

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

Sec. 12. 22 MRSA §339, sub-§2, ¶D is enacted to read:

D. A public hearing is not required for the simplified review and approval process set forth in section 336.

Sec. 13. 22 MRSA §343, as enacted by PL 2001, c. 664, §2, is amended to read:

§343. Public information

The department shall prepare and publish at least annually a report on its activities conducted pursuant to this Act. The annual report must include information on all certificates of need granted and denied and on the assessment of penalties. With regard to all certificates granted on a conditional basis, the report must include a summary of information reported pursuant to section 332 and any accompanying statements by the commissioner or department staff submitted regarding the reports.

Sec. 14. 22 MRSA §350, as enacted by PL 2001, c. 664, §2, is repealed and the following enacted in its place:

§350. Penalty

1. Violation. An individual, partnership, association, organization, corporation or trust that violates any provision of this chapter or any rate, rule or regulation pursuant to this chapter is subject to a fine imposed in conformance with the Maine Administrative Procedure Act and payable to the State of not more than \$10,000. The department may hold these funds in a special revenue account that may be used only to support certificate of need reviews, such as for hiring expert analysts on a short-term consulting basis.

2. Administrative hearing and appeal. To contest the imposition of a fine under this section, the individual, partnership, association, organization, corporation or trust shall submit to the department a written request for an administrative hearing within 10 days of notice of imposition of a fine pursuant to this section. Judicial appeal must be in accordance with Title 5, chapter 375, subchapter 7.

Sec. 15. 22 MRSA §350-A, as amended by PL 2007, c. 681, §7, is repealed.

Sec. 16. Application. Notwithstanding the limitations of the capital investment fund established pursuant to the Maine Revised Statutes, Title 2, section 102, the approval of certificates of need for those projects or activities that require a certificate of need as a result of the changes enacted in this Act are not subject to the limitations established under the capital investment fund until the certificate of need review cycle that begins January 1, 2013.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 12, 2009.

CHAPTER 384

H.P. 967 - L.D. 1377

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

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

PART A

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

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

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

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

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

§6211. Eligibility of Indian tribes and state funding

1. Eligibility generally. The Passamaquoddy Tribe and the Penobscot Nation shall be and the Houlton Band of Maliseet Indians are eligible for participation and entitled to receive benefits from the State under any state program which that provides financial assistance to all municipalities as a matter of right. Such entitlement shall must be determined using statutory criteria and formulas generally applicable to mu-

municipalities in the State. To the extent that any such program requires municipal financial participation as a condition of state funding, the share for ~~either the Passamaquoddy Tribe or the Penobscot Nation or the Houlton Band of Maliseet Indians~~ may be raised through any source of revenue available to the respective tribe ~~or nation or band~~, including but without limitation taxation to the extent authorized within its respective Indian territory. In the event that any applicable formula regarding distribution of ~~moneys money~~ employs a factor for the municipal real property tax rate, and in the absence of such tax within ~~either the Indian territory~~, the formula applicable to such Indian territory ~~shall must~~ be computed using the most current average equalized real property tax rate of all municipalities in the State as determined by the State Tax Assessor. In the event any such formula regarding distribution of ~~moneys money~~ employs a factor representing municipal valuation, the valuation applicable to such Indian territory ~~shall must~~ be determined by the State Tax Assessor in the manner generally provided by the laws of the State, ~~provided, however, that as long as~~ property owned by or held in trust for ~~either a tribe or nation or band~~ and used for governmental purposes ~~shall be~~ is treated for purposes of valuation as like property owned by a municipality.

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

3. Eligibility for discretionary funds. The Passamaquoddy Tribe ~~and the Penobscot Nation shall be~~ and the Houlton Band of Maliseet Indians are eligible to apply for any discretionary state grants or loans to

the same extent and subject to the same eligibility requirements, including availability of funds, applicable to municipalities in the State.

4. Eligibility of individuals for state funds.

Residents of ~~either the Indian territory shall be territories or Houlton Band Trust Land~~ are eligible for and entitled to receive any state grant, loan, unemployment compensation, medical or welfare benefit or other social service to the same extent as and subject to the same eligibility requirements applicable to other persons in the State, ~~provided, however, that as long as~~ in computing the extent to which any person is entitled to receive any such funds, any ~~moneys money~~ received by such person from the United States within substantially the same period of time for which state funds are provided and for a program or purpose substantially similar to that funded by the State, ~~shall be~~ is deducted in computing any payment to be made by the State.

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

PART B

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

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

1. Exclusive jurisdiction over certain matters.

Except as provided in subsections 3 and 4, the Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

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

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

C. committed by a juvenile member of the Houlton Band of Maliseet Indians on the Houlton Band Jurisdiction Land;

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

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

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

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

2. Definitions of crimes; tribal procedures. In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed to be enforcing tribal law of the Houlton Band of Maliseet Indians. The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Houlton Band of Maliseet Indians 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. 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 and regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

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

4. Double jeopardy; collateral estoppel. A prosecution for a criminal offense or juvenile crime over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile crime arising out of the same conduct over which the State has exclusive jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a criminal offense or juvenile crime arising out of the same conduct over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a tribal forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a state court does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a tribal forum.

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

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

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

The designation of Houlton Band Jurisdiction Land in this subsection in no way affects the acquisition of additional Houlton Band Trust Land pursuant to appli-

cable federal and state law, nor limits the Houlton Band of Maliseet Indians from making additional requests that portions of the trust land be included in this subsection.

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

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

PART C

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

§6209-D. Full faith and credit

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

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

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

1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B, section 2; and
2. The Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part, written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part and written certification from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Part, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Sec-

retary of the Senate, the Clerk of the House and the Revisor of Statutes.

PART D

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

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

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

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

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

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

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

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

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

1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B, section 2;
2. The Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve Part C as provided in Part C, section 2; and
3. The Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part and written certification from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Part, pursuant to 25 United States Code, Section 1725(e), 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.

PART E

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

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

- A. Criminal offenses for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and that are committed on the Indian reservation of the Passamaquoddy Tribe by a member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, except when committed against a person who is not a member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation or against the property of a person who is not a member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation;
- B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, committed by a juvenile member of ~~either~~ the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation on the reservation of the Passamaquoddy Tribe;

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The Houlton Band of Maliseet Indians approves Part B as provided in Part B, section 2;
2. The Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve Part C as provided in Part C, section 2; and
3. The Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part and written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part, pursuant to 25 United States Code, Section 1725(e), 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.

PART F

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

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

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

2. Chair. The commission, by a majority vote of its ~~8~~ 12 members, shall select an individual who is a resident of the State to act as chair. ~~When 8 members of the commission by majority vote are unable to select a chair within 120 days of the first meeting of the commission, the Governor, after consulting with the governors of the Penobscot Nation and the Passamaquoddy Tribe, shall appoint an interim chair for a period of one year or for the period until the commission selects a chair in accordance with this section, which ever is shorter.~~ In the event of the death, resignation, replacement or disability of the chair, the commission may select, by a majority vote of its ~~8~~ 12 remaining members, a new chair. When the commission is unable to select a chair within 120 days of the death, resignation, replacement or disability, the Governor, after consulting with the ~~governors~~ chiefs of the Houlton Band of Maliseet Indians, the Penobscot Nation and the Passamaquoddy Tribe, shall appoint an interim chair for a period of one year or for the period until the commission selects a chair in accordance with this section, whichever is shorter. The chair is a full-voting member of the commission and, except when appointed for an interim term, shall serve for 4 years.

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

3. Responsibilities. In addition to the responsibilities set forth in this Act, the commission shall continually review the effectiveness of this Act and the social, economic and legal relationship between the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and the State and shall make such reports and recommendations to the Legislature, the Houlton Band of Maliseet Indians, the Pas-

samaquoddy Tribe and the Penobscot Nation as it determines appropriate.

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

Sec. F-4. Contingent effective date. This Part takes effect October 1, 2009 only if, within 90 days after the adjournment of the First Regular Session of the 124th Legislature, the Secretary of State receives written certification from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Part, written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part and written certification from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Part pursuant to 25 United States Code, Section 1725(e), 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.

PART G

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

See title page for effective date, unless otherwise indicated.

CHAPTER 385

H.P. 876 - L.D. 1257

An Act To Require Legislative Consultation and Approval Prior to Committing the State to Binding International Trade Agreements

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

Sec. 1. 10 MRSA §13 is enacted to read:

§13. Legislative approval of trade agreements

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

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A.

B. "Trade agreement" means an agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade, procurement, services or investment among the parties to the agreement. "Trade agreement" includes, but is not limited to, any agreements under the auspices of the World Trade Organization, all regional free trade agreements, including the North American Free Trade Agreement and the Central America Free Trade Agreement and all bilateral agreements entered into by the United States, as well as requests for binding agreement received from the United States Trade Representative.

2. State official prohibited from binding the State. If the United States Government provides the State with the opportunity to consent to or reject binding the State to a trade agreement, or a provision within a trade agreement, then an official of the State, including but not limited to the Governor, may not bind the State or give consent to the United States Government to bind the State in those circumstances, except as provided in this section.

3. Receipt of request for trade agreement. When a communication from the United States Trade Representative concerning a trade agreement provision is received by the State, the Governor shall submit a copy of the communication and the proposed trade agreement, or relevant provisions of the trade agreement, to the chairs of the commission, the President of the Senate, the Speaker of the House of Representatives, the Maine International Trade Center and the joint standing committees of the Legislature having jurisdiction over state and local government matters and business, research and economic development matters.

4. Review by commission. The commission, in consultation with the Maine International Trade Center, shall review and analyze the trade agreement and issue a report on the potential impact on the State of agreeing to be bound by the trade agreement, including any necessary implementing legislation, to the Legislature and the Governor.

5. Legislative approval of trade agreement required. Unless the Legislature by proper enactment of a law authorizes the Governor or another official of the State to enter into the specific proposed trade agreement, the State may not be bound by that trade agreement.

See title page for effective date.