

# MAINE STATE LEGISLATURE

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L.D. 1626

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REPORT C  
JUDICIARY

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

COMMITTEE AMENDMENT "B" 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.'

COMMITTEE AMENDMENT

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 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:~~

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

B-1. The first 150,000 acres of land acquired by the secretary for the benefit of the Passamaquoddy Tribe, including:

(1) All land acquired by the secretary for the benefit of the tribe prior to the effective date of this paragraph if those lands were acquired in accordance with the requirements of this Act in effect on the date of acquisition; and

(2) Lands acquired by the secretary for the benefit of the tribe after the effective date of this paragraph that are within the Penobscot River watershed and all lands that are north and east of the Penobscot River watershed to the border with Canada, within the following boundaries: land located east of the mouth of the Penobscot River, land east of the Penobscot River and north to 44° 50' N, all land north of 44° 50' N westward to 69° 10' W, land east of 69° 10' W northward to 45° 55' N, land north of 45° 55' N westward to 69° 55' W, land west of 69° 55' W southward until 45° 30' N and land north of 45° 30' N westward to the border with Canada, including mainland territory from the eastern shore of Penobscot Bay southward to Eggemoggin Reach and Naskeag Point, eastward to the border with Canada, and all Maine islands east of 68° 33' W, excepting any land that is located within:

(a) Any portion of the Kennebec River watershed that is not described in this paragraph;

(b) The headwaters of the Kennebec River watershed, including any lands that have shoreline around or within Moosehead Lake;

(c) Any portion of the State that is west of the Penobscot River south of 44° 50' N from Penobscot Bay to the boundary with New Hampshire to the west and land northwest to the border with Canada; or

(d) Any city or town.

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

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

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

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

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

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

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

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

34 A. The Penobscot Indian Reservation; and

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

39 The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.  
40 (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.;  
41 the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,  
42 B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,  
43 B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;  
44 any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle

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Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of 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 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 portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International Corporation, International Paper Company and Lincoln Pulp and Paper Company located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.; any 300 acres in Old Town mutually agreed upon by the City of Old Town and the Penobscot Nation Tribal Government; any lands in Lakeville acquired by the Penobscot Nation; and all the property acquired by the Penobscot Indian Nation from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation located in Township 1, Range 6 W.E.L.S.

B-1. The first 150,000 acres of land acquired by the secretary for the benefit of the Penobscot Nation, including:

(1) All land acquired by the secretary for the benefit of the nation prior to the effective date of this paragraph if those lands were acquired in accordance with the requirements of this Act in effect on the date of acquisition; and

(2) Lands acquired by the secretary for the benefit of the nation after the effective date of this paragraph that are within the Penobscot River watershed and all lands that are north and east of the Penobscot River watershed to the border with Canada, within the following boundaries: land located east of the mouth of the Penobscot River, land east of the Penobscot River and north to 44° 50' N, land north of 44° 50' N westward to 69° 10' W, land east of 69° 10' W northward to 45° 55' N, all land north of 45° 55' N westward to 69° 55' W, land west of 69° 55' W southward until 45° 30' N and land north of 45° 30' N westward to the border with Canada, including mainland territory from the eastern shore of Penobscot Bay southward to Eggemoggin Reach and Naskeag Point, eastward to the border with Canada, and all Maine islands east of 68° 33' W, excepting any land that is located within:

(a) Any portion of the Kennebec River watershed that is not described in this paragraph;

(b) The headwaters of the Kennebec River watershed, including any lands that have shoreline around or within Moosehead Lake;

(c) Any portion of the State that is west of the Penobscot River south of 44° 50' N from Penobscot Bay to the boundary with New Hampshire to the west and land northwest to the border with Canada; or

(d) Any city or town.

### 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~~ is 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

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1 Commission shall compare the cost, technical feasibility, and environmental and social  
2 impact of the available alternatives, if any, with the cost, technical feasibility and  
3 environmental and social impact of the proposed taking. Prior to making this finding,  
4 the public entity or Public Utilities Commission, after notice to the affected tribe or  
5 nation, shall conduct a public hearing in the manner provided by the Maine  
6 Administrative Procedure Act, on the affected Indian reservation. The finding of the  
7 public entity or Public Utilities Commission may be appealed to the Maine Superior  
8 Court.

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

27 B. If land within either the Passamaquoddy Indian ~~Territory~~ territory or the Penobscot  
28 Indian ~~Territory~~ territory but not within either the Passamaquoddy Indian Reservation  
29 or the Penobscot Indian Reservation is taken for public uses in accordance with the  
30 laws of the State, the money received for ~~said that~~ land shall must be reinvested in other  
31 lands within 2 years of the date on which the money is received. To the extent that any  
32 ~~moneys~~ money received ~~are so~~ is reinvested in land with an area not greater than the  
33 area of the land taken and located within an unorganized or unincorporated area of the  
34 State, the lands so acquired by such reinvestment shall must be included within the  
35 respective Indian territory without further approval of the State. To the extent that any  
36 ~~moneys~~ money received ~~are so~~ is reinvested in land with an area greater than the area  
37 of the land taken and located within an unorganized or unincorporated area of the State,  
38 the respective tribe or nation shall designate, within 30 days of such reinvestment, that  
39 portion of the land acquired by such reinvestment, not to exceed the area taken, ~~which~~  
40 ~~shall that is to~~ be included within the respective Indian territory. No land acquired  
41 pursuant to this paragraph shall may be included within either Indian ~~Territory~~ territory  
42 until the Secretary of ~~the~~ Interior has certified, in writing, to the Secretary of State the  
43 location and boundaries of the land acquired.

44 4. Taking under the laws of the United States. In the event of a taking of land within  
45 the Passamaquoddy Indian territory or the Penobscot Indian territory for public uses in  
46 accordance with the laws of the United States and the reinvestment of the ~~moneys~~ money

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received from such taking within 2 years of the date on which the ~~moneys are~~ money is received, the status of the lands acquired by such reinvestment shall must be determined in accordance with subsection 3, paragraph B.

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

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

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

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

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

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

**1. Acquisition.** Houlton Band Trust Land consists of land acquired by the secretary in trust for the Houlton Band of Maliseet Indians with money 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, or with proceeds from a taking of Houlton Band Trust Land for public uses pursuant to the laws of the United States, including:

A. All land or other natural resources acquired by the secretary for the benefit of the band prior to the effective date of this section if those lands were acquired in accordance with the requirements of this Act in effect on the date of acquisition; and

B. Lands acquired by the secretary for the benefit of the band after the effective date of this section that are within the Penobscot River watershed and all lands that are north and east of the Penobscot River watershed to the border with Canada, within the following boundaries: land located east of the mouth of the Penobscot River, land east of the Penobscot River and north to 44° 50' N, land north of 44° 50' N westward to 69° 10' W, land east of 69° 10' W northward to 45° 55' N, all land north of 45° 55' N westward to 69° 55' W, land west of 69° 55' W southward until 45° 30' N and land north of 45° 30' N westward to the border with Canada, including mainland territory from the eastern shore of Penobscot Bay southward to Eggemoggin Reach and Naskeag Point, eastward to the border with Canada, and all Maine islands east of 68° 33' W, excepting any land that is located within:

(1) Any portion of the Kennebec River watershed that is not described in this paragraph;

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(2) The headwaters of the Kennebec River watershed, including any lands that have shoreline around or within Moosehead Lake;

(3) Any portion of the State that is west of the Penobscot River south of 44° 50' N and north from Penobscot Bay to the boundary with New Hampshire to the west and land northwest to the border with Canada; or

(4) Any city or town.

**2. Takings for public uses.** Houlton Band Trust Land may be taken for public uses in accordance with the laws of the State to the same extent as privately owned land. The proceeds from any such taking must be deposited in the Land Acquisition Fund as described in subsection 1. The Federal Government is a necessary party to any such condemnation proceeding. After exhausting all state administrative remedies, the Federal Government has an absolute right to remove any action commenced in the courts of this State to a federal court of competent jurisdiction.

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

A. Takings for public uses pursuant to the laws of this State;

B. Takings for public uses pursuant to the laws of the United States;

C. Transfers of individual use assignments from one member of the Houlton Band of Maliseet Indians to another band member;

D. Transfers authorized by United States Public Law 96-420, Section 5(g)(3); and

E. Transfers made pursuant to a special act of Congress.

If the fee to the Houlton Band Trust Land is lawfully transferred to any person or entity, the land so transferred ceases to have the status of Houlton Band Trust Land.'

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

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

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

**1. General Powers ~~powers~~.** Except as otherwise provided specified in this Act, the State, the Passamaquoddy Tribe and, the Penobscot Nation, within their respective Indian territories, shall and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 to recognize that the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and their respective members have, and may exercise and enjoy all the rights, privileges, powers, duties and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and shall be subject to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, provided, however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income shall not be subject to regulation by the State. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to the

1 respective Indian territories and the residents thereof. Any resident of the Passamaquoddy  
2 Indian territory or the Penobscot Indian territory who is not a member of the respective  
3 tribe or nation nonetheless shall be equally entitled to receive any municipal or  
4 governmental services provided by the respective tribe or nation or by the State, except  
5 these services which are provided exclusively to members of the respective tribe or nation  
6 pursuant to state or federal law, and shall be entitled to vote in national, state and county  
7 elections in the same manner as any tribal member residing within Indian territory that  
8 federally recognized Indian tribes and their members generally have or exercise under  
9 federal Indian law, including laws and regulations of the United States enacted for the  
10 benefit of Indians, Indian nations or tribes or bands of Indians and laws and regulations that  
11 accord a special status or right to or that relate to a special status or right of any Indian,  
12 Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country,  
13 Indian territory or land held in trust for Indians.

14 **2. Power to sue and be sued sovereign immunity.** The Passamaquoddy Tribe, the  
15 Penobscot Nation, the Houlton Band of Maliseet Indians and their respective members may  
16 sue and be sued in the courts of the State to the same extent as any other entity or person  
17 in the State provided, however, that the respective tribe or nation, The Passamaquoddy  
18 Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and its their respective  
19 officers and employees shall be are immune from suit when the respective tribe or nation  
20 is acting in its governmental capacity to the same extent as any municipality or like officers  
21 or employees thereof within the State are other federally recognized Indian tribes and their  
22 officers and employees under federal Indian law.

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

34 A. ~~Section 6209 A.~~

35 B. ~~Section 6209 B.~~

36 Amend the bill in section 10 in §6207 in subsection 1-A in the 4th line (page 14, line  
37 22 in L.D.) by inserting after the following: "their" the following: 'respective'

38 Amend the bill in section 10 in §6207 by striking out all of subsection 4 (page 15, lines  
39 40 to 43 and page 16, lines 1 and 2 in L.D.) and inserting the following:

40 **'4. Sustenance fishing Fishing and taking of wildlife within the Indian**  
41 **reservations territory or trust land.** Notwithstanding any rule or regulation promulgated  
42 adopted by the commission or any other law of the State, the members of the  
43 Passamaquoddy Tribe and, the Penobscot Nation and the Houlton Band of Maliseet Indians  
44 may take fish, and wildlife within the boundaries of their respective Indian reservations,

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1 ~~for their individual sustenance subject to the limitations of subsection 6~~ territory or trust  
2 land.'

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

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

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

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

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

15 Amend the bill in section 12 in §6208 by striking out all of subsection 6 (page 18, lines  
16 31 to 37 in L.D.) and inserting the following:

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

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

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

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

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

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

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

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

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- 1 Amend the bill in section 12 in §6208 in subsection 9 in paragraph A in subparagraph
- 2 (2) in the last line (page 19, line 20 in L.D.) by inserting after the following: "on" the
- 3 following: 'that'
- 4 Amend the bill in section 12 in §6208 in subsection 9 in paragraph B in the 3rd line
- 5 (page 19, line 23 in L.D.) by striking out the following: "collected" and inserting the
- 6 following: 'on nonmembers collected for sales'
- 7 Amend the bill in section 12 in §6208 in subsection 9 in paragraph C in the 4th line
- 8 (page 19, line 29 in L.D.) by striking out the following: "Indian territory or trust land" and
- 9 inserting the following: 'fee lands wholly'
- 10 Amend the bill in section 14 in §6209-A in subsection 1-A in paragraph B in the last 4
- 11 lines (page 21, lines 14 to 17 in L.D.) by striking out the following: "The Passamaquoddy
- 12 Tribe may not deny to any criminal defendant prosecuted under this paragraph for a Class
- 13 C crime the rights and protections enumerated in 25 United States Code, Section 1302(c)."
- 14 Amend the bill in section 14 in §6209-A in subsection 1-A in the 2nd blocked
- 15 paragraph in the 5th line (page 21, line 32 in L.D.) by inserting after the following: "State"
- 16 the following: ', except that the punishments imposed may not exceed the maximum
- 17 punishments set forth in 25 United States Code, Section 1302(a)(7)'
- 18 Amend the bill in section 14 in §6209-A by striking out all of subsection 2 (page 21,
- 19 lines 40 to 45 and page 22, lines 1 to 5 in L.D.) and inserting the following:
- 20 **'2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
- 21 under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be
- 22 enforcing Passamaquoddy tribal law. The definitions of the ~~criminal offenses~~ crimes and
- 23 juvenile crimes and the punishments applicable to those ~~criminal offenses~~ crimes and
- 24 juvenile crimes over which the Passamaquoddy Tribe has exclusive jurisdiction under this
- 25 section are governed by the laws of the State. Issuance and execution of criminal process
- 26 are also governed by the laws of the State, except that the punishments imposed may not
- 27 exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7).
- 28 The procedures for the establishment and operation of tribal forums created to effectuate
- 29 the purposes of this section are governed by federal statute, including, without limitation,
- 30 the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations
- 31 generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal
- 32 Indian reservations.'
- 33 Amend the bill in section 14 in §6209-A in subsection 4-A in the 3rd line (page 23,
- 34 line 3 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'
- 35 Amend the bill in section 15 in §6209-B in subsection 1-A in paragraph B in the last 3
- 36 lines (page 24, lines 38 to 40 in L.D.) by striking out the following: "The Penobscot Nation
- 37 may not deny to any criminal defendant prosecuted under this paragraph for a Class C
- 38 crime the rights and protections enumerated in 25 United States Code, Section 1302(c)."
- 39 Amend the bill in section 15 in §6209-B in subsection 1-A in the 2nd blocked paragraph
- 40 in the 5th line (page 25, line 10 in L.D.) by inserting after the following: "State" the
- 41 following: ', except that the punishments imposed may not exceed the maximum
- 42 punishments set forth in 25 United States Code, Section 1302(a)(7)'
- 43 Amend the bill in section 15 in §6209-B in subsection 2 in the 7th line (page 25, line
- 44 24 in L.D.) by inserting after the following: "State" the following: ', except that the

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1 punishments imposed may not exceed the maximum punishments set forth in 25 United  
2 States Code, Section 1302(a)(7)'

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

5 Amend the bill in section 16 in §6209-C in subsection 1-C in paragraph B in the last 4  
6 lines (page 29, lines 34 to 37 in L.D.) by striking out the following: "The Houlton Band of  
7 Maliseet Indians may not deny to any criminal defendant prosecuted under this paragraph  
8 for a Class C crime the rights and protections enumerated in 25 United States Code, Section  
9 1302(c)."

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

14 Amend the bill in section 16 in §6209-C in subsection 2 in the 6th line (page 30, line  
15 22 in L.D.) by inserting after the following: "State" the following: ', except that the  
16 punishments imposed may not exceed the maximum punishments set forth in 25 United  
17 States Code, Section 1302(a)(7)'

18 Amend the bill in section 16 in §6209-C in subsection 5-A in the 3rd line (page 31, line  
19 40 in L.D.) by striking out the following: "and hereby" and inserting the following: 'to'

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

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

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

25 **§6215. Civil jurisdiction**

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

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

41 **3. Exclusive civil regulatory authority over tribal members and tribal entities on**  
42 **Indian territory or trust land.** The State, the Passamaquoddy Tribe, the Penobscot  
43 Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to United States

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

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

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

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

15 **§6216. Federal laws apply; do not affect or preempt the laws of this State**

16 The State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of  
17 Maliseet Indians agree and intend pursuant to United States Public Law 96-420 that any  
18 law of this State, including, without limitation, laws of this State relating to land use or  
19 environmental matters, that is contrary to any law or regulation of the United States that  
20 accords a special status or right to or relates to a special status or right of any Indian, Indian  
21 nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian  
22 territory or land held in trust for Indians, or that would be affected or preempted by such  
23 law or regulation of the United States, does not apply to the Passamaquoddy Tribe, the  
24 Penobscot Nation and the Houlton Band of Maliseet Indians and their tribal members and  
25 lands, except as otherwise provided by this Act or federal Indian law. Except for laws that  
26 conflict with the jurisdiction over crimes and juvenile crimes described in this Act, the  
27 State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet  
28 Indians further agree and intend pursuant to United States Public Law 96-420 that any law  
29 or regulation of the United States enacted before or after October 10, 1980 that accords a  
30 special status or right to or relates to a special status or right of any Indian, Indian nation,  
31 tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory  
32 or land held in trust for Indians applies to the Passamaquoddy Tribe, the Penobscot Nation,  
33 the Houlton Band of Maliseet Indians and their tribal members and lands.'

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

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

39 Amend the bill in section 24 in §6217 in subsection 2 in paragraph A in the 3rd line  
40 (page 36, line 24 in L.D.) by striking out the following: "25" and inserting the following:  
41 '35'

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

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- 1 Amend the bill in section 24 in §6217 in subsection 5 in the first line (page 37, line 31
- 2 in L.D.) by striking out the following: "2021" and inserting the following: '2022'
- 3 Amend the bill in section 24 in §6217 in subsection 8 in the first line (page 38, line 5
- 4 in L.D.) by striking out the following: "2022" and inserting the following: '2023'
- 5 Amend the bill in section 26 in §6219 in the first indented paragraph in the first line
- 6 (page 38, line 25 in L.D.) by striking out the following: "2021" and inserting the following:
- 7 '2022'
- 8 Amend the bill by striking out all of section 28 and inserting the following:
- 9 'Sec. 28. 30-A MRSA §5681, sub-§7, as enacted by PL 1989, c. 871, §1 and
- 10 affected by §22, is amended to read:
- 11 7. **Indian territory.** For purposes of state-municipal revenue sharing, the
- 12 Passamaquoddy ~~Trib~~ Indian territory and the Penobscot ~~Nation Indian Territories shall~~
- 13 territory must be treated as if they were municipalities. In the absence of a levy of real and
- 14 personal property taxes in ~~either or both such an Indian territories territory~~, the property tax
- 15 assessment is computed by multiplying the state valuation for the Indian territory for the
- 16 period for which revenue sharing is being determined by the most current average equalized
- 17 property tax rate of all municipalities in the State at that time as determined by the State
- 18 Tax Assessor.'
- 19 Amend the bill in section 30 in subsection 1-E in the last line (page 40, line 5 in L.D.)
- 20 by striking out the following: "2-A" and inserting the following: '2-B'
- 21 Amend the bill by striking out all of section 31 and inserting the following:
- 22 'Sec. 31. 36 MRSA §111, sub-§1-F is enacted to read:
- 23 1-F. Indian territory or trust land. "Indian territory or trust land" has the same
- 24 meaning as in Title 30, section 6203, subsection 2-C.'
- 25 Amend the bill by striking out all of section 32 and inserting the following:
- 26 'Sec. 32. 36 MRSA §111, sub-§2-A is enacted to read:
- 27 2-A. Passamaquoddy Indian territory. "Passamaquoddy Indian territory" has the
- 28 same meaning as in Title 30, section 6203, subsection 6.'
- 29 Amend the bill by striking out all of section 33 and inserting the following:
- 30 'Sec. 33. 36 MRSA §111, sub-§2-B is enacted to read:
- 31 2-B. Passamaquoddy Tribe. "Passamaquoddy Tribe" has the same meaning as in
- 32 Title 30, section 6203, subsection 7.'
- 33 Amend the bill by striking out all of section 34.
- 34 Amend the bill by striking out all of section 35 and inserting the following:
- 35 'Sec. 35. 36 MRSA §111, sub-§2-C is enacted to read:
- 36 2-C. Penobscot Indian territory. "Penobscot Indian territory" has the same meaning
- 37 as in Title 30, section 6203, subsection 9.'
- 38 Amend the bill by striking out all of section 36 and inserting the following:
- 39 'Sec. 36. 36 MRSA §111, sub-§2-D is enacted to read:

1 **2-D. Penobscot Nation.** "Penobscot Nation" has the same meaning as in Title 30,  
2 section 6203, subsection 10.'

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (b) The tribal member or tribal entity resides on the Indian territory or trust  
40 land of that tribal member's or tribal entity's tribe, nation or band. For purposes

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1 of this paragraph, a tribal entity "resides" where its principal place of business  
2 is located.'

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

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

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

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

13 **'Sec. 43. Appropriations and allocations.** The following appropriations and  
14 allocations are made.

15 **TREASURER OF STATE, OFFICE OF**

16 **Maliseet Sales Tax Fund N952**

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

19	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
20	All Other	\$0	\$500
21			
22	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$500</b>

23 **Penobscot Sales Tax Fund N951**

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

26	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
27	All Other	\$0	\$500
28			
29	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$500</b>

30

31 **TREASURER OF STATE, OFFICE OF**

32 **DEPARTMENT TOTALS**

33		<b>2021-22</b>	<b>2022-23</b>
34	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$1,000</b>
35			
36	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$1,000</b>

37

38 **Sec. 44. Contingent effective date.** This Act takes effect 120 days after  
39 adjournment of the Second Regular Session of the 130th Legislature only if, within 90 days  
40 after adjournment of the Second Regular Session of the 130th Legislature, the Secretary of  
41 State receives written certification from the Joint Tribal Council of the Passamaquoddy

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1 Tribe that the tribe has agreed to the provisions of this Act; from the Governor and the  
2 Council of the Penobscot Nation that the nation has agreed to the provisions of this Act;  
3 and from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band  
4 has agreed to the provisions of this Act, copies of which must be submitted by the Secretary  
5 of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.  
6 Upon such written certification by the Houlton Band Council of the Houlton Band of  
7 Maliseet Indians, each section of this Act regarding or affecting the Houlton Band of  
8 Maliseet Indians and its tribal members and lands constitutes a jurisdictional agreement for  
9 purposes of the Maine Indian Claims Settlement Act of 1980, United States Public Law  
10 96-420, Section 6(e)(2). Such written certification by the Houlton Band Council of the  
11 Houlton Band of Maliseet Indians does not constitute an agreement that the contingencies  
12 in Public Law 1981, chapter 675 were met or that the provisions of Public Law 1981,  
13 chapter 675 ever took effect.'

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

## 16 SUMMARY

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

22 This amendment, which is the minority report of the committee, makes the following  
23 changes to the bill.

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

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

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

39 4. It repeals the provisions of the Maine Implementing Act that specify the geographic  
40 areas within which the United States Secretary of the Interior may acquire up to 150,000  
41 acres of trust land each for the benefit of the Passamaquoddy Tribe and the Penobscot  
42 Nation, which trust lands are included within the tribe's or the nation's respective Indian  
43 territories, and enacts new provisions authorizing the secretary to acquire up to 150,000  
44 acres of trust land each for the benefit of the Passamaquoddy Tribe and the Penobscot

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1 Nation within the Penobscot River watershed and points north and east, as long as such  
2 land is not located within a city or town.

3 5. It repeals the provisions of the Maine Implementing Act governing the acquisition  
4 of Houlton Band Trust Land and enacts a new provision authorizing the United States  
5 Secretary of the Interior to acquire trust land for the benefit of the Houlton Band of Maliseet  
6 Indians within the Penobscot River watershed and points north and east, as long as such  
7 land is not located within a city or town.

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

12 7. It clarifies that, when the tribal courts of the Passamaquoddy Tribe, the Penobscot  
13 Nation and the Houlton Band of Maliseet Indians exercise exclusive or concurrent criminal  
14 jurisdiction, the definitions of the criminal offenses and the punishments applicable to those  
15 criminal offenses are governed by state law, except that the punishments imposed by a  
16 tribal court may not exceed the maximum punishments that a tribal court may impose under  
17 25 United States Code, Section 1302(a)(7).

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

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

26 10. It removes the provision of the bill providing that the Passamaquoddy Tribe, the  
27 Penobscot Nation and the Houlton Band of Maliseet Indians may not conduct gaming under  
28 the authority of the federal Indian Gaming Regulatory Act.

29 11. It increases from 25 to 35 the number of days within which the Passamaquoddy  
30 Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians may, after the date of  
31 the mailing of a state agency's proposal to develop a rule, legislation or other policy  
32 statement or action that may directly and substantially affect that tribe, nation or band,  
33 request that the state agency consult with the tribe, nation or band prior to taking the  
34 proposed action.

35 12. It increases by a year the deadlines established by the bill for each state agency to  
36 adopt tribal consultation policies; for each state agency to designate a tribal liaison; for  
37 each state agency to provide its first annual report on tribal consultation; and for the  
38 Governor to convene the first annual assembly of the Governor and the chiefs of the  
39 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.

40 13. It repeals or repeals and replaces each provision of the Maine Implementing Act  
41 that was enacted by Public Law 1981, chapter 675 and provides that, if the Houlton Band  
42 Council of the Houlton Band of Maliseet Indians certifies its agreement to the provisions  
43 of this legislation, that agreement constitutes a jurisdictional agreement between the State  
44 and the Houlton Band of Maliseet Indians for purposes of Section 6(e)(2) of the federal

COMMITTEE AMENDMENT "B" to H.P. 1210, L.D. 1626

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1 Settlement Act but does not constitute an agreement by the Houlton Band of Maliseet  
2 Indians that the provisions of Public Law 1981, chapter 675 ever took effect.

3 The amendment also adds an appropriations and allocations section.

4 **FISCAL NOTE REQUIRED**

5 (See attached)



Approved: 03/31/22 *MAC*

# 130th MAINE LEGISLATURE

LD 1626

LR 1341(03)

## 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

*B' (H-1007)*

Committee: Judiciary

Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$44,650	\$218,000	\$201,400
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$0	\$66,000	\$0
Other Special Revenue Funds	\$0	\$1,000	\$1,000	\$1,000
<b>Revenue</b>				
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.