutes.

20 **PART F**

21 **Sec. F-1. 30 MRSA §6212, sub-§1,** as amended by PL 1993, c. 600, Pt. A, §24
22 and affected by §25, is further amended to read:

23 **1. Commission created.** The Maine Indian Tribal-State Commission is established.
24 The commission consists of 9 13 members, 4 6 to be appointed by the Governor, subject
25 to review by the Joint Standing Committee on Judiciary and to confirmation by the
26 Legislature, 2 to be appointed by the Houlton Band of Maliseet Indians, 2 to be appointed
27 by the Passamaquoddy Tribe, 2 to be appointed by the Penobscot Nation and a chair, to
28 be selected in accordance with subsection 2. The members of the commission, other than
29 the chair, each serve for a term of 3 years and may be reappointed. In the event of the
30 death, resignation or disability of a member, the appointing authority may fill the vacancy
31 for the unexpired term.

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

34 **2. Chair.** The commission, by a majority vote of its & 12 members, shall select an
35 individual who is a resident of the State to act as chair. ~~When 8 members of the~~
36 ~~commission by majority vote are unable to select a chair within 120 days of the first~~
37 ~~meeting of the commission, the Governor, after consulting with the governors of the~~
38 ~~Penobscot Nation and the Passamaquoddy Tribe, shall appoint an interim chair for a~~
39 ~~period of one year or for the period until the commission selects a chair in accordance~~
40 ~~with this section, whichever is shorter.~~ In the event of the death, resignation, replacement
41 or disability of the chair, the commission may select, by a majority vote of its & 12



1 remaining members, a new chair. When the commission is unable to select a chair within
2 120 days of the death, resignation, replacement or disability, the Governor, after
3 consulting with the governors chiefs of the Houlton Band of Maliseet Indians, the
4 Penobscot Nation and the Passamaquoddy Tribe, shall appoint an interim chair for a
5 period of one year or for the period until the commission selects a chair in accordance
6 with this section, whichever is shorter. The chair is a full-voting member of the
7 commission and, except when appointed for an interim term, shall serve for 4 years.

8 **Sec. F-3. 30 MRSA §6212, sub-§3**, as amended by PL 1993, c. 600, Pt. A, §24
9 and affected by §25, is further amended to read:

10 **3. Responsibilities.** In addition to the responsibilities set forth in this Act, the
11 commission shall continually review the effectiveness of this Act and the social,
12 economic and legal relationship between the Houlton Band of Maliseet Indians, the
13 Passamaquoddy Tribe and the Penobscot Nation and the State and shall make such
14 reports and recommendations to the Legislature, the Houlton Band of Maliseet Indians,
15 the Passamaquoddy Tribe and the Penobscot Nation as it determines appropriate.

16 ~~Seven~~ Nine members constitute a quorum of the commission and a decision or action of
17 the commission is not valid unless ~~5~~ 7 members vote in favor of the action or decision.

18 **Sec. F-4. Contingent effective date.** This Part takes effect October 1, 2009 only
19 if, within 90 days after the adjournment of the First Regular Session of the 124th
20 Legislature, the Secretary of State receives written certification from the Houlton Band
21 Council of the Houlton Band of Maliseet Indians that the band has agreed to the
22 provisions of this Part, written certification from the Joint Tribal Council of the
23 Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part and written
24 certification from the Governor and the Council of the Penobscot Nation that the nation
25 has agreed to the provisions of this Part pursuant to 25 United States Code, Section
26 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of
27 the Senate, the Clerk of the House and the Revisor of Statutes.

28 **PART G**

29 **Sec. G-1. Maine Revised Statutes headnote amended; revision clause.** In
30 the Maine Revised Statutes, Title 30, in the Title headnote, the words "municipalities and
31 counties" are amended to read "federally recognized Indian tribes" and the Revisor of
32 Statutes shall implement this revision when updating, publishing or republishing the
33 statutes.'

34 **SUMMARY**

35 This amendment replaces the bill and authorizes the establishment of the Houlton
36 Band of Maliseet Indians tribal court, addresses the law enforcement authority of the
37 Houlton Band of Maliseet Indians and provides options for making payments in lieu of
38 taxes.

39 This amendment is divided in Parts A, B, C, D, E, F and G. Part A addresses issues
40 relating to the Houlton Band of Maliseet Indians' law enforcement authority and options
41 for payments to municipalities in lieu of taxes. Part A requires approval as required by

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1 25 United States Code, Section 1725(e)(2) by the Houlton Band of Maliseet Indians. Part
2 B establishes the Houlton Band Tribal Court with jurisdiction only over members of the
3 Houlton Band of Maliseet Indians. Parts D and E provide opportunities to expand the
4 jurisdiction to members of the Penobscot Nation and the Passamaquoddy Tribe. Part B
5 requires approval as required by 25 United States Code, Section 1725(e)(2) by the
6 Houlton Band of Maliseet Indians. Part C covers full faith and credit of judicial
7 proceedings. It requires approval by the Houlton Band of Maliseet Indians, the
8 Passamaquoddy Tribe and the Penobscot Nation as required by 25 United States Code,
9 Section 1725(e). Part D gives the Houlton Band of Maliseet Indians tribal court
10 jurisdiction over members of the Penobscot Nation. It takes effect only if the Houlton
11 Band of Maliseet Indians and the Penobscot Nation approve it as required by 25 United
12 States Code, Section 1725(e). Part E gives the Houlton Band of Maliseet Indians tribal
13 court jurisdiction over members of the Passamaquoddy Tribe. It also amends the
14 jurisdiction of the Passamaquoddy tribal court to give that court jurisdiction over
15 members of the Houlton Band of Maliseet Indians. Part E takes effect only if the Houlton
16 Band of Maliseet Indians and the Passamaquoddy Tribe approve it as required by 25
17 United States Code, Section 1725(e). Part F amends the Maine Indian Tribal-State
18 Commission statutes to add 2 members of the Houlton Band of Maliseet Indians and 2
19 additional state representatives. It deletes obsolete language and revises language
20 concerning the replacement of the chair. Part F takes effect only if the Houlton Band of
21 Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve it as
22 required by 25 United States Code, Section 1725(e). Part G directs the Revisor of
23 Statutes to rename the headnote of the Maine Revised Statutes, Title 30. It does not
24 require approval of the tribes.

25

PART A

26 This Part continues the law enforcement authority of the Houlton Band of Maliseet
27 Indians contained in Title 30, section 6206-B by repealing subsection 6, which provides
28 for the repeal of the entire section in 2010.

29 This Part addresses payments in lieu of taxes to be made by the Houlton Band of
30 Maliseet Indians and authorizes the acceptance of other forms of payment, including but
31 not limited to federal funds or other assistance.

32 Part A is effective October 1, 2009 only if the Houlton Band of Maliseet Indians
33 approves it as required by 25 United States Code, Section 1725(e)(2).

34

PART B

35 This amendment provides authority for the Houlton Band of Maliseet Indians to
36 establish a tribal court with jurisdiction over specific subjects: Class D and E crimes
37 committed on Houlton Band Jurisdiction Land, proceedings regarding juveniles, certain
38 civil actions, Indian child custody issues and other domestic relations actions. The band
39 may decide whether to exercise jurisdiction over each category of jurisdiction and shall
40 notify the Attorney General when it is prepared to exercise jurisdiction. Until the band
41 exercises its exclusive jurisdiction over a category of jurisdiction, the State has exclusive
42 jurisdiction over that category of actions. The band may choose to terminate its
43 jurisdiction and may later reassert the jurisdiction and must notify the Attorney General
44 when that occurs.

MS

1 The bill contained a provision authorizing the tribal court to sit in any appropriate
2 place to handle Indian child custody proceedings when one or more of the parties reside
3 more than 50 miles away from the administrative offices in Littleton. That provision is
4 not included in this amendment because it is recognized that the tribal court has authority
5 to do that without the specific language that was included in the bill.

6 Under this Part, the tribal court has jurisdiction only over members of the Houlton
7 Band of Maliseet Indians.

8 The tribal court may exercise jurisdiction over 2 parcels of Houlton Band Trust Land
9 defined in the amendment as "Houlton Band Jurisdiction Land." The listing of the 2
10 parcels as the focus of the jurisdiction of the tribal court does not imply that additional
11 lands cannot be added to be within the jurisdiction of the tribal court and also does not
12 imply that additional trust lands cannot be acquired by the Secretary of the Interior for the
13 Houlton Band of Maliseet Indians.

14 The tribal court is effective only if the State, the Passamaquoddy Tribe and the
15 Penobscot Nation agree to give full faith and credit to the judicial proceedings of the
16 Houlton Band of Maliseet Indians, and the Houlton Band of Maliseet Indians gives full
17 faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Penobscot
18 Nation and the State. Part C provides the full faith and credit requirement.

19 Part B takes effect October 1, 2009 if the Houlton Band of Maliseet Indians approves
20 this Part as required by 25 United States Code, Section 1725(e)(2).

21 **PART C**

22 This Part provides that the State, the Passamaquoddy Tribe and the Penobscot Nation
23 shall give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet
24 Indians, and that the Houlton Band of Maliseet Indians shall give full faith and credit to
25 the judicial proceedings of the State, the Passamaquoddy Tribe and the Penobscot Nation.
26 Part C takes effect upon the Houlton Band of Maliseet Indians approving Part B and the
27 Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation
28 approving this Part as required by 25 United States Code, Section 1725(e).

29 **PART D**

30 This Part gives the Houlton Band of Maliseet Indians tribal court jurisdiction over
31 members of the Penobscot Nation within the same categories of subject matter
32 jurisdiction that the tribal court has over the members of the Houlton Band of Maliseet
33 Indians under Part B.

34 Part D takes effect upon the Houlton Band of Maliseet Indians approving Part B, the
35 Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation
36 approving Part C and the Houlton Band of Maliseet Indians and the Penobscot Nation
37 approving this Part as required by 25 United States Code, Section 1725(e).

38 **PART E**

39 This Part gives the Houlton Band of Maliseet Indians tribal court jurisdiction over
40 members of the Passamaquoddy Tribe within the same categories of subject matter
41 jurisdiction that the tribal court has over the members of the Houlton Band of Maliseet
42 Indians under Part B. It also amends the jurisdiction of the Passamaquoddy Tribal Court

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to provide that court with jurisdiction over members of the Houlton Band of Maliseet Indians.

Part E takes effect upon the Houlton Band of Maliseet Indians approving Part B, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approving Part C and the Houlton Band of Maliseet Indians and the Passamaquoddy Tribe approving this Part as required by 25 United States Code, Section 1725(e).

PART F

This Part amends the Maine Indian Tribal-State Commission statutes to add 2 members of the Houlton Band of Maliseet Indians and 2 additional state representatives. It deletes obsolete language and revises language concerning the replacement of the chair.

Part F takes effect only if the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve it as required by 25 United States Code, Section 1725(e).

PART G

Part G directs the Revisor of Statutes to rename the headnote of Title 30 from "Municipalities and Counties" to "Federally Recognized Indian Tribes." It does not require approval of the tribes.

FISCAL NOTE REQUIRED
(See attached)



Approved: 06/03/09 *MAC*

124th MAINE LEGISLATURE

LD 1377

LR 1275(02)

An Act To Amend the 1980 Maine Implementing Act To Authorize the Establishment of a Tribal Court for the Houlton Band of Maliseet Indians and Related Matters

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor impact to State

Correctional and Judicial Impact Statements

Potential decrease in criminal and civil case-loads.

Fiscal Detail and Notes

The additional costs to the Maine Indian Tribal-State Commission and the Department of the Attorney General can be absorbed utilizing existing budgeted resources.