

MAINE STATE LEGISLATURE

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Date: 6/16/21

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Majority
VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 399, L.D. 554, "An Act To Create Gaming Equity and Fairness for the Native American Tribes in Maine"

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

PART A

Sec. A-1. 30 MRSA §6206, sub-§4 is enacted to read:

4. Passamaquoddy Tribe authority to conduct gaming. Any law of this State that is contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be affected or preempted by the Act, does not apply to the conduct of class I gaming, class II gaming and class III gaming activities by the Passamaquoddy Tribe within the Passamaquoddy Indian territory. Pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(1), the State and the Passamaquoddy Tribe agree and establish that the Passamaquoddy Tribe has exclusive jurisdiction and governmental responsibility, subject to the requirements of the federal Indian Gaming Regulatory Act and this subsection, with respect to the conduct of class I gaming, class II gaming and class III gaming activities within the Passamaquoddy Indian territory.

A. Upon the request of the Passamaquoddy Tribe, the Governor or the Governor's designee shall negotiate in good faith with the Passamaquoddy Tribe in accordance with 25 United States Code, Section 2710(d)(3)(A) and execute on behalf of the State a tribal-state compact, and any amendments or modifications to the compact, governing class III gaming activities within the Passamaquoddy Indian territory. The federal Indian Gaming Regulatory Act governs the process by which a tribal-state compact is negotiated and executed pursuant to this paragraph and the process by which a negotiated tribal-state compact takes effect.

B. Notwithstanding any provision of law to the contrary, the Passamaquoddy Tribe has the power to enact laws and ordinances governing the tribe's gaming operations. The laws of the State do not apply to the tribe's gaming operations, except as otherwise provided in this paragraph; as otherwise provided in a tribal-state compact negotiated

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1 under paragraph A; or as otherwise provided in a written agreement between the
2 Passamaquoddy Tribe and the State or any political subdivision of the State.

3 (1) The tribe's laws or ordinances relating to a health and safety matter, including
4 but not limited to laws or ordinances regarding food safety, sanitation, building
5 construction standards and inspections, fire safety and environmental protection,
6 apply to the tribe's gaming operations, as long as the tribe has laws or ordinances
7 with respect to that health and safety matter that are no less stringent than the
8 corresponding laws of the State. If the tribe does not have a law or ordinance
9 relating to a health and safety matter or if the tribe's laws or ordinances relating to
10 a health and safety matter are less stringent than the corresponding laws of the
11 State, then the corresponding laws of the State with respect to that health and safety
12 matter apply to the tribe's gaming operations. For the purposes of this
13 subparagraph, "corresponding laws of the State" means laws of the State that apply
14 to similar gaming operations conducted by an entity other than the tribe outside of
15 Passamaquoddy Indian territory.

16 (2) The laws of the State regarding the sale, distribution and taxation of liquor
17 apply to the tribe's gaming operations, except as described in this subparagraph.
18 Neither a local option election nor a county commissioner determination under
19 Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor
20 for on-premises consumption as part of the tribe's gaming operations. An
21 application for a license to sell liquor for on-premises consumption submitted by
22 an establishment that is part of the tribe's gaming operations must be granted
23 without undue delay if the applicant meets all of the applicable requirements of
24 Title 28-A. For purposes of the issuance or renewal of any license or permit to sell
25 liquor for on-premises consumption as part of the tribe's gaming operations,
26 approval by the governing body of the Passamaquoddy Tribe constitutes any
27 municipal or county commissioner approval required under Title 28-A.

28 C. Notwithstanding any provision of law to the contrary and except as provided in
29 paragraph B, subparagraph (2), the State and its political subdivisions may not impose
30 any tax on the Passamaquoddy Tribe, its tribal members or tribal entities in connection
31 with the tribe's gaming operations. A tribal-state compact negotiated under paragraph
32 A may include a provision whereby the Passamaquoddy Tribe shares a portion of the
33 revenue generated from the tribe's class III gaming activities with the State in exchange
34 for quantifiable economic benefits in accordance with the federal Indian Gaming
35 Regulatory Act.

36 D. For purposes of this subsection, the following terms have the following meanings.

37 (1) "Class I gaming," "class II gaming" and "class III gaming" have the same
38 meanings as in 25 United States Code, Section 2703, as amended.

39 (2) "Federal Indian Gaming Regulatory Act" means the federal Indian Gaming
40 Regulatory Act, 25 United States Code, Sections 2701 to 2721, as amended, and
41 its implementing regulations, as amended.

42 (3) "Gaming facility" means a facility in which class I gaming, class II gaming or
43 class III gaming activity is conducted within the Passamaquoddy Indian territory
44 and the contiguous areas where related and complementary services, businesses
45 and amenities are provided within the Passamaquoddy Indian territory.

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1 tribal members or both. For the purposes of this subsection, "tribal member" includes a
2 married couple, at least one of whom is a tribal member.

3 **8. Tribal member.** "Tribal member" means a member of the Passamaquoddy Tribe.

4 **§8102. Gaming activities within Passamaquoddy Indian territory**

5 **1. Federal Indian Gaming Regulatory Act applies.** Any law of this State that is
6 contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be
7 affected or preempted by the Act, does not apply to the conduct of class I gaming, class II
8 gaming and class III gaming activities by the Passamaquoddy Tribe within the
9 Passamaquoddy Indian territory. The Passamaquoddy Tribe has exclusive jurisdiction and
10 government authority, subject to the requirements of the federal Indian Gaming Regulatory
11 Act and this section, with respect to the conduct of class I gaming, class II gaming and class
12 III gaming activities within the Passamaquoddy Indian territory.

13 **2. Tribal-state compact.** Upon the request of the Passamaquoddy Tribe, the Governor
14 or the Governor's designee shall negotiate in good faith with the Passamaquoddy Tribe in
15 accordance with 25 United States Code, Section 2710(d)(3)(A) and execute on behalf of
16 the State a tribal-state compact, and any amendments or modifications to the compact,
17 governing class III gaming activities within the Passamaquoddy Indian territory. The
18 federal Indian Gaming Regulatory Act governs the process by which a tribal-state compact
19 is negotiated and executed pursuant to this subsection and the process by which a negotiated
20 tribal-state compact takes effect.

21 **3. Application of tribal and state law.** Notwithstanding any provision of law to the
22 contrary, the Passamaquoddy Tribe has the power to enact laws and ordinances governing
23 the tribe's gaming operations. The laws of the State do not apply to the tribe's gaming
24 operations, except as otherwise provided in this subsection; as otherwise provided in a
25 tribal-state compact negotiated under subsection 2; or as otherwise provided in a written
26 agreement between the Passamaquoddy Tribe and the State or any political subdivision of
27 the State.

28 A. The tribe's laws or ordinances relating to a health and safety matter, including but
29 not limited to laws or ordinances regarding food safety, sanitation, building
30 construction standards and inspections, fire safety and environmental protection, apply
31 to the tribe's gaming operations, as long as the tribe has laws or ordinances with respect
32 to that health and safety matter that are no less stringent than the corresponding laws
33 of the State. If the tribe does not have a law or ordinance relating to a health and safety
34 matter or if the tribe's laws or ordinances relating to a health and safety matter are less
35 stringent than the corresponding laws of the State, then the corresponding laws of the
36 State with respect to that health and safety matter apply to the tribe's gaming operations.
37 For purposes of this paragraph, "corresponding laws of the State" means laws of the
38 State that apply to similar gaming operations conducted by an entity other than the tribe
39 outside of Passamaquoddy Indian territory.

40 B. The laws of the State regarding the sale, distribution and taxation of liquor apply to
41 the tribe's gaming operations, except as described in this paragraph. Neither a local
42 option election nor a county commissioner determination under Title 28-A, chapter 5
43 is a condition precedent to or may prohibit the sale of liquor for on-premises
44 consumption as part of the tribe's gaming operations. An application for a license to
45 sell liquor for on-premises consumption submitted by an establishment that is part of

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1 the tribe's gaming operations must be granted without undue delay if the applicant
2 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or
3 renewal of any license or permit to sell liquor for on-premises consumption as part of
4 the tribe's gaming operations, approval by the governing body of the Passamaquoddy
5 Tribe constitutes any municipal or county commissioner approval required under Title
6 28-A.

7 C. Notwithstanding any provision of law to the contrary and except as provided in
8 paragraph B, the State and its political subdivisions may not impose any tax on the
9 Passamaquoddy Tribe, its tribal members or tribal entities in connection with the tribe's
10 gaming operations. A tribal-state compact negotiated under subsection 2 may include
11 a provision whereby the Passamaquoddy Tribe shares a portion of the revenue
12 generated from the tribe's class III gaming activities with the State in exchange for
13 quantifiable economic benefits in accordance with the federal Indian Gaming
14 Regulatory Act.

15 **Sec. A-3. Contingent effective date; certification.** This Part does not take effect
16 unless, within 90 days of the adjournment of the First Special Session of the 130th
17 Legislature, the Secretary of State receives written certification from the Joint Tribal
18 Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part,
19 copies of which must be submitted by the Secretary of State to the Secretary of the Senate,
20 the Clerk of the House of Representatives and the Revisor of Statutes; except that in no
21 event may this Part become effective until 120 days after the adjournment of the First
22 Special Session of the 130th Legislature.

23 **Sec. A-4. Contingent repeal.** Notwithstanding the Maine Revised Statutes, Title
24 1, section 71, subsection 8, this Part is repealed in its entirety if a court of competent
25 jurisdiction enters a final judgment concluding that no part of this Part is effective in
26 causing the Passamaquoddy Tribe to be subject to the requirements of the federal Indian
27 Gaming Regulatory Act with respect to the conduct of class I gaming, class II gaming and
28 class III gaming activities within the Passamaquoddy Indian territory. For purposes of this
29 section, a "final judgment" does not include a judgment that is the subject of a pending
30 appeal or for which the time period for taking an appeal has not yet expired. If this
31 contingency is met, the Attorney General or the Joint Tribal Council of the Passamaquoddy
32 Tribe shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House
33 of Representatives and the Revisor of Statutes.

34 **PART B**

35 **Sec. B-1. 30 MRSA c. 607 is enacted to read:**

36 **CHAPTER 607**

37 **GAMING BY THE PASSAMAQUODDY TRIBE**

38 **§8201. Definitions**

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

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1 1. Class I gaming and class II gaming. "Class I gaming" and "class II gaming" have
2 the same meanings as in 25 United States Code, Section 2703, as amended.

3 2. Gaming facility. "Gaming facility" means a facility in which class I gaming or class
4 II gaming activity is conducted within the Passamaquoddy Indian territory and the
5 contiguous areas where related and complementary services, businesses and amenities are
6 provided within the Passamaquoddy Indian territory.

7 3. Gaming operations. "Gaming operations" means the conduct of class I gaming
8 and class II gaming activities, the provision of related and complementary services,
9 businesses and amenities to gaming facility patrons and the siting, planning, construction
10 and operation of a gaming facility within the Passamaquoddy Indian territory.

11 4. Laws of the State. "Laws of the State" has the same meaning as in section 6203,
12 subsection 4.

13 5. Passamaquoddy Indian territory. "Passamaquoddy Indian territory" has the same
14 meaning as in section 6203, subsection 6.

15 6. Tribal entity. "Tribal entity" means a business entity, including but not limited to
16 a corporation, partnership or limited liability company, owned by the Passamaquoddy Tribe
17 or of which more than 50% of the ownership interests are held in aggregate by the tribe,
18 tribal members or both. For the purposes of this subsection, "tribal member" includes a
19 married couple, at least one of whom is a tribal member.

20 7. Tribal member. "Tribal member" means a member of the Passamaquoddy Tribe.

21 **§8202. Gaming activities within Passamaquoddy Indian territory**

22 1. Class I gaming. Notwithstanding any provision of law to the contrary and except
23 as provided in this section, the Passamaquoddy Tribe has exclusive jurisdiction and
24 government authority with respect to and may authorize class I gaming within the
25 Passamaquoddy Indian territory.

26 2. Class II gaming. Notwithstanding any other provision of law to the contrary and
27 except as provided in this section, the Passamaquoddy Tribe has exclusive jurisdiction and
28 government authority with respect to and may authorize class II gaming within the
29 Passamaquoddy Indian territory as long as the following conditions are met:

30 A. A separate license issued by the Passamaquoddy Tribe is required for each facility
31 at which class II gaming is conducted within the Passamaquoddy Indian territory;

32 B. The Passamaquoddy Tribe adopts a law or ordinance that meets the requirements
33 of 25 United States Code, Section 2710(b)(2) and Section 2710(b)(4)(A), except for
34 any required notification to, approval of or audit or other activity by the National Indian
35 Gaming Commission or the Chair of the National Indian Gaming Commission;

36 C. The Passamaquoddy Tribe establishes a tribal gaming regulatory body that:

37 (1) Monitors gaming activities to ensure compliance with applicable federal, state
38 and tribal laws and rules;

39 (2) Monitors the gaming revenues accounting system and routinely receives and
40 reviews gaming revenue accounting information from class II gaming activities;

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- 1 (3) Performs routine operational or other audits of class II gaming activities and
2 has access to, and may inspect, examine, photocopy and audit all papers, books
3 and records of class II gaming activities;
- 4 (4) Monitors compliance with minimum internal control standards for class II
5 gaming activities;
- 6 (5) Adopts and implements a system for investigating, licensing and monitoring
7 of all employees of class II gaming activities;
- 8 (6) Maintains records on class II gaming licensees and persons denied class II
9 gaming licenses, including persons otherwise prohibited from engaging in gaming
10 activities within the tribe's jurisdiction;
- 11 (7) Establishes standards for and issues vendor licenses or permits to
12 manufacturers and suppliers of class II gaming services, equipment and supplies;
- 13 (8) Establishes or approves the rules governing the operation of class II gaming,
14 and requires their posting;
- 15 (9) Adopts and implements a system for investigating possible violations of and
16 for enforcing tribal gaming laws, ordinances and regulations; and
- 17 (10) Takes testimony and conducts hearings on the revocation of licenses,
18 including primary management official, key employee and vendor licenses; and

19 D. The Passamaquoddy Tribe's conduct of class II gaming meets or exceeds the
20 requirements of 25 Code of Federal Regulations, Parts 531, 542, 543, 547 and 556, as
21 amended, except for any required notification to, approval of or audit or other activity
22 by the National Indian Gaming Commission or the Chair of the National Indian
23 Gaming Commission.

24 **3. Application of tribal and state law.** Notwithstanding any provision of law to the
25 contrary, the Passamaquoddy Tribe has the power to enact laws and ordinances governing
26 the tribe's gaming operations. The laws of the State do not apply to the tribe's gaming
27 operations, except as otherwise provided in this subsection or as otherwise provided in a
28 written agreement between the Passamaquoddy Tribe and the State or any political
29 subdivision of the State.

30 A. The tribe's laws or ordinances relating to a health and safety matter, including but
31 not limited to laws or ordinances regarding food safety, sanitation, building
32 construction standards and inspections, fire safety and environmental protection, apply
33 to the tribe's gaming operations, as long as the tribe has laws or ordinances with respect
34 to that health and safety matter that are no less stringent than the corresponding laws
35 of the State. If the tribe does not have a law or ordinance relating to a health and safety
36 matter or if the tribe's laws or ordinances relating to a health and safety matter are less
37 stringent than the corresponding laws of the State, then the corresponding laws of the
38 State with respect to that health and safety matter apply to the tribe's gaming operations.
39 For purposes of this paragraph, "corresponding laws of the State" means laws of the
40 State that apply to similar gaming operations conducted by an entity other than the tribe
41 outside of Passamaquoddy Indian territory.

42 B. The laws of the State regarding the sale, distribution and taxation of liquor apply to
43 the tribe's gaming operations, except as described in this paragraph. Neither a local

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1 option election nor a county commissioner determination under Title 28-A, chapter 5
2 is a condition precedent to or may prohibit the sale of liquor for on-premises
3 consumption as part of the tribe's gaming operations. An application for a license to
4 sell liquor for on-premises consumption submitted by an establishment that is part of
5 the tribe's gaming operations must be granted without undue delay if the applicant
6 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or
7 renewal of any license or permit to sell liquor for on-premises consumption as part of
8 the tribe's gaming operations, approval by the governing body of the Passamaquoddy
9 Tribe constitutes any municipal or county commissioner approval required under Title
10 28-A.

11 C. Notwithstanding any provision of law to the contrary and except as provided in
12 paragraph B, the State and its political subdivisions may not impose any tax on the
13 Passamaquoddy Tribe, its tribal members or tribal entities in connection with the tribe's
14 gaming operations.

15 **Sec. B-2. Contingent effective date.** This Part does not take effect unless Part A
16 of this Act takes effect pursuant to Part A, section 3 of this Act and is subsequently repealed
17 pursuant to Part A, section 4 of this Act. If the requirements of this section are met, the
18 Attorney General or the Joint Tribal Council of the Passamaquoddy Tribe shall notify the
19 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives
20 and the Revisor of Statutes.

21 **PART C**

22 **Sec. C-1. 30 MRSA §6206, sub-§5** is enacted to read:

23 **5. Penobscot Nation authority to conduct gaming.** Any law of this State that is
24 contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be
25 affected or preempted by the Act, does not apply to the conduct of class I gaming, class II
26 gaming and class III gaming activities by the Penobscot Nation within the Penobscot Indian
27 territory. Pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law
28 96-420, Section 6(e)(1), the State and the Penobscot Nation agree and establish that the
29 Penobscot Nation has exclusive jurisdiction and governmental responsibility, subject to the
30 requirements of the federal Indian Gaming Regulatory Act and this subsection, with respect
31 to the conduct of class I gaming, class II gaming and class III gaming activities within the
32 Penobscot Indian territory.

33 A. Upon the request of the Penobscot Nation, the Governor or the Governor's designee
34 shall negotiate in good faith with the Penobscot Nation in accordance with 25 United
35 States Code, Section 2710(d)(3)(A) and execute on behalf of the State a tribal-state
36 compact, and any amendments or modifications to the compact, governing class III
37 gaming activities within the Penobscot Indian territory. The federal Indian Gaming
38 Regulatory Act governs the process by which a tribal-state compact is negotiated and
39 executed pursuant to this paragraph and the process by which a negotiated tribal-state
40 compact takes effect.

41 B. Notwithstanding any provision of law to the contrary, the Penobscot Nation has the
42 power to enact laws and ordinances governing the nation's gaming operations. The laws
43 of the State do not apply to the nation's gaming operations, except as otherwise
44 provided in this paragraph; as otherwise provided in a tribal-state compact negotiated

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under paragraph A; or as otherwise provided in a written agreement between the Penobscot Nation and the State or any political subdivision of the State.

(1) The nation's laws or ordinances relating to a health and safety matter, including but not limited to laws or ordinances regarding food safety, sanitation, building construction standards and inspections, fire safety and environmental protection, apply to the nation's gaming operations, as long as the nation has laws or ordinances with respect to that health and safety matter that are no less stringent than the corresponding laws of the State. If the nation does not have a law or ordinance relating to a health and safety matter or if the nation's laws or ordinances relating to a health and safety matter are less stringent than the corresponding laws of the State, then the corresponding laws of the State with respect to that health and safety matter apply to the nation's gaming operations. For purposes of this subparagraph, "corresponding laws of the State" means laws of the State that apply to similar gaming operations conducted by an entity other than the nation outside of Penobscot Indian territory.

(2) The laws of the State regarding the sale, distribution and taxation of liquor apply to the nation's gaming operations, except as described in this subparagraph. Neither a local option election nor a county commissioner determination under Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor for on-premises consumption as part of the nation's gaming operations. An application for a license to sell liquor for on-premises consumption submitted by an establishment that is part of the nation's gaming operations must be granted without undue delay if the applicant meets all of the applicable requirements of Title 28-A. For purposes of the issuance or renewal of any license or permit to sell liquor for on-premises consumption as part of the nation's gaming operations, approval by the governing body of the Penobscot Nation constitutes any municipal or county commissioner approval required under Title 28-A.

C. Notwithstanding any provision of law to the contrary and except as provided in paragraph B, subparagraph (2), the State and its political subdivisions may not impose any tax on the Penobscot Nation, its tribal members or tribal entities in connection with the nation's gaming operations. A tribal-state compact negotiated under paragraph A may include a provision whereby the Penobscot Nation shares a portion of the revenue generated from the nation's class III gaming activities with the State in exchange for quantifiable economic benefits in accordance with the federal Indian Gaming Regulatory Act.

D. For purposes of this subsection, the following terms have the following meanings.

(1) "Class I gaming," "class II gaming" and "class III gaming" have the same meanings as in 25 United States Code, Section 2703, as amended.

(2) "Federal Indian Gaming Regulatory Act" means the federal Indian Gaming Regulatory Act, 25 United States Code, Sections 2701 to 2721, as amended, and its implementing regulations, as amended.

(3) "Gaming facility" means a facility in which class I gaming, class II gaming or class III gaming activity is conducted within the Penobscot Indian territory and the contiguous areas where related and complementary services, businesses and amenities are provided within the Penobscot Indian territory.

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8. Tribal member. "Tribal member" means a member of the Penobscot Nation.

§9102. Gaming activities within Penobscot Indian territory

1. Federal Indian Gaming Regulatory Act applies. Any law of this State that is contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be affected or preempted by the Act, does not apply to the conduct of class I gaming, class II gaming and class III gaming activities by the Penobscot Nation within the Penobscot Indian territory. The Penobscot Nation has exclusive jurisdiction and government authority, subject to the requirements of the federal Indian Gaming Regulatory Act and this section, with respect to the conduct of class I gaming, class II gaming and class III gaming activities within the Penobscot Indian territory.

2. Tribal-state compact. Upon the request of the Penobscot Nation, the Governor or the Governor's designee shall negotiate in good faith with the Penobscot Nation in accordance with 25 United States Code, Section 2710(d)(3)(A) and execute on behalf of the State a tribal-state compact, and any amendments or modifications to the compact, governing class III gaming activities within the Penobscot Indian territory. The federal Indian Gaming Regulatory Act governs the process by which a tribal-state compact is negotiated and executed pursuant to this subsection and the process by which a negotiated tribal-state compact takes effect.

3. Application of tribal and state law. Notwithstanding any provision of law to the contrary, the Penobscot Nation has the power to enact laws and ordinances governing the nation's gaming operations. The laws of the State do not apply to the nation's gaming operations, except as otherwise provided in this subsection; as otherwise provided in a tribal-state compact negotiated under subsection 2; or as otherwise provided in a written agreement between the Penobscot Nation and the State or any political subdivision of the State.

A. The nation's laws or ordinances relating to a health and safety matter, including but not limited to laws or ordinances regarding food safety, sanitation, building construction standards and inspections, fire safety and environmental protection, apply to the nation's gaming operations, as long as the nation has laws or ordinances with respect to that health and safety matter that are no less stringent than the corresponding laws of the State. If the nation does not have a law or ordinance relating to a health and safety matter or if the nation's laws or ordinances relating to a health and safety matter are less stringent than the corresponding laws of the State, then the corresponding laws of the State with respect to that health and safety matter apply to the nation's gaming operations. For purposes of this paragraph, "corresponding laws of the State" means laws of the State that apply to similar gaming operations conducted by an entity other than the nation outside of Penobscot Indian territory.

B. The laws of the State regarding the sale, distribution and taxation of liquor apply to the nation's gaming operations, except as described in this paragraph. Neither a local option election nor a county commissioner determination under Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor for on-premises consumption as part of the nation's gaming operations. An application for a license to sell liquor for on-premises consumption submitted by an establishment that is part of the nation's gaming operations must be granted without undue delay if the applicant meets all of the applicable requirements of Title 28-A. For purposes of the issuance or

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1 renewal of any license or permit to sell liquor for on-premises consumption as part of
2 the nation's gaming operations, approval by the governing body of the Penobscot
3 Nation constitutes any municipal or county commissioner approval required under
4 Title 28-A.

5 C. Notwithstanding any provision of law to the contrary and except as provided in
6 paragraph B, the State and its political subdivisions may not impose any tax on the
7 Penobscot Nation, its tribal members or tribal entities in connection with the nation's
8 gaming operations. A tribal-state compact negotiated under subsection 2 may include
9 a provision whereby the Penobscot Nation shares a portion of the revenue generated
10 from the nation's class III gaming activities with the State in exchange for quantifiable
11 economic benefits in accordance with the federal Indian Gaming Regulatory Act.

12 **Sec. C-3. Contingent effective date; certification.** This Part does not take effect
13 unless, within 90 days of the adjournment of the First Special Session of the 130th
14 Legislature, the Secretary of State receives written certification from the Chief and Tribal
15 Council of the Penobscot Nation that the nation has agreed to the provisions of this Part,
16 copies of which must be submitted by the Secretary of State to the Secretary of the Senate,
17 the Clerk of the House of Representatives and the Revisor of Statutes; except that in no
18 event may this Part become effective until 120 days after the adjournment of the First
19 Special Session of the 130th Legislature.

20 **Sec. C-4. Contingent repeal.** Notwithstanding the Maine Revised Statutes, Title
21 1, section 71, subsection 8, this Part is repealed in its entirety if a court of competent
22 jurisdiction enters a final judgment concluding that no part of this Part is effective in
23 causing the Penobscot Nation to be subject to the requirements of the federal Indian
24 Gaming Regulatory Act with respect to the conduct of class I gaming, class II gaming and
25 class III gaming activities within the Penobscot Indian territory. For purposes of this
26 section, a "final judgment" does not include a judgment that is the subject of a pending
27 appeal or for which the time period for taking an appeal has not yet expired. If this
28 contingency is met, the Attorney General or the Chief or Tribal Council of the Penobscot
29 Nation shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the
30 House of Representatives and the Revisor of Statutes.

31 **PART D**

32 **Sec. D-1. 30 MRSA c. 611 is enacted to read:**

33 **CHAPTER 611**

34 **GAMING BY THE PENOBSCOT NATION**

35 **§9201. Definitions**

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

38 **1. Class I gaming and class II gaming.** "Class I gaming" and "class II gaming" have
39 the same meanings as in 25 United States Code, Section 2703, as amended.

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1 2. Gaming facility. "Gaming facility" means a facility in which class I gaming or
2 class II gaming activity is conducted within the Penobscot Indian territory and the
3 contiguous areas where related and complementary services, businesses and amenities are
4 provided within the Penobscot Indian territory.

5 3. Gaming operations. "Gaming operations" means the conduct of class I gaming
6 and class II gaming activities, the provision of related and complementary services,
7 businesses and amenities to gaming facility patrons and the siting, planning, construction
8 and operation of a gaming facility within the Penobscot Indian territory.

9 4. Laws of the State. "Laws of the State" has the same meaning as in section 6203,
10 subsection 4.

11 5. Penobscot Indian territory. "Penobscot Indian territory" has the same meaning as
12 in section 6203, subsection 9.

13 6. Tribal entity. "Tribal entity" means a business entity, including but not limited to
14 a corporation, partnership or limited liability company, owned by the Penobscot Nation or
15 of which more than 50% of the ownership interests are held in aggregate by the nation,
16 tribal members or both. For the purposes of this subsection, "tribal member" includes a
17 married couple, at least one of whom is a tribal member.

18 7. Tribal member. "Tribal member" means a member of the Penobscot Nation.

19 **§9202. Gaming activities within Penobscot Indian territory**

20 1. Class I gaming. Notwithstanding any provision of law to the contrary and except
21 as provided in this section, the Penobscot Nation has exclusive jurisdiction and government
22 authority with respect to and may authorize class I gaming within the Penobscot Indian
23 territory.

24 2. Class II gaming. Notwithstanding any provision of law to the contrary and except
25 as provided in this section, the Penobscot Nation has exclusive jurisdiction and government
26 authority with respect to and may authorize class II gaming within the Penobscot Indian
27 territory as long as the following conditions are met:

28 A. A separate license issued by the Penobscot Nation is required for each facility at
29 which class II gaming is conducted within the Penobscot Indian territory;

30 B. The Penobscot Nation adopts a law or ordinance that meets the requirements of 25
31 United States Code, Section 2710(b)(2) and Section 2710(b)(4)(A), except for any
32 required notification to, approval of or audit or other activity by the National Indian
33 Gaming Commission or the Chair of the National Indian Gaming Commission;

34 C. The Penobscot Nation establishes a tribal gaming regulatory body that:

35 (1) Monitors gaming activities to ensure compliance with applicable federal, state
36 and tribal laws and rules;

37 (2) Monitors the gaming revenues accounting system and routinely receives and
38 reviews gaming revenue accounting information from class II gaming activities;

39 (3) Performs routine operational or other audits of class II gaming activities and
40 has access to, and may inspect, examine, photocopy and audit all papers, books
41 and records of class II gaming activities;

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- 1 (4) Monitors compliance with minimum internal control standards for class II
- 2 gaming activities;
- 3 (5) Adopts and implements a system for investigating, licensing, and monitoring
- 4 of all employees of class II gaming activities;
- 5 (6) Maintains records on class II gaming licensees and persons denied class II
- 6 gaming licenses, including persons otherwise prohibited from engaging in gaming
- 7 activities within the nation's jurisdiction;
- 8 (7) Establishes standards for and issues vendor licenses or permits to
- 9 manufacturers and suppliers of class II gaming services, equipment and supplies;
- 10 (8) Establishes or approves the rules governing the operation of class II gaming,
- 11 and requires their posting;
- 12 (9) Adopts and implements a system for investigating possible violations of and
- 13 for enforcing tribal gaming laws, ordinances and regulations; and
- 14 (10) Takes testimony and conducts hearings on the revocation of licenses,
- 15 including primary management official, key employee and vendor licenses; and

16 D. The Penobscot Nation's conduct of class II gaming meets or exceeds the
 17 requirements of 25 Code of Federal Regulations, Parts 531, 542, 543, 547 and 556, as
 18 amended, except for any required notification to, approval of or audit or other activity
 19 by the National Indian Gaming Commission or the Chair of the National Indian
 20 Gaming Commission.

21 **3. Application of tribal and state law.** Notwithstanding any provision of law to the
 22 contrary, the Penobscot Nation has the power to enact laws and ordinances governing the
 23 nation's gaming operations. The laws of the State do not apply to the nation's gaming
 24 operations, except as otherwise provided in this subsection or as otherwise provided in a
 25 written agreement between the Penobscot Nation and the State or any political subdivision
 26 of the State.

27 A. The nation's laws or ordinances relating to a health and safety matter, including but
 28 not limited to laws or ordinances regarding food safety, sanitation, building
 29 construction standards and inspections, fire safety and environmental protection, apply
 30 to the nation's gaming operations, as long as the nation has laws or ordinances with
 31 respect to that health and safety matter that are no less stringent than the corresponding
 32 laws of the State. If the nation does not have a law or ordinance relating to a health
 33 and safety matter or if the nation's laws or ordinances relating to a health and safety
 34 matter are less stringent than the corresponding laws of the State, then the
 35 corresponding laws of the State with respect to that health and safety matter apply to
 36 the nation's gaming operations. For purposes of this paragraph, "corresponding laws
 37 of the State" means laws of the State that apply to similar gaming operations conducted
 38 by an entity other than the nation outside of Penobscot Indian territory.

39 B. The laws of the State regarding the sale, distribution and taxation of liquor apply to
 40 the nation's gaming operations, except as described in this paragraph. Neither a local
 41 option election nor a county commissioner determination under Title 28-A, chapter 5
 42 is a condition precedent to or may prohibit the sale of liquor for on-premises
 43 consumption as part of the nation's gaming operations. An application for a license to
 44 sell liquor for on-premises consumption submitted by an establishment that is part of

COMMITTEE AMENDMENT

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1 the nation's gaming operations must be granted without undue delay if the applicant
2 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or
3 renewal of any license or permit to sell liquor for on-premises consumption as part of
4 the nation's gaming operations, approval by the governing body of the Penobscot
5 Nation constitutes any municipal or county commissioner approval required under
6 Title 28-A.

7 C. Notwithstanding any provision of law to the contrary and except as provided in
8 paragraph B, the State and its political subdivisions may not impose any tax on the
9 Penobscot Nation, its tribal members or tribal entities in connection with the nation's
10 gaming operations.

11 **Sec. D-2. Contingent effective date.** This Part does not take effect unless Part C
12 of this Act takes effect pursuant to Part C, section 3 of this Act and is subsequently repealed
13 pursuant to Part C, section 4 of this Act. If the requirements of this section are met, the
14 Attorney General or the Chief or Tribal Council of the Penobscot Nation shall notify the
15 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives
16 and the Revisor of Statutes.

17 **PART E**

18 **Sec. E-1. 30 MRSA §6206, sub-§6** is enacted to read:

19 6. Houlton Band of Maliseet Indians authority to conduct gaming. Any law of
20 this State that is contrary to any provision of the federal Indian Gaming Regulatory Act, or
21 that would be affected or preempted by the Act, does not apply to the conduct of class I
22 gaming, class II gaming and class III gaming activities by the Houlton Band of Maliseet
23 Indians within the Houlton Band Trust Land. Pursuant to the Maine Indian Claims
24 Settlement Act of 1980, Public Law 96-420, Section 6(e)(2), the State and the Houlton
25 Band of Maliseet Indians agree and establish that, except as provided in this section, the
26 State does not have jurisdiction over the conduct of class I gaming, class II gaming and
27 class III gaming activities within the Houlton Band Trust Land and the Houlton Band of
28 Maliseet Indians has exclusive jurisdiction and governmental responsibility, subject to the
29 requirements of the federal Indian Gaming Regulatory Act and this subsection, with respect
30 to the conduct of class I gaming, class II gaming and class III gaming activities within the
31 Houlton Band Trust Land.

32 A. Upon the request of the Houlton Band of Maliseet Indians, the Governor or the
33 Governor's designee shall negotiate in good faith with the Houlton Band of Maliseet
34 Indians in accordance with 25 United States Code, Section 2710(d)(3)(A) and execute
35 on behalf of the State a tribal-state compact, and any amendments or modifications to
36 the compact, governing class III gaming activities within the Houlton Band Trust Land.
37 The federal Indian Gaming Regulatory Act governs the process by which a tribal-state
38 compact is negotiated and executed pursuant to this paragraph and the process by which
39 a negotiated tribal-state compact takes effect.

40 B. Notwithstanding any provision of law to the contrary, the Houlton Band of Maliseet
41 Indians has the power to enact laws and ordinances governing the band's gaming
42 operations. The laws of the State do not apply to the band's gaming operations, except
43 as otherwise provided in this paragraph; as otherwise provided in a tribal-state compact
44 negotiated under paragraph A; or as otherwise provided in a written agreement between

1 the Houlton Band of Maliseet Indians and the State or any political subdivision of the
2 State.

3 (1) The band's laws or ordinances relating to a health and safety matter, including
4 but not limited to laws or ordinances regarding food safety, sanitation, building
5 construction standards and inspections, fire safety and environmental protection,
6 apply to the band's gaming operations, as long as the band has laws or ordinances
7 with respect to that health and safety matter that are no less stringent than the
8 corresponding laws of the State. If the band does not have a law or ordinance
9 relating to a health and safety matter or if the band's laws or ordinances relating to
10 a health and safety matter are less stringent than the corresponding laws of the
11 State, then the corresponding laws of the State with respect to that health and safety
12 matter apply to the band's gaming operations. For purposes of this subparagraph,
13 "corresponding laws of the State" mean laws of the State that apply to similar
14 gaming operations conducted by an entity other than the band outside of Houlton
15 Band Trust Land.

16 (2) The laws of the State regarding the sale, distribution and taxation of liquor
17 apply to the band's gaming operations, except as described in this subparagraph.
18 Neither a local option election nor a county commissioner determination under
19 Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor
20 for on-premises consumption as part of the band's gaming operations. An
21 application for a license to sell liquor for on-premises consumption submitted by
22 an establishment that is part of the band's gaming operations must be granted
23 without undue delay if the applicant meets all of the applicable requirements of
24 Title 28-A. For purposes of the issuance or renewal of any license or permit to sell
25 liquor for on-premises consumption as part of the band's gaming operations,
26 approval by the governing body of the Houlton Band of Maliseet Indians
27 constitutes any municipal or county commissioner approval required under Title
28 28-A.

29 C. Notwithstanding any provision of law to the contrary and except as provided in
30 paragraph B, subparagraph (2), the State and its political subdivisions may not impose
31 any tax on the Houlton Band of Maliseet Indians, its tribal members or tribal entities
32 in connection with the band's gaming operations. A tribal-state compact negotiated
33 under paragraph A may include a provision whereby the Houlton Band of Maliseet
34 Indians shares a portion of the revenue generated from the band's class III gaming
35 activities with the State in exchange for quantifiable economic benefits in accordance
36 with the federal Indian Gaming Regulatory Act.

37 D. For purposes of this subsection, the following terms have the following meanings.

38 (1) "Class I gaming," "class II gaming" and "class III gaming" have the same
39 meanings as in 25 United States Code, Section 2703, as amended.

40 (2) "Federal Indian Gaming Regulatory Act" means the federal Indian Gaming
41 Regulatory Act, 25 United States Code, Sections 2701 to 2721, as amended, and
42 its implementing regulations, as amended.

43 (3) "Gaming facility" means a facility in which class I gaming, class II gaming or
44 class III gaming activity is conducted within the Houlton Band Trust Land and the

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1 contiguous areas where related and complementary services, businesses and
2 amenities are provided within the Houlton Band Trust Land.

3 (4) "Gaming operations" means the conduct of class I gaming, class II gaming and
4 class III gaming activities, the provision of related and complementary services,
5 businesses and amenities to gaming facility patrons and the siting, planning,
6 construction and operation of a gaming facility within the Houlton Band Trust
7 Land.

8 (5) "Tribal entity" means a business entity, including but not limited to a
9 corporation, partnership or limited liability company, owned by the Houlton Band
10 of Maliseet Indians or of which more than 50% of the ownership interests are held
11 in aggregate by the band, tribal members or both. For the purposes of this
12 subparagraph, "tribal member" includes a married couple, at least one of whom is
13 a tribal member.

14 (6) "Tribal member" means a member of the Houlton Band of Maliseet Indians.

15 **Sec. E-2. 30 MRSA c. 613 is enacted to read:**

16 **CHAPTER 613**

17 **GAMING BY THE HOULTON BAND OF MALISEET INDIANS**

18 **§10101. Definitions**

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

21 **1. Class I gaming, class II gaming and class III gaming.** "Class I gaming," "class
22 II gaming" and "class III gaming" have the same meanings as in 25 United States Code,
23 Section 2703, as amended.

24 **2. Federal Indian Gaming Regulatory Act.** "Federal Indian Gaming Regulatory
25 Act" means the federal Indian Gaming Regulatory Act, 25 United States Code, Sections
26 2701 to 2721, as amended, and its implementing regulations, as amended.

27 **3. Gaming facility.** "Gaming facility" means a facility in which class I gaming, class
28 II gaming or class III gaming activity is conducted within the Houlton Band Trust Land
29 and the contiguous areas where related and complementary services, businesses and
30 amenities are provided within the Houlton Band Trust Land.

31 **4. Gaming operations.** "Gaming operations" means the conduct of class I, class II
32 and class III gaming activities, the provision of related and complementary services,
33 businesses and amenities to gaming facility patrons and the siting, planning, construction
34 and operation of a gaming facility within the Houlton Band Trust Land.

35 **5. Laws of the State.** "Laws of the State" has the same meaning as in section 6203,
36 subsection 4.

37 **6. Tribal entity.** "Tribal entity" means a business entity, including but not limited to
38 a corporation, partnership or limited liability company, owned by the Houlton Band of
39 Maliseet Indians or of which more than 50% of the ownership interests are held in

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1 aggregate by the band, tribal members or both. For the purposes of this subsection, "tribal
2 member" includes a married couple, at least one of whom is a tribal member.

3 7. Tribal member. "Tribal member" means a member of the Houlton Band of
4 Maliseet Indians.

5 **§10102. Gaming activities within Houlton Band Trust Land**

6 1. Federal Indian Gaming Regulatory Act applies. Any law of this State that is
7 contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be
8 affected or preempted by the Act, does not apply to the conduct of class I gaming, class II
9 gaming and class III gaming activities by the Houlton Band of Maliseet Indians within the
10 Houlton Band Trust Land. The Houlton Band of Maliseet Indians has exclusive jurisdiction
11 and government authority, subject to the requirements of the federal Indian Gaming
12 Regulatory Act and this section, with respect to the conduct of class I gaming, class II
13 gaming and class III gaming activities within the Houlton Band Trust Land.

14 2. Tribal-state compact. Upon the request of the Houlton Band of Maliseet Indians,
15 the Governor or the Governor's designee shall negotiate in good faith with the Houlton
16 Band of Maliseet Indians in accordance with 25 United States Code, Section 2710(d)(3)(A)
17 and execute on behalf of the State a tribal-state compact, and any amendments or
18 modifications to the compact, governing class III gaming activities within the Houlton
19 Band Trust Land. The federal Indian Gaming Regulatory Act governs the process by which
20 a tribal-state compact is negotiated and executed pursuant to this subsection and the process
21 by which a negotiated tribal-state compact takes effect.

22 3. Application of tribal and state law. Notwithstanding any provision of law to the
23 contrary, the Houlton Band of Maliseet Indians has the power to enact laws and ordinances
24 governing the band's gaming operations. The laws of the State do not apply to the band's
25 gaming operations, except as otherwise provided in this subsection; as otherwise provided
26 in a tribal-state compact negotiated under subsection 2; or as otherwise provided in a
27 written agreement between the Houlton Band of Maliseet Indians and the State or any
28 political subdivision of the State.

29 A. The band's laws or ordinances relating to a health and safety matter, including but
30 not limited to laws or ordinances regarding food safety, sanitation, building
31 construction standards and inspections, fire safety and environmental protection, apply
32 to the band's gaming operations, as long as the band has laws or ordinances with respect
33 to that health and safety matter that are no less stringent than the corresponding laws
34 of the State. If the band does not have a law or ordinance relating to a health and safety
35 matter or if the band's laws or ordinances relating to a health and safety matter are less
36 stringent than the corresponding laws of the State, then the corresponding laws of the
37 State with respect to that health and safety matter apply to the band's gaming
38 operations. For purposes of this paragraph, "corresponding laws of the State" means
39 laws of the State that apply to similar gaming operations conducted by an entity other
40 than the band outside of Houlton Band Trust Land.

41 B. The laws of the State regarding the sale, distribution and taxation of liquor apply to
42 the band's gaming operations, except as described in this paragraph. Neither a local
43 option election nor a county commissioner determination under Title 28-A, chapter 5
44 is a condition precedent to or may prohibit the sale of liquor for on-premises
45 consumption as part of the band's gaming operations. An application for a license to

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1 sell liquor for on-premises consumption submitted by an establishment that is part of
2 the band's gaming operations must be granted without undue delay if the applicant
3 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or
4 renewal of any license or permit to sell liquor for on-premises consumption as part of
5 the band's gaming operations, approval by the governing body of the Houlton Band of
6 Maliseet Indians constitutes any municipal or county commissioner approval required
7 under Title 28-A.

8 C. Notwithstanding any provision of law to the contrary and except as provided in
9 paragraph B, the State and its political subdivisions may not impose any tax on the
10 Houlton Band of Maliseet Indians, its tribal members or tribal entities in connection
11 with the band's gaming operations. A tribal-state compact negotiated under subsection
12 2 may include a provision whereby the Houlton Band of Maliseet Indians shares a
13 portion of the revenue generated from the band's class III gaming activities with the
14 State in exchange for quantifiable economic benefits in accordance with the federal
15 Indian Gaming Regulatory Act.

16 **Sec. E-3. Contingent effective date; certification.** This Part does not take effect
17 unless, within 90 days of the adjournment of the First Special Session of the 130th
18 Legislature, the Secretary of State receives written certification from the Houlton Band
19 Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions
20 of this Part, copies of which must be submitted by the Secretary of State to the Secretary
21 of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; except
22 that in no event may this part become effective until 120 days after the adjournment of the
23 First Special Session of the 130th Legislature. Upon such written certification by the
24 Houlton Band Council of the Houlton Band of Maliseet Indians, this Act constitutes a
25 jurisdictional agreement for purposes of the federal Maine Indian Claims Settlement Act
26 of 1980, Public Law 96-420, Section 6(e)(2).

27 **Sec. E-4. Contingent repeal.** Notwithstanding the Maine Revised Statutes, Title
28 1, section 71, subsection 8, this Part is repealed in its entirety if a court of competent
29 jurisdiction enters a final judgment concluding that no part of this Part is effective in
30 causing the Houlton Band of Maliseet Indians to be subject to the requirements of the
31 federal Indian Gaming Regulatory Act with respect to the conduct of class I gaming, class
32 II gaming and class III gaming activities within the Houlton Band Trust Land. For purposes
33 of this section, a "final judgment" does not include a judgment that is the subject of a
34 pending appeal or for which the time period for taking an appeal has not yet expired. If this
35 contingency is met, the Attorney General or the Houlton Band Council of the Houlton Band
36 of Maliseet Indians shall notify the Secretary of State, the Secretary of the Senate, the Clerk
37 of the House of Representatives and the Revisor of Statutes.

PART F

Sec. F-1. 30 MRSA c. 615 is enacted to read:

CHAPTER 615

GAMING BY THE HOULTON BAND OF MALISEET INDIANS

§10201. Definitions

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

3 1. Class I gaming and class II gaming. "Class I gaming" and "class II gaming" have
4 the same meanings as in 25 United States Code, Section 2703, as amended.

5 2. Gaming facility. "Gaming facility" means a facility in which class I gaming or
6 class II gaming activity is conducted within the Houlton Band Trust Land and the
7 contiguous areas where related and complementary services, businesses and amenities are
8 provided within the Houlton Band Trust Land.

9 3. Gaming operations. "Gaming operations" means the conduct of class I gaming
10 and class II gaming activities, the provision of related and complementary services,
11 businesses and amenities to gaming facility patrons and the siting, planning, construction
12 and operation of a gaming facility within the Houlton Band Trust Land.

13 4. Laws of the State. "Laws of the State" has the same meaning as in section 6203,
14 subsection 4.

15 5. Tribal entity. "Tribal entity" means a business entity, including but not limited to
16 a corporation, partnership or limited liability company, owned by the Houlton Band of
17 Maliseet Indians or of which more than 50% of the ownership interests are held in
18 aggregate by the band, tribal members or both. For the purposes of this subsection, "tribal
19 member" includes a married couple, at least one of whom is a tribal member.

20 6. Tribal member. "Tribal member" means a member of the Houlton Band of
21 Maliseet Indians.

22 **§10202. Gaming activities within Houlton Band Trust Land**

23 1. Class I gaming. Notwithstanding any provision of law to the contrary and except
24 as provided in this section, the Houlton Band of Maliseet Indians has exclusive jurisdiction
25 and government authority with respect to and may authorize class I gaming within the
26 Houlton Band Trust Land.

27 2. Class II gaming. Notwithstanding any provision of law to the contrary and except
28 as provided in this section, the Houlton Band of Maliseet Indians has exclusive jurisdiction
29 and government authority with respect to and may authorize class II gaming within the
30 Houlton Band Trust Land as long as the following conditions are met:

31 A. A separate license issued by the Houlton Band of Maliseet Indians is required for
32 each facility at which class II gaming is conducted within the Houlton Band Trust
33 Land;

34 B. The Houlton Band of Maliseet Indians adopts a law or ordinance that meets the
35 requirements of 25 United States Code, Section 2710(b)(2) and Section 2710(b)(4)(A),
36 except for any required notification to, approval of or audit or other activity by the
37 National Indian Gaming Commission or the Chair of the National Indian Gaming
38 Commission;

39 C. The Houlton Band of Maliseet Indians establishes a tribal gaming regulatory body
40 that:

41 (1) Monitors gaming activities to ensure compliance with applicable federal, state
42 and tribal laws and rules;

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- 1 (2) Monitors the gaming revenues accounting system and routinely receives and
2 reviews gaming revenue accounting information from class II gaming activities;
- 3 (3) Performs routine operational or other audits of class II gaming activities and
4 has access to, and may inspect, examine, photocopy and audit all papers, books
5 and records of class II gaming activities;
- 6 (4) Monitors compliance with minimum internal control standards for class II
7 gaming activities;
- 8 (5) Adopts and implements a system for investigating, licensing and monitoring
9 of all employees of class II gaming activities;
- 10 (6) Maintains records on class II gaming licensees and persons denied class II
11 gaming licenses, including persons otherwise prohibited from engaging in gaming
12 activities within the band's jurisdiction;
- 13 (7) Establishes standards for and issues vendor licenses or permits to
14 manufacturers and suppliers of class II gaming services, equipment and supplies;
- 15 (8) Establishes or approves the rules governing the operation of class II gaming,
16 and requires their posting;
- 17 (9) Adopts and implements a system for investigating possible violations of and
18 for enforcing tribal gaming laws, ordinances and regulations; and
- 19 (10) Takes testimony and conducts hearings on the revocation of licenses,
20 including primary management official, key employee and vendor licenses; and

21 D. The Houlton Band of Maliseet Indians' conduct of class II gaming meets or exceeds
22 the requirements of 25 Code of Federal Regulations, Parts 531, 542, 543, 547 and 556,
23 as amended, except for any required notification to, approval of or audit or other
24 activity by the National Indian Gaming Commission or the Chair of the National Indian
25 Gaming Commission.

26 **3. Application of tribal and state law.** Notwithstanding any provision of law to the
27 contrary, the Houlton Band of Maliseet Indians has the power to enact laws and ordinances
28 governing the band's gaming operations. The laws of the State do not apply to the band's
29 gaming operations, except as otherwise provided in this subsection or as otherwise
30 provided in a written agreement between the Houlton Band of Maliseet Indians and the
31 State or any political subdivision of the State.

32 A. The band's laws or ordinances relating to a health and safety matter, including but
33 not limited to laws or ordinances regarding food safety, sanitation, building
34 construction standards and inspections, fire safety and environmental protection, apply
35 to the band's gaming operations, as long as the band has laws or ordinances with respect
36 to that health and safety matter that are no less stringent than the corresponding laws
37 of the State. If the band does not have a law or ordinance relating to a health and safety
38 matter or if the band's laws or ordinances relating to a health and safety matter are less
39 stringent than the corresponding laws of the State, then the corresponding laws of the
40 State with respect to that health and safety matter apply to the band's gaming
41 operations. For purposes of this paragraph, "corresponding laws of the State" means
42 laws of the State that apply to similar gaming operations conducted by an entity other
43 than the band outside of Houlton Band Trust Land.

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B. The laws of the State regarding the sale, distribution and taxation of liquor apply to the band's gaming operations, except as described in this paragraph. Neither a local option election nor a county commissioner determination under Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor for on-premises consumption as part of the band's gaming operations. An application for a license to sell liquor for on-premises consumption submitted by an establishment that is part of the band's gaming operations must be granted without undue delay if the applicant meets all of the applicable requirements of Title 28-A. For purposes of the issuance or renewal of any license or permit to sell liquor for on-premises consumption as part of the band's gaming operations, approval by the governing body of the Houlton Band of Maliseet Indians constitutes any municipal or county commissioner approval required under Title 28-A.

C. Notwithstanding any provision of law to the contrary and except as provided in paragraph B, the State and its political subdivisions may not impose any tax on the Houlton Band of Maliseet Indians, its tribal members or tribal entities in connection with the band's gaming operations.

Sec. F-2. Contingent effective date. This Part does not take effect unless Part E of this Act takes effect pursuant to Part E, section 3 of this Act and is subsequently repealed pursuant to Part E, section 4 of this Act. If the requirements of this section are met, the Attorney General or the Houlton Band Council of the Houlton Band of Maliseet Indians shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

PART G

Sec. G-1. 30 MRSA c. 617 is enacted to read:

CHAPTER 617

GAMING BY THE AROOSTOOK BAND OF MICMACS

§11101. Definitions

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

1. Aroostook Band Trust Land. "Aroostook Band Trust Land" means land or natural resources acquired by the Secretary of the Interior of the United States in trust for the Aroostook Band of Micmacs, in compliance with the terms of the federal Aroostook Band of Micmacs Settlement Act of 1991, Public Law 102-171, with money from the original \$900,000 congressional appropriation and interest thereon deposited in the Land Acquisition Fund established for the Aroostook Band of Micmacs pursuant to Public Law 102-171, Section 4, or with the proceeds from a taking of Aroostook Band Trust Land for public uses by the State or the United States in accordance with Public Law 102-171, Section 5.

2. Class I gaming, class II gaming and class III gaming. "Class I gaming," "class II gaming" and "class III gaming" have the same meanings as in 25 United States Code, Section 2703, as amended.

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3. Federal Indian Gaming Regulatory Act. "Federal Indian Gaming Regulatory Act" means the federal Indian Gaming Regulatory Act, 25 United States Code, Sections 2701 to 2721, as amended, and its implementing regulations, as amended.

4. Gaming facility. "Gaming facility" means a facility in which class I gaming, class II gaming or class III gaming activity is conducted within the Aroostook Band Trust Land and the contiguous areas where related and complementary services, businesses and amenities are provided within the Aroostook Band Trust Land.

5. Gaming operations. "Gaming operations" means the conduct of class I gaming, class II, gaming and class III gaming activities, the provision of related and complementary services, businesses and amenities to gaming facility patrons and the siting, planning, construction and operation of a gaming facility within the Aroostook Band Trust Land.

6. Laws of the State. "Laws of the State" has the same meaning as in section 6203, subsection 4.

7. Tribal entity. "Tribal entity" means a business entity, including but not limited to a corporation, partnership or limited liability company, owned by the Aroostook Band of Micmacs or of which more than 50% of the ownership interests are held in aggregate by the band, tribal members or both. For the purposes of this subsection, "tribal member" includes a married couple, at least one of whom is a tribal member.

8. Tribal member. "Tribal member" means a member of the Aroostook Band of Micmacs.

§11102. Gaming activities within Aroostook Band Trust Land

1. Federal Indian Gaming Regulatory Act applies. Any law of this State that is contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be affected or preempted by the Act, does not apply to the conduct of class I gaming, class II gaming and class III gaming activities by the Aroostook Band of Micmacs within the Aroostook Band Trust Land. The Aroostook Band of Micmacs has exclusive jurisdiction and government authority, subject to the requirements of the federal Indian Gaming Regulatory Act and this section, with respect to the conduct of class I gaming, class II gaming and class III gaming activities within the Aroostook Band Trust Land.

2. Tribal-state compact. Upon the request of the Aroostook Band of Micmacs, the Governor or the Governor's designee shall negotiate in good faith with the Aroostook Band of Micmacs in accordance with 25 United States Code, Section 2710(d)(3)(A) and execute on behalf of the State a tribal-state compact, and any amendments or modifications to the compact, governing class III gaming activities within the Aroostook Band Trust Land. The federal Indian Gaming Regulatory Act governs the process by which a tribal-state compact is negotiated and executed pursuant to this subsection and the process by which a negotiated tribal-state compact takes effect.

3. Application of tribal and state law. Notwithstanding any provision of law to the contrary, the Aroostook Band of Micmacs has the power to enact laws and ordinances governing the band's gaming operations. The laws of the State do not apply to the band's gaming operations, except as otherwise provided in this subsection; as otherwise provided in a tribal-state compact negotiated under subsection 2; or as otherwise provided in a written agreement between the Aroostook Band of Micmacs and the State or any political subdivision of the State.

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A. The band's laws or ordinances relating to a health and safety matter, including but not limited to laws or ordinances regarding food safety, sanitation, building construction standards and inspections, fire safety and environmental protection, apply to the band's gaming operations, as long as the band has laws or ordinances with respect to that health and safety matter that are no less stringent than the corresponding laws of the State. If the band does not have a law or ordinance relating to a health and safety matter or if the band's laws or ordinances relating to a health and safety matter are less stringent than the corresponding laws of the State, then the corresponding laws of the State with respect to that health and safety matter apply to the band's gaming operations. For purposes of this paragraph, "corresponding laws of the State" means laws of the State that apply to similar gaming operations conducted by an entity other than the band outside of Aroostook Band Trust Land.

B. The laws of the State regarding the sale, distribution and taxation of liquor apply to the band's gaming operations, except as described in this paragraph. Neither a local option election nor a county commissioner determination under Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor for on-premises consumption as part of the band's gaming operations. An application for a license to sell liquor for on-premises consumption submitted by an establishment that is part of the band's gaming operations must be granted without undue delay if the applicant meets all of the applicable requirements of Title 28-A. For purposes of the issuance or renewal of any license or permit to sell liquor for on-premises consumption as part of the band's gaming operations, approval by the governing body of the Aroostook Band of Micmacs constitutes any municipal or county commissioner approval required under Title 28-A.

C. Notwithstanding any provision of law to the contrary and except as provided in paragraph B, the State and its political subdivisions may not impose any tax on the Aroostook Band of Micmacs, its tribal members or tribal entities in connection with the band's gaming operations. A tribal-state compact negotiated under subsection 2 may include a provision whereby the Aroostook Band of Micmacs shares a portion of the revenue generated from the band's class III gaming activities with the State in exchange for quantifiable economic benefits in accordance with the federal Indian Gaming Regulatory Act.

Sec. G-2. Contingent effective date; certification. This Part does not take effect unless, within 90 days of the adjournment of the First Special Session of the 130th Legislature, the Secretary of State receives written certification from the Tribal Council of the Aroostook Band of Micmacs that the band has agreed to the provisions of this Part, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; except that in no event may this Part become effective until 120 days after the adjournment of the First Special Session of the 130th Legislature. Upon such written certification by the Tribal Council of the Aroostook Band of Micmacs, this Part constitutes an agreement pursuant to the federal Aroostook Band of Micmacs Settlement Act of 1991, Public Law 102-171, Section 6(d) between the State and the Aroostook Band of Micmacs regarding the jurisdiction of the State over gaming activities on lands held in trust for the benefit of the band.

COMMITTEE AMENDMENT

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Sec. G-3. Contingent repeal. Notwithstanding the Maine Revised Statutes, Title 1, section 71, subsection 8, this Part is repealed in its entirety if a court of competent jurisdiction enters a final judgment concluding that no part of this Part is effective in causing the Aroostook Band of Micmacs to be subject to the requirements of the federal Indian Gaming Regulatory Act with respect to the conduct of class I gaming, class II gaming and class III gaming activities within the Aroostook Band Trust Land. For purposes of this section, a "final judgment" does not include a judgment that is the subject of a pending appeal or for which the time period for taking an appeal has not yet expired. If this contingency is met, the Attorney General or the Tribal Council of the Aroostook Band of Micmacs shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

PART H

Sec. H-1. 30 MRSA c. 619 is enacted to read:

CHAPTER 619

GAMING BY THE AROOSTOOK BAND OF MICMACS

§11201. Definitions

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

1. Aroostook Band Trust Land. "Aroostook Band Trust Land" means land or natural resources acquired by the Secretary of the Interior of the United States in trust for the Aroostook Band of Micmacs, in compliance with the terms of the federal Aroostook Band of Micmacs Settlement Act of 1991, Public Law 102-171, with money from the original \$900,000 congressional appropriation and interest thereon deposited in the Land Acquisition Fund established for the Aroostook Band of Micmacs pursuant to Public Law 102-171, Section 4, or with the proceeds from a taking of Aroostook Band Trust Land for public uses by the State or the United States in accordance with Public Law 102-171, Section 5.

2. Class I gaming and class II gaming. "Class I gaming" and "class II gaming" have the same meanings as in 25 United States Code, Section 2703, as amended.

3. Gaming facility. "Gaming facility" means a facility in which class I gaming or class II gaming activity is conducted within the Aroostook Band Trust Land and the contiguous areas where related and complementary services, businesses and amenities are provided within the Aroostook Band Trust Land.

4. Gaming operations. "Gaming operations" means the conduct of class I gaming and class II gaming activities, the provision of related and complementary services, businesses and amenities to gaming facility patrons and the siting, planning, construction and operation of a gaming facility within the Aroostook Band Trust Land.

5. Laws of the State. "Laws of the State" has the same meaning as in section 6203, subsection 4.

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1 6. Tribal entity. "Tribal entity" means a business entity, including but not limited to
2 a corporation, partnership or limited liability company, owned by the Aroostook Band of
3 Micmacs or of which more than 50% of the ownership interests are held in aggregate by
4 the band, tribal members or both. For the purposes of this subsection, "tribal member"
5 includes a married couple, at least one of whom is a tribal member.

6 7. Tribal member. "Tribal member" means a member of the Aroostook Band of
7 Micmacs.

8 §11202. Gaming activities within Aroostook Band Trust Land

9 1. Class I gaming. Notwithstanding any provision of law to the contrary and except
10 as provided in this section, the Aroostook Band of Micmacs has exclusive jurisdiction and
11 government authority with respect to and may authorize class I gaming within the
12 Aroostook Band Trust Land.

13 2. Class II gaming. Notwithstanding any provision of law to the contrary and except
14 as provided in this section, the Aroostook Band of Micmacs has exclusive jurisdiction and
15 government authority with respect to and may authorize class II gaming within the
16 Aroostook Band Trust Land as long as the following conditions are met:

17 A. A separate license issued by the Aroostook Band of Micmacs is required for each
18 facility at which class II gaming is conducted within the Aroostook Band Trust Land;

19 B. The Aroostook Band of Micmacs adopts a law or ordinance that meets the
20 requirements of 25 United States Code, section 2710(b)(2) and section 2710(b)(4)(A),
21 except for any required notification to, approval of or audit or other activity by the
22 National Indian Gaming Commission or the Chair of the National Indian Gaming
23 Commission;

24 C. The Aroostook Band of Micmacs establishes a tribal gaming regulatory body that:

25 (1) Monitors gaming activities to ensure compliance with applicable federal, state
26 and tribal laws and rules;

27 (2) Monitors the gaming revenues accounting system and routinely receives and
28 reviews gaming revenue accounting information from class II gaming activities;

29 (3) Performs routine operational or other audits of class II gaming activities and
30 has access to, and may inspect, examine, photocopy and audit all papers, books
31 and records of class II gaming activities;

32 (4) Monitors compliance with minimum internal control standards for class II
33 gaming activities;

34 (5) Adopts and implements a system for investigating, licensing and monitoring
35 of all employees of class II gaming activities;

36 (6) Maintains records on class II gaming licensees and persons denied class II
37 gaming licenses, including persons otherwise prohibited from engaging in gaming
38 activities within the band's jurisdiction;

39 (7) Establishes standards for and issues vendor licenses or permits to
40 manufacturers and suppliers of class II gaming services, equipment and supplies;

41 (8) Establishes or approves the rules governing the operation of class II gaming,
42 and requires their posting;

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(9) Adopts and implements a system for investigating possible violations of and for enforcing tribal gaming laws, ordinances and regulations; and

(10) Takes testimony and conducts hearings on the revocation of licenses, including primary management official, key employee and vendor licenses; and

D. The Aroostook Band of Micmacs' conduct of class II gaming meets or exceeds the requirements of 25 Code of Federal Regulations, Parts 531, 542, 543, 547 and 556, as amended, except for any required notification to, approval of or audit or other activity by the National Indian Gaming Commission or the Chair of the National Indian Gaming Commission.

3. Application of tribal and state law. Notwithstanding any provision of law to the contrary, the Aroostook Band of Micmacs has the power to enact laws and ordinances governing the band's gaming operations. The laws of the State do not apply to the band's gaming operations, except as otherwise provided in this subsection or as otherwise provided in a written agreement between the Aroostook Band of Micmacs and the State or any political subdivision of the State.

A. The band's laws or ordinances relating to a health and safety matter, including but not limited to laws or ordinances regarding food safety, sanitation, building construction standards and inspections, fire safety and environmental protection, apply to the band's gaming operations, as long as the band has laws or ordinances with respect to that health and safety matter that are no less stringent than the corresponding laws of the State. If the band does not have a law or ordinance relating to a health and safety matter or if the band's laws or ordinances relating to a health and safety matter are less stringent than the corresponding laws of the State, then the corresponding laws of the State with respect to that health and safety matter apply to the band's gaming operations. For purposes of this paragraph, "corresponding laws of the State" means laws of the State that apply to similar gaming operations conducted by an entity other than the band outside of Aroostook Band Trust Land.

B. The laws of the State regarding the sale, distribution and taxation of liquor apply to the band's gaming operations, except as described in this paragraph. Neither a local option election nor a county commissioner determination under Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor for on-premises consumption as part of the band's gaming operations. An application for a license to sell liquor for on-premises consumption submitted by an establishment that is part of the band's gaming operations must be granted without undue delay if the applicant meets all of the applicable requirements of Title 28-A. For purposes of the issuance or renewal of any license or permit to sell liquor for on-premises consumption as part of the band's gaming operations, approval by the governing body of the Aroostook Band of Micmacs constitutes any municipal or county commissioner approval required under Title 28-A.

C. Notwithstanding any provision of law to the contrary and except as provided in paragraph B, the State and its political subdivisions may not impose any tax on the Aroostook Band of Micmacs, its tribal members or tribal entities in connection with the band's gaming operations.

Sec. H-2. Contingent effective date. This Part does not take effect unless Part G of this Act takes effect pursuant to Part G, section 2 of this Act and is subsequently repealed

COMMITTEE AMENDMENT

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1 pursuant to Part G, section 3 of this Act. If the requirements of this section are met, the
2 Attorney General or the Tribal Council of the Aroostook Band of Micmacs shall notify the
3 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives
4 and the Revisor of Statutes.'

5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
6 number to read consecutively.

7 **SUMMARY**

8 This amendment, which is the majority report of the committee, strikes and replaces
9 the bill. Parts A, C, E and G of the amendment provide that each of the 4 federally
10 recognized Indian tribes in the State may conduct gaming on their respective Indian
11 territories or trust lands under the framework established by the federal Indian Gaming
12 Regulatory Act.

13 In *Passamaquoddy v. Maine*, 75 F.3d 784 (1st Cir. 1996), the United States Court of
14 Appeals for the First Circuit held that, because the federal Indian Gaming Regulatory Act
15 affects or preempts the application of the gaming laws of the State, it does not apply within
16 the State under Section 16(b) of the federal Maine Indian Claims Settlement Act of 1980.
17 Parts A, C, E and G of the amendment eliminate the basis for that court decision by
18 providing that any state law that is contrary to the terms of the federal Indian Gaming
19 Regulatory Act or that would be affected or preempted by the Act does not apply to the
20 conduct of gaming by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band
21 of Maliseet Indians or the Aroostook Band of Micmacs within their respective Indian
22 territory or trust land.

23 In addition, through Parts A, C, E and G of the amendment, each of which will not take
24 effect unless it has been approved by the appropriate tribal governmental authority of the
25 Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the
26 Aroostook Band of Micmacs, respectively, the State and each tribe, nation or band agree
27 and establish that the tribe, nation or band has exclusive jurisdiction and governmental
28 responsibility, subject to the requirements of the federal Indian Gaming Regulatory Act
29 and the terms of the amendment, with respect to the conduct of gaming on the tribe's,
30 nation's or band's respective Indian territory or trust land. Parts A, C and E of the
31 amendment codify the agreement between the State and the Passamaquoddy Tribe, the
32 Penobscot Nation and the Houlton Band of Maliseet Indians both in amendments to the Act
33 to Implement the Maine Indian Claims Settlement, commonly referred to as the "Maine
34 Implementing Act," as contemplated and authorized in Section 6(e) of the federal Maine
35 Indian Claims Settlement Act of 1980, and in separate chapters within the Maine Revised
36 Statutes, Title 30. In Part G of the amendment, the agreement between the State and the
37 Aroostook Band of Micmacs, which is contemplated and authorized in Section 6(d) of the
38 federal Aroostook Band of Micmacs Settlement Act, is codified in a chapter of Title 30 that
39 is not part of the Maine Implementing Act.

40 Accordingly, under Parts A, C, E and G of the amendment, the Passamaquoddy Tribe,
41 the Penobscot Nation, the Houlton Band of Maliseet Indians and the Aroostook Band of
42 Micmacs may conduct gaming under the federal Indian Gaming Regulatory Act and the
43 terms of the amendment. Each tribe, nation or band may conduct class I gaming on its
44 Indian territory or trust land as a matter of tribal sovereignty. Each tribe, nation or band
45 may also conduct class II gaming under the regulations adopted by and the oversight of the

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1 National Indian Gaming Commission after adopting a tribal ordinance governing class II
2 gaming operations that is approved by the National Indian Gaming Commission. To
3 conduct class III gaming, which includes the operation of slot machines and casino-style
4 table games, each tribe, nation or band must adopt a tribal ordinance governing class III
5 gaming operations that is approved by the National Indian Gaming Commission. In
6 addition, before it may commence class III gaming activities under the regulations adopted
7 by and the oversight of the National Indian Gaming Commission, the Governor must
8 negotiate in good faith a tribal-state compact with the tribe, nation or band that governs the
9 application of and enforcement of criminal and civil laws and regulations of the tribe and
10 the State over class III gaming; assessments imposed by the State to defray the costs of
11 regulating class III gaming; taxation by the tribe, nation or band of class III gaming in
12 amounts comparable to amounts assessed by the State for comparable activities; licensing
13 standards for the class III gaming facility; and any other subjects directly related to the
14 operation of class III gaming activities.

15 Parts A, C, E and G also provide that, except as otherwise negotiated in a tribal-state
16 compact with respect to class III gaming, state laws governing the sale, distribution and
17 taxation of liquor apply to each tribe's, nation's or band's gaming operations and state laws
18 relating to health and safety matters govern each tribe's, nation's or band's gaming
19 operations unless the tribe, nation or band has adopted a law or ordinance that is no less
20 stringent than the corresponding state law. The State and its political subdivisions may not
21 impose any tax on the tribe, nation or band, tribal members or tribal entities in connection
22 with the tribe's, nation's or band's gaming operations, except that the tribal-state compact
23 may provide that the State will receive a portion of class III gaming revenues in exchange
24 for providing quantifiable economic benefits that the State is not otherwise required to
25 provide under the federal Indian Gaming Regulatory Act. Under the amendment, "gaming
26 operations" means the conduct of gaming activities, the provision of related and
27 complementary services, businesses and amenities to gaming facility patrons and the siting,
28 planning, construction and operation of a gaming facility.

29 If, in the future, a court of competent jurisdiction enters a final judgment concluding
30 that Part A, C, E or G of the amendment is legally insufficient to render the federal Indian
31 Gaming Regulatory Act applicable to the conduct of gaming by the Passamaquoddy Tribe,
32 the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of
33 Micmacs, the relevant Part will be repealed in its entirety and replaced, respectively, by
34 Part B, D, F or H of the amendment.

35 Under Part B, D, F or H, the affected tribe, nation or band will be authorized to conduct
36 class I and class II gaming, but not class III gaming, within that tribe's, nation's or band's
37 respective Indian territory or trust land as a matter of state law. For purposes of class II
38 gaming, the state law established in Parts B, D, F and H of the amendment incorporates
39 specific requirements applicable to class II gaming under the federal Indian Gaming
40 Regulatory Act, including that the tribe, nation or band must have the sole proprietary
41 interest in and responsibility for the conduct of class II gaming; that class II gaming
42 revenues may be used only for purposes that benefit the tribe, nation or band and tribal
43 members, charitable organizations or local government agencies; that a class II gaming
44 facility must be constructed and operated in a manner that protects the environment and
45 public health and safety; that the tribe, nation or band must establish a tribal gaming
46 regulatory body to administer and oversee class II gaming; that background investigations

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 399, L.D. 554

1 must be conducted for primary management officials and key employees of class II gaming
2 facilities; and that the minimum internal control standards and minimal technical standards
3 of the federal Indian Gaming Regulatory Act must be satisfied for class II gaming systems
4 and equipment. In addition, under Parts B, D, F and H, state laws governing the sale,
5 distribution and taxation of liquor apply to each tribe's, nation's or band's gaming
6 operations; state laws relating to health and safety matters govern each tribe's, nation's or
7 band's gaming operations unless the tribe, nation or band has a law or ordinance that is no
8 less stringent than the corresponding state law; but the State and its political subdivisions
9 may not impose any tax on the tribe, nation or band, tribal members or tribal entities in
10 connection with the tribe's, nation's or band's class I and class II gaming operations.

11 **FISCAL NOTE REQUIRED**
12 (See attached)



130th MAINE LEGISLATURE

LD 554

LR 1551(02)

An Act To Create Gaming Equity and Fairness for the Native American Tribes in Maine

Fiscal Note for Bill as Amended by Committee Amendment *A (H-713)*

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Contingent future biennium revenue impact - General Fund
 Contingent future biennium revenue impact - Other Special Revenue Funds

Fiscal Detail and Notes

This bill resolves a conflict between the federal Indian Gaming Regulatory Act and state law to allow each of the four federally recognized Indian tribes in the State to conduct gaming on their respective lands. The bill would allow each of the tribes to conduct Class I gaming (i.e. social games of nominal value) on their respective lands under tribal sovereignty, conduct Class II gaming (i.e. bingo and electronic bingo) under the National Indian Gaming Commission's oversight and conduct Class III gaming (i.e. slot machines & table games) after negotiating separate tribal-state compacts with the State. The bill also clarifies that state law regarding the sale, distribution and taxation of liquor and laws relating to health and safety matters govern each tribe's gaming operations unless the tribe has adopted a law or ordinance that is no less stringent than corresponding state law. Finally, the bill specifies that Class I and Class II gaming operations of the tribes are not taxable by the State but that Class III operations may have additional fees associated with them if agreed to in the negotiated tribal-state compact.

Tribes conducting Class I, II and III gaming could decrease the revenue currently generated by existing gaming operations in the State. The impact is contingent upon the number of Class I, II and III locations and the number of machines and facilities the tribes will operate. Authorizing the tribes to conduct Class III gaming could result in an increase in General Fund and Other Special Revenue Funds revenue. The amount will depend on the revenue-sharing terms of the negotiated compacts involving Class III gaming and the number of locations, machines and facilities the tribes choose to operate. With only Class III gaming potentially increasing state revenue, depending on future negotiated deals, and Class II and Class III gaming potentially drawing gamblers away from existing gaming facilities, the net impact on state revenues cannot be estimated at this time.

Although Class I and II gaming is not subject to oversight by the Gambling Control Unit (GCU), depending on the negotiated terms of the compacts involving Class III gaming, the GCU may require additional staffing and resources. The funding for these resources may be funded by the agreements within compacts.