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BOS

L.D. 1626

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REPORT A
JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1210, L.D. 1626, "An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act"

Amend the bill in section 2 in §6202 in the 2nd indented paragraph in the 3rd line (page 1, line 39 in L.D.) by inserting after the following: "treaty" the following: 'or otherwise taken'

Amend the bill in section 2 in §6202 by striking out all of subsection 2 (page 2, lines 31 to 40 in L.D.) and inserting the following:

2. Federal Indian law applies. Except as otherwise specified in this Act, the State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 to recognize and adopt the application of federal Indian law with regard to the rights, privileges, powers, duties and immunities of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their tribal members and land or other natural resources, including laws and regulations and common law of the United States enacted for the benefit of Indians, Indian nations or tribes or bands of Indians and laws and regulations and common law that accord a special status or right to or that relate to a special status or right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land or other natural resources held in trust for Indians.'

Amend the bill in section 3 in §6203 by striking out all of subsection 1-A (page 3, lines 5 to 9 in L.D.) and inserting the following:

1-A. Federal Indian law. "Federal Indian law" means the United States Constitution and all generally applicable federal statutes, regulations and common law and case law interpreting, implementing, applying or enforcing those laws and regulations, and subsequent amendments thereto, relating to the rights, status, privileges, powers, duties and immunities of federally recognized Indian tribes and their members and land or other natural resources within the United States.'

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Amend the bill in section 3 in §6203 by striking out all of subsection 2-A (page 3, lines 15 to 23 in L.D.) and inserting the following:

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

Amend the bill in section 3 in §6203 by inserting after subsection 2-A the following:

2-B. Houlton Band Trust Land. "Houlton Band Trust Land" means land or other natural resources acquired by the secretary in trust for the Houlton Band of Maliseet Indians pursuant to the Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, United States Public Law 99-566 or pursuant to any other applicable federal Indian law, including but not limited to the federal Indian Reorganization Act, Public Law 73-383 and its implementing regulations as described in section 6205-B, subsection 2.

2-C. Indian territory or trust land. "Indian territory or trust land" means:

A. With respect to the Passamaquoddy Tribe, the Passamaquoddy Indian territory;

B. With respect to the Penobscot Nation, the Penobscot Indian territory; and

C. With respect to the Houlton Band of Maliseet Indians, Houlton Band Trust Land.'

Amend the bill in section 3 in §6203 by striking out all of subsection 14 (page 5, lines 19 to 25 in L.D.) and inserting the following:

14. Tribal entity. "Tribal entity" means an entity, including but not limited to a corporation, partnership, limited liability company or other enterprise, that is owned by the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians or the tribe's, nation's or band's members, or of which more than 50% of the ownership interests are held in aggregate by the tribe, nation or band, the tribe's, nation's or band's members, or any combination thereof. For the purpose of this subsection, "member" includes a married couple, at least one of whom is an enrolled tribal member.'

Amend the bill by striking out all of section 5 and inserting the following:

Sec. 5. 30 MRSA §6205, as amended by PL 2021, c. 139, §§1 and 2 and affected by §3, is further amended to read:

§6205. Indian territory

1. Passamaquoddy Indian territory. ~~Subject to subsections 3, 4 and 5, the~~ The following lands within the State are known as the "Passamaquoddy Indian territory:"

A. The Passamaquoddy Indian Reservation;

~~B. The first 150,000 acres of land acquired by the secretary for the benefit of the Passamaquoddy Tribe from the following areas or lands to the extent that those lands are not held in common with any other person or entity and are certified by the secretary as held for the benefit of the Passamaquoddy Tribe;~~

1 The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.
 2 (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.;
 3 the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,
 4 B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,
 5 B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;
 6 any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle
 7 Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram
 8 C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion
 9 of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of
 10 Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and
 11 T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any
 12 portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion
 13 of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International
 14 Corporation, International Paper Company and Lincoln Pulp and Paper Company
 15 located in Argyle; and the lands of the Dyer Interests in T.A.R.7 W.E.L.S., T.3 R.9
 16 N.W.P., T.3 R.3, N.B.K.P. (Alder Brook Township), T.3 R.4 N.B.K.P. (Hammond
 17 Township), T.2 R.4 N.B.K.P. (Pittston Academy Grant), T.2 R.3 N.B.K.P.
 18 (Soldiertown Township), and T.4 R.4 N.B.K.P. (Prentiss Township), and any lands in
 19 Albany Township acquired by the Passamaquoddy Tribe;

20 B-1. A total of 150,000 acres of land acquired by the secretary for the benefit of the
 21 Passamaquoddy Tribe within Aroostook County, Franklin County, Hancock County,
 22 Penobscot County, Piscataquis County, Somerset County or Washington County that
 23 meets the following requirements:

24 (1) The secretary acquired the land for the benefit of the Passamaquoddy Tribe
 25 under this paragraph:

26 (a) On or before the effective date of this subparagraph;

27 (b) After the effective date of this subparagraph and the land is not located
 28 within a city, town, village or plantation; or

29 (c) Except as provided in paragraph F and subject to the provisions of
 30 subparagraph (2), after the effective date of this subparagraph and the land is
 31 located within a city, town, village or plantation;

32 (2) Before the secretary acquires land for the benefit of the Passamaquoddy Tribe
 33 under subparagraph (1), division (c), the Passamaquoddy Tribe and the relevant
 34 city, town, village or plantation must have entered into an agreement:

35 (a) Under which the Passamaquoddy Tribe is required:

36 (i) To make an annual payment in lieu of taxes on the land that equals the
 37 amount of taxes levied on that land by the relevant taxing authority for the
 38 benefit of the relevant city, town, village or plantation immediately prior
 39 to the date on which the Passamaquoddy Tribe acquired the land; or

40 (ii) To comply with an alternative to payment in lieu of taxes under
 41 subdivision (i) that is mutually agreeable to the Passamaquoddy Tribe and
 42 the relevant city, town, village or plantation within whose borders the land
 43 is located or that is established by an arbitration panel under this paragraph;

(b) Governing cooperation for mutual aid regarding which government will be responsible for local law enforcement over the land; and

(c) Regarding the use by the Passamaquoddy Tribe of the land in a manner that is:

(i) Not contrary to the local zoning ordinances in place prior to the date on which the Passamaquoddy Tribe acquires the land or is consistent with existing uses of land occurring within the city, town, village or plantation;
or

(ii) Agreed to between the Passamaquoddy Tribe and the relevant city, town, village or plantation within whose borders the land is located or established by an arbitration panel under this paragraph; and

(3) If any of the agreements required by subparagraph (2) are not in place within 90 days from the date the Passamaquoddy Tribe provides written notice to the city, town, village or plantation of the need to develop agreements to meet the requirements of subparagraph (2), either party may submit any dispute, claim, question or disagreement regarding the requirements of subparagraph (2) to binding arbitration, which must be governed by the rules of the American Arbitration Association or its successor organization unless other rules are agreed to by both parties. The parties shall submit their last best offer regarding the matter to the arbitration panel, and the panel shall decide which last best offer on the matter best meets the applicable requirements of subparagraph (2);

C. Any land not exceeding 100 acres in the City of Calais acquired by the secretary for the benefit of the Passamaquoddy Tribe as long as the land is not held in common with any other person or entity ~~and is certified by the secretary as held for the benefit of the Passamaquoddy Tribe, if:~~

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

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

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

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

D-2. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Centerville conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by quitclaim deed dated May 4, 1982, recorded in the Washington County Registry of Deeds in Book 1178, Page 35, to the extent that the land is not held in common with any other

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1 person or entity and is ~~certified by the secretary as held for the benefit of the~~
2 ~~Passamaquoddy Tribe; and~~

3 E. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in
4 Township 21 consisting of Gordon Island in Big Lake, conveyed by Domtar Maine
5 Corporation to the Passamaquoddy Tribe by corporate quitclaim deed dated April 30,
6 2002, recorded in the Washington County Registry of Deeds in Book 2624, Page 301,
7 to the extent that the land is not held in common with any other person or entity and is
8 ~~certified by the secretary as held for the benefit of the Passamaquoddy Tribe;~~

9 F. Lands owned in fee simple by the Passamaquoddy Tribe on the effective date of
10 this paragraph that the secretary acquires for the benefit of the Passamaquoddy Tribe,
11 as long as the lands are within the geographic area and acreage restrictions set forth in
12 paragraph B-1. Notwithstanding any provision of this Act to the contrary, the addition
13 of lands owned in fee simple by the Passamaquoddy Tribe to the Passamaquoddy
14 Indian territory pursuant to this paragraph is not subject to approval by any city, town,
15 village or plantation within the State; and

16 G. Lands acquired in trust by the secretary for the benefit of the Passamaquoddy Tribe
17 pursuant to any applicable federal Indian law, including but not limited to the federal
18 Indian Reorganization Act, Public Law 73-383, and its implementing regulations as
19 described in subsection 6.

20 **2. Penobscot Indian territory.** ~~Subject to subsections 3, 4 and 5, the~~ The following
21 lands within the State ~~shall be~~ are known as the "Penobscot Indian territory:"

22 A. The Penobscot Indian Reservation; and

23 ~~B. The first 150,000 acres of land acquired by the secretary for the benefit of the~~
24 ~~Penobscot Nation from the following areas or lands to the extent that those lands are~~
25 ~~not held in common with any other person or entity and are certified by the secretary~~
26 ~~as held for the Penobscot Nation:~~

27 ~~The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.~~
28 ~~(Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.;~~
29 ~~the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,~~
30 ~~B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,~~
31 ~~B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;~~
32 ~~any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle~~
33 ~~Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram~~
34 ~~C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion~~
35 ~~of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of~~
36 ~~Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and~~
37 ~~T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any~~
38 ~~portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion~~
39 ~~of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International~~
40 ~~Corporation, International Paper Company and Lincoln Pulp and Paper Company~~
41 ~~located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.; any 300 acres~~
42 ~~in Old Town mutually agreed upon by the City of Old Town and the Penobscot Nation~~
43 ~~Tribal Government; any lands in Lakeville acquired by the Penobscot Nation; and all~~
44 ~~the property acquired by the Penobscot Indian Nation from Herbert C. Haynes, Jr.,~~

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~~Herbert C. Haynes, Inc. and Five Islands Land Corporation located in Township 1, Range 6 W.E.L.S.~~

B-1. A total of 150,000 acres of land acquired by the secretary for the benefit of the Penobscot Nation within Aroostook County, Franklin County, Hancock County, Penobscot County, Piscataquis County or Somerset County that meets the following requirements:

(1) The secretary acquired the land for the benefit of the Penobscot Nation under this paragraph:

(a) On or before the effective date of this subparagraph;

(b) After the effective date of this subparagraph and the land is not located within a city, town, village or plantation; or

(c) Subject to the provisions of subparagraph (2), after the effective date of this subparagraph and the land is located within a city, town, village or plantation;

(2) Before the secretary acquires land for the benefit of the Penobscot Nation under subparagraph (1), division (c), the Penobscot Nation and the relevant city, town, village or plantation must have entered into an agreement:

(a) Under which the Penobscot Nation is required:

(i) To make an annual payment in lieu of taxes on the land that equals the amount of taxes levied on that land by the relevant taxing authority for the benefit of the relevant city, town, village or plantation immediately prior to the date on which the Penobscot Nation acquires the land; or

(ii) To comply with an alternative to payment in lieu of taxes under subdivision (i) that is mutually agreeable to the Penobscot Nation and the relevant city, town, village or plantation within whose borders the land is located or that is established by an arbitration panel under this paragraph;

(b) Governing cooperation for mutual aid regarding which government will be responsible for local law enforcement over the land; and

(c) Regarding the use by the Penobscot Nation of the land in a manner that is:

(i) Not contrary to the local zoning ordinances in place prior to the date on which the Penobscot Nation acquires the land or is consistent with existing uses of land occurring within the city, town, village or plantation; or

(ii) Agreed to between the Penobscot Nation and the relevant city, town, village or plantation within whose borders the land is located or established by an arbitration panel under this paragraph; and

(3) If any of the agreements required by subparagraph (2) are not in place within 90 days from the date the Penobscot Nation provides written notice to the city, town, village or plantation of the need to develop agreements to meet the requirements of subparagraph (2), either party may submit any dispute, claim, question or disagreement regarding the requirements of subparagraph (2) to binding arbitration, which must be governed by the rules of the American

Arbitration Association or its successor organization unless other rules are agreed to by both parties. The parties shall submit their last best offer regarding the matter to the arbitration panel, and the panel shall decide which last best offer on the matter best meets the applicable requirements of subparagraph (2); and

C. Lands acquired in trust by the secretary for the benefit of the Penobscot Nation pursuant to any applicable federal Indian law, including but not limited to the federal Indian Reorganization Act, Public Law 73-383 and its implementing regulations as described in subsection 6.

3. Takings under the laws of the State.

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

~~In the event of a taking of land for public uses within the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation, the public entity or public utility making the taking shall, at the election of the affected tribe or nation, and with respect to individually allotted lands, at the election of the affected allottee or allottees, acquire by purchase or otherwise for the respective tribe, nation, allottee or allottees a parcel or parcels of land equal in value to that taken; contiguous to the affected Indian reservation; and as nearly adjacent to the parcel taken as practicable. The land so acquired shall, upon written certification to the Secretary of State by the public entity or public utility acquiring such land describing the location and boundaries thereof, be included within the Indian Reservation of the affected tribe or nation without further approval of the State. For purposes of this section, land along and adjacent to the Penobscot River shall be deemed to be contiguous to the Penobscot Indian Reservation. The acquisition of land for the Passamaquoddy Tribe or the Penobscot Nation or any allottee under this subsection shall be full compensation for any such taking. If the affected tribe, nation, allottee or allottees elect not to have a substitute parcel acquired in accordance with this subsection, the moneys received for such taking shall be reinvested in accordance with the provisions of paragraph B.~~

~~B. If land within either the Passamaquoddy Indian Territory or the Penobscot Indian Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation is taken for public uses in accordance with the laws of the State the money received for said land shall be reinvested in other lands within 2 years of the date on which the money is received. To the extent that any moneys received are so reinvested in land with an area not greater than the area of the land taken and located within an unorganized or unincorporated area of the State, the lands so acquired by~~

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1 such reinvestment shall be included within the respective Indian territory without
2 further approval of the State. To the extent that any moneys received are so reinvested
3 in land with an area greater than the area of the land taken and located within an
4 unorganized or unincorporated area of the State, the respective tribe or nation shall
5 designate, within 30 days of such reinvestment, that portion of the land acquired by
6 such reinvestment, not to exceed the area taken, which shall be included within the
7 respective Indian territory. No land acquired pursuant to this paragraph shall be
8 included within either Indian Territory until the Secretary of Interior has certified, in
9 writing, to the Secretary of State the location and boundaries of the land acquired.

10 **4. Taking under the laws of the United States.** In the event of a taking of land within
11 the Passamaquoddy Indian territory or the Penobscot Indian territory for public uses in
12 accordance with the laws of the United States and the reinvestment of the moneys received
13 from such taking within 2 years of the date on which the moneys are received, the status of
14 the lands acquired by such reinvestment shall be determined in accordance with subsection
15 3, paragraph B.

16 **5. Limitations.** No lands held or acquired by or in trust for the Passamaquoddy Tribe
17 or the Penobscot Nation, other than those described in subsections 1, 2, 3 and 4, shall be
18 included within or added to the Passamaquoddy Indian territory or the Penobscot Indian
19 territory except upon recommendation of the commission and approval of the State to be
20 given in the manner required for the enactment of laws by the Legislature and Governor of
21 Maine, provided, however, that no lands within any city, town, village or plantation shall
22 be added to either the Passamaquoddy Indian territory or the Penobscot Indian territory
23 without approval of the legislative body of said city, town, village or plantation in addition
24 to the approval of the State.

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

29 **6. Acquisition of additional trust land.** Nothing in this Act limits the ability of the
30 Passamaquoddy Tribe and the Penobscot Nation to acquire trust land or other natural
31 resources in accordance with applicable settlement acts and federal Indian law, including
32 but not limited to the federal Indian Reorganization Act, Public Law 73-383, and their
33 implementing regulations. Except as required by federal Indian law or as required in
34 subsection 1, paragraph B-1 and subsection 2, paragraph B-1, acquisition of trust land or
35 natural resources is not subject to approval by the State or any local government within the
36 State.'

37 Amend the bill by striking out all of section 6 and inserting the following:

38 'Sec. 6. 30 MRSA §6205-A, as enacted by PL 1981, c. 675, §§2 and 8, is repealed.

39 Sec. 7. 30 MRSA §6205-B is enacted to read:

40 **§6205-B. Acquisition of Houlton Band Trust Land**

41 **1. Acquisition.** Lands or other natural resources acquired by the secretary for the
42 benefit of the Houlton Band of Maliseet Indians in accordance with the requirements of the
43 Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, United
44 States Public Law 99-566 are included within Houlton Band Trust Land.

1 **2. Acquisition of additional trust land.** Nothing in this Act limits the ability of the
2 Houlton Band of Maliseet Indians to acquire trust land or other natural resources in
3 accordance with applicable settlement acts and federal Indian law, including but not limited
4 to the federal Indian Reorganization Act, Public Law 73-383, and their implementing
5 regulations. Except as required by federal Indian law, acquisition of trust land or natural
6 resources is not subject to approval by the State or any local government within the State.
7 Such lands or natural resources acquired in accordance with this subsection are included
8 within Houlton Band Trust Land.'

9 Amend the bill by striking out all of section 7 and inserting the following:

10 'Sec. 7. 30 MRSA §6206, as corrected by RR 2019, c. 2, Pt. A, §30, is further
11 amended to read:

12 **§6206. Powers and duties Rights, privileges, powers, duties and immunities of the**
13 **Indian tribes within their respective Indian territories and the State**

14 **1. General Powers powers.** Except as otherwise provided specified in this Act, the
15 State, the Passamaquoddy Tribe and, the Penobscot Nation, within their respective Indian
16 territories, shall and the Houlton Band of Maliseet Indians agree and intend pursuant to
17 United States Public Law 96-420 to recognize that the Passamaquoddy Tribe, the
18 Penobscot Nation, the Houlton Band of Maliseet Indians and their respective members
19 have, and may exercise and enjoy all the rights, privileges, powers, duties and immunities;
20 including, but without limitation, the power to enact ordinances and collect taxes, and shall
21 be subject to all the duties, obligations, liabilities and limitations of a municipality of and
22 subject to the laws of the State, provided, however, that internal tribal matters, including
23 membership in the respective tribe or nation, the right to reside within the respective Indian
24 territories, tribal organization, tribal government, tribal elections and the use or disposition
25 of settlement fund income shall not be subject to regulation by the State. The
26 Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials
27 as are necessary to implement and administer those laws of the State applicable to the
28 respective Indian territories and the residents thereof. Any resident of the Passamaquoddy
29 Indian territory or the Penobscot Indian territory who is not a member of the respective
30 tribe or nation nonetheless shall be equally entitled to receive any municipal or
31 governmental services provided by the respective tribe or nation or by the State, except
32 those services which are provided exclusively to members of the respective tribe or nation
33 pursuant to state or federal law, and shall be entitled to vote in national, state and county
34 elections in the same manner as any tribal member residing within Indian territory that
35 federally recognized Indian tribes and their members generally have or exercise under
36 federal Indian law, including laws and regulations of the United States enacted for the
37 benefit of Indians, Indian nations or tribes or bands of Indians and laws and regulations that
38 accord a special status or right to or that relate to a special status or right of any Indian,
39 Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country,
40 Indian territory or land held in trust for Indians.

41 **2. Power to sue and be sued sovereign immunity.** The Passamaquoddy Tribe, the
42 Penobscot Nation, the Houlton Band of Maliseet Indians and their respective members may
43 sue and be sued in the courts of the State to the same extent as any other entity or person
44 in the State provided, however, that the respective tribe or nation. The Passamaquoddy
45 Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and its their respective

officers and employees ~~shall be~~ are immune from suit ~~when the respective tribe or nation is acting in its governmental capacity to the same extent as any municipality or like officers or employees thereof within the State are other federally recognized Indian tribes and their~~ officers and employees under federal Indian law.

3. Ordinances. ~~The Passamaquoddy Tribe and the Penobscot Nation each has the right to exercise exclusive jurisdiction within its respective Indian territory over violations by members of either tribe or nation of tribal ordinances adopted pursuant to this section or section 6207. The decision to exercise or terminate the jurisdiction authorized by this section must be made by each tribal governing body. If either tribe or nation chooses not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or section 6207, the State has exclusive jurisdiction over violations of tribal ordinances by members of either tribe or nation within the Indian territory of that tribe or nation. The State has exclusive jurisdiction over violations of tribal ordinances by persons not members of either tribe or nation except as provided in the section or sections referenced in the following:~~

~~A. Section 6209-A.~~

~~B. Section 6209-B.~~

Amend the bill in section 10 in §6207 in subsection 1-A in the 4th line (page 14, line 22 in L.D.) by inserting after the following: "their" the following: 'respective'

Amend the bill in section 10 in §6207 by striking out all of subsection 4 (page 15, lines 40 to 43 and page 16, lines 1 and 2 in L.D.) and inserting the following:

'4. Sustenance fishing Fishing and taking of wildlife within the Indian reservations territory or trust land. Notwithstanding any rule or regulation promulgated ~~adopted~~ by the commission or any other law of the State, the members of the Passamaquoddy Tribe and, the Penobscot Nation and the Houlton Band of Maliseet Indians may take fish, and wildlife within the boundaries of their respective Indian reservations, for their individual sustenance subject to the limitations of subsection 6 territory or trust land.

Amend the bill in section 11 in §6207-A in the first indented paragraph in the 2nd line (page 17, line 16 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

Amend the bill in section 12 in §6208 in subsection 4 in the 3rd line (page 18, line 20 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

Amend the bill in section 12 in §6208 in subsection 4 in the last line (page 18, line 24 in L.D.) by striking out the following: ", including entities owned by a tribe or tribal member"

Amend the bill in section 12 in §6208 in subsection 5 in the 3rd line (page 18, line 27 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

Amend the bill in section 12 in §6208 in subsection 5 in the last line (page 18, line 30 in L.D.) by inserting after the following: "on" the following: 'their respective'

Amend the bill in section 12 in §6208 by striking out all of subsection 6 (page 18, lines 31 to 37 in L.D.) and inserting the following:

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1 **6. Not subject to state income tax.** For taxable years beginning January 1, 2023, the
 2 State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
 3 Indians agree and intend pursuant to United States Public Law 96-420 to recognize and
 4 adopt the application of federal Indian law with regard to the right of the Passamaquoddy
 5 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their tribal
 6 members and tribal entities who reside on Indian territory or trust land of their respective
 7 tribe, nation or band to not be subject to state tax for income earned on their respective
 8 Indian territory or trust land.'

9 Amend the bill in section 12 in §6208 in subsection 7 in the 3rd line (page 18, line 40
 10 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

11 Amend the bill in section 12 in §6208 in subsection 7 in the 5th line (page 18, line 42
 12 in L.D.) by inserting after the following: "Indians" the following: 'and their tribal members
 13 and tribal entities'

14 Amend the bill in section 12 in §6208 in subsection 8 in the 3rd line (page 19, line 1 in
 15 L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

16 Amend the bill in section 12 in §6208 in subsection 9 in the first line (page 19, line 9
 17 in L.D.) by inserting after the following: "income tax" the following: ';'

18 Amend the bill in section 12 in §6208 in subsection 9 in the 3rd line (page 19, line 11
 19 in L.D.) by striking out the following: "owned by" and inserting the following: 'of'

20 Amend the bill in section 12 in §6208 in subsection 9 in paragraph A in subparagraph
 21 (1) in the first line (page 19, line 16 in L.D.) by striking out the following: "from sales" and
 22 inserting the following: 'from state sales'

23 Amend the bill in section 12 in §6208 in subsection 9 in paragraph A in subparagraph
 24 (2) in the first line (page 19, line 18 in L.D.) by striking out the following: "from income"
 25 and inserting the following: 'from state income'

26 Amend the bill in section 12 in §6208 in subsection 9 in paragraph A in subparagraph
 27 (2) in the last line (page 19, line 20 in L.D.) by inserting after the following: "on" the
 28 following: 'that'

29 Amend the bill in section 12 in §6208 in subsection 9 in paragraph B in the 3rd line
 30 (page 19, line 23 in L.D.) by striking out the following: "collected" and inserting the
 31 following: 'on nonmembers collected for sales'

32 Amend the bill in section 12 in §6208 in subsection 9 in paragraph C in the 4th line
 33 (page 19, line 29 in L.D.) by striking out the following: "Indian territory or trust land" and
 34 inserting the following: 'fee lands wholly'

35 Amend the bill in section 14 in §6209-A in subsection 1-A in paragraph B in the last 4
 36 lines (page 21, lines 14 to 17 in L.D.) by striking out the following: "The Passamaquoddy
 37 Tribe may not deny to any criminal defendant prosecuted under this paragraph for a Class
 38 C crime the rights and protections enumerated in 25 United States Code, Section 1302(c)."

39 Amend the bill in section 14 in §6209-A in subsection 1-A in the 2nd blocked
 40 paragraph in the 5th line (page 21, line 32 in L.D.) by inserting after the following: "State"
 41 the following: ', except that the punishments imposed may not exceed the maximum
 42 punishments set forth in 25 United States Code, Section 1302(a)(7)'

Amend the bill in section 14 in §6209-A by striking out all of subsection 2 (page 21, lines 40 to 45 and page 22, lines 1 to 5 in L.D.) and inserting the following:

2. Definitions of crimes; tribal procedures. In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the ~~criminal offenses~~ crimes and juvenile crimes and the punishments applicable to those ~~criminal offenses~~ crimes and juvenile crimes over which the Passamaquoddy Tribe has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State, except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7). The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.'

Amend the bill in section 14 in §6209-A in subsection 4-A in the 3rd line (page 23, line 3 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

Amend the bill in section 15 in §6209-B in subsection 1-A in paragraph B in the last 3 lines (page 24, lines 38 to 40 in L.D.) by striking out the following: "The Penobscot Nation may not deny to any criminal defendant prosecuted under this paragraph for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c)."

Amend the bill in section 15 in §6209-B in subsection 1-A in the 2nd blocked paragraph in the 5th line (page 25, line 10 in L.D.) by inserting after the following: "State" the following: ', except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7)'

Amend the bill in section 15 in §6209-B in subsection 2 in the 7th line (page 25, line 24 in L.D.) by inserting after the following: "State" the following: ', except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7)'

Amend the bill in section 15 in §6209-B in subsection 4-A in the 3rd line (page 26, line 25 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

Amend the bill in section 16 in §6209-C in subsection 1-C in paragraph B in the last 4 lines (page 29, lines 34 to 37 in L.D.) by striking out the following: "The Houlton Band of Maliseet Indians may not deny to any criminal defendant prosecuted under this paragraph for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c)."

Amend the bill in section 16 in §6209-C in subsection 1-C in the last blocked paragraph in the 5th line (page 30, line 9 in L.D.) by inserting after the following: "State" the following: ', except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7)'

Amend the bill in section 16 in §6209-C in subsection 2 in the 6th line (page 30, line 22 in L.D.) by inserting after the following: "State" the following: ', except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7)'

Amend the bill in section 16 in §6209-C in subsection 5-A in the 3rd line (page 31, line 40 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

Amend the bill in section 18 in §6210 in subsection 2 in the 4th and 5th lines (page 32, lines 40 and 41 in L.D.) by striking out the following: "both Indian territories and" and inserting the following: 'both Indian territories territory or'

Amend the bill by striking out all of section 22 and inserting the following:

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

§6215. Civil jurisdiction

1. Nonmembers subject to state laws on Indian territory or trust land. The State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 to recognize and adopt the application of federal Indian law with regard to the applicability of the laws of the State to nonmembers on the Indian territory or trust land of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, except as otherwise provided in this Act.

2. Members and entities not subject to state laws on Indian territory or trust land. The State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 to recognize that, except as otherwise provided in this Act or by federal Indian law, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their respective tribal members and tribal entities are not subject to the laws of the State, including state and local civil regulatory jurisdiction, on their respective Indian territory or trust land.

3. Exclusive civil regulatory authority over tribal members and tribal entities on Indian territory or trust land. The State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 to recognize that, except as otherwise provided in this Act or by federal Indian law, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians have exclusive civil regulatory jurisdiction over their respective tribal members and tribal entities on their respective Indian territory or trust land.

4. Concurrent civil regulatory authority over nonmembers on Indian territory or trust land. The State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 to recognize that, except as otherwise provided in this Act or by federal Indian law, the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, the State and local governments have concurrent civil regulatory jurisdiction over nonmembers on the Indian territory or trust land of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.'

Amend the bill by striking out all of section 23 and inserting the following:

'Sec. 23. 30 MRSA §6216 is enacted to read:

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

The State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 that any

1 law of this State, including, without limitation, laws of this State relating to land use or
2 environmental matters, that is contrary to any law or regulation of the United States that
3 accords a special status or right to or relates to a special status or right of any Indian, Indian
4 nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian
5 territory or land held in trust for Indians, or that would be affected or preempted by such
6 law or regulation of the United States, does not apply to the Passamaquoddy Tribe, the
7 Penobscot Nation and the Houlton Band of Maliseet Indians and their tribal members and
8 lands, except as otherwise provided by this Act or federal Indian law. Except for laws that
9 conflict with the jurisdiction over crimes and juvenile crimes described in this Act, the
10 State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
11 Indians further agree and intend pursuant to United States Public Law 96-420 that any law
12 or regulation of the United States enacted before, on or after October 10, 1980 that accords
13 a special status or right to or relates to a special status or right of any Indian, Indian nation,
14 tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory
15 or land held in trust for Indians applies to the Passamaquoddy Tribe, the Penobscot Nation,
16 the Houlton Band of Maliseet Indians and their tribal members and lands.

17 Notwithstanding any provision of this Act to the contrary, the Passamaquoddy Tribe,
18 the Penobscot Nation and the Houlton Band of Maliseet Indians may conduct gaming
19 activities only in accordance with state law and may not conduct gaming activities under
20 the authority of the federal Indian Gaming Regulatory Act or under any regulations
21 thereunder promulgated by the chair of the National Indian Gaming Commission or its
22 successor organization.'

23 Amend the bill in section 24 in §6217 in subsection 1 in the 5th line (page 36, line 14
24 in L.D.) by striking out the following: "or legislation and" and inserting the following: 'legislation or'

25
26 Amend the bill in section 24 in §6217 in subsection 1 in the 8th line (page 36, line 17
27 in L.D.) by striking out the following: "tribes and" and inserting the following: 'tribes or'

28 Amend the bill in section 24 in §6217 in subsection 2 in paragraph A in the 3rd line
29 (page 36, line 24 in L.D.) by striking out the following: "25" and inserting the following:
30 '35'

31 Amend the bill in section 24 in §6217 in subsection 4 in the first line (page 37, line 16
32 in L.D.) by striking out the following: "2021" and inserting the following: '2022'

33 Amend the bill in section 24 in §6217 in subsection 5 in the first line (page 37, line 31
34 in L.D.) by striking out the following: "2021" and inserting the following: '2022'

35 Amend the bill in section 24 in §6217 in subsection 8 in the first line (page 38, line 5
36 in L.D.) by striking out the following: "2022" and inserting the following: '2023'

37 Amend the bill in section 26 in §6219 in the first indented paragraph in the first line
38 (page 38, line 25 in L.D.) by striking out the following: "2021" and inserting the following:
39 '2022'

40 Amend the bill by striking out all of section 28 and inserting the following:

41 '**Sec. 28. 30-A MRSA §5681, sub-§7, as enacted by PL 1989, c. 871, §1 and**
42 **affected by §22, is amended to read:**

7. **Indian territory.** For purposes of state-municipal revenue sharing, the Passamaquoddy Tribe Indian territory and the Penobscot Nation Indian Territories shall territory must be treated as if they were municipalities. In the absence of a levy of real and personal property taxes in ~~either or both~~ such an Indian territories territory, the property tax assessment is computed by multiplying the state valuation for the Indian territory for the period for which revenue sharing is being determined by the most current average equalized property tax rate of all municipalities in the State at that time as determined by the State Tax Assessor.'

Amend the bill in section 30 in subsection 1-E in the last line (page 40, line 5 in L.D.) by striking out the following: "2-A" and inserting the following: '2-B'

Amend the bill by striking out all of section 31 and inserting the following:

'Sec. 31. 36 MRSA §111, sub-§1-F is enacted to read:

1-F. Indian territory or trust land. "Indian territory or trust land" has the same meaning as in Title 30, section 6203, subsection 2-C.'

Amend the bill by striking out all of section 32 and inserting the following:

'Sec. 32. 36 MRSA §111, sub-§2-A is enacted to read:

2-A. Passamaquoddy Indian territory. "Passamaquoddy Indian territory" has the same meaning as in Title 30, section 6203, subsection 6.'

Amend the bill by striking out all of section 33 and inserting the following:

'Sec. 33. 36 MRSA §111, sub-§2-B is enacted to read:

2-B. Passamaquoddy Tribe. "Passamaquoddy Tribe" has the same meaning as in Title 30, section 6203, subsection 7.'

Amend the bill by striking out all of section 34.

Amend the bill by striking out all of section 35 and inserting the following:

'Sec. 35. 36 MRSA §111, sub-§2-C is enacted to read:

2-C. Penobscot Indian territory. "Penobscot Indian territory" has the same meaning as in Title 30, section 6203, subsection 9.'

Amend the bill by striking out all of section 36 and inserting the following:

'Sec. 36. 36 MRSA §111, sub-§2-D is enacted to read:

2-D. Penobscot Nation. "Penobscot Nation" has the same meaning as in Title 30, section 6203, subsection 10.'

Amend the bill by striking out all of section 39 and inserting the following:

'Sec. 39. 36 MRSA §1760, sub-§112 is enacted to read:

112. Certain sales to Passamaquoddy Tribe, Penobscot Nation and Houlton Band of Maliseet Indians and their tribal members. Sales in, into, on, from or otherwise sourced to:

A. Passamaquoddy Indian territory that are made by or to the Passamaquoddy Tribe, by or to any tribal member of the Passamaquoddy Tribe or by or to any tribal entity of the Passamaquoddy Tribe;

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B. Penobscot Indian territory that are made by or to the Penobscot Nation, by or to any tribal member of the Penobscot Nation or by or to any tribal entity of the Penobscot Nation; and

C. Houlton Band Trust Land that are made by or to the Houlton Band of Maliseet Indians, by or to any tribal member of the Houlton Band of Maliseet Indians or by or to any tribal entity of the Houlton Band of Maliseet Indians.

If the property or service is used by the purchaser, including any lessee, primarily outside of the Indian territory or trust land identified in this subsection, the purchaser is liable for use tax based on the original sale price, unless otherwise exempt under this Part. For purposes of this subsection, "primarily" when used in relation to property or service means more than 50% of that period of time that begins on the date on which the property or service is first placed in service by the purchaser and ends one year from that date or at the time that the property or service is sold, scrapped, destroyed or otherwise permanently removed from service, whichever occurs first.'

Amend the bill in section 40 in §1815 in subsection 2 in the 3rd line (page 41, line 32 in L.D.) by striking out the following: "occurring on" and inserting the following: 'occurring on, in, into, from or otherwise sourced to'

Amend the bill by striking out all of section 41 and inserting the following:

'Sec. 41. 36 MRSA §5122, sub-§2, ¶XX is enacted to read:

XX. For taxable years beginning on or after January 1, 2023:

(1) Income of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians that is earned on or from activities occurring on or otherwise sourced to the tribe's, nation's or band's Indian territory or trust land; and

(2) Income of the tribal members and tribal entities of the Penobscot Nation, the Passamaquoddy Tribe and the Houlton Band of Maliseet Indians, as long as:

(a) The income is earned on or from activities occurring on or otherwise sourced to the Indian territory or trust land of the tribal member's or tribal entity's tribe, nation or band; and

(b) The tribal member or tribal entity resides on the Indian territory or trust land of that tribal member's or tribal entity's tribe, nation or band. For purposes of this paragraph, a tribal entity "resides" where its principal place of business is located.'

Amend the bill in section 42 in the 11th line (page 42, line 19 in L.D.) by striking out the following: "2021" and inserting the following: '2022'

Amend the bill in section 42 in the 11th and 12th lines (page 42, lines 19 and 20 in L.D.) by striking out the following: "Joint Standing Committee on Judiciary" and inserting the following: 'joint standing committee of the Legislature having jurisdiction over judiciary matters'

Amend the bill in section 42 in the next to the last line (page 42, line 22 in L.D.) by striking out the following: "Second Regular Session of the 130th" and inserting the following: 'First Regular Session of the 131st'

Amend the bill by striking out all of section 43 and inserting the following:

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Sec. 43. Appropriations and allocations. The following appropriations and allocations are made.

TREASURER OF STATE, OFFICE OF

Maliseet Sales Tax Fund N952

Initiative: Establishes the Maliseet Sales Tax Fund to collect and remit sales tax collected on Houlton Band Trust Land.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$0	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

Penobscot Sales Tax Fund N951

Initiative: Establishes the Penobscot Sales Tax Fund to collect and remit sales tax collected on Penobscot Indian territory or trust lands.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$0	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

**TREASURER OF STATE, OFFICE OF
DEPARTMENT TOTALS**

	2021-22	2022-23
OTHER SPECIAL REVENUE FUNDS	\$0	\$1,000
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$1,000

Sec. 44. Contingent effective date. This Act takes effect 120 days after adjournment of the Second Regular Session of the 130th Legislature only if, within 90 days after adjournment of the Second Regular Session of the 130th Legislature, the Secretary of State receives written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Act; from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Act; and from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Act, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes. Upon such written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians, each section of this Act regarding or affecting the Houlton Band of Maliseet Indians and its tribal members and lands constitutes a jurisdictional agreement for purposes of the Maine Indian Claims Settlement Act of 1980, United States Public Law 96-420, Section 6(e)(2). Such written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians does not constitute an agreement that the contingencies in Public Law 1981, chapter 675 were met or that the provisions of Public Law 1981, chapter 675 ever took effect.'

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

SUMMARY

In this summary, the Maine Revised Statutes, Title 30, chapter 601, which is titled AN ACT to Implement the Maine Indian Claims Settlement, enacted by Public Law 1979, chapter 732, is referred to as "the Maine Implementing Act" and the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, formerly codified at 25 United States Code, Sections 1721 to 1735, is referred to as "the federal Settlement Act."

This amendment, which is the majority report of the committee, makes the following changes to the bill.

1. It amends the definition of "federal Indian law" to mean the United States Constitution and all generally applicable federal statutes, regulations and common law and case law interpreting, implementing, applying or enforcing those federal laws and regulations, and subsequent amendments thereto, relating to the rights, status, privileges, powers, duties and immunities of federally recognized Indian tribes and their members and lands or other natural resources within the United States.

2. It incorporates within the Maine Implementing Act the definition of "Houlton Band Trust Land" from the Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, United States Public Law 99-566.

3. It amends the definition of "tribal entity" to include a limited liability company and makes other technical changes to the language of the definition for purposes of clarity.

4. It defines "Indian territory or trust land" to include, with respect to the Passamaquoddy Tribe and the Penobscot Nation, the tribe's or nation's Indian territory and, with respect to the Houlton Band of Maliseet Indians, Houlton Band Trust Land. This phrase is used throughout the bill and the amendment to describe the lands over which the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians may exercise rights, powers, duties and immunities similar to those of other federally recognized Indian tribes within the United States.

5. It authorizes the United States Secretary of the Interior to acquire land for the benefit of the Passamaquoddy Tribe within Washington County to the same extent that the bill authorizes the secretary to acquire land for the benefit of the Passamaquoddy Tribe within Aroostook County, Franklin County, Hancock County, Penobscot County, Piscataquis County or Somerset County. It also clarifies that, if the Passamaquoddy Tribe requests that the secretary take into trust land that the tribe owns in fee simple on the effective date of the Act, such lands do not become part of Passamaquoddy Indian territory until the land has been placed in trust for the benefit of the tribe by the secretary.

6. It provides that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, as well as their officers and employees, are immune from suit to the same extent as other federally recognized Indian tribes and their officers and employees under federal Indian law.

7. It clarifies that, when the tribal courts of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians exercise exclusive or concurrent criminal jurisdiction, the definitions of the criminal offenses and the punishments applicable to those

1 criminal offenses are governed by state law, except that the punishments imposed by a
2 tribal court may not exceed the maximum punishments that a tribal court may impose under
3 25 United States Code, Section 1302(a)(7).

4 8. It makes several technical changes to the tax provisions of the bill to align and ensure
5 consistency between the language of the provisions within the Maine Implementing Act
6 and the language of the provisions within the Maine Revised Statutes, Title 36.

7 9. It provides that the Department of Administrative and Financial Services, Maine
8 Revenue Services may enter into tax revenue-sharing agreements with the Passamaquoddy
9 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians with respect to tax
10 collected on sales on, in, into, from or otherwise sourced to fee lands wholly owned by the
11 tribe, nation or band.

12 10. It increases from 25 to 35 the number of days within which the Passamaquoddy
13 Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians may, after the date of
14 the mailing of a state agency's proposal to develop a rule, legislation or other policy
15 statement or action that may directly and substantially affect that tribe, nation or band,
16 request that the state agency consult with the tribe, nation or band prior to taking the
17 proposed action.

18 11. It increases by a year the deadlines established by the bill for each state agency to
19 adopt tribal consultation policies; for each state agency to designate a tribal liaison; for
20 each state agency to provide its first annual report on tribal consultation; and for the
21 Governor to convene the first annual assembly of the Governor and the chiefs of the
22 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.

23 12. It repeals or repeals and replaces each provision of the Maine Implementing Act
24 that was enacted by Public Law 1981, chapter 675 and provides that, if the Houlton Band
25 Council of the Houlton Band of Maliseet Indians certifies its agreement to the provisions
26 of this legislation, that agreement constitutes a jurisdictional agreement between the State
27 and the Houlton Band of Maliseet Indians for purposes of Section 6(e)(2) of the federal
28 Settlement Act but does not constitute an agreement by the Houlton Band of Maliseet
29 Indians that the provisions of Public Law 1981, chapter 675 ever took effect.

30 The amendment also adds an appropriations and allocations section.

31 **FISCAL NOTE REQUIRED**

32 (See attached)



Approved: 03/31/22 *MAC*

130th MAINE LEGISLATURE

LD 1626

LR 1341(02)

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

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-1006)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$0	\$44,650	\$218,000	\$201,400
Appropriations/Allocations				
General Fund	\$0	\$0	\$66,000	\$0
Other Special Revenue Funds	\$0	\$1,000	\$1,000	\$1,000
Revenue				
General Fund	\$0	(\$44,650)	(\$152,000)	(\$201,400)
Other Special Revenue Funds	\$0	(\$2,350)	(\$59,500)	(\$62,100)

Fiscal Detail and Notes

This bill exempts income earned and sales made by tribal members on Indian territory or trust land from income and sales taxes and will reduce General Fund revenue by \$44,650 in fiscal year 2022-23 and \$152,000 in fiscal year 2023-24. It reduces Local Government Fund revenue by \$2,350 in fiscal year 2022-23 and \$8,000 in fiscal year 2023-24. The bill creates the Maliseet Sales Tax Fund and the Penobscot Sales Tax Fund to collect and remit sales tax collected on Indian territory or tribal lands and provides baseline allocations of \$500 to each fund in fiscal year 2022-23. Blueberries grown on tribal lands and processed in the State are exempt from the blueberry tax, reducing revenue to the Wild Blueberry Commission of Maine by \$51,500 annually beginning in fiscal year 2023-24. The bill also exempts Indian territory and trust lands from property taxes and payments in lieu of taxes. This will reduce revenue to municipalities. No estimate of this loss can be made.

The Department of Administrative and Financial Services will require a one-time General Fund appropriation of \$66,000 in fiscal year 2023-24 for computer programming to add lines to the individual, fiduciary and corporate income tax returns.

The Maine Indian Tribal-State Commission will incur additional costs as a result of the requirements of this bill. While the Commission has sufficient budgeted resources to cover these costs in the current 2022-2023 biennium as a result of one-time funding included in PL 2021, c. 398, ongoing costs from the bill could require additional funding in the 2024-2025 biennium.