

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2094

H.P. 1492

House of Representatives, February 4, 2020

**An Act To Implement the Recommendations of the Task Force on
Changes to the Maine Indian Claims Settlement Implementing Act**

Reported by Representative BAILEY of Saco for the Joint Standing Committee on
Judiciary pursuant to Joint Order 2019, H.P. 1307.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 30 MRSA §6201**, as enacted by PL 1979, c. 732, §§1 and 31, is amended
3 to read:

4 **§6201. Short title**

5 This Act ~~shall be~~ is known and may be cited as "AN ACT to Implement the Maine
6 Indian Claims Settlement."

7 **Sec. 2. 30 MRSA §6202**, as enacted by PL 1979, c. 732, §§1 and 31, is amended
8 to read:

9 **§6202. Legislative findings and declaration of policy**

10 The Legislature finds and declares the following.

11 The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
12 Indians ~~are asserting~~ asserted claims for possession of large areas of land in the State and
13 for damages alleging that the lands in question originally were transferred by treaty in
14 violation of the Indian Trade and Intercourse Act of 1790, 1 Stat. 137, or subsequent
15 reenactments or versions thereof.

16 ~~Substantial~~ At the time, the prospect that these claims would not be promptly
17 resolved threatened to create substantial economic and social hardship ~~could be created~~
18 for large numbers of landowners, citizens and communities in the State, and therefore to
19 the State as a whole, ~~if these claims are not resolved promptly.~~

20 The claims also ~~have~~ produced disagreement between the Indian claimants and the
21 State over the extent of the ~~state's~~ State's jurisdiction in the claimed areas. This
22 disagreement ~~has~~ resulted in litigation and, if the claims ~~are~~ had not been resolved, further
23 litigation on jurisdictional issues would ~~be~~ have been likely.

24 ~~The~~ In the late 1970s, the Indian claimants and the State, acting through the Attorney
25 General, ~~have~~ reached certain agreements ~~which represent~~ that represented a good faith
26 effort on the part of all parties to achieve a fair and just resolution of those claims ~~which~~
27 that, in the absence of agreement, would ~~be~~ have been pursued through the courts for
28 many years to the ultimate detriment of the State and all its citizens, including the
29 Indians. The resolution reached among the Indian claimants and the State affirmed the
30 land transfers and the reservations of rights embodied within the specific treaties that
31 gave rise to the claims at issue, and sought to definitively eliminate any prospect that the
32 claims brought by the Indian claimants would cloud private title to land in the State.

33 ~~The foregoing agreement between the Indian claimants and the State also represents a~~
34 ~~good faith effort by the Indian claimants and the State to achieve a just and fair resolution~~
35 ~~of their disagreement over jurisdiction on the present Passamaquoddy and Penobscot~~
36 ~~Indian reservations and in the claimed areas. To that end, the Passamaquoddy Tribe and~~
37 ~~the Penobscot Nation have agreed to adopt the laws of the State as their own to the extent~~

1 provided in this Act. The Houlton Band of Maliseet Indians and its lands will be wholly
2 subject to the laws of the State.

3 It is the purpose of this Act to implement in part the foregoing agreement.

4 **1. Rights, privileges, powers, duties and immunities.** The purpose of the
5 amendments to this chapter enacted in 2020 is to establish that the Passamaquoddy Tribe,
6 the Penobscot Nation and the Houlton Band of Maliseet Indians enjoy rights, privileges,
7 powers, duties and immunities similar to those of other federally recognized Indian tribes
8 within the United States.

9 **2. Federal Indian law applies.** Except as otherwise specified in this chapter, federal
10 Indian law applies with regard to the rights, privileges, powers, duties and immunities of
11 the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
12 Indians.

13 **Sec. 3. 30 MRSA §6203**, as amended by PL 2009, c. 636, Pt. B, §1 and affected
14 by §2, is further amended to read:

15 **§6203. Definitions**

16 As used in this Act, unless the context indicates otherwise, the following terms have
17 the following meanings.

18 **1. Commission.** "Commission" means the Maine Indian Tribal-State Commission
19 created by section 6212.

20 **1-A. Federal Indian law.** "Federal Indian law" means the United States
21 Constitution and all federal statutes, regulations and case law and subsequent
22 amendments thereto or judicial interpretations thereof, relating to the rights, privileges,
23 powers, duties and immunities of federally recognized Indian tribes within the United
24 States, except those federally recognized Indian tribes subject to United States Public
25 Law 83-280 or a specific treaty or settlement act.

26 **2. Houlton Band of Maliseet Indians.** "Houlton Band of Maliseet Indians" means
27 the Maliseet Tribe of Indians as constituted on March 4, 1789, and all its predecessors
28 and successors in interest, which, as of the date of passage of this Act April 3, 1980, are
29 represented, as to lands within the United States, by the Houlton Band Council of the
30 Houlton Band of Maliseet Indians.

31 **2-A. Houlton Band Trust Land Tribal Lands.** "Houlton Band Trust Land Tribal
32 Lands" means land or other natural resources acquired by the secretary in trust for the
33 Houlton Band of Maliseet Indians, in compliance with the terms of this Act section
34 6205-A and the Maine Indian Claims Settlement Act of 1980, United States Public Law
35 96-420, with moneys money from the original \$900,000 congressional appropriation and
36 interest thereon deposited in the Land Acquisition Fund established for the Houlton Band
37 of Maliseet Indians pursuant to United States Public Law 96-420, Section 5, United
38 States Code, Title 25, Section 1724, or with proceeds from a taking of Houlton Band
39 Trust Land Tribal Lands for public uses pursuant to the laws of this State or the United
40 States.

1 **3. Land or other natural resources.** "Land or other natural resources" means any
2 real property or other natural resources, or any interest in or right involving any real
3 property or other natural resources, including, ~~but~~ without limitation, minerals and
4 mineral rights, timber and timber rights, water and water rights and hunting and fishing
5 rights.

6 **4. Laws of the State.** "Laws of the State" means the Constitution of Maine and all
7 statutes, rules ~~or regulations~~ and the common law of the State and its political
8 subdivisions, and subsequent amendments thereto or judicial interpretations thereof.

9 **5. Passamaquoddy Indian Reservation.** "Passamaquoddy Indian Reservation"
10 means those lands reserved to the Passamaquoddy Tribe by agreement with the ~~State~~
11 Commonwealth of Massachusetts dated September 19, 1794, excepting any parcel within
12 such lands transferred to a person or entity other than a member of the Passamaquoddy
13 Tribe subsequent to such agreement and prior to ~~the effective date of this Act~~ October 10,
14 1980. If any lands reserved to the Passamaquoddy Tribe by the aforesaid agreement
15 hereafter are acquired by the Passamaquoddy Tribe, or the secretary on its behalf, that
16 land ~~shall~~ must be included within the Passamaquoddy Indian Reservation. For purposes
17 of this subsection, the lands reserved to the Passamaquoddy Tribe by the aforesaid
18 agreement ~~shall be~~ are limited to Indian Township in Washington County; Pine Island,
19 sometimes referred to as Taylor's Island, located in Big Lake, in Washington County; 100
20 acres of land located on Nemcass Point, sometimes referred to as Governor's Point,
21 located in Washington County and shown on a survey of John Gardner ~~which that~~ that is filed
22 in the Maine State Archives, Executive Council Records, Report Number 264 and dated
23 June 5, 1855; 100 acres of land located at Pleasant Point in Washington County as
24 described in a deed to Captain John Frost from Theodore Lincoln, Attorney for Benjamin
25 Lincoln, Thomas Russell, and John Lowell dated July 14, 1792, and recorded in the
26 Washington County Registry of Deeds on April 27, 1801, at Book 3, Page 73; and those
27 15 islands in the St. Croix River in existence on September 19, 1794 and located between
28 the head of the tide of that river and the falls below the forks of that river, both of which
29 points are shown on a 1794 plan of Samuel Titcomb ~~which that~~ that is filed in the Maine State
30 Archives in Maine Land Office Plan Book Number 1, page 33. The "Passamaquoddy
31 Indian Reservation" includes those lands ~~which that~~ that have been or may be acquired by the
32 Passamaquoddy Tribe within that portion of the Town of Perry ~~which that~~ that lies south of
33 Route 1 on the east side of Route 190 and south of lands now owned or formerly owned
34 by William Follis on the west side of Route 190, ~~provided that no such lands may be~~
35 ~~included in the Passamaquoddy Indian Reservation until the Secretary of State receives~~
36 ~~certification from the treasurer of the Town of Perry that the Passamaquoddy Tribe has~~
37 ~~paid to the Town of Perry the amount of \$350,000, provided that the consent of the Town~~
38 ~~of Perry would be voided unless the payment of the \$350,000 is made within 120 days of~~
39 ~~the effective date of this section. Any commercial development of those lands must be by~~
40 ~~approval of the voters of the Town of Perry with the exception of land development~~
41 ~~currently in the building stages.~~

42 **6. Passamaquoddy Indian territory.** "Passamaquoddy Indian territory" means that
43 territory defined by section 6205, subsection 1.

1 **7. Passamaquoddy Tribe.** "Passamaquoddy Tribe" means the Passamaquoddy
2 Indian Tribe as constituted on March 4, 1789, and all its predecessors and successors in
3 interest, ~~which that~~, as of ~~the date of passage of this Act~~ April 3, 1980, are represented by
4 the Joint Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian
5 Township and Pleasant Point Reservations.

6 **8. Penobscot Indian Reservation.** "Penobscot Indian Reservation" means the
7 islands in the Penobscot River reserved to the Penobscot Nation by agreement with the
8 States Commonwealth of Massachusetts and the State of Maine consisting solely of
9 Indian Island, also known as Old Town Island, and all islands in that river northward
10 thereof that existed on June 29, 1818, excepting any island transferred to a person or
11 entity other than a member of the Penobscot Nation subsequent to June 29, 1818; and
12 prior to ~~the effective date of this Act~~ October 10, 1980. If any land within Niatow Island
13 is hereafter acquired by the Penobscot Nation, or the secretary on its behalf, that land
14 must be included within the Penobscot Indian Reservation.

15 The "Penobscot Indian Reservation" includes the following parcels of land that have been
16 or may be acquired by the Penobscot Nation from Bangor Pacific Hydro Associates as
17 compensation for flowage of reservation lands by the West Enfield dam: A parcel
18 located on the Mattagamon Gate Road and on the East Branch of the Penobscot River in
19 T.6 R.8 ~~WELS~~ W.E.L.S., which is a portion of the "Mattagamon Lake Dam Lot" and has
20 an area of approximately 24.3 acres, and Smith Island in the Penobscot River, which has
21 an area of approximately one acre.

22 The "Penobscot Indian Reservation" also includes a certain parcel of land located in
23 Argyle, Penobscot County consisting of approximately 714 acres known as the Argyle
24 East Parcel and more particularly described as Parcel One in a deed from the Penobscot
25 Indian Nation to the United States of America dated November 22, 2005 and recorded at
26 the Penobscot County Registry of Deeds in Book 10267, Page 265.

27 ~~**9. Penobscot Indian territory.** "Penobscot Indian territory" means that territory~~
28 ~~defined by section 6205, subsection 2.~~

29 **10. Penobscot Nation.** "Penobscot Nation" means the Penobscot Indian Nation as
30 constituted on March 4, 1789, and all its predecessors and successors in interest, ~~which~~
31 ~~that~~, as of ~~the date of passage of this Act~~ April 3, 1980, are represented by the Penobscot
32 Reservation Tribal Council.

33 **11. Secretary.** "Secretary" means the Secretary of the Interior of the United States.

34 **12. Settlement Fund.** "Settlement Fund" means the trust fund established for the
35 Passamaquoddy Tribe and Penobscot Nation by the United States pursuant to
36 congressional legislation ~~extinguishing~~ extinguishing aboriginal land claims in Maine.

37 **13. Transfer.** "Transfer" includes, but is not necessarily limited to, any voluntary or
38 involuntary sale, grant, lease, allotment, partition or other conveyance; any transaction
39 the purpose of which was to effect a sale, grant, lease, allotment, partition or other
40 conveyance; and any act, event or circumstance that resulted in a change in title to,
41 possession of, dominion over, or control of land or other natural resources.

1 14. Tribal lands. "Tribal lands" of the Passamaquoddy Tribe, the Penobscot Nation
2 or the Houlton Band of Maliseet Indians means any land held by the secretary in trust for
3 the relevant tribe and any reservation land held by the relevant tribe. "Tribal lands" is not
4 limited to those lands held by the secretary in trust or reservation land held by the
5 relevant tribe as of the enactment of this subsection, but includes those lands that are
6 acquired after the enactment of this subsection and held by the secretary in trust for the
7 relevant tribe and reservation lands acquired after the enactment of this subsection and
8 held by the relevant tribe.

9 **Sec. 4. 30 MRSA §6204**, as enacted by PL 1979, c. 732, §§1 and 31, is repealed.

10 **Sec. 5. 30 MRSA §6205**, as amended by PL 2013, c. 91, §§1 and 2 and affected
11 by §3, is further amended to read:

12 **§6205. ~~Indian territory~~ Passamaquoddy Tribal Lands and Penobscot Tribal Lands**

13 **1. Passamaquoddy ~~Indian territory~~ Tribal Lands.** Subject to subsections 3, ~~and 4~~
14 ~~and 5~~, the following lands within the State are known as the "Passamaquoddy ~~Indian~~
15 ~~territory~~ Tribal Lands:"

16 A. The Passamaquoddy Indian Reservation;

17 B. The first 150,000 acres of land acquired by the secretary for the benefit of the
18 Passamaquoddy Tribe from the following areas or lands to the extent that those lands
19 ~~are acquired by the secretary prior to January 31, 1991~~, are not held in common with
20 any other person or entity ~~and are certified by the secretary by January 31, 1991~~, as
21 ~~held for the benefit of the Passamaquoddy Tribe:~~

22 The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.
23 (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9,
24 W.E.L.S.; the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond),
25 T.4, R.5, B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,
26 B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;
27 any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle
28 Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram
29 C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any
30 portion of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the
31 lands of Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1,
32 N.B.P.P. and T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3,
33 N.D.; any portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.;
34 any portion of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond
35 International Corporation, International Paper Company and Lincoln Pulp and Paper
36 Company located in Argyle; and the lands of the Dyer Interests in T.A.R.7 W.E.L.S.,
37 T.3 R.9 N.W.P., T.3 R.3. N.B.K.P. (Alder Brook Township), T.3 R.4 N.B.K.P.
38 (Hammond Township), T.2 R.4 N.B.K.P. (Pittston Academy Grant), T.2 R.3
39 N.B.K.P. (Soldiertown Township), and T.4 R.4 N.B.K.P. (Prentiss Township), and
40 any lands in Albany Township ~~acquired by the Passamaquoddy Tribe before January~~
41 ~~1, 1991;~~

1 C. Any land not exceeding 100 acres in the City of Calais acquired by the secretary
2 for the benefit of the Passamaquoddy Tribe as long as the land is ~~acquired by the~~
3 ~~secretary prior to January 1, 2001,~~ is not held in common with any other person or
4 entity and is ~~certified by the secretary by January 31, 2001,~~ as held for the benefit of
5 the Passamaquoddy Tribe, if:

6 (1) ~~The acquisition of the land by the tribe is approved by the legislative body of~~
7 ~~that city; and~~

8 (2) ~~A tribal state compact under the federal Indian Gaming Regulatory Act is~~
9 ~~agreed to by the State and the Passamaquoddy Tribe or the State is ordered by a~~
10 ~~court to negotiate such a compact;~~

11 D. All land acquired by the secretary for the benefit of the Passamaquoddy Tribe in
12 T. 19, M.D. to the extent that the land is ~~acquired by the secretary prior to January 31,~~
13 ~~2020,~~ is not held in common with any other person or entity and is ~~certified by the~~
14 ~~secretary by January 31, 2020 as held for the benefit of the Passamaquoddy Tribe;~~

15 D-1. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in
16 Centerville consisting of Parcels A, B and C conveyed by Bertram C. Tackeff to the
17 Passamaquoddy Tribe by quitclaim deed dated July 27, 1981, recorded in the
18 Washington County Registry of Deeds in Book 1147, Page 251, to the extent that the
19 land is ~~acquired by the secretary prior to January 31, 2017,~~ is not held in common
20 with any other person or entity and is ~~certified by the secretary by January 31, 2017~~
21 ~~as held for the benefit of the Passamaquoddy Tribe;~~

22 D-2. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in
23 Centerville conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by
24 quitclaim deed dated May 4, 1982, recorded in the Washington County Registry of
25 Deeds in Book 1178, Page 35, to the extent that the land is ~~acquired by the secretary~~
26 ~~prior to January 31, 2023,~~ is not held in common with any other person or entity and
27 is ~~certified by the secretary by January 31, 2023 as held for the benefit of the~~
28 ~~Passamaquoddy Tribe; and~~

29 E. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in
30 Township 21 consisting of Gordon Island in Big Lake, conveyed by Domtar Maine
31 Corporation to the Passamaquoddy Tribe by corporate quitclaim deed dated April 30,
32 2002, recorded in the Washington County Registry of Deeds in Book 2624, Page 301,
33 to the extent that the land is ~~acquired by the secretary prior to January 31, 2017,~~ is not
34 held in common with any other person or entity and is ~~certified by the secretary by~~
35 ~~January 31, 2017 as held for the benefit of the Passamaquoddy Tribe.~~

36 **2. Penobscot Indian territory Tribal Lands.** Subject to subsections 3, ~~and 4 and 5,~~
37 the following lands within the State shall be are known as the "Penobscot Indian territory
38 Tribal Lands:"

39 A. The Penobscot Indian Reservation; and

40 B. The first 150,000 acres of land acquired by the secretary for the benefit of the
41 Penobscot Nation from the following areas or lands to the extent that those lands are
42 ~~acquired by the secretary prior to January 31, 2021,~~ are not held in common with any

1 other person or entity and are certified by the secretary by January 31, 2021, as held
2 for the Penobscot Nation:

3 The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.
4 (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9,
5 W.E.L.S.; the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond),
6 T.4, R.5, B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,
7 B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;
8 any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle
9 Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram
10 C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any
11 portion of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the
12 lands of Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1,
13 N.B.P.P. and T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3,
14 N.D.; any portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.;
15 any portion of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond
16 International Corporation, International Paper Company and Lincoln Pulp and Paper
17 Company located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.;
18 any 300 acres in Old Town ~~mutually agreed upon by the City of Old Town and the~~
19 ~~Penobscot Nation Tribal Government, provided that the mutual agreement must be~~
20 ~~finalized prior to August 31, 1991;~~ any lands in Lakeville acquired by the Penobscot
21 Nation ~~before January 1, 1991;~~ and all the property acquired by the Penobscot Indian
22 Nation from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land
23 Corporation located in Township 1, Range 6 W.E.L.S.

24 **3. Takings under the laws of the State.** This subsection governs takings under the
25 laws of this State.

26 A. Prior to any taking of land for public uses within either the Passamaquoddy
27 Indian Reservation or the Penobscot Indian Reservation, the public entity proposing
28 the taking, or, in the event of a taking proposed by a public utility, the Public Utilities
29 Commission, ~~shall be~~ is required to find that there is no reasonably feasible
30 alternative to the proposed taking. In making this finding, the public entity or the
31 Public Utilities Commission shall compare the cost, technical feasibility, and
32 environmental and social impact of the available alternatives, if any, with the cost,
33 technical feasibility and environmental and social impact of the proposed taking.
34 Prior to making this finding, the public entity or Public Utilities Commission, after
35 notice to the affected tribe or nation, shall conduct a public hearing in the manner
36 provided by the Maine Administrative Procedure Act, on the affected Indian
37 reservation. The finding of the public entity or Public Utilities Commission may be
38 appealed to the Maine Superior Court.

39 In the event of a taking of land for public uses within the Passamaquoddy Indian
40 Reservation or the Penobscot Indian Reservation, the public entity or public utility
41 making the taking shall, at the election of the affected tribe or nation, and with
42 respect to individually allotted lands, at the election of the affected allottee or
43 allottees, acquire by purchase or otherwise for the respective tribe, nation, allottee or
44 allottees a parcel or parcels of land equal in value to that taken; contiguous to the
45 affected Indian reservation; and as nearly adjacent to the parcel taken as practicable.

1 The land so acquired ~~shall~~ must, upon written certification to the Secretary of State
2 by the public entity or public utility acquiring such land describing the location and
3 boundaries thereof, be included within the Indian ~~Reservation~~ reservation of the
4 affected tribe or nation without further approval of the State. For purposes of this
5 section, land along and adjacent to the Penobscot River ~~shall be~~ is deemed to be
6 contiguous to the Penobscot Indian Reservation. The acquisition of land for the
7 Passamaquoddy Tribe or the Penobscot Nation or any allottee under this subsection
8 ~~shall be~~ is full compensation for any such taking. If the affected tribe, nation, allottee
9 or allottees elect not to have a substitute parcel acquired in accordance with this
10 subsection, the ~~moneys~~ money received for such taking ~~shall~~ must be reinvested in
11 accordance with the provisions of paragraph B.

12 B. If land within either the Passamaquoddy ~~Indian Territory~~ Tribal Lands or the
13 Penobscot ~~Indian Territory~~ Tribal Lands but not within either the Passamaquoddy
14 Indian Reservation or the Penobscot Indian Reservation is taken for public uses in
15 accordance with the laws of the State, the money received for said land ~~shall~~ must be
16 reinvested in other lands within 2 years of the date on which the money is received.
17 To the extent that any ~~moneys~~ money received ~~are~~ is so reinvested in land with an
18 area not greater than the area of the land taken and located within an unorganized or
19 unincorporated area of the State, the lands so acquired by such reinvestment ~~shall~~
20 must be included within the respective ~~Indian territory~~ tribal lands without further
21 approval of the State. To the extent that any ~~moneys~~ money received ~~are~~ is so
22 reinvested in land with an area greater than the area of the land taken and located
23 within an unorganized or unincorporated area of the State, the respective tribe or
24 nation shall designate, within 30 days of such reinvestment, that portion of the land
25 acquired by such reinvestment, not to exceed the area taken, which ~~shall~~ must be
26 included within the respective ~~Indian territory~~ tribal lands. No land acquired pursuant
27 to this paragraph ~~shall~~ may be included within either ~~Indian Territory~~ tribal lands
28 until the ~~Secretary of Interior~~ secretary has certified, in writing, to the Secretary of
29 State the location and boundaries of the land acquired.

30 **4. Taking under the laws of the United States.** In the event of a taking of land
31 within the Passamaquoddy ~~Indian territory~~ Tribal Lands or the Penobscot ~~Indian territory~~
32 Tribal Lands for public uses in accordance with the laws of the United States and the
33 reinvestment of the ~~moneys~~ money received from such taking within 2 years of the date
34 on which the ~~moneys~~ money is received, the status of the lands acquired by such
35 reinvestment ~~shall~~ must be determined in accordance with subsection 3, paragraph B.

36 **5. Limitations.** ~~No lands held or acquired by or in trust for the Passamaquoddy~~
37 ~~Tribe or the Penobscot Nation, other than those described in subsections 1, 2, 3 and 4,~~
38 ~~shall be included within or added to the Passamaquoddy Indian territory or the Penobscot~~
39 ~~Indian territory except upon recommendation of the commission and approval of the State~~
40 ~~to be given in the manner required for the enactment of laws by the Legislature and~~
41 ~~Governor of Maine, provided, however, that no lands within any city, town, village or~~
42 ~~plantation shall be added to either the Passamaquoddy Indian territory or the Penobscot~~
43 ~~Indian territory without approval of the legislative body of said city, town, village or~~
44 ~~plantation in addition to the approval of the State.~~

1 Any lands within the Passamaquoddy Indian territory or the Penobscot Indian territory,
2 the fee to which is transferred to any person who is not a member of the respective tribe
3 or nation, shall cease to constitute a portion of Indian territory and shall revert to its status
4 prior to the inclusion thereof within Indian territory.

5 **6. Acquisition of additional trust land.** Nothing in this chapter limits the ability of
6 the Passamaquoddy Tribe and the Penobscot Nation to acquire trust land in accordance
7 with applicable settlement acts and federal Indian law, including but not limited to the
8 federal Indian Reorganization Act, Public Law 73-383, and their implementing
9 regulations. Except as required by federal Indian law, acquisition of trust land is not
10 subject to approval by the State or any local government within the State.

11 **Sec. 6. 30 MRSA §6205-A**, as enacted by PL 1981, c. 675, §§2 and 8, is amended
12 to read:

13 **§6205-A. Acquisition of Houlton Band Trust Land Tribal Lands**

14 **1. Approval Acquisition.** The State of Maine approves the acquisition, Lands
15 acquired by the secretary, of for the benefit of the Houlton Band Trust Land within the
16 State of Maine provided as follows of Maliseet Indians in accordance with the
17 requirements of this subsection are known as Houlton Band Tribal Lands.

18 A. No land or other natural resources acquired by the secretary may have the status
19 of Houlton Band Trust Land Tribal Lands, or be deemed to be land or other natural
20 resources held in trust by the United States, until the secretary files with the Maine
21 Secretary of State a certified copy of the deed, contract or other instrument of
22 conveyance, setting forth the location and boundaries of the land or other natural
23 resources so acquired. Filing by mail ~~shall be~~ is complete upon mailing.

24 B. No land or other natural resources may be acquired by the secretary for the
25 Houlton Band of Maliseet Indians until the secretary files with the Maine Secretary of
26 State a certified copy of the instrument creating the trust described in section 6208-A,
27 together with a letter stating that ~~he~~ the secretary holds not less than \$100,000 in a
28 trust account for the payment of Houlton Band of Maliseet Indians' obligations, and a
29 copy of the claim filing procedures ~~he~~ the secretary has adopted.

30 C. ~~No land or natural resources located within any city, town, village or plantation~~
31 ~~may be acquired by the secretary for the Houlton Band of Maliseet Indians without~~
32 ~~the approval of the legislative body of the city, town, village or plantation.~~

33 **1-A. Acquisition of additional trust land.** Nothing in this chapter limits the ability
34 of the Houlton Band of Maliseet Indians to acquire trust land in accordance with
35 applicable settlement acts and federal Indian law, including but not limited to the federal
36 Indian Reorganization Act, Public Law 73-383, and their implementing regulations.
37 Except as required by federal Indian law, acquisition of trust land is not subject to
38 approval by the State or any local government within the State.

39 **2. Takings for public uses.** Houlton Band Trust Land Tribal Lands may be taken
40 for public uses in accordance with the laws of the State of ~~Maine~~ to the same extent as
41 ~~privately-owned~~ privately owned land. The proceeds from any such taking ~~shall~~ must be

1 deposited in the Land Acquisition Fund. The United States ~~shall be~~ is a necessary party
2 to any such condemnation proceeding. After exhausting all state administrative remedies,
3 the United States ~~shall have~~ has an absolute right to remove any action commenced in the
4 courts of this State to a ~~United States'~~ federal court of competent jurisdiction.

5 **3. Restraints on alienation.** Any transfer of Houlton Band ~~Trust Land~~ shall be
6 Tribal Lands is void ab initio and without any validity in law or equity, except:

- 7 A. Takings for public uses pursuant to the laws of this State;
- 8 B. Takings for public uses pursuant to the laws of the United States;
- 9 C. Transfers of individual use assignments from one member of the Houlton Band of
10 Maliseet Indians to another band member;
- 11 D. Transfers authorized by United States Public Law 96-420, Section 5(g)(3), United
12 States Code, Title 25, Section 1724(g)(3); and
- 13 E. Transfers made pursuant to a special act of Congress.

14 If the fee to the Houlton Band ~~Trust Fund Land~~ Tribal Lands is lawfully transferred to
15 any person or entity, the land so transferred ~~shall cease~~ ceases to have the status of
16 Houlton Band ~~Trust Land~~ Tribal Lands.

17 **Sec. 7. 30 MRSA §6206**, as enacted by PL 1979, c. 732, §§1 and 31, is amended
18 to read:

19 **§6206. ~~Powers and duties~~ Rights, privileges, powers, duties and immunities of the**
20 **Indian tribes within their respective Indian territories and the State**

21 **1. General Powers powers.** Except as otherwise provided in this Act, the State
22 recognizes that the Passamaquoddy Tribe and, the Penobscot Nation, ~~within their~~
23 ~~respective Indian territories,~~ shall the Houlton Band of Maliseet Indians and their
24 respective members have, and may exercise and enjoy, all the rights, privileges, powers,
25 duties and immunities, ~~including, but without limitation, the power to enact ordinances~~
26 ~~and collect taxes, and shall be subject to all the duties, obligations, liabilities and~~
27 ~~limitations of a municipality of and subject to the laws of the State, provided, however,~~
28 ~~that internal tribal matters, including membership in the respective tribe or nation, the~~
29 ~~right to reside within the respective Indian territories, tribal organization, tribal~~
30 ~~government, tribal elections and the use or disposition of settlement fund income shall not~~
31 ~~be subject to regulation by the State. The Passamaquoddy Tribe and the Penobscot Nation~~
32 ~~shall designate such officers and officials as are necessary to implement and administer~~
33 ~~those laws of the State applicable to the respective Indian territories and the residents~~
34 ~~thereof. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian~~
35 ~~territory who is not a member of the respective tribe or nation nonetheless shall be~~
36 ~~equally entitled to receive any municipal or governmental services provided by the~~
37 ~~respective tribe or nation or by the State, except those services which are provided~~
38 ~~exclusively to members of the respective tribe or nation pursuant to state or federal law,~~
39 ~~and shall be entitled to vote in national, state and county elections in the same manner as~~
40 ~~any tribal member residing within Indian territory generally afforded to federally~~
41 recognized Indian tribes and their members under federal Indian law.

1 **2. Power to sue and be sued.** The Passamaquoddy Tribe, the Penobscot Nation, the
2 Houlton Band of Maliseet Indians and their members may sue and be sued in the courts
3 of the State to the same extent as any other entity or person in the State ~~provided except,~~
4 however, that the respective tribe ~~or~~, nation or band and its officers and employees ~~shall~~
5 be are immune from suit when the respective tribe ~~or~~, nation or band is acting in its
6 governmental capacity to the same extent as any municipality or like officers or
7 employees thereof within the State.

8 ~~**3.—Ordinances.**—The Passamaquoddy Tribe and the Penobscot Nation each shall~~
9 ~~have the right to exercise exclusive jurisdiction within its respective Indian territory over~~
10 ~~violations by members of either tribe or nation of tribal ordinances adopted pursuant to~~
11 ~~this section or section 6207. The decision to exercise or terminate the jurisdiction~~
12 ~~authorized by this section shall be made by each tribal governing body. Should either~~
13 ~~tribe or nation choose not to exercise, or to terminate its exercise of, jurisdiction as~~
14 ~~authorized by this section or section 6207, the State shall have exclusive jurisdiction over~~
15 ~~violations of tribal ordinances by members of either tribe or nation within the Indian~~
16 ~~territory of that tribe or nation. The State shall have exclusive jurisdiction over violations~~
17 ~~of tribal ordinances by persons not members of either tribe or nation.~~

18 **Sec. 8. 30 MRSA §6206-A**, as enacted by PL 1981, c. 675, §§3 and 8, is repealed.

19 **Sec. 9. 30 MRSA §6206-B**, as amended by PL 2009, c. 384, Pt. A., §1 and
20 affected by §4, is further amended to read:

21 **§6206-B. Law enforcement powers of Houlton Band of Maliseet Indians**

22 **1. Appointment of tribal law enforcement officers.** The Houlton Band of Maliseet
23 Indians may appoint law enforcement officers who have the authority to enforce all the
24 laws of the State within the Houlton Band ~~Trust Land~~ Tribal Lands. This section does
25 not limit the existing authority of tribal officers under tribal law or affect the performance
26 of federal duties by tribal officers.

27 **2. Authority Joint authority of state, county and local law enforcement officers.**
28 State Law enforcement officers appointed by the Houlton Band of Maliseet Indians have
29 the authority within Houlton Band Tribal Lands and state and county law enforcement
30 officers and law enforcement officers appointed by the Town of Houlton have the
31 authority within Houlton Band Tribal Lands to enforce rules or regulations adopted by
32 the commission under section 6207, subsection 3 and to enforce all laws of the State
33 within the Houlton Band Trust Land over which the State has exclusive or concurrent
34 jurisdiction under section 6209-C.

35 **3. Agreements for cooperation and mutual aid.** The Houlton Band of Maliseet
36 Indians and any state, county or local law enforcement agency may enter into agreements
37 for cooperation and mutual aid.

38 **4. Powers, duties and training requirements.** Law enforcement officers appointed
39 by the Houlton Band of Maliseet Indians pursuant to this section possess the same
40 powers, enjoy the same immunities and are subject to the same duties, limitations and

1 training requirements as other corresponding law enforcement officers under the laws of
2 the State.

3 ~~**5. Report to Legislature.** By January 1, 2010, the Houlton Band of Maliseet
4 Indians shall file a report with the joint standing committee of the Legislature having
5 jurisdiction over judiciary matters detailing the band's experience with the exercise of law
6 enforcement authority under this section. The report must include observations and
7 comments from the state and county law enforcement agencies providing law
8 enforcement services in Aroostook County and from the Houlton Police Department.~~

9 **Sec. 10. 30 MRSA §6207**, as amended by PL 1997, c. 739, §12 and affected by
10 §§13 and 14, is further amended to read:

11 **§6207. Regulation of fish fishing and wildlife resources hunting**

12 ~~**1. Adoption of ordinances by tribe.** Subject to the limitations of subsection 6, the
13 Passamaquoddy Tribe and the Penobscot Nation each shall have exclusive authority
14 within their respective Indian territories to promulgate and enact ordinances regulating:~~

15 ~~A. Hunting, trapping or other taking of wildlife; and~~

16 ~~B. Taking of fish on any pond in which all the shoreline and all submerged lands are
17 wholly within Indian territory and which is less than 10 acres in surface area.~~

18 ~~Such ordinances shall be equally applicable, on a nondiscriminatory basis, to all persons
19 regardless of whether such person is a member of the respective tribe or nation provided,
20 however, that subject to the limitations of subsection 6, such ordinances may include
21 special provisions for the sustenance of the individual members of the Passamaquoddy
22 Tribe or the Penobscot Nation. In addition to the authority provided by this subsection,
23 the Passamaquoddy Tribe and the Penobscot Nation, subject to the limitations of
24 subsection 6, may exercise within their respective Indian territories all the rights incident
25 to ownership of land under the laws of the State.~~

26 ~~**1-A. Jurisdiction of tribes.** Except as otherwise specified in subsections 2-A and 3,
27 the State recognizes the exclusive jurisdiction the Passamaquoddy Tribe, the Penobscot
28 Nation and the Houlton Band of Maliseet Indians have under federal Indian law to
29 regulate fishing and hunting on their respective tribal lands by:~~

30 ~~A. Tribal citizens of any federally recognized Indian tribes; and~~

31 ~~B. Nontribal citizens.~~

32 ~~**2. Registration stations.** The Passamaquoddy Tribe and the Penobscot Nation shall
33 establish and maintain registration stations for the purpose of registering bear, moose,
34 deer and other wildlife killed within their respective Indian territories and shall adopt
35 ordinances requiring registration of such wildlife to the extent and in substantially the
36 same manner as such wildlife are required to be registered under the laws of the State.
37 These ordinances requiring registration shall be equally applicable to all persons without
38 distinction based on tribal membership. The Passamaquoddy Tribe and the Penobscot
39 Nation shall report the deer, moose, bear and other wildlife killed and registered within
40 their respective Indian territories to the Commissioner of Inland Fisheries and Wildlife of~~

1 the State at such times as the commissioner deems appropriate. The records of
2 registration of the Passamaquoddy Tribe and the Penobscot Nation shall be available, at
3 all times, for inspection and examination by the commissioner.

4 **2-A. Regulation by State solely for conservation purposes.** Solely for
5 conservation purposes, the State has jurisdiction with respect to the regulation of fishing
6 and hunting by Indians off tribal lands to the extent permitted under federal Indian law
7 and in a manner consistent with reserved tribal treaty rights.

8 **3. Adoption of regulations by the commission.** Subject to the limitations of
9 subsection 6, the ~~The~~ commission shall ~~have~~ has exclusive authority to ~~promulgate~~ adopt
10 fishing rules or regulations ~~on~~ for:

11 A. Any pond 50% or more of the linear shoreline of which is within tribal lands,
12 other than ~~those specified in subsection 1, paragraph B,~~ 50% or more of the linear
13 shoreline of which is within Indian territory ponds in which all the shoreline and all
14 submerged lands are wholly within tribal lands and that are less than 10 acres in
15 surface area;

16 B. Any section of a river or stream both sides of which are within ~~Indian territory~~
17 tribal lands; and

18 C. Any section of a river or stream one side of which is within ~~Indian territory~~ tribal
19 lands for a continuous length of 1/2 mile or more.

20 In ~~promulgating~~ adopting such rules or regulations the commission shall consider and
21 balance the need to preserve and protect existing and future sport and commercial
22 fisheries, the historical non-Indian fishing interests, the needs or desires of the tribes to
23 establish fishery practices for the sustenance of the tribes or to contribute to the economic
24 independence of the tribes, the traditional fishing techniques employed by and ceremonial
25 practices of Indians in Maine and the ecological interrelationship between the fishery
26 regulated by the commission and other fisheries throughout the State. Such regulation
27 may include without limitation provisions on the method, manner, bag and size limits and
28 season for fishing.

29 ~~Said~~ The rules or regulations ~~shall~~ must be equally applicable on a nondiscriminatory
30 basis to all persons regardless of whether ~~such a~~ a person is a member of the
31 Passamaquoddy Tribe ~~or, the~~ Penobscot Nation or the Houlton Band of Maliseet Indians.
32 Rules and regulations ~~promulgated~~ adopted by the commission may include the
33 imposition of fees and permits or license requirements on users of such waters other than
34 members of the Passamaquoddy Tribe ~~and, the~~ Penobscot Nation or the Houlton Band of
35 Maliseet Indians. In adopting rules or regulations pursuant to this subsection, the
36 commission shall comply with the Maine Administrative Procedure Act.

37 In order to provide an orderly transition of regulatory authority, all fishing laws and rules
38 ~~and regulations~~ of the State ~~shall~~ remain applicable to all waters specified in this
39 subsection until such time as the commission certifies to the ~~commissioner~~ Commissioner
40 of Inland Fisheries and Wildlife that it has met and voted to adopt its own rules and
41 regulations in substitution for such laws and rules ~~and regulations~~ of the State.

1 **3-A. Horsepower and use of motors.** Subject to the limitations of subsection 6, the
2 commission has exclusive authority to adopt rules to regulate the horsepower and use of
3 motors on waters less than 200 acres in surface area and entirely within Indian territory.

4 **4. Sustenance fishing within the Indian reservations tribal lands.**
5 Notwithstanding any rule or regulation promulgated adopted by the commission or any
6 other law of the State, the members of the Passamaquoddy Tribe and the Penobscot
7 Nation and the Houlton Band of Maliseet Indians may take fish, within the boundaries of
8 their respective Indian reservations tribal lands, for their individual sustenance subject to
9 the limitations of subsection 6.

10 **5. Posting.** Lands or waters subject to regulation by the commission, the
11 Passamaquoddy Tribe or the Penobscot Nation shall or the Houlton Band of Maliseet
12 Indians must be conspicuously posted in such a manner as to provide reasonable notice to
13 the public of the limitations on hunting, trapping, fishing or other use of such lands or
14 waters.

15 ~~**6. Supervision by Commissioner of Inland Fisheries and Wildlife.**~~ The
16 Commissioner of Inland Fisheries and Wildlife, or his successor, shall be entitled to
17 conduct fish and wildlife surveys within the Indian territories and on waters subject to the
18 jurisdiction of the commission to the same extent as he is authorized to do so in other
19 areas of the State. Before conducting any such survey the commissioner shall provide
20 reasonable advance notice to the respective tribe or nation and afford it a reasonable
21 opportunity to participate in such survey. If the commissioner, at any time, has reasonable
22 grounds to believe that a tribal ordinance or commission regulation adopted under this
23 section, or the absence of such a tribal ordinance or commission regulation, is adversely
24 affecting or is likely to adversely affect the stock of any fish or wildlife on lands or
25 waters outside the boundaries of land or waters subject to regulation by the commission,
26 the Passamaquoddy Tribe or the Penobscot Nation, he shall inform the governing body of
27 the tribe or nation or the commission, as is appropriate, of his opinion and attempt to
28 develop appropriate remedial standards in consultation with the tribe or nation or the
29 commission. If such efforts fail, he may call a public hearing to investigate the matter
30 further. Any such hearing shall be conducted in a manner consistent with the laws of the
31 State applicable to adjudicative hearings. If, after hearing, the commissioner determines
32 that any such ordinance, rule or regulation, or the absence of an ordinance, rule or
33 regulation, is causing, or there is a reasonable likelihood that it will cause, a significant
34 depletion of fish or wildlife stocks on lands or waters outside the boundaries of lands or
35 waters subject to regulation by the Passamaquoddy Tribe, the Penobscot Nation or the
36 commission, he may adopt appropriate remedial measures including rescission of any
37 such ordinance, rule or regulation and, in lieu thereof, order the enforcement of the
38 generally applicable laws or regulations of the State. In adopting any remedial measures
39 the commission shall utilize the least restrictive means possible to prevent a substantial
40 diminution of the stocks in question and shall take into consideration the effect that non-
41 Indian practices on non-Indian lands or waters are having on such stocks. In no event
42 shall such remedial measure be more restrictive than those which the commissioner could
43 impose if the area in question was not within Indian territory or waters subject to
44 commission regulation.

1 In any administrative proceeding under this section the burden of proof shall be on the
2 commissioner. The decision of the commissioner may be appealed in the manner
3 provided by the laws of the State for judicial review of administrative action and shall be
4 sustained only if supported by substantial evidence.

5 **7. Transportation of game.** Fish lawfully taken within ~~Indian territory~~ tribal lands
6 or in waters subject to commission regulation and wildlife lawfully taken within ~~Indian~~
7 territory tribal lands and registered pursuant to ordinances adopted by the Passamaquoddy
8 Tribe ~~and~~, the Penobscot Nation; and the Houlton Band of Maliseet Indians may be
9 transported within the State.

10 **8. Fish and wildlife on non-Indian nontribal lands.** The commission shall
11 undertake appropriate studies, consult with the Passamaquoddy Tribe ~~and~~, the Penobscot
12 Nation and the Houlton Band of Maliseet Indians and landowners and state officials, and
13 make recommendations to the ~~commissioner~~ Commissioner of Inland Fisheries and
14 Wildlife and the Legislature with respect to implementation of fish and wildlife
15 management policies on ~~non-Indian nontribal~~ lands in order to protect fish and wildlife
16 stocks on lands and water subject to regulation by the Passamaquoddy Tribe, the
17 Penobscot Nation, the Houlton Band of Maliseet Indians or the commission.

18 **9. Fish.** As used in this section, the term "fish" means a cold blooded completely
19 aquatic vertebrate animal having permanent fins, gills and an elongated streamlined body
20 usually covered with scales and includes inland fish and anadromous and catadromous
21 fish when in inland water.

22 **Sec. 11. 30 MRS §6207-A** is enacted to read:

23 **§6207-A. Land use and natural resources**

24 The State recognizes the rights of the Passamaquoddy Tribe, the Penobscot Nation
25 and the Houlton Band of Maliseet Indians to exercise regulation of natural resources and
26 land use on their respective tribal lands to the extent provided in federal Indian law.

27 **Sec. 12. 30 MRS §6208**, as amended by PL 2009, c. 384, Pt. A, §2 and affected
28 by §4, is further amended to read:

29 **§6208. Taxation**

30 **1. Settlement Fund income.** The Settlement Fund and any portion of such funds or
31 income therefrom distributed to the Passamaquoddy Tribe or the Penobscot Nation or the
32 members thereof ~~shall be~~ are exempt from taxation under the laws of the State.

33 **2. Property taxes.** ~~The Passamaquoddy Tribe and the Penobscot Nation shall make~~
34 ~~payments in lieu of taxes on all real and personal property within their respective Indian~~
35 ~~territory in an amount equal to that which would otherwise be imposed by a county, a~~
36 ~~district, the State, or other taxing authority on such real and personal property provided,~~
37 ~~however, that any real or personal property within Indian territory used by either tribe or~~
38 ~~nation predominantly for governmental purposes shall be exempt from taxation to the~~
39 ~~same extent that such real or personal property owned by a municipality is exempt under~~
40 ~~the laws of the State. The Houlton Band of Maliseet Indians shall make payments in lieu~~

1 of taxes on Houlton Band Trust Land in an amount equal to that which would otherwise
2 be imposed by a municipality, county, district, the State or other taxing authority on that
3 land or natural resource. Any other real or personal property owned by or held in trust for
4 any Indian, Indian Nation or tribe or band of Indians and not within Indian territory, shall
5 be subject to levy and collection of real and personal property taxes by any and all taxing
6 authorities, including but without limitation municipalities, except that such real and
7 personal property owned by or held for the benefit of and used by the Passamaquoddy
8 Tribe or the Penobscot Nation predominantly for governmental purposes shall be exempt
9 from property taxation to the same extent that such real and personal property owned by a
10 municipality is exempt under the laws of the State.

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

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

22 ~~**3. Other taxes.** The Passamaquoddy Tribe, the Penobscot Nation, the members~~
23 ~~thereof, and any other Indian, Indian Nation, or tribe or band of Indians shall be liable for~~
24 ~~payment of all other taxes and fees to the same extent as any other person or entity in the~~
25 ~~State. For purposes of this section either tribe or nation, when acting in its business~~
26 ~~capacity as distinguished from its governmental capacity, shall be deemed to be a~~
27 ~~business corporation organized under the laws of the State and shall be taxed as such.~~

28 ~~**4. Exclusive jurisdiction; tribal members, tribal entities.** The State recognizes~~
29 ~~and adopts federal Indian law providing that the Passamaquoddy Tribe, the Penobscot~~
30 ~~Nation and the Houlton Band of Maliseet Indians have exclusive jurisdiction to tax tribal~~
31 ~~members and tribal entities on their respective tribal lands, including entities owned by a~~
32 ~~tribe or tribal member.~~

33 ~~**5. Not subject to state and local sales taxation.** The State recognizes and adopts~~
34 ~~federal Indian law providing that the Passamaquoddy Tribe, the Penobscot Nation, the~~
35 ~~Houlton Band of Maliseet Indians, their tribal members and their tribal entities are not~~
36 ~~subject to state or local sales taxation on tribal lands.~~

37 ~~**6. Not subject to state income tax.** The State recognizes and adopts federal Indian~~
38 ~~law providing that the members of the Passamaquoddy Tribe, the Penobscot Nation and~~
39 ~~the Houlton Band of Maliseet Indians who live on the tribal lands of their respective tribe,~~
40 ~~nation or band are not subject to state tax for income earned on those tribal lands.~~

1 **7. Not subject to state and local real property tax.** The State recognizes and
2 adopts federal Indian law providing that tribal lands are not subject to state and local real
3 property tax.

4 **8. Concurrent jurisdiction to tax nontribal citizens.** The State recognizes and
5 adopts federal Indian law providing for concurrent jurisdiction for the State, local
6 governments and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band
7 of Maliseet Indians to tax nontribal citizens on Passamaquoddy Tribal Lands, Penobscot
8 Tribal Lands or Houlton Band Tribal Lands.

9 **Sec. 13. 30 MRSA §6208-A**, as enacted by PL 1981, c. 675, §§7 and 8, is
10 amended to read:

11 **§6208-A. Houlton Band Tax Fund**

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

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

36 **3. Distributions.** If the unencumbered principal available for the payment of claims
37 exceeds the sum of \$100,000, the secretary shall, except for good cause shown, provide
38 for the transfer of such excess principal to the Houlton Band of Maliseet Indians. The
39 secretary shall give 30 days' written notice to the Commissioner of ~~Finance and~~
40 ~~Administration~~ Administrative and Financial Services of a proposed transfer of excess
41 principal to the Houlton Band of Maliseet Indians. Any distribution of excess principal to
42 the Houlton Band of Maliseet Indians ~~shall be~~ is exempt from taxation.

1 **4. Other remedies.** The existence of the Houlton Band Tax Fund as a source for the
2 payment of Houlton Band of Maliseet Indians' obligations ~~shall~~ does not abrogate any
3 other remedy available to a governmental entity for the collection of taxes, payments in
4 lieu of taxes and fees, together with any interest or penalty thereon.

5 **Sec. 14. 30 MRSA §6209-A**, as amended by PL 2009, c. 384, Pt. E, §1 and
6 affected by §3, is further amended to read:

7 **§6209-A. Jurisdiction of the Passamaquoddy Tribal Court**

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

11 A. Criminal offenses and civil violations for which the maximum ~~potential~~ term of
12 imprisonment ~~is less than~~ imposed does not exceed one year and the maximum
13 ~~potential~~ fine imposed does not exceed \$5,000 ~~and that are committed on the Indian~~
14 ~~reservation of the Passamaquoddy Tribe Tribal Lands~~ by a member of the
15 ~~Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation~~
16 any federally recognized Indian tribe, nation, band or other group, except when
17 committed against a person who is not a member of ~~the Passamaquoddy Tribe, the~~
18 ~~Houlton Band of Maliseet Indians or the Penobscot Nation~~ any federally recognized
19 Indian tribe, nation, band or other group or against the property of a person who is
20 not a member of ~~the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or~~
21 ~~the Penobscot Nation~~ any federally recognized Indian tribe, nation, band or other
22 group;

23 A-1. Criminal offenses for which the maximum term of imprisonment imposed does
24 not exceed 3 years and the maximum fine imposed does not exceed \$15,000 that are
25 committed on Passamaquoddy Tribal Lands by a member of any federally recognized
26 Indian tribe, nation, band or other group, except when committed against a person
27 who is not a member of any federally recognized Indian tribe, nation, band or other
28 group or against the property of a person who is not a member of any federally
29 recognized Indian tribe, nation, band or other group. This paragraph applies only if
30 the due process protections required under 25 United States Code, Section 1302(c)
31 are observed and either the defendant has previously been convicted of a comparable
32 offense within any jurisdiction in the United States or the crime would be punishable
33 by more than one year of imprisonment under any state or federal law. The
34 maximum total penalty that may be imposed in a single criminal proceeding is 9
35 years imprisonment;

36 B. Juvenile crimes ~~against a person or property~~ involving conduct that, if committed
37 by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe
38 under paragraph A, ~~or A-1~~ and juvenile crimes, as defined in ~~Title 15, section 3103,~~
39 ~~subsection 1, paragraphs B and C,~~ by the Passamaquoddy Tribe under subsection 2,
40 that would not be crimes if committed by a person who is at least 18 years of age that
41 are committed by a juvenile member of the Passamaquoddy Tribe, the Houlton Band
42 of Maliseet Indians or the Penobscot Nation on the reservation of a federally
43 recognized Indian tribe, nation, band or other group, except when committed against

1 a person who is not a member of any federally recognized Indian tribe, nation, band
2 or other group on the Passamaquoddy Tribe Tribal Lands;

3 C. ~~Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of~~
4 ~~Maliseet Indians or the Penobscot Nation, including domestic relations matters,~~
5 ~~arising on the Indian reservation of the Passamaquoddy Tribe and cognizable as small~~
6 ~~claims under the laws of the State, and civil actions against a member of the~~
7 ~~Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation~~
8 ~~under Title 22, section 2383 involving conduct on the Indian reservation of the~~
9 ~~Passamaquoddy Tribe by a member of the Passamaquoddy Tribe, the Houlton Band~~
10 ~~of Maliseet Indians or the Penobscot Nation Tribal Lands to the extent permitted~~
11 ~~under federal Indian law; and~~

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

14 E. ~~Other domestic relations matters, including marriage, divorce and support,~~
15 ~~between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet~~
16 ~~Indians or the Penobscot Nation, both of whom reside within the Indian reservation~~
17 ~~of the Passamaquoddy Tribe.~~

18 The governing body of the Passamaquoddy Tribe shall decide whether to exercise or
19 terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the
20 Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of,
21 jurisdiction over the criminal, juvenile, or civil and domestic matters described in this
22 subsection, the State has exclusive jurisdiction over those matters. ~~Except as provided in~~
23 ~~paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes~~
24 ~~apply within the Passamaquoddy Indian reservation and the State has exclusive~~
25 ~~jurisdiction over those offenses and crimes.~~

26 **1-A. Concurrent jurisdiction over certain criminal and juvenile matters.** The
27 Passamaquoddy Tribe has the right to exercise concurrent jurisdiction with the State over:

28 A. Criminal offenses and civil violations for which the maximum term of
29 imprisonment imposed does not exceed one year and the maximum fine imposed
30 does not exceed \$5,000 that are committed on Passamaquoddy Tribal Lands by a
31 member of any federally recognized Indian tribe, nation, band or other group against
32 a person who is not a member of any federally recognized Indian tribe, nation, band
33 or other group or against the property of a person who is not a member of any
34 federally recognized Indian tribe, nation, band or other group;

35 B. Criminal offenses and civil violations for which the maximum term of
36 imprisonment imposed does not exceed 3 years and the maximum fine imposed does
37 not exceed \$15,000 that are committed on Passamaquoddy Tribal Lands by a member
38 of any federally recognized Indian tribe, nation, band or other group against a person
39 who is not a member of any federally recognized Indian tribe, nation, band or other
40 group or against the property of a person who is not a member of any federally
41 recognized Indian tribe, nation, band or other group. This paragraph applies only if
42 the due process protections required under 25 United States Code, Section 1302(c)
43 are observed and either the defendant has previously been convicted of a comparable
44 offense within any jurisdiction of the United States or the crime would be punishable

1 by more than one year of imprisonment under any state or federal law. The
2 maximum total penalty that may be imposed in a single criminal proceeding is 9
3 years imprisonment; and

4 C. Juvenile crimes involving conduct that, if committed by an adult, would fall
5 within the exclusive jurisdiction of the Passamaquoddy Tribe under paragraph A or B
6 and juvenile crimes, as defined by the Passamaquoddy Tribe under subsection 2, that
7 would not be crimes if committed by a person who is at least 18 years of age that are
8 committed by a juvenile member of a federally recognized Indian tribe, nation, band
9 or other group against a person who is not a member of any federally recognized
10 Indian tribe, nation, band or other group on Passamaquoddy Tribal Lands.

11 The governing body of the Passamaquoddy Tribe shall decide whether to exercise or
12 terminate the exercise of the concurrent jurisdiction authorized by this subsection. If the
13 Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of,
14 concurrent jurisdiction over the criminal or juvenile matters described in this subsection,
15 the State has exclusive jurisdiction over those matters.

16 **1-B. Exclusive jurisdiction of the State.** Except as provided in subsections 1 and
17 1-A, all laws of the State relating to criminal offenses and juvenile crimes apply within
18 Passamaquoddy Tribal Lands, and the State has exclusive jurisdiction over those offenses
19 and crimes.

20 **2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
21 under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be
22 enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and
23 juvenile crimes and the punishments applicable to those criminal offenses and juvenile
24 crimes over which the Passamaquoddy Tribe has exclusive jurisdiction under this section
25 are governed by the laws of the State. Issuance and execution of criminal process are
26 also governed by the laws of the State. The Passamaquoddy Tribe has authority to define
27 all crimes, civil violations and juvenile offenses committed on Passamaquoddy Tribal
28 Lands over which the Passamaquoddy Tribe has exclusive or concurrent jurisdiction
29 under subsection 1 or 1-A. The procedures for the establishment and operation of tribal
30 forums created to effectuate the purposes of this section are governed by federal statute,
31 including, without limitation, the provisions of 25 United States Code, Sections 1301 to
32 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction
33 by Indian tribes on federal Indian reservations.

34 The definitions of the criminal offenses and juvenile crimes and the punishments
35 applicable to those criminal offenses and juvenile crimes over which the State has
36 exclusive or concurrent jurisdiction under this section are governed by the laws of the
37 State. Issuance and execution of criminal process are also governed by the laws of the
38 State.

39 **3. Lesser included offenses in state courts.** In any criminal proceeding in the
40 courts of the State in which a criminal offense under the ~~exclusive~~ concurrent jurisdiction
41 of the Passamaquoddy Tribe constitutes a lesser included offense of the criminal offense
42 charged, the defendant may be convicted in the courts of the State of the lesser included
43 offense. A lesser included offense is as defined under the laws of the State.

1 **4. Double jeopardy, collateral estoppel.** A prosecution for a criminal offense or
2 juvenile crime over which the Passamaquoddy Tribe has exclusive or concurrent
3 jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile
4 crime, arising out of the same conduct, over which the State has exclusive or concurrent
5 jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State
6 has exclusive or concurrent jurisdiction does not bar a prosecution for a criminal offense
7 or juvenile crime, arising out of the same conduct, over which the Passamaquoddy Tribe
8 has exclusive or concurrent jurisdiction under this section. The determination of an issue
9 of fact in a criminal or juvenile proceeding conducted in a Passamaquoddy tribal forum
10 does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a
11 state court. The determination of an issue of fact in a criminal or juvenile proceeding
12 conducted in a state court does not constitute collateral estoppel in a criminal or juvenile
13 proceeding conducted in a Passamaquoddy tribal forum.

14 ~~**5. Future Indian communities.** Any 25 or more adult members of the~~
15 ~~Passamaquoddy Tribe residing within their Indian territory and in reasonable proximity to~~
16 ~~each other may petition the commission for designation as an extended reservation. If the~~
17 ~~commission determines, after investigation, that the petitioning Passamaquoddy tribal~~
18 ~~members constitute an extended reservation, the commission shall establish the~~
19 ~~boundaries of the extended reservation and recommend to the Legislature that, subject to~~
20 ~~the approval of the governing body of the Passamaquoddy Tribe, it amend this Act to~~
21 ~~extend the jurisdiction of the Passamaquoddy Tribe to the extended reservation. The~~
22 ~~boundaries of an extended reservation may not exceed those reasonably necessary to~~
23 ~~encompass the petitioning Passamaquoddy tribal members.~~

24 **Sec. 15. 30 MRSA §6209-B**, as corrected by RR 2009, c. 1, §19, is further
25 amended to read:

26 **§6209-B. Jurisdiction of the Penobscot Nation Tribal Court**

27 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections
28 3 and 4, the Penobscot Nation has the right to exercise exclusive jurisdiction, separate and
29 distinct from the State, over:

30 A. Criminal offenses and civil violations for which the maximum ~~potential~~ term of
31 imprisonment imposed does not exceed one year and the maximum ~~potential~~ fine
32 imposed does not exceed \$5,000 ~~and~~ that are committed on the ~~Indian reservation of~~
33 ~~the Penobscot Nation~~ Tribal Lands by a member of any federally recognized Indian
34 tribe, nation, band or other group, except when committed against a person who is not
35 a member of any federally recognized Indian tribe, nation, band or other group or
36 against the property of a person who is not a member of any federally recognized
37 Indian tribe, nation, band or other group;

38 A-1. Criminal offenses for which the maximum term of imprisonment imposed does
39 not exceed 3 years and the maximum fine imposed does not exceed \$15,000 that are
40 committed on Penobscot Tribal Lands by a member of any federally recognized
41 Indian tribe, nation, band or other group, except when committed against a person
42 who is not a member of any federally recognized Indian tribe, nation, band or other
43 group or against the property of a person who is not a member of any federally

1 recognized Indian tribe, nation, band or other group. This paragraph applies only if
2 the due process protections required under 25 United States Code, Section 1302(c)
3 are observed and either the defendant has previously been convicted of a comparable
4 offense within any jurisdiction in the United States or the crime would be punishable
5 by more than one year of imprisonment under any state or federal law. The
6 maximum total penalty that may be imposed in a single criminal proceeding is 9
7 years imprisonment;

8 B. Juvenile crimes ~~against a person or property~~ involving conduct that, if committed
9 by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation
10 under paragraph A; ~~or A-1~~ and juvenile crimes, as defined in ~~Title 15, section 3103,~~
11 ~~subsection 1, paragraphs B and C;~~ by the Penobscot Nation under subsection 2, that
12 would not be crimes if committed by a person who is at least 18 years of age that are
13 committed by a juvenile member of either the Passamaquoddy Tribe or the Penobscot
14 Nation on the Indian reservation of the a federally recognized Indian tribe, nation,
15 band or other group, except when committed against a person who is not a member of
16 any federally recognized Indian tribe, nation, band or other group on Penobscot
17 Nation Tribal Lands;

18 C. Civil actions ~~between members of either the Passamaquoddy Tribe or the~~
19 ~~Penobscot Nation, including domestic relations matters,~~ arising on the Indian
20 reservation of the Penobscot Nation and cognizable as small claims under the laws of
21 the State, and civil actions against a member of either the Passamaquoddy Tribe or
22 the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian
23 reservation of the Penobscot Nation by a member of either the Passamaquoddy Tribe
24 ~~or the Penobscot Nation~~ Tribal Lands to the extent permitted under federal Indian
25 law; and

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

28 E. ~~Other domestic relations matters, including marriage, divorce and support,~~
29 ~~between members of either the Passamaquoddy Tribe or the Penobscot Nation, both~~
30 ~~of whom reside on the Indian reservation of the Penobscot Nation.~~

31 The governing body of the Penobscot Nation shall decide whether to exercise or
32 terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the
33 Penobscot Nation chooses not to exercise, or chooses to terminate its exercise of,
34 jurisdiction over the criminal, juvenile; ~~or civil and domestic~~ matters described in this
35 subsection, the State has exclusive jurisdiction over those matters. ~~Except as provided in~~
36 ~~paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes~~
37 ~~apply within the Penobscot Indian reservation and the State has exclusive jurisdiction~~
38 ~~over those offenses and crimes.~~

39 **1-A. Concurrent jurisdiction over certain criminal and juvenile matters. The**
40 **Penobscot Nation has the right to exercise concurrent jurisdiction with the State over:**

41 A. Criminal offenses and civil violations for which the maximum term of
42 imprisonment imposed does not exceed one year and the maximum fine imposed
43 does not exceed \$5,000 that are committed on Penobscot Tribal Lands by a member
44 of any federally recognized Indian tribe, nation, band or other group against a person

1 who is not a member of any federally recognized Indian tribe, nation, band or other
2 group or against the property of a person who is not a member of any federally
3 recognized Indian tribe, nation, band or other group;

4 B. Criminal offenses and civil violations for which the maximum term of
5 imprisonment imposed does not exceed 3 years and the maximum fine imposed does
6 not exceed \$15,000 that are committed on Penobscot Tribal Lands by a member of
7 any federally recognized Indian tribe, nation, band or other group against a person
8 who is not a member of any federally recognized Indian tribe, nation, band or other
9 group or against the property of a person who is not a member of any federally
10 recognized Indian tribe, nation, band or other group. This paragraph applies only if
11 the due process protections required under 25 United States Code, Section 1302(c)
12 are observed and either the defendant has previously been convicted of a comparable
13 offense within any jurisdiction of the United States or the crime would be punishable
14 by more than one year of imprisonment under any state or federal law. The
15 maximum total penalty that may be imposed in a single criminal proceeding is 9
16 years imprisonment; and

17 C. Juvenile crimes involving conduct that, if committed by an adult, would fall
18 within the exclusive jurisdiction of the Penobscot Nation under paragraph A or B and
19 juvenile crimes, as defined by the Penobscot Nation under subsection 2, that would
20 not be crimes if committed by a person who is at least 18 years of age that are
21 committed by a juvenile member of a federally recognized Indian tribe, nation, band
22 or other group against a person who is not a member of any federally recognized
23 Indian tribe, nation, band or other group on Penobscot Tribal Lands.

24 The governing body of the Penobscot Nation shall decide whether to exercise or
25 terminate the exercise of the concurrent jurisdiction authorized by this subsection. If the
26 Penobscot Nation chooses not to exercise, or chooses to terminate its exercise of,
27 concurrent jurisdiction over the criminal or juvenile matters described in this subsection,
28 the State has exclusive jurisdiction over those matters.

29 **1-B. Exclusive jurisdiction of the State.** Except as provided in subsections 1 and
30 1-A, all laws of the State relating to criminal offenses and juvenile crimes apply within
31 Penobscot Tribal Lands, and the State has exclusive jurisdiction over those offenses and
32 crimes.

33 **2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
34 under subsection 1, paragraphs A and B, the Penobscot Nation is deemed to be enforcing
35 Penobscot tribal law. The definitions of the criminal offenses and juvenile crimes and the
36 punishments applicable to those criminal offenses and juvenile crimes over which the
37 Penobscot Nation has exclusive jurisdiction under this section are governed by the laws
38 of the State. Issuance and execution of criminal process are also governed by the laws of
39 the State. The Penobscot Nation has authority to define all crimes, civil violations and
40 juvenile offenses committed on Penobscot Tribal Lands over which the Penobscot Nation
41 has exclusive or concurrent jurisdiction under subsection 1 or 1-A. The procedures for
42 the establishment and operation of tribal forums created to effectuate the purposes of this
43 section are governed by federal statute, including, without limitation, the provisions of 25
44 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable
45 to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

1 The definitions of the criminal offenses and juvenile crimes and the punishments
2 applicable to those criminal offenses and juvenile crimes over which the State has
3 exclusive or concurrent jurisdiction under this section are governed by the laws of the
4 State. Issuance and execution of criminal process are also governed by the laws of the
5 State.

6 **3. Lesser included offenses in state courts.** In any criminal proceeding in the
7 courts of the State in which a criminal offense under the ~~exclusive~~ concurrent jurisdiction
8 of the Penobscot Nation constitutes a lesser included offense of the criminal offense
9 charged, the defendant may be convicted in the courts of the State of the lesser included
10 offense. A lesser included offense is as defined under the laws of the State.

11 **4. Double jeopardy, collateral estoppel.** A prosecution for a criminal offense or
12 juvenile crime over which the Penobscot Nation has ~~exclusive~~ or concurrent jurisdiction
13 under this section does not bar a prosecution for a criminal offense or juvenile crime,
14 arising out of the same conduct, over which the State has ~~exclusive~~ or concurrent
15 jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State
16 has ~~exclusive~~ or concurrent jurisdiction does not bar a prosecution for a criminal offense
17 or juvenile crime, arising out of the same conduct, over which the Penobscot Nation has
18 ~~exclusive~~ or concurrent jurisdiction under this section. The determination of an issue of
19 fact in a criminal or juvenile proceeding conducted in a tribal forum does not constitute
20 collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The
21 determination of an issue of fact in a criminal or juvenile proceeding conducted in a state
22 court does not constitute collateral estoppel in a criminal or juvenile proceeding
23 conducted in a tribal forum.

24 ~~**5. Future Indian communities.** Any 25 or more adult members of the Penobscot~~
25 ~~Nation residing within their Indian territory and in reasonable proximity to each other~~
26 ~~may petition the commission for designation as an extended reservation. If the~~
27 ~~commission determines, after investigation, that the petitioning tribal members constitute~~
28 ~~an extended reservation, the commission shall establish the boundaries of the extended~~
29 ~~reservation and recommend to the Legislature that, subject to the approval of the~~
30 ~~governing body of the Penobscot Nation, it amend this Act to extend the jurisdiction of~~
31 ~~the Penobscot Nation to the extended reservation. The boundaries of an extended~~
32 ~~reservation may not exceed those reasonably necessary to encompass the petitioning~~
33 ~~tribal members.~~

34 **Sec. 16. 30 MRSA §6209-C**, as corrected by RR 2011, c. 1, §45, is further
35 amended to read:

36 **§6209-C. Jurisdiction of the Houlton Band of Maliseet Indians Tribal Court**

37 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections
38 3 and 4, the Houlton Band of Maliseet Indians has the right to exercise exclusive
39 jurisdiction, separate and distinct from the State, over:

40 A. Criminal offenses and civil violations for which the maximum ~~potential~~ term of
41 imprisonment imposed does not exceed one year and the maximum ~~potential~~ fine
42 imposed does not exceed \$5,000 ~~and~~ that are committed on the Houlton Band

1 ~~Jurisdiction Land Tribal Lands~~ by a member of the Houlton Band of Maliseet Indians
2 ~~any federally recognized Indian tribe, nation, band or other group, except when~~
3 ~~committed against a person who is not a member of the Houlton Band of Maliseet~~
4 ~~Indians any federally recognized Indian tribe, nation, band or other group or against~~
5 ~~the property of a person who is not a member of the Houlton Band of Maliseet~~
6 ~~Indians any federally recognized Indian tribe, nation, band or other group;~~

7 A-1. Criminal offenses for which the maximum term of imprisonment imposed does
8 not exceed 3 years and the maximum fine imposed does not exceed \$15,000 that are
9 committed on Houlton Band Tribal Lands by a member of any federally recognized
10 Indian tribe, nation, band or other group, except when committed against a person
11 who is not a member of any federally recognized Indian tribe, nation, band or other
12 group or against the property of a person who is not a member of any federally
13 recognized Indian tribe, nation, band or other group. This paragraph applies only if
14 the due process protections required under 25 United States Code, Section 1302(c)
15 are observed and either the defendant has previously been convicted of a comparable
16 offense within any jurisdiction in the United States or the crime would be punishable
17 by more than one year of imprisonment under any state or federal law. The
18 maximum total penalty that may be imposed in a single criminal proceeding is 9
19 years imprisonment;

20 ~~B. Juvenile crimes against a person or property involving conduct that, if committed~~
21 ~~by an adult, would fall within the exclusive jurisdiction of the Houlton Band of~~
22 ~~Maliseet Indians under paragraph A or A-1 and juvenile crimes, as defined in Title~~
23 ~~15, section 3103, subsection 1, paragraphs B and C, by the Houlton Band of Maliseet~~
24 ~~Indians under subsection 2, that would not be crimes if committed by a person who is~~
25 ~~at least 18 years of age that are committed by a juvenile member of the Houlton Band~~
26 ~~of Maliseet Indians a federally recognized Indian tribe, nation, band or other group,~~
27 ~~except when committed against a person who is not a member of any federally~~
28 ~~recognized Indian tribe, nation, band or other group on the Houlton Band Jurisdiction~~
29 ~~Land Tribal Lands;~~

30 ~~C. Civil actions between members of the Houlton Band of Maliseet Indians,~~
31 ~~including domestic relations matters, arising on the Houlton Band Jurisdiction Land~~
32 ~~and cognizable as small claims under the laws of the State and civil actions against a~~
33 ~~member of the Houlton Band of Maliseet Indians under Title 22, section 2383~~
34 ~~involving conduct on the Houlton Band Jurisdiction Land by a member of the~~
35 ~~Houlton Band of Maliseet Indians Tribal Lands to the extent permitted under federal~~
36 ~~Indian law; and~~

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

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

42 The governing body of the Houlton Band of Maliseet Indians shall decide whether to
43 exercise or terminate the exercise of the exclusive jurisdiction authorized by this
44 subsection. ~~The decision to exercise, to terminate the exercise of or to reassert the~~
45 ~~exercise of jurisdiction under each of the subject areas described by paragraphs A to E~~

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

14 **~~1-A. Exclusive jurisdiction over Penobscot Nation members.~~** The Houlton Band
15 of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct
16 from the State, over:

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

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

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

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

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

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

3 ~~**1-B. Exclusive jurisdiction over Passamaquoddy Tribe members.**~~ The Houlton
4 Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and
5 distinct from the State, over:

6 A. ~~Criminal offenses for which the maximum potential term of imprisonment does~~
7 ~~not exceed one year and the maximum potential fine does not exceed \$5,000 and that~~
8 ~~are committed on the Houlton Band Jurisdiction Land by a member of the~~
9 ~~Passamaquoddy Tribe against a member or property of a member of those federally~~
10 ~~recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton~~
11 ~~Band of Maliseet Indians under this subsection, and by a member of those federally~~
12 ~~recognized Indian tribes otherwise subject to the exclusive jurisdiction of the Houlton~~
13 ~~Band of Maliseet Indians under this subsection against a member or the property of a~~
14 ~~member of the Passamaquoddy Tribe;~~

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

20 C. ~~Civil actions between a member of those federally recognized Indian tribes~~
21 ~~otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet~~
22 ~~Indians under this subsection and members of the Passamaquoddy Tribe arising on~~
23 ~~the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of~~
24 ~~the State and civil actions against a member of the Passamaquoddy Tribe under Title~~
25 ~~22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a~~
26 ~~member of the Passamaquoddy Tribe;~~

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

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

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

36 **1-C. Concurrent jurisdiction over certain criminal and juvenile matters.** The
37 Houlton Band of Maliseet Indians has the right to exercise concurrent jurisdiction with
38 the State over:

39 A. Criminal offenses and civil violations for which the maximum term of
40 imprisonment imposed does not exceed one year and the maximum fine imposed
41 does not exceed \$5,000 that are committed on Houlton Band Tribal Lands by a
42 member of any federally recognized Indian tribe, nation, band or other group against
43 a person who is not a member of any federally recognized Indian tribe, nation, band

1 or other group or against the property of a person who is not a member of any
2 federally recognized Indian tribe, nation, band or other group;

3 B. Criminal offenses and civil violations for which the maximum term of
4 imprisonment imposed does not exceed 3 years and the maximum fine imposed does
5 not exceed \$15,000, and that are committed on Houlton Band Tribal Lands by a
6 member of any federally recognized Indian tribe, nation, band or other group, when
7 committed against a person who is not a member of any federally recognized Indian
8 tribe, nation, band or other group or against the property of a person who is not a
9 member of any federally recognized Indian tribe, nation, band or other group. This
10 paragraph applies only if the due process protections required under 25 United States
11 Code, Section 1302(c) are observed and either the defendant has previously been
12 convicted of a comparable offense within any jurisdiction of the United States or the
13 crime would be punishable by more than one year of imprisonment under any state or
14 federal law. The maximum total penalty that may be imposed in a single criminal
15 proceeding is 9 years imprisonment; and

16 C. Juvenile crimes involving conduct that, if committed by an adult, would fall
17 within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under
18 paragraph A or B and juvenile crimes, as defined by the Houlton Band of Maliseet
19 Indians under subsection 2, that would not be crimes if committed by a person who is
20 at least 18 years of age that are committed by a juvenile member of a federally
21 recognized Indian tribe, nation, band or other group against a person who is not a
22 member of any federally recognized Indian tribe, nation, band or other group on
23 Houlton Band Tribal Lands.

24 The governing body of the Houlton Band of Maliseet Indians shall decide whether to
25 exercise or terminate the exercise of the concurrent jurisdiction authorized by this
26 subsection. If the Houlton Band of Maliseet Indians chooses not to exercise, or chooses
27 to terminate its exercise of, concurrent jurisdiction over the criminal or juvenile matters
28 described in this subsection, the State has exclusive jurisdiction over those matters.

29 **1-D. Exclusive jurisdiction of the State.** Except as provided in subsections 1 and
30 1-C, all laws of the State relating to criminal offenses and juvenile crimes apply within
31 Houlton Band Tribal Lands, and the State has exclusive jurisdiction over those offenses
32 and crimes.

33 **2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
34 under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed
35 to be enforcing tribal law of the Houlton Band of Maliseet Indians. The definitions of the
36 criminal offenses and juvenile crimes and the punishments applicable to those criminal
37 offenses and juvenile crimes over which the Houlton Band of Maliseet Indians has
38 exclusive jurisdiction under this section are governed by the laws of the State. Issuance
39 and execution of criminal process are also governed by the laws of the State. The Houlton
40 Band of Maliseet Indians has authority to define all crimes, civil violations and juvenile
41 offenses committed on Houlton Band Tribal Lands over which the Houlton Band of
42 Maliseet Indians has exclusive or concurrent jurisdiction under subsection 1 or 1-C. The
43 procedures for the establishment and operation of tribal forums created to effectuate the
44 purposes of this section are governed by federal statute, including, without limitation, the
45 provisions of 25 United States Code, Sections 1301 to 1303 and rules and regulations

1 generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal
2 Indian reservations.

3 The definitions of the criminal offenses and juvenile crimes and the punishments
4 applicable to those criminal offenses and juvenile crimes over which the State has
5 exclusive or concurrent jurisdiction under this section are governed by the laws of the
6 State. Issuance and execution of criminal process are also governed by the laws of the
7 State.

8 **3. Lesser included offenses in state courts.** In any criminal proceeding in the
9 courts of the State in which a criminal offense under the exclusive concurrent jurisdiction
10 of the Houlton Band of Maliseet Indians constitutes a lesser included offense of the
11 criminal offense charged, the defendant may be convicted in the courts of the State of the
12 lesser included offense. A lesser included offense is as defined under the laws of the
13 State.

14 **4. Double jeopardy; collateral estoppel.** A prosecution for a criminal offense or
15 juvenile crime over which the Houlton Band of Maliseet Indians has exclusive or
16 concurrent jurisdiction under this section does not bar a prosecution for a criminal offense
17 or juvenile crime arising out of the same conduct over which the State has exclusive or
18 concurrent jurisdiction. A prosecution for a criminal offense or juvenile crime over which
19 the State has exclusive or concurrent jurisdiction does not bar a prosecution for a criminal
20 offense or juvenile crime arising out of the same conduct over which the Houlton Band of
21 Maliseet Indians has exclusive or concurrent jurisdiction under this section. The
22 determination of an issue of fact in a criminal or juvenile proceeding conducted in a tribal
23 forum does not constitute collateral estoppel in a criminal or juvenile proceeding
24 conducted in a state court. The determination of an issue of fact in a criminal or juvenile
25 proceeding conducted in a state court does not constitute collateral estoppel in a criminal
26 or juvenile proceeding conducted in a tribal forum.

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

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

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

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

41 ~~**6. Effective date; full faith and credit.** This section takes effect only if the State,~~
42 ~~the Passamaquoddy Tribe and the Penobscot Nation agree to give full faith and credit to~~

1 the judicial proceedings of the Houlton Band of Maliseet Indians and the Houlton Band
2 of Maliseet Indians agrees to give full faith and credit to the judicial proceedings of the
3 State, the Passamaquoddy Tribe and the Penobscot Nation.

4 **Sec. 17. 30 MRSA §6209-D**, as enacted by PL 2009, c. 384, Pt. C, §1 and
5 affected by §2, is amended to read:

6 **§6209-D. Full faith and credit**

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

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

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

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

16 **Sec. 18. 30 MRSA §6210**, as amended by PL 1995, c. 388, §7 and affected by §8,
17 is further amended to read:

18 **§6210. Law enforcement on ~~Indian reservations and within Indian territory~~**
19 **Passamaquoddy Tribal Lands and Penobscot Tribal Lands**

20 **1. Exclusive authority of tribal law enforcement officers.** Law enforcement
21 officers appointed by the Passamaquoddy Tribe and the Penobscot Nation have exclusive
22 authority to enforce, ~~within their respective Indian territories, ordinances adopted under~~
23 ~~section 6206 and section 6207, subsection 1, and to enforce, on their respective Indian~~
24 ~~reservations~~ tribal lands, the criminal, juvenile, civil and domestic relations laws over
25 which the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section
26 6209-A, ~~subsection~~ subsections 1 and 1-A and section 6209-B, ~~subsection~~ subsections 1;
27 and 1-A respectively.

28 **2. Joint authority of tribal and state law enforcement officers.** Law enforcement
29 officers appointed by the Passamaquoddy Tribe or the Penobscot Nation have the
30 authority within their respective ~~Indian territories~~ tribal lands and state and county law
31 enforcement officers have the authority within both ~~Indian territories~~ tribal lands
32 to enforce rules or regulations adopted by the commission under section 6207, subsection 3
33 and to enforce all laws of the State ~~other than those over which the Passamaquoddy Tribe~~
34 ~~or the Penobscot Nation~~ the State has exclusive or concurrent jurisdiction under ~~section~~
35 sections 6209-A, subsection 1 and section 6209-B, subsection 1, respectively.

36 **3. Agreements for cooperation and mutual aid.** This section does not prevent the
37 Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law
38 enforcement agency from entering into agreements for cooperation and mutual aid.

1 **4. Powers and training requirements.** Law enforcement officers appointed by the
2 Passamaquoddy Tribe and the Penobscot Nation possess the same powers and are subject
3 to the same duties, limitations and training requirements as other corresponding law
4 enforcement officers under the laws of the State.

5 **Sec. 19. 30 MRSA §6211, sub-§1,** as amended by PL 2009, c. 384, Pt. A, §3 and
6 affected by §4, is further amended to read:

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

27 **Sec. 20. 30 MRSA §6211, sub-§4,** as amended by PL 2009, c. 384, Pt. A, §3 and
28 affected by §4, is further amended to read:

29 **4. Eligibility of individuals for state funds.** Residents of the ~~Indian territories or~~
30 ~~Houlton Band Trust Land~~ tribal lands are eligible for and entitled to receive any state
31 grant, loan, unemployment compensation, medical or welfare benefit or other social
32 service to the same extent as and subject to the same eligibility requirements applicable to
33 other persons in the State as long as in computing the extent to which any person is
34 entitled to receive any such funds any money received by such person from the United
35 States within substantially the same period of time for which state funds are provided and
36 for a program or purpose substantially similar to that funded by the State is deducted in
37 computing any payment to be made by the State.

38 **Sec. 21. 30 MRSA §6213,** as enacted by PL 1979, c. 732, §§1 and 31, is amended
39 to read:

40 **§6213. Approval of prior transfers**

41 **1. Approval of tribal transfers.** Any transfer of land or other natural resources
42 located anywhere within the State, from, by, or on behalf of any Indian nation, or tribe or

1 band of Indians, including ~~but~~ without limitation any transfer pursuant to any treaty,
2 compact or statute of any state, ~~which transfer that~~ occurred prior to ~~the effective date of~~
3 ~~this Act~~ October 10, 1980, ~~shall be~~ is deemed to have been made in accordance with the
4 laws of the State.

5 **2. Approval of certain individual transfers.** Any transfer of land or other natural
6 resources located anywhere within the State, from, by or on behalf of any individual
7 Indian, ~~which that~~ occurred prior to December 1, 1873, including ~~but~~ without limitation
8 any transfer pursuant to any treaty, compact or statute of any state, ~~shall be~~ is deemed to
9 have been made in accordance with the laws of the State.

10 **Sec. 22. 30 MRSA §6214**, as enacted by PL 1979, c. 732, §§1 and 31, is amended
11 to read:

12 **§6214. Tribal school committees**

13 The Passamaquoddy Tribe ~~and~~, the Penobscot Nation ~~and~~ the Houlton Band of
14 Maliseet Indians are authorized to create respective tribal school committees, in
15 substitution for the committees heretofore provided for under the laws of the State. Such
16 tribal school committees shall operate under the laws of the State applicable to school
17 administrative units. ~~The presently constituted tribal school committee of the respective~~
18 ~~tribe or nation shall continue~~ Passamaquoddy Tribe or Penobscot Nation constituted on
19 October 10, 1980, continues in existence and shall exercise all the authority heretofore
20 vested by law in it until such time as the respective tribe or nation creates the tribal school
21 committee authorized by this section.

22 **Sec. 23. 30 MRSA §6215** is enacted to read:

23 **§6215. Civil legislative jurisdiction**

24 The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
25 Indians have exclusive authority to exercise civil legislative jurisdiction within their
26 respective tribal lands over members of any federally recognized Indian tribe, nation,
27 band or other group as well as any person who is not a member of any federally
28 recognized Indian tribe, nation, band or other group.

29 The governing body of the Passamaquoddy Tribe, the Penobscot Nation and the
30 Houlton Band of Maliseet Indians, respectively, shall decide whether to exercise or
31 terminate the exercise of the exclusive jurisdiction authorized by this section. If the
32 governing body of the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band
33 of Maliseet Indians chooses not to exercise, or chooses to terminate its exercise of,
34 exclusive jurisdiction over the civil legislative matters described in this section, the State
35 has exclusive jurisdiction over those matters.

36 **Sec. 24. 30 MRSA §6216** is enacted to read:

37 **§6216. Federal laws apply; do not affect or preempt the laws of this State**

38 Except for laws that conflict with the criminal and juvenile jurisdiction described in
39 this chapter:

1 **1. Federal laws apply.** For the purposes of United States Public Law 96-420,
2 Section 6(h), any law or regulation of the United States that accords a special status or
3 right to, or relates to a special status or right of, any Indian, Indian nation, tribe or band of
4 Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in
5 trust for Indians applies to the Passamaquoddy Tribe, the Penobscot Nation and the
6 Houlton Band of Maliseet Indians and their members and is deemed not to affect or
7 preempt the civil, criminal or regulatory jurisdiction of this State, including, without
8 limitation, laws of this State relating to land use or environmental matters; and

9 **2. Federal laws enacted after October 10, 1980.** For the purposes of United States
10 Public Law 96-420, Section 16(b), the provisions of any federal law enacted after
11 October 10, 1980 for the benefit of Indians, Indian nations or tribes or bands of Indians
12 apply to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of
13 Maliseet Indians and their members and is deemed not to affect or preempt the
14 application of the laws of this State, including application of the laws of this State to
15 lands owned by or held in trust for Indians or Indian nations, tribes or bands of Indians,
16 regardless of whether such federal law is specifically made applicable within this State.

17 **Sec. 25. Contingent effective date.** This Act takes effect 120 days after
18 adjournment of the Second Regular Session of the 129th Legislature only if, within 90
19 days after the adjournment of the Second Regular Session of the 129th Legislature, the
20 Secretary of State receives written certification from: the Joint Tribal Council of the
21 Passamaquoddy Tribe that the tribe has agreed to the provisions of this Act; the Governor
22 and the Council of the Penobscot Nation that the nation has agreed to the provisions of
23 this Act; and the Houlton Band Council of the Houlton Band of Maliseet Indians that the
24 band has agreed to the provisions of this Act, copies of which must be submitted by the
25 Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor
26 of Statutes.

27 SUMMARY

28 This bill implements the consensus recommendations of the Task Force on Changes
29 to the Maine Indian Claims Settlement Implementing Act, referred to in this summary as
30 "the task force." The report was released on January 14, 2020 and is available online at
31 <http://legislature.maine.gov/maine-indian-claims-tf>.

32 This bill does not address the relationship between the State and the Aroostook Band
33 of Micmacs because that issue was specifically set aside by the task force.

34 In this summary, the Maine Revised Statutes, Title 30, chapter 601, which is titled An
35 Act to Implement the Maine Indian Claims Settlement, enacted by Public Law 1979,
36 chapter 732, is referred to as the "Maine Implementing Act "and the federal Maine Indian
37 Claims Settlement Act of 1980, Public Law 96-420, formerly codified at 25 United States
38 Code, Sections 1721 to 1735, is referred to as "the Settlement Act." The federal
39 Settlement Act ratified the Maine Implementing Act, and both have an effective date of
40 October 10, 1980.

1 The task force voted, in Consensus Recommendation #1, to establish an enhanced
2 process for tribal-state collaboration and consultation as well as a process for alternative
3 dispute resolution, but left the contours of those processes to be developed by
4 stakeholders. The bill therefore does not contain language implementing this
5 recommendation, but the task force anticipated that language putting the recommendation
6 into effect would be developed during the legislative process and would be added by
7 amendment or in additional legislation.

8 The Settlement Act, in Section 6(e)(1), provides federal consent for the State and the
9 Passamaquoddy Tribe and the Penobscot Nation to agree to amend the Maine
10 Implementing Act with respect to the enforcement or application of civil, criminal or
11 regulatory laws of the tribes and the State within their respective jurisdictions, the
12 allocation or determination of governmental responsibility of the State and the tribe or
13 nation over specified subject matters or specified geographical areas, or both, including
14 provisions for concurrent jurisdiction between the State and the tribe or nation, and the
15 allocation of jurisdiction between tribal courts and state courts. The federal law also
16 provides, in Section 6(e)(2), federal consent for the State and the Houlton Band of
17 Maliseet Indians to execute agreements regarding the jurisdiction of the State over lands
18 owned by or held in trust for the benefit of the band or its members. The task force,
19 whose members represented the Passamaquoddy Tribe, the Penobscot Nation, the
20 Houlton Band of Maliseet Indians, the Aroostook Band of Micmacs and the State,
21 exercised the opportunity offered in the Settlement Act to reconsider the relationship
22 between the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet
23 Indians and the State. The statutory changes contained in this bill are the result of a
24 collaborative effort to determine how best to focus efforts to develop mutually beneficial
25 solutions that allow all of the State's citizenry, including its tribal citizenry, to prosper and
26 progress.

27 The purpose of the reconsideration and rewriting of the Maine Implementing Act is to
28 establish that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of
29 Maliseet Indians enjoy the rights, privileges, powers, duties and immunities similar to
30 those of other federally recognized Indian tribes within the United States. This is a
31 significant change from the current law, which provides the State with significant
32 authority over Indian affairs. To carry out this significant change, many provisions of
33 chapter 601 are repealed or amended to recognize that federal Indian law governs the
34 rights, privileges, powers, duties and immunities of the tribe, nation and band.

35 Under the bill, except as otherwise specified in the Maine Implementing Act, federal
36 Indian law applies with regard to the rights, privileges, powers, duties and immunities of
37 the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
38 Indians. "Federal Indian law" is the body of law that applies to almost all federally
39 recognized Indian tribes, nations, bands or other groups in the United States and describes
40 their relationship with the Federal Government and the states. Federal Indian law is
41 defined in this bill as the United States Constitution and all federal statutes and
42 regulations and subsequent amendments thereto or judicial interpretations thereof,
43 relating to the rights, privileges, powers, duties and immunities of federally recognized
44 Indian tribes within the United States, except those federally recognized Indian tribes
45 subject to United States Public Law 83-280 or a specific treaty or settlement act. This

1 definition explicitly recognizes that federal Indian law is not static, but evolves as federal
2 laws are passed and amended and as federal courts interpret the relevant statutes and
3 regulations and their application to federally recognized Indian tribes, nations, bands and
4 other groups. Federal Indian law addresses myriad subjects, including criminal
5 adjudicatory and legislative jurisdiction, civil adjudicatory and legislative jurisdiction,
6 taxation, the right to sue and be sued, hunting and fishing rights, regulation of natural
7 resources and land use, gaming and many other topics.

8 This bill newly defines the term "tribal lands" to describe the lands of the
9 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians
10 over which the tribes may exert jurisdiction as described in Consensus Recommendation
11 #2. Passamaquoddy Tribal Lands consist of the lands designated as Passamaquoddy
12 reservation lands as well as all lands held in trust for the Passamaquoddy Tribe by the
13 United States Secretary of the Interior. Penobscot Tribal Lands include the Penobscot
14 reservation and all lands held in trust for the Penobscot Nation by the United States
15 Secretary of the Interior. Houlton Band Tribal Lands include all lands held in trust by the
16 United States Secretary of the Interior for the Houlton Band of Maliseet Indians. In
17 addition, for each tribe, nation and band, tribal lands include land that, after the effective
18 date of this legislation, is acquired and held in trust by the United States Secretary of the
19 Interior for the respective tribe, nation or band.

20 The Maine Implementing Act currently limits the criminal jurisdiction of the
21 Passamaquoddy Tribal Court and the Penobscot Nation Tribal Court as well as the
22 potential criminal jurisdiction of the Houlton Band of Maliseet Indians Tribal Court.
23 Federal Indian law provides broader jurisdiction for tribal courts. This bill repeals most
24 of the state limitations and recognizes and adopts most of federal Indian law, including
25 the Indian Civil Rights Act of 1968, the Tribal Law and Order Act of 2010 and other
26 federal laws addressing tribal court jurisdiction and the obligations of the tribal courts.
27 This bill amends the Maine Implementing Act to make equal the exclusive criminal
28 jurisdiction of the Passamaquoddy Tribal Court and the Houlton Band of Maliseet Indians
29 Tribal Court with the exclusive criminal jurisdiction of the Penobscot Nation Tribal Court
30 over offenses committed by Indian defendants against Indian victims or for which there is
31 no victim. This bill further amends the Maine Implementing Act to recognize the
32 criminal jurisdiction of the Passamaquoddy Tribal Court, the Penobscot Nation Tribal
33 Court and the Houlton Band Tribal Court to impose the maximum penalties other tribal
34 courts are authorized to impose under the federal Tribal Law and Order Act of 2010, as
35 long as the due process protections required by that Act are observed. This bill does not
36 include the provisions regarding tribal court concurrent jurisdiction over criminal
37 offenses committed by non-Indian defendants against Indian victims authorized under the
38 Federal Violence Against Women Reauthorization Act of 2013 because this jurisdiction
39 is addressed in the 129th Legislature's L.D. 766, An Act Regarding the Penobscot
40 Nation's and Passamaquoddy Tribe's Authority to Exercise Jurisdiction under the Federal
41 Tribal Law and Order Act of 2010 and the Federal Violence Against Women
42 Reauthorization Act of 2013.

43 This bill amends state law to recognize tribal court jurisdiction, concurrent with the
44 state courts, over offenses committed on tribal lands by Indian defendants against non-

1 Indian victims, subject to the maximum penalty provisions and due process requirements
2 of the federal Tribal Law and Order Act of 2010.

3 This bill retains current law providing that the exclusive authority of the
4 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to
5 exercise criminal jurisdiction over Indians on tribal lands remains at the discretion of the
6 tribe, nation and band. To the extent that the tribe, nation or band does not exercise, or
7 terminates its exercise of, exclusive criminal jurisdiction, the State has exclusive
8 jurisdiction over those matters.

9 Unlike current law, this bill recognizes each tribal government's authority to define
10 all crimes and juvenile offenses committed on its tribal lands over which the tribal court
11 has exclusive or concurrent criminal jurisdiction. This bill, however, retains the authority
12 of the State to define all crimes and juvenile offenses committed on tribal lands over
13 which state courts have exclusive or concurrent jurisdiction.

14 This bill repeals the language of the Maine Implementing Act regarding the
15 procedure for members of the Passamaquoddy Tribe or the Penobscot Nation living in
16 their respective Indian territory to petition for an extended reservation in relation to tribal
17 court jurisdiction. Those provisions are no longer necessary because this bill ensures that
18 the law as amended recognizes the tribe's and nation's tribal court jurisdiction to cover the
19 entirety of their tribal lands, not just reservations.

20 This bill recognizes federal Indian law regarding the exclusive jurisdiction of tribes to
21 regulate fishing and hunting by tribal citizens of all federally recognized Indian tribes on
22 tribal lands. This bill amends the Maine Implementing Act to restore and affirm the
23 exclusive jurisdiction of tribes to regulate fishing and hunting by nontribal citizens on
24 tribal lands, but does not cede to the State any authority of the Maine Indian Tribal-State
25 Commission to regulate fishing on boundary waters under current law.

26 This bill relinquishes the State's jurisdiction with respect to the regulation of fishing
27 and hunting by both tribal and nontribal citizens on tribal lands. The State, solely for
28 conservation purposes, may regulate tribal members engaged in such activities off tribal
29 lands to the extent permitted under general principles of federal Indian law and in a
30 manner consistent with reserved tribal treaty rights.

31 This bill amends state law to recognize and adopt federal Indian law providing that:
32 tribes have exclusive jurisdiction to tax tribal members and tribal entities on their
33 respective tribal lands, including entities owned by a tribe or tribal member; tribes, tribal
34 members and tribal entities are not subject to state and local sales taxation on tribal lands;
35 tribal members who live on their respective tribal lands are not subject to state income tax
36 for income earned on their respective tribal lands; tribal lands are not subject to state and
37 local real property tax; tribes have concurrent jurisdiction to tax nonmembers on tribal
38 lands; and the State and local governments have concurrent jurisdiction to tax
39 nonmembers on tribal lands.

40 This bill amends state law to restore to the Passamaquoddy Tribe, the Penobscot
41 Nation and the Houlton Band of Maliseet Indians the exclusive authority to exercise civil
42 legislative jurisdiction over Indians and non-Indians on tribal lands. To the extent that

1 the tribe, nation or band does not exercise, or terminates its exercise of, exclusive civil
2 legislative jurisdiction, the State has exclusive jurisdiction over those matters.

3 This bill amends state law to restore to the Passamaquoddy Tribe, the Penobscot
4 Nation and the Houlton Band of Maliseet Indians the exclusive authority to exercise civil
5 adjudicatory jurisdiction over Indians and non-Indians on tribal lands. To the extent that
6 the tribe, nation or band does not exercise, or terminates its exercise of, exclusive civil
7 adjudicatory jurisdiction, the State has exclusive jurisdiction over those matters.

8 This bill amends state law to explicitly provide that, for the purposes of the
9 Settlement Act, Section 6(h), any law or regulation of the United States that accords a
10 special status or right to, or relates to a special status or right of, any Indian, Indian
11 nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian
12 territory or land held in trust for Indians applies to the Passamaquoddy Tribe, the
13 Penobscot Nation and the Houlton Band of Maliseet Indians and their members and is
14 deemed not to affect or preempt the civil, criminal or regulatory jurisdiction of this State,
15 including, without limitation, laws of this State relating to land use or environmental
16 matters. This bill amends state law to explicitly provide that for the purposes of the
17 Settlement Act, Section 16(b), the provisions of any federal law enacted after October 10,
18 1980, for the benefit of Indians, Indian nations or tribes or bands of Indians, apply to the
19 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians
20 and their members and is deemed not to affect or preempt the application of the laws of
21 this State, including application of the laws of this State to lands owned by or held in trust
22 for Indians or Indian nations, tribes or bands of Indians, regardless of whether such
23 federal law is specifically made applicable within this State. Although not separately
24 mentioned in the bill, the task force specifically recognized and recommended that the
25 federal Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467 (October 17,
26 1990), should apply in Maine. The portion of the bill addressing the Settlement Act,
27 Section 16(b), accomplishes this goal. For a list of other federal statutes enacted after
28 October 10, 1980 that may be implicated by this portion of the bill, see the Report on
29 Federal Laws Enacted After October 10, 1980 for the Benefit of Indians or Indian
30 Nations, prepared by the Human Rights and Indigenous Peoples Clinic, Suffolk
31 University Law School, which is reproduced in Appendix N of the Task Force Report.

32 This bill amends the Maine Implementing Act to recognize the ability of all Maine
33 tribes to acquire trust land in accordance with their settlement acts and federal laws, such
34 as the Indian Reorganization Act and its implementing regulations. This bill amends state
35 law so that, consistent with federal Indian law, state and local governments do not have
36 veto power over trust acquisitions. Finally, although the bill specifically preserves the
37 portions of the Maine Implementing Act relating to the resolution of the land claims that
38 led to the original enactment of the Maine Implementing Act, as the task force
39 recommends, the bill eliminates the time constraints on trust land acquisitions that are
40 included in the Maine Implementing Act.