



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

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MEMORANDUM

TO: Joint Standing Committee on Judiciary
FROM: Janet Stocco, Legislative Analyst
DATE: December 12, 2023
RE: Informational Memo: Recent Developments in Tribal Law and Legislation

I. Brief Historical Background

The following information is pulled from the report of the *Task Force on Changes to the Maine Indian Claims Settlement Implementing Act* (Jan. 2020), available here: <http://legislature.maine.gov/maine-indian-claims-tf>.

While the Task Force was not charged with compiling a comprehensive history of either the relationship between the State and the Penobscot Nation, Passamaquoddy Tribe, Houlton Band of Maliseet Indians and the [Mi'kmaq Nation] or the events leading to the enactment of the federal Maine Indian Claims Settlement Act of 1980, the Maine Implementing Act and Micmac Settlement Act, a basic understanding of the events leading to the settlement and implementing acts is necessary to understand the work of the Task Force.

Maine currently has four federally recognized Indian Tribes. These are:

- [The Mi'kmaq Nation (formerly known as the Aroostook Band of Micmacs)];
- The Houlton Band of Maliseet Indians;
- The Passamaquoddy Tribe; and
- The Penobscot Nation.

In the 1970s, the Passamaquoddy Tribe and the Penobscot Nation asked the United States to assert legal claims on their behalf to a large amount of land in Maine. The claims were based on the position that because Congress never ratified any treaties between the Tribes and the State (or its predecessor, Massachusetts), as required by the Indian Non-Intercourse Act, any land transactions that occurred as a result of the treaties were invalid. The Tribes argued that they retained legal title to these lands and sought damages for use of the lands by the State. Following the First Circuit's decision in *Joint Tribal Council of the Passamaquoddy Tribe v. Morton*, 528 F.2d 370 (1st Cir. 1975), these claims gained traction. The federal government, which had filed litigation in 1972 on behalf of the Tribes in order to meet a statute of limitation deadline, but had not acted further pending the outcome of *Morton*, began seriously considering the claims. The resulting negotiations led to enactment of the Settlement Act and the associated Maine Implementing Act.

[Additional Sources of Information on the history of the events preceding the Settlement Act and the Maine Implementing Act are listed on page 3 of the Task Force [Report](#).]

A. An Act to Implement the Maine Indian Claims Settlement [“Maine Implementing Act” or “MIA”]

The Maine Legislature passed An Act to Implement the Maine Indian Claims Settlement in 1980 (“Maine Implementing Act”), [P.L. 1979, ch. 732] prior to enactment of the federal Settlement Act, but it became effective only upon ratification by the federal government as described in Part II.B. [P.L. 1979, ch. 73, §31] ...

[A brief summary of the MIA, as it was in effect on Jan. 2020, is set forth on pages 3-6 of the Task Force Report but omitted here. The current MIA is summarized later in this memorandum.]

B. Maine Indian Claims Settlement Act of 1980 [“Settlement Act” or “MICSA”]

The Maine Indian Claims Settlement Act of 1980 (“Settlement Act”) [Pub. L. No. 96-420, 94 Stat. 1785 (Oct. 10, 1980)], was enacted by Congress and signed into law on October 10, 1980 ...

Very broadly, under the Settlement Act, the following occurred:

- Congress affirmatively **approved all prior transfers of land or natural resources within the State** of Maine by or on behalf of any Indian, Indian nation, Tribe or band, including the Passamaquoddy Tribe, Penobscot Nation and Houlton Band of Maliseet Indians, as well as the **extinguishment of aboriginal title** to any lands so transferred; [MICSA §4]
- Congress **approved, ratified** and rendered effective previously enacted state legislation (*i.e.*, the **Maine Implementing Act**, discussed [above]); [MICSA §2(b)(3)]
- Congress appropriated \$27 million total [one-half for each tribe] in **general settlement funds** to be held in trust by the federal government on behalf of the **Passamaquoddy Tribe and Penobscot Nation** and \$26.8 million per Tribe in **land acquisition settlement funds** to be held in trust by the federal government on behalf of each Tribe. The first 150,000 acres of land purchased with the land acquisition settlement funds within the area described in the Maine Implementing Act by each of these Tribes would be held in trust by the United States for the benefit of the respective Tribe but could be condemned for public purposes by the State upon payment of just compensation; [MICSA §5 & §14]
- Congress appropriated \$900,000 in **land acquisition funds** to be held in trust by the federal government on behalf of the **Houlton Band of Maliseet Indians**. Lands acquired with the funds would be held in trust by the United States for the benefit of the Tribe if prior state legislation was enacted to approve the acquisition of trust land; [MICSA §5 & §14]
- Congress approved, ratified, and rendered effective the **allocation of State jurisdiction over the Penobscot Nation and Passamaquoddy Tribe** “to the extent and in the manner provided in the Maine Implementing Act,” [MICSA §6(b)(1), (d)(1), (f)] and gave its **advance consent to the State, the Penobscot Nation and the Passamaquoddy Tribe to amend the Maine Implementing Act** regarding:
 - (a) the enforcement or application of state or Tribal civil, criminal and regulatory laws within their respective jurisdictions,
 - (b) the allocation of state and Tribal governmental responsibility over specified subject matters or geographical areas and
 - (c) the allocation of jurisdiction between state and Tribal courts; [MCISA §6(e)(1)]
- The **Houlton Band of Maliseet Indians** and its members became **subject to the jurisdiction of the State** of Maine “to the same extent as any other person or land therein,” [MICSA §6(a)] with **advance federal consent** given to the State and the Houlton Band of Maliseet Indians to **execute agreements regarding state jurisdiction** over lands held in trust for the Tribe; [MICSA §6(e)(2)]

- The **federal government waived its criminal jurisdiction** under enumerated federal statutes pertaining to crimes committed in Indian country, to the extent the relevant lands were located within the State of Maine; [MICSA §6(c)]
- As **federally recognized Tribes**, the Penobscot Nation, Passamaquoddy Tribe and Houlton Band of Maliseet Indians **retained eligibility for all federal financial benefits** provided to Indians [MICSA §6(i)]; **however, any federal law or regulation existing at the time of the Settlement Act that afforded special status or rights to any Indian, tribe, Indian lands or land held in trust** for Indians and that affected or preempted the civil, criminal, or regulatory jurisdiction of the State of Maine, including laws relating to land use or environmental matters, would not apply within the State; [MICSA §6(h)] and
- Any **federal law for the benefit of Indians or Indian Tribes enacted after the effective date of the Settlement Act and which would affect or preempt the application of the laws of the State of Maine** would not apply within the State unless “such subsequently enacted Federal law is specifically made applicable within the State of Maine.” [MICSA §16(b)]

In 1986, the Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986 [[Pub. L. No. 99-566, 100 Stat. 3184 \(Oct. 27, 1986\)](#)] was passed; this federal legislation provided that lands purchased by the Band would be granted federal trust status.

C. Aroostook Band of Micmacs Settlement Act [“ABMSA”]

The status and rights of the Aroostook Band of Micmacs were not specifically described in either the federal Settlement Act or the Maine Implementing Act. Congress subsequently enacted the Aroostook Band of Micmacs Settlement Act in 1991 to address the status of the Band... [[Pub. L. No. 102-171, 105 Stat. 1143 \(Nov. 26, 1991\).](#)]

Through the Aroostook Band of Micmacs Settlement Act, Congress:

- **Ratified** previously enacted State legislation defining the relationship between the State of Maine and the Aroostook Band of Micmacs (*i.e.*, **the Micmac Settlement Act**, discussed [below]); [ABMSA, §(2)(b)]
- Appropriated \$900,000 in **land acquisition funds** to be held in trust by the federal government on behalf of the Aroostook Band of Micmacs. [ABMSA §2(b)(3); §4(a)] Land acquired with these funds would be held by the federal government in trust for the benefit of the Aroostook Band of Micmacs, but could be condemned for public purposes upon conditions set forth in the Micmac Settlement Act; [ABMSA §5(a), (c) & (d)]
- **Formally recognized the Aroostook Band of Micmacs**, establishing Band members’ eligibility for all federal programs and services provided to Indians, but subjecting the Aroostook Band of Micmacs and all its lands to “**the same status as other tribes and their lands . . . under the terms of the Maine Indian Claims Settlement Act of 1980**”; [ABMSA §6(a)(federal recognition); §6(b)(same status as Tribes under Maine Indian Claims Settlement Act of 1980); §6(c)(Band member eligibility for federal services)] and
- **Consented in advance to amendments of the Micmac Settlement Act** agreed to by the State of Maine and the Aroostook Band of Micmacs regarding State jurisdiction over lands held by or in trust for the benefit of the Band. [ABMSA §6(d)]

D. The Micmac Settlement Act [*Renamed “The Mi’Kmaq Restoration Act” in 2023*]

The Maine Legislature enacted The Micmac Settlement Act [[P.L. 1989, ch. 148](#)] in 1989, prior to enactment of the federal Aroostook Band of Micmacs Settlement Act, but its effectiveness was expressly conditioned upon the occurrence of two events: first, enactment of federal legislation ratifying the Act and providing advance federal consent to future amendments of the Act by agreement of the State and the Aroostook Band of Micmacs and, second, written certification by the Council of the Aroostook Band of Micmacs indicating that the Band agreed to the terms of the State Act. [P.L. 1989, ch. 148, §4]

Although the first condition was satisfied by enactment of the federal Aroostook Band of Micmacs Settlement Act, the second condition does not appear to have been met. ...

[The Micmac Settlement Act is summarized on page 9 of the Task Force [Report](#).]

New information – not from the Task Force report:

More than 30 years later, the First Special Session of the 131st Legislature directly amended P.L. 1989, ch. 148, the session law that had created the Micmac Settlement Act, through [P.L. 2023, chapter 369](#), An Act to Amend the Laws Regarding the Mi'kmaq Nation and to Provide Parity to the Wabanaki Nations (LD 1620). This law changed the Act's name to "The Mi'Kmaq Nation Restoration Act" ("MNRA") and amended the Act's language to establish a jurisdictional relationship between the State and the Mi'kmaq Nation that more closely parallels the relationship between the State and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians. This law also amended the effective date provision of P.L. 1989, ch. 148, to establish that the Act would take effect if it was certified by the Mi'kmaq Nation Tribal Council within 90 days of the adjournment of the First Special Session of the 131st Legislature. This condition appears to have been met.

II. Task Force on Changes to the Maine Indian Claims Settlement Implementing Act

A. Task Force Establishment, Membership and Duties

Pursuant to [S.P. 622](#), *Joint Resolution to Support the Development of Mutually Beneficial Solutions to the Conflicts Arising from the Interpretation of An Act to Implement the Maine Indian Claims Settlement and the Federal Maine Indian Claims Settlement Act of 1980*, the First Regular Session of the 129th Legislature resolved:

That We, the Members of the One Hundred and Twenty-ninth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to recognize that the Maine tribes should enjoy the same rights, privileges, powers, and immunities as other federally recognized Indian tribes within the United States; [and]

That the Legislature supports a collaborative process to develop amendments to An Act to Implement the Maine Indian Claims Settlement and the federal Maine Indian Claims Settlement Act of 1980 that would clarify that the Maine tribes enjoy the same rights, privileges, powers and immunities as other federally recognized Indian tribes within the United States.

The Task Force on Changes to the Maine Indian Claims Settlement Implementing Act (the "Task Force") was established in the First Regular Session of the 129th Legislature by [H.P. 1307](#), *Joint Order, Establishing the Task Force on Changes to the Maine Indian Claims Settlement Act*. The Task Force was comprised of 13 members, 3 of whom were ex officio, non-voting members. The appointed, voting members included 2 members of the Maine Senate and 3 members of the Maine House of Representatives. In addition, the Joint Order directed the President of the Senate and the Speaker of the House to invite the following individuals to participate as voting members:

- ❖ The Chief of the Aroostook Band of Micmacs (or designee);
- ❖ The Chief of the Houlton Band of Maliseet Indians (or designee);
- ❖ The Chief of the Passamaquoddy Tribe at Pleasant Point (or designee);
- ❖ The Chief of the Passamaquoddy Tribe at Indian Township (or designee); and
- ❖ The Chief of the Penobscot Nation (or designee)

The Joint Order further authorized the President and Speaker to invite the following 3 individuals to participate as *ex-officio*, non-voting members of the Task Force:

- ❖ The Governor (or designee);
- ❖ The Attorney General (or designee); and
- ❖ The Managing Director of the Maine Indian-Tribal State Commission

The Task Force members are listed on the second page of the report and in Appendix D ([Report PDF](#) pages 2, 73). The Joint Order directed the Task Force to review both the Maine Implementing Act and the Micmac Settlement Act and to make consensus recommendations to the Legislature regarding any suggested changes to the Acts. The Joint Order defined a “consensus” recommendation as a recommendation supported by “representatives on the task force of the Tribe or Tribes affected by the suggested changes and a majority of the other voting members of the task force.” The Joint Order also charged the Task Force with submitting a report to the Joint Standing Committee on Judiciary. Under the Joint Order, the Joint Standing Committee on Judiciary was directed to report out legislation based on the Task Force’s consensus recommendations.

In addition to a copy of the final report, copies of Task Force meeting materials and background materials are posted on the Task Force’s publicly accessible website: <https://legislature.maine.gov/maine-indian-claims-tf>.

B. Items Set Aside by the Task Force

At the outset of the Task Force process, Task Force members agreed that neither the Joint Order or the Joint Resolution intended any review of the portions of the settlement acts involving the resolution of land claims or extinguishment of aboriginal title. In addition, the Task Force set aside questions related to the relationship between the Aroostook Band of Micmacs and the State, focusing instead on the tribes addressed in the Maine Implementing Act: the Passamaquoddy Tribe, the Penobscot Nation and the Holton Band of Maliseet Indians.

C. Task Force Recommendations

Ultimately, the Task Force adopted 22 consensus recommendations for amending the Maine Implementing Act. These consensus recommendations were grouped under nine different topics, including: Alternative Dispute Resolution and Tribal-State Collaboration and Consultation; Criminal Jurisdiction; Fish and Game; Land Use and Natural Resources; Taxing Authority; Gaming; Civil Jurisdiction; Federal Law Provisions (i.e., application of federal laws in Maine); and Trust Land Acquisition. These consensus recommendations are set forth in the chart beginning on page 7 below.

III. Relevant Tribal Legislation Enacted After the Task Force’s Report

Since the Task Force completed its work, the Legislature has enacted five laws that adopt, either in whole or in part, or that relate to, the Task Force’s consensus recommendations. These laws include:

- [P.L. 2019, ch. 621 \(LD 766\)](#), An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe’s Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013
- [P.L. 2021, ch. 139 \(LD 159\)](#), An Act To Eliminate Time Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement
- [P.L. 2021, ch. 650 \(LD 906\)](#), An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water
- [P.L. 2021, ch. 681 \(LD 585\)](#), An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering
- [P.L. 2023, ch. 369 \(LD 1620\)](#), An Act to Amend the Laws Regarding the Mi’kmaq Nation and to Provide Parity to the Wabanaki Nations

The Legislature has also enacted two additional laws amending the MIA since the Task Force issued its report:

- [P.L. 2023, ch. 359 \(LD 1970\)](#), An Act to Enact the Maine Indian Child Welfare Act
- [P.L. 2023, ch. 370 \(LD 1679\)](#), An Act Regarding the Maine Indian Tribal-State Commission

As is required by MICSA and the ABMSA, all amendments to the MIA or the Micmac Settlement Act in these laws was made contingent on the approval of the affected tribe or tribes. Pursuant to [3 M.R.S. §601](#): “When approval of legislation by an Indian tribe or Indian nation is required by the [federal law], certification of that approval shall be made to the Secretary of State by the officer of the affected Indian tribe or Indian nation ...”

As is shown below, however, based on communications with the Secretary of State’s Office and the Revisor’s Office, it appears that not all of the tribes that were required to certify approval of each law have done so.

| Public Law | Certification Required By: | Received? |
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| P.L. 2019, ch. 621 (LD 766) , An Act Regarding the Penobscot Nation’s and Passamaquoddy Tribe’s Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013 | Penobscot Nation – <i>Parts A & C</i> | Yes |
| | Passamaquoddy Tribe – <i>Parts B & D</i> | Yes |
| P.L. 2021, ch. 139 (LD 159) , An Act To Eliminate Time Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement | Penobscot Nation – <i>whole law</i> | Yes |
| | Passamaquoddy Tribe – <i>whole law</i> | Yes |
| P.L. 2021, ch. 650 (LD 906) , An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water | Passamaquoddy Tribe – <i>whole law</i> | Yes |
| P.L. 2023, ch. 359 (LD 1970) , An Act to Enact the Maine Indian Child Welfare Act | Passamaquoddy Tribe – <i>for amend. to MIA §6209-A(1)(D)</i> | No |
| | Penobscot Nation – <i>for amend. to MIA §6209-B(1)(D)</i> | No |
| | Houlton Band of Maliseet Indians – <i>for amend. to MIA §6209-C(1)(D)</i> | No |
| P.L. 2023, ch. 369 (1620) , An Act to Amend the Laws Regarding the Mi’kmaq Nation and to Provide Parity to the Wabanaki Nations (LD 1620) | Mi’kmaq Nation – <i>Part A</i> | Yes |
| | Passamaquoddy Tribe – <i>Parts B & E</i> | Yes |
| | Penobscot Nation – <i>Parts C & E</i> | No |
| | Houlton Band of Maliseet Indians – <i>Part D</i> | No |
| P.L. 2023, ch. 370 (LD 1679) , An Act Regarding the Maine Indian Tribal-State Commission | Penobscot Nation – <i>whole law</i> | No |
| | Passamaquoddy Tribe – <i>whole law</i> | No |
| | Houlton Band of Maliseet Indians – <i>whole law</i> | No |

If the committee wishes, it may pass legislation extending the time for the affected tribes to certify their agreement to these laws.

IV. Current Status of Task Force Consensus Recommendations

The chart below describes the current status of the Task Force’s consensus recommendations, based on the laws enacted since the Task Force Report..

| Task Force Consensus Recommendation | Related Legislation Enacted after Task Force Report |
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| Alternative Dispute Resolution and Tribal-State Collaboration and Consultation | |
| <p>Consensus Recommendation #1: Amend the MIA to establish an enhanced process for tribal-state collaboration and consultation as well as a process for alternative dispute resolution. Allow stakeholders to meet in January to delineate the contours of the Task Force’s general recommendation on these issues. [Report p.33]</p> | <p>Partly Met.</p> <p>P.L. 2021, ch. 681 (LD 585), <i>An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering:</i></p> <ul style="list-style-type: none"> • Enacted the Tribal-State Collaboration Act in Title 5, Chapter 376, which creates a process for tribal-state collaboration. • It requires 16 identified state agencies (including 14 departments, the Office of the Public Advocate and the Public Utilities Commission): <ul style="list-style-type: none"> ○ To designate a tribal liaison; and ○ To develop and implement policies that: promote positive government-to government relations between the State and the 4 federally recognized Indian tribes; promote cultural competency in the agency’s interactions with the Indian tribes and tribal members; and establish a process for collaboration between the agency and Indian tribes regarding the agency’s programs, rules and services that substantially and uniquely affect the Indian tribes or tribal members. • It also directs the Governor to meet at least annually in a Tribal-State Summit with leaders of the Indian tribes to address issues of mutual concern, including implementation of the Act, improving communication between the State and the Indian tribes and implementing the requirement to include Maine Native American Studies in the Department of Education’s system of learning results. <p>However: (a) the Tribal-State Collaboration Act is not located within the MIA and (b) LD 585 did not include an alternative dispute resolution process.</p> |
| Criminal Jurisdiction | |
| <p>Consensus Recommendation #2: Amend the MIA to recognize the jurisdiction of the Passamaquoddy Tribal Court, Penobscot Nation Tribal Court and the Houlton Band of Maliseet Indians Tribal Court over certain</p> | <p>Partially met.</p> <p>P.L. 2023, ch. 369 (LD 1620), <i>An Act to Amend the Laws Regarding the</i></p> |

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| <p>criminal and juvenile offenses committed on the following Tribal lands: any land held now or in the future by the Secretary of Interior in trust for the relevant Tribe and any restricted-fee land held now or in the future by the relevant Tribe. [Report pp.33-35]</p> | <p><i>Mi’kmaq Nation and to Provide Parity to the Wabanaki Nations:</i></p> <ul style="list-style-type: none"> • Amended the exclusive criminal jurisdiction of the Passamaquoddy Tribal Court and Penobscot Nation Tribal Court under the MIA beyond certain offenses committed on their own reservations to the same offenses committed on their own Indian territories (<i>i.e.</i>, reservation and trust land). • Amended the potential exclusive criminal jurisdiction of the Houlton Band of Maliseet Indians Tribal Court under the MIA beyond certain offenses committed on specific parcels of the band’s trust land to the same offenses committed on all of the band’s current trust lands and any future trust lands within Aroostook County and within 50 miles of current trust lands. • [Authorized creation of a Mi’Kmaq Nation Tribal Court with exclusive criminal jurisdiction extending to certain offenses committee on the nation’s current trust lands as well as any future trust lands within Aroostook county and within 50 miles of current trust lands.] <p>However: (a) it is not clear that either the Penobscot Nation or Houlton Band of Maliseet Indians agreed to the amendments of MIA affecting their tribal courts; and (b) the provisions of LD 1620 affecting the Houlton Band of Maliseet Indians Tribal Court and Mi’kmaq Tribal Court do not extend exclusive criminal jurisdiction to <u>all</u> of the relevant tribes’ future trust lands.</p> |
| <p>Consensus Recommendation #3: Amend the MIA to:</p> <p><u>Part 1:</u> Equate the exclusive criminal jurisdiction of the Passamaquoddy Tribal Court and the Houlton Band of Maliseet Indians Tribal Court with the exclusive criminal jurisdiction of the Penobscot Nation Tribal Court over offenses committed by Indian defendants. [Report pp.35-36]</p> | <p>Partially met.</p> <p>P.L. 2023, ch. 369 (LD 1620), <i>An Act to Amend the Laws Regarding the Mi’kmaq Nation and to Provide Parity to the Wabanaki Nations:</i></p> <ul style="list-style-type: none"> • Amended the MIA to equate the exclusive criminal jurisdiction of the Passamaquoddy Tribal Court and potential Houlton Band of Maliseet Indians Tribal Court with the exclusive jurisdiction of the Penobscot Nation Tribal Court over offenses committed by Indian defendants. • [Authorized creation of a Mi’Kmaq Nation Tribal Court with exclusive criminal jurisdiction over offenses committed by Indian defendants equivalent to the exclusive criminal jurisdiction of the Penobscot Nation Tribal Court.] <p>However: it is not clear that the Houlton Band of Maliseet Indians agreed to the amendments of MIA specifically affecting its tribal court.</p> |

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| <p><u>Part 2</u>: Recognize the authority of Tribal Courts in Maine to impose the maximum penalties other Tribal Courts are authorized to impose under the federal Tribal Law and Order Act of 2010, as long as the due process protections required by that Act are observed. [Report pp. 36-38]</p> | <p>Not met.</p> |
| <p>Consensus Recommendation #4: Enact and implement L.D. 766, <i>An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013</i>, as it is ultimately amended by agreement of the Tribes and the State, to amend the MIA to grant Tribal courts jurisdiction over certain domestic violence criminal offenses committed by non-Indian defendants on Tribal lands against Indian victims. [Report pp. 38-39]</p> | <p>Met.</p> <p>P.L. 2019, ch. 621 (LD 766), <i>An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013</i>:</p> <ul style="list-style-type: none"> Granted the Penobscot Nation and Passamaquoddy Tribe’s tribal courts concurrent jurisdiction over certain Class D domestic violence offenses committed by a non-Indian defendant on the respective tribe’s reservation against a person who is a member of a federally recognized tribe. |
| <p>Consensus Recommendation #5: Amend the MIA to recognize the concurrent jurisdiction of Tribal courts over offenses committed on Tribal lands by Indian defendants against non-Indian victims, subject to the maximum penalty provisions and due process requirements of the Tribal Law and Order Act of 2010. [Report pp. 39-40]</p> | <p>Not met.</p> |
| <p>Consensus Recommendation #6: Amend the MIA to recognize each Tribal government’s authority to define all crimes and juvenile offenses committed on its Tribal lands over which its Tribal court has exclusive or concurrent criminal jurisdiction, but retain the authority of the State to define all crimes and juvenile offenses committed on Tribal lands over which state courts have exclusive or concurrent jurisdiction. [Report pp. 40-41]</p> | <p>Not met.</p> |
| <p>Fish and Game</p> | |
| <p>Consensus Recommendation #7: Amend the MIA to recognize federal law regarding the exclusive jurisdiction of Tribes to regulate fishing and hunting by Tribal citizens of all federally recognized Tribes on Tribal lands, using the expanded definition of Tribal lands described in consensus recommendation #2. [Report pp. 42-43]</p> | <p>Not met.</p> |
| <p>Consensus Recommendation #8: Amend the MIA to restore and affirm the exclusive jurisdiction of Tribes to regulate fishing and hunting by non-Tribal citizens on Tribal lands, using the expanded definition of Tribal lands described in consensus recommendation #2, but do not cede any of the Maine</p> | <p>Not met.</p> |

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| Indian Tribal-State Commission (MITSC)’s authority to regulate hunting and fishing under current law to the State. [Report pp. 43-44] | |
| Consensus Recommendation #9: Amend the MIA to relinquish the State of Maine’s jurisdiction with respect to the regulation of fishing and hunting by both Tribal and non-Tribal citizens on Tribal lands, except that, solely for conservation purposes, the State of Maine may regulate Tribal members engaged in such activities off Tribal lands to the extent permitted under general principles of federal Indian law and in a manner consistent with reserved Tribal treaty rights. [Report pp.44-45] | Not met. |
| Land Use and Natural Resources | |
| Consensus Recommendation #10: Amend the MIA to restore and affirm the Tribes’ rights to exercise regulation of natural resources and land use on Tribal land to the fullest extent under federal Indian law. [Report pp. 45-46] | Not met. |
| Taxing Authority | |
| Consensus Recommendation #11: Amend the MIA to recognize federal law providing that Tribes have exclusive jurisdiction to tax Tribal members and Tribal entities on Tribal lands, including entities owned by a Tribe or Tribal member, using the definition of Tribal lands described in consensus recommendation #2. [Report p. 46] | <p>Partially met (for taxing authority recommendations #11 - #16)</p> <p>P.L. 2021, ch. 681 (LD 585), <i>An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering</i> – adopted a different approach to taxation (with most of these provisions effective 1/1/23):</p> <ul style="list-style-type: none"> • Exempted from state sales tax (a) sales to the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation for any purpose; and (b) sales to members of these same 3 tribes, except that if the property or service purchased by the tribal member is used primarily outside tribal land, the use tax applies [<i>compare consensus rec. #12</i>]; • Expanded the law under which the State returns to the tribe sales tax revenue collected for sales occurring on the Passamaquoddy Tribe’s reservations—to (a) apply to sales occurring on all Passamaquoddy Indian territory; and (b) provide for similar return to the Houlton Band of Maliseet Indians and Penobscot Nation of sales tax revenue collected for sales occurring on Houlton Band Trust Land or Penobscot Indian territory; • Exempted from state corporate income tax the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their |
| Consensus Recommendation #12: Amend the MIA to recognize federal law providing that Tribes, Tribal members and Tribal entities are not subject to state and local sales taxation on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2. [Report pp. 46-48] | |
| Consensus Recommendation #13 Amend the MIA to recognize federal law providing that Tribal members who live on Tribal lands are not subject to state income tax for income earned on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2. [Report pp. 46-48] | |
| Consensus Recommendation #14: Amend the MIA to recognize federal law providing that Tribal lands are not subject to state and local real property tax, using the definition of Tribal lands described in consensus recommendation #2. [Report pp. 47-48] | |
| Consensus Recommendation #15: Amend the MIA to recognize federal law providing that Tribes have concurrent jurisdiction to tax non-members on Tribal lands, using the definition of Tribal lands described in consensus recommendation #2. [Report pp. 48-49] | |

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| <p>Consensus Recommendation #16: Amend the MIA to recognize federal law providing that state and local governments have concurrent jurisdiction to tax non-members on Tribal lands unless their jurisdiction is preempted under a fact-specific, federal common law balancing test. [Report pp. 48-49]</p> | <p>wholly owned corporations created under Section 17 of the federal Indian Reorganization Act;</p> <ul style="list-style-type: none"> Created income tax modifications for the amount of income or loss derived from or connected to sources on tribal land for (a) tribal members residing on tribal land or (b) estates of decedents who were tribal members residing on tribal land [<i>compare consensus rec. #13</i>]; and Miscellaneous taxes: Exempts (a) tribal land from the commercial forestry excise tax; (b) wild blueberries grown on tribal land from the wild blueberry tax; and (c) potatoes grown on tribal land from the potato tax. <p>However: These tax law changes:</p> <ul style="list-style-type: none"> Were made in Title 36 of the Maine Revised Statutes, not the MIA; and Do not fully accomplish the consensus recommendations. |
| <p>Gaming</p> | |
| <p>Consensus Recommendation #17: Amend the MIA to render the federal Indian Gaming Regulatory Act [“IGRA”] applicable in Maine. [Report pp. 49-51]</p> | <p>Not met; different approach taken.</p> <p>P.L. 2021, ch. 681 (LD 585), <i>An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering:</i></p> <ul style="list-style-type: none"> Newly established a regulatory framework for sports wagering in the State, with the 4 federally recognized Indian tribes given exclusive authority to conduct mobile sports wagering; and Newly established that each federally recognized Indian tribe in the State has a right to obtain a license or permit to conduct mobile gaming under any future law of the State authorizing such gaming. <p>However: (a) these statutory provisions were not made through amendments to the MIA; and (b) IGRA does not apply in Maine under this law.</p> |
| <p>Civil Jurisdiction</p> | |
| <p>Consensus Recommendation #18: Amend the MIA to restore to the Tribal nations the exclusive authority to exercise civil legislative jurisdiction over Indians and non-Indians on Tribal land. To the extent that a Tribal nation does not exercise, or terminates its exercise of exclusive civil legislative jurisdiction, the State has exclusive jurisdiction over those matters. [Report pp. 51-55]</p> | <p>Not met.</p> |

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| <p>Consensus Recommendation #19: Amend the MIA to restore to the Tribal nations the exclusive authority to exercise civil adjudicatory jurisdiction over Indians and non-Indians on Tribal land. To the extent that a Tribal nation does not exercise, or terminates its exercise of exclusive civil adjudicatory jurisdiction, the State has exclusive jurisdiction over those matters. [Id.]</p> | <p>Not met.</p> |
| <p>Federal Law Provisions</p> | |
| <p>Consensus Recommendation #20: Amend the MIA to specify that, for the purposes of §6(h) and §16(b) of the federal Settlement Act, federal laws enacted for the benefit of Indian country do not affect or preempt the laws of the State of Maine. [Report pp. 55-56]</p> | <p>Partially met (for one federal law / one set of federal laws).</p> <p>P.L. 2021, ch. 650 (LD 906), <i>An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water</i>:</p> <ul style="list-style-type: none"> Amended the MIA to allow the Passamaquoddy Tribe to benefit from and exercise jurisdiction under the federal Safe Drinking Water Act (and any other federal law enacted after Oct. 10, 1980 allowing tribes to administer drinking-water programs) in Passamaquoddy Indian territory and provided that the application of and the enforcement of such laws by the Passamaquoddy Tribe in Passamaquoddy Indian territory does not affect or preempt the laws of the State. <p>P.L. 2023, ch. 369 (LD 1620), <i>An Act to Amend the Laws Regarding the Mi'kmaq Nation and to Provide Parity to the Wabanaki Nations</i>:</p> <ul style="list-style-type: none"> Amends the MIA to allow the Penobscot Nation and the Houlton Band of Maliseet Indians to benefit from and exercise jurisdiction under the federal Safe Drinking Water Act (and any other federal law enacted after Oct. 10, 1980 allowing federally recognized Indian tribes to administer drinking-water programs) in Penobscot Indian territory and Houlton Band Jurisdiction Land, respectively, similar to the provisions of LD 906 above. [Created a new provision within the Mi'kmaq Nation Restoration Act allowing the Mi'kmaq Nation to benefit from and exercise jurisdiction under the federal Safe Drinking Water Act (and any other federal law enacted after Oct. 10, 1980 allowing federally recognized Indian tribes to administer drinking-water programs) in Mi'kmaq Nation Jurisdiction Land, similar to the provisions of LD 906 above.] <p>However: these laws do not address the application in Maine of any other federal laws for the benefit of Indian country.</p> |
| <p>Trust Land Acquisition</p> | |
| <p>Consensus Recommendation #21: Amend the MIA to recognize the ability of all Maine Tribes to acquire trust land in accordance with their settlement</p> | <p>Not met.</p> |

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| <p>acts and federal laws like the Indian Reorganization Act and its implementing regulations. [Report pp. 56-57]</p> | |
| <p>Consensus Recommendation #22: Amend the MIA so that, consistent with federal law, state and local governments do not have veto power over trust acquisitions and eliminate time constraints on trust land acquisitions, as included in the MIA. [Report p. 57]</p> | <p>Partially met.</p> <p>P.L. 2021, ch. 139 (LD 159), <i>An Act To Eliminate Time Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement</i>:</p> <ul style="list-style-type: none"> • Amended the MIA to remove all time limits for the Passamaquoddy Tribe and the Penobscot Nation to add to their respective trust lands. <p>However: this law did not eliminate the MIA’s requirements that the State and any local government approve of certain trust land acquisitions.</p> |

IV. Remaining Task Force Recommendations – Overview of proposals from LD 1626 in the 130th Legislature

The most recent comprehensive bill introduced to implement (to a great degree) the Task Force’s consensus recommendations was sponsored by then-Representative Rachel Talbot Ross during the 130th Legislature: [LD 1626, An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act \(130th Legis.\)](#). This memorandum summarizes the proposals in that bill, as compared to current Maine law. This information is drawn from the bill analysis for LD 1626, but has been updated to reflect changes to current law since the time LD 1626 was considered and to reflect the majority committee amendment to LD 1626. **Importantly: This memorandum does not summarize concerns raised by the Attorney General, Governor or others with the proposal in LD 1626.**

1. WABANAKI NATIONS AFFECTED BY LD 1626

LD 1626 addressed the relationship between the State and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, referred to in this summary as the “affected Wabanaki Nations.” LD 1626 did not address the relationship between the State and the Mi’kmaq Nation, an issue specifically set aside by the Task Force.

However, last session, the Legislature enacted [P.L. 2023, ch. 369 \(LD 1620\)](#), An Act to Amend the Laws Regarding the Mi’kmaq Nation and to Provide Parity to the Wabanaki Nations. Part A of that Act enacted the “Mi’kmaq Restoration Act,” (“MNRA”) which provided the Mi’kmaq Nation with a status similar to that of the Passamaquoddy Tribe and the Penobscot Nation under the MIA. The Mi’kmaq Nation certified its approval of this law within the required timeframe. In case it is helpful, this memorandum also includes information on the current status of the Mi’kmaq Nation under the MNRA but does not attempt to predict how any future legislation addressing tribal sovereignty may (or may not) include provisions related to the Mi’kmaq Nation.

2. RIGHTS, PRIVILEGES, POWERS, DUTIES AND IMMUNITIES OF AFFECTED WABANAKI NATIONS

LD 1626 would have amended the legislative findings and declaration of policy provision of the MIA to declare that the purpose of the amendments to the MIA in LD 1626 “is to establish that the [affected Wabanaki Nations] enjoy rights, privileges, powers, duties and immunities similar to those of other federally recognized Indian tribes within the United States.” This legislative purpose would have been effectuated by the following additional amendments to the MIA in LD 1626:

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <ul style="list-style-type: none"> • The Passamaquoddy Tribe and the Penobscot Nation [<i>and Mi’kmaq Nation</i>] have the same rights and duties as a municipality of the state within their respective Indian territories, except “internal tribal matters” (including tribal membership, the right to reside in the Indian territories, tribal elections, etc.) are not subject to state regulation. (MIA §6206(1); <i>MNRA</i> §7205(2)) • The Houlton Band of Maliseet Indians may not exercise civil or criminal jurisdiction within their lands absent enactment of additional legislation. (MIA §6206-A – <i>but see note in right-hand column</i>) | <ul style="list-style-type: none"> • Amend §6206(1) to provide that the State and the affected Wabanaki Nations agree under the federal Settlement Act, that all 3 affected Wabanaki Nations and their members have and may exercise: “all of the rights, privileges, powers, duties and immunities federally recognized Indian tribes and their members generally have or exercise under federal Indian law” except as provided in the MIA. • Repeal §6206-A (<i>Note: The Houlton Band of Maliseet Indians does not agree that P.L. 1981, ch. 675, which enacted MIA §6206-A, took effect. The attorney for the Houlton Band of Maliseet Indians did not believe that this dispute prevents the repeal of this section §6206-A, however.</i>) |

3. RESERVATION OF TREATY RIGHTS

LD 1626 would also have added language to the legislative findings and declaration of policy provision of the MIA indicating that the negotiated settlement of the land claims in the 1970s affirmed “the reservation of rights embodied within the specific treaties that gave rise to the claims at issue.” LD 1626 also referenced reserved treaty rights as a limitation on the State’s authority to regulate tribal members’ fishing, hunting, trapping and other taking of wildlife off of tribal lands. *See* discussion of fishing, hunting, trapping and taking of wildlife below.

4. APPLICABILITY OF “FEDERAL INDIAN LAW” AND INAPPLICABILITY OF STATE LAW UNLESS AUTHORIZED BY MIA OR FEDERAL INDIAN LAW

Current law provides the State with significant authority over Indian affairs. Under LD 1626, except as otherwise specified in the MIA, federal Indian law would apply with regard to the rights, privileges, powers, duties and immunities of the affected Wabanaki Nations. “Federal Indian law” was defined in a way that recognizes that federal Indian law is not static, but evolves as federal laws are passed and amended and as federal courts interpret the relevant statutes and regulations and their application to federally recognized Indian tribes, nations, bands and other groups.

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <p>Maine Implementing Act – state law generally applies</p> <ul style="list-style-type: none"> State law applies to all federally recognized Indian tribes, tribal members and tribal lands and natural resources in the State, except as otherwise specified in the MIA. (See MIA §6204). <p>Federal Settlement Act – consent to amend the MIA</p> <ul style="list-style-type: none"> In §6(e)(1), Congress gave advance consent to the State and the Penobscot Nation and/or the Passamaquoddy Tribe to agree to amend the MIA regarding: <ul style="list-style-type: none"> (a) the application or enforcement of civil, criminal or regulatory laws of the State or tribes within their respective jurisdictions; (b) allocation of state and tribal government responsibility (which may be concurrent) over specified subject matters or geographical areas; and (c) allocation of state and tribal court jurisdiction. In §6(e)(2), Congress authorized the State and the Houlton Band of Maliseet Indians “to execute agreements regarding [state] jurisdiction . . . over lands owned by or held in trust for the benefit of the band or its members.” | <p>State law generally does <u>not</u> apply</p> <ul style="list-style-type: none"> Repeal §6204 and enact new §6216 providing that the State and the affected Wabanaki Nations agree and intend, pursuant to the federal Settlement Act, that the laws of the State, including environmental and land use laws, do not apply to the affected Wabanaki Nations and their members and lands except as otherwise provided by the MIA or federal Indian law. <p>Examples of state laws that would continue to apply under LD 1626 include:</p> <ul style="list-style-type: none"> - <i>under the MIA</i>: state criminal laws (even when enforced by the tribe); and - <i>under federal Indian law</i>: a tribal member who earns income off of tribal land or who is not a resident of tribal land is subject to state income tax <p>Federal Indian Law applicable</p> <ul style="list-style-type: none"> Enact new §6202(2), providing that the State and the affected Wabanaki Nations agree, pursuant to the federal Settlement Act, to adopt federal Indian law regarding the rights, privileges, powers, duties and immunities of the affected Wabanaki Nations Enact new §6203(1-A), defining “federal Indian law” as: <ul style="list-style-type: none"> “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.” |

5. APPLICABILITY OF FEDERAL LAWS AND REGULATIONS FOR THE BENEFIT OF INDIANS

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <p>Federal Settlement Act</p> <ul style="list-style-type: none"> Under §6(h) of the federal Settlement Act, any federal law or regulation predating the Act that affords special status or rights to any Indian, tribe, Indian lands or land held in trust for Indians and that “affects or preempts the civil, criminal, or regulatory jurisdiction of the State ... including laws relating to land use or environmental matters” does not apply in Maine unless specifically stated in the federal Settlement Act. Under §16(b) of the federal Settlement Act, any federal law for the benefit of Indians or Indian Tribes enacted after Oct. 10, 1980 and which would affect or preempt the application of the laws of the State of Maine does not apply within the State unless that federal law “is specifically made applicable within the State of Maine.” <p>Exception in current MIA</p> <ul style="list-style-type: none"> The Passamaquoddy Tribe [<i>and Mi’kmaq Nation</i>] may exercise authority under the federal Safe Drinking Water Act (and related federal drinking water laws enacted after Oct. 10, 1980). (See MIA §6207(10) and §6207-A; MNRA §7206(8) and §7207) <i>P.L. 2023, ch. 369 (LD 1620)</i> granted similar authority to the Penobscot Nation and the Houlton Band of Maliseet Indians, but it is not clear that they certified their agreement to this legislation. | <ul style="list-style-type: none"> Under proposed new §6202(2) and §6206(2) and §6216, the State and affected Wabanaki Nations agree under the federal Settlement Act that federal laws and regulations for the benefit of Indians or Indian tribes or that afford special status or rights to any Indian, Indian tribe, Indian lands or natural resources, regardless of whether those laws were enacted before or after Oct. 10, 1980, apply to the affected Wabanaki Nations unless otherwise stated in the MIA. <ul style="list-style-type: none"> Exceptions: Under proposed new §6216 the MIA expressly provides that 2 types of federal laws and regulations for the benefit of Indians do not apply in Maine: <ol style="list-style-type: none"> <i>Criminal laws:</i> “[federal] laws that conflict with the jurisdiction over crimes and juvenile crimes described in [the MIA]” do not apply in Maine; and <i>Gaming:</i> The affected Wabanaki Nations “may not conduct gaming activities under” the federal Indian Gaming Regulatory Act (IGRA) or its implementing regulations. Under proposed new §6216, “any law of the State ... that is contrary to ... or that would be affected or preempted by” any “law or regulation of the United States that accords a special status or right to ... any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians” does not apply to the affected Wabanaki Nations, their tribal members and lands except as provided in the MIA or federal Indian law. |

6. TRIBAL LANDS AND ACQUISITION

LD 1626 proposed to expand the potential tribal lands subject to the jurisdiction of the affected Wabanaki Nations—referred to in the MIA as “Passamaquoddy Indian territory”, “Penobscot Indian territory” and “Houlton Band Trust Land”—and would have revised the procedures for the addition of new tribal lands, as is described in the table below. As amended by a majority committee amendment, LD 1626 used the phrase “Indian Territory or trust land” to refer to these statutorily defined Indian territories and to the Houlton Band Trust Land. For simplicity (and to match the bill analysis for LD 1626), in this summary, the phrase “tribal lands” refers to these statutorily defined Indian territories and to the Houlton Band Trust Land.

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| Passamaquoddy Indian territory | |
| <p>Under MIA §6203(5):</p> <ul style="list-style-type: none"> • The Passamaquoddy Tribe’s reservations include specifically described lands, if owned by the tribe or the U.S. Secretary of Interior (“secretary”) on its behalf—except: <ul style="list-style-type: none"> ○ Specific lands within the Town of Perry may only be included if the tribe pays \$350,000 to the town within 120 days of July 16, 1986; and ○ After those lands in Perry are included, any future commercial development on those lands must be approved by the voters of the town. | <p>Amend §6203(5):</p> <ul style="list-style-type: none"> • Repeal the monetary payment and local approval requirements that currently apply only to the inclusion within the reservation of specific land within the Town of Perry. |
| <p>Under MIA §6205(1)(B):</p> <ul style="list-style-type: none"> • Up to 150,000 acres of land acquired with settlement act funds by the secretary for the benefit of the tribe within specifically described geographic areas of the State. • State and local approval is not required for these very specific trust land acquisitions. | <p>Repeal §6205(1)(B) and enact new ¶(B-1):</p> <ul style="list-style-type: none"> • A total of 150,000 acres of Passamaquoddy trust land may be acquired by the secretary anywhere within Aroostook, Franklin, Hancock, Penobscot, Piscataquis, Somerset or Washington counties. <p>Note: State approval continues to be <u>not</u> required. However:</p> <ul style="list-style-type: none"> • If the land <i>is in trust before the effective date of LD 1626 or is acquired later but is not within a city, town, village or plantation</i> – local approval is not required. • If the land <i>is not in trust before effective date of LD 1626 and is within a city, town, village or plantation</i>, the Tribe and that local government must enter an agreement: * <ul style="list-style-type: none"> ○ Requiring the tribe to make annual payments in lieu of property taxes or to make an agreed-to alternative payment; ○ Of cooperation and mutual aid regarding law enforcement responsibility; and ○ Requiring the tribe’s use of the land to comply with local zoning ordinances, to be consistent with existing uses, or to be agreed to by the local government. <p>* If the tribe and local government do not agree within 90 days, an arbitration panel must select between the tribe’s and local government’s last best offer on these items.</p> |
| <p>Under MIA §6205(1)(C):</p> <ul style="list-style-type: none"> • Up to 100 acres in Calais acquired by the secretary for the benefit of the tribe if approved by Calais and a tribal-state gaming compact is negotiated under IGRA. | <p>Amend §6205(1)(C):</p> <ul style="list-style-type: none"> • Remove the requirements for local government approval and for a tribal-state compact under IGRA. |

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| Under MIA §6205(1)(D-E): <ul style="list-style-type: none"> • Other specific lands in T.19, T.21 and Centerville if acquired by secretary for benefit of the tribe. | No change proposed. |
| Under MIA §6205(1)(F): <ul style="list-style-type: none"> • Two specific parcels of land within Perry if acquired by the secretary for the benefit of the tribe. | No change proposed (<i>was not part of the MIA when LD 1626 was considered</i>). |
| | Enact new §6205(1)(F) to include: <ul style="list-style-type: none"> • Lands held in fee by the tribe before the effective date of LD 1626; • That the secretary acquires for the benefit of the tribe (without need for local government approval); • If those lands are within the specific counties and acreage restrictions described in new ¶B-1. |
| Under MIA §6205(5): <ul style="list-style-type: none"> • Other land held by or acquired in trust for the tribe if: <ul style="list-style-type: none"> ○ Recommended by MITSC; ○ Approved through state legislation; and ○ Approved by the legislative body of the city, town, village or planation, if any. | Repeal §6205(5) and enact new §6205(1)(G) and §6205(6): <ul style="list-style-type: none"> • Other land: <ul style="list-style-type: none"> ○ Acquired by the secretary in trust for the nation in accordance with federal law, <i>e.g.</i>, the federal Indian Reorganization Act and its implementing regulations; ○ State or local approval is not required unless (a) land is within one of the counties listed above, in which case a local agreement as described above is required or (b) required by federal law. • In addition, although not included in the definition of “Passamaquoddy Indian Territory,” new §6205(6) provides the MIA does not prohibit the secretary from acquiring natural resources in trust for the benefit of the tribe under federal law. |
| Under MIA §6205(5): Rescission. <ul style="list-style-type: none"> • If title is transferred to a non-member of the Tribe, the land it is no longer part of the tribe’s Indian territory. | Repeal §6205(5). |
| Penobscot Indian Territory | |
| Under MIA §6203(8): <ul style="list-style-type: none"> • The Penobscot Nation reservation, which includes specifically described lands, if owned by the nation or the secretary on its behalf. | No change proposed. |
| Under MIA §6205(2)(B): <ul style="list-style-type: none"> • Up to 150,000 acres of land acquired with settlement act funds by the secretary for the benefit of the nation | Repeal §6205(2)(B) and enact new ¶(B-1): |

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <p>within specifically described geographic areas of the State.</p> <ul style="list-style-type: none"> State and local approval is not required for these very specific trust land acquisitions, except that Old Town must approve of the transfer of up to 300 acres within that town. | <ul style="list-style-type: none"> A total of 150,000 acres of Penobscot trust land may be acquired anywhere within Aroostook, Franklin, Hancock, Penobscot, Piscataquis or Somerset counties [<i>difference from the Passamaquoddy Tribe: Washington County <u>not</u> included</i>]. <p>Note: State approval continues to be <u>not</u> required. However:</p> <ul style="list-style-type: none"> If the land <i>is in trust before the effective date of LD 1626 <u>or</u> is acquired later but is not within a city, town, village or plantation</i> – local approval is not required. If the land <i>is not in trust before effective date of LD 1626 and is within a city, town, village or plantation</i>, the nation and local government must enter an agreement: * <ul style="list-style-type: none"> Requiring the nation to make annual payments in lieu of property taxes or to make an agreed-to alternative payment; Of cooperation and mutual aid regarding law enforcement responsibility; and Requiring the nation’s use of the land to comply with local zoning ordinances, to be consistent with existing uses, or to be agreed to by the local government. <p>* If the nation and local government do not agree within 90 days, an arbitration panel must select between nation’s and local government’s last best offer on these items.</p> |
| <p>Under MIA §6205(5):</p> <ul style="list-style-type: none"> Other land held by or acquired in trust for the nation if: <ul style="list-style-type: none"> Recommended by MITSC; Approved through state legislation; and Approved by the legislative body of the city, town, village or planation, if any. | <p>Repeal §6205(5) and enact new §6205(2)(C) and §6205(6):</p> <ul style="list-style-type: none"> Other land: <ul style="list-style-type: none"> Acquired by the secretary in trust for the nation in accordance with federal law, <i>e.g.</i>, federal Indian Reorganization Act and its implementing regulations; State or local approval is not required unless (a) land is within one of the counties listed above, in which case a local agreement as described above is required or (b) required by federal law. In addition, although not included in the definition of “Penobscot Indian Territory,” new §6205(6) provides the MIA does not prohibit the secretary from acquiring natural resources in trust for the benefit of the nation under federal law. |
| <p>MIA §6205(5): Rescission.</p> <ul style="list-style-type: none"> If title is transferred to a non-member of the nation, the land it is no longer part of the nation’s Indian territory. | <p>Repeal §6205(5).</p> |
| Houlton Band Trust Land | |
| <p>MIA §6203(2-A), §6205-A(1) (<i>*but see notes below</i>):</p> <ul style="list-style-type: none"> Land or natural resources acquired by the secretary for the benefit of the band using federal land claims settlement funds only if: | <p>Repeal and replace §6203(2-A) and §6205-A [<i>whose effectiveness is disputed by the band</i>] with new §6203(2-B) and §6205-B(1) that:</p> <ul style="list-style-type: none"> Include in “Houlton Band Trust Land” all land or natural resources acquired by the Secretary for the benefit of the band in accordance with the federal Houlton Band of |

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <ul style="list-style-type: none"> ○ The secretary files a certified copy of the instrument of conveyance with the Secretary of State describing the boundaries; and ○ The secretary files a proof of the Houlton Band Tax Fund under MIA §6208-A containing at least \$100,000 (originally from federal settlement act funds), used to make payments in lieu of property taxes on the land; and ○ If the land or natural resources are within a city, town, village or plantation, the local government approves the acquisition. <p><i>* Notes:</i></p> <ul style="list-style-type: none"> ● Dispute: <i>The Houlton Band of Maliseet Indians does not agree that P.L. 1981, ch. 675, which enacted MIA §6202(2-A) and §6205-A, ever took effect.</i> ● Recent legislation: <i>Similar to LD 1626’s proposal, newly enacted P.L. 2023, ch. 369 (LD 1620) repealed and replaced the definition of “Houlton Band Trust Land” in MIA §6203(2-A) to refer only to lands acquired under the federal Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, Pub. L. No. 99-566 (Oct. 26, 1986).</i> <p>However:</p> <ul style="list-style-type: none"> ○ P.L. 2023, ch. 369 (LD 1620) did not repeal MIA §6205-D, (whose effectiveness is disputed), which sets forth the requirements described above for placing land in trust status; and ○ It is not clear that the Houlton Band of Maliseet Indians certified its agreement to the amendments of MIA in P.L. 2023, ch. 369 (LD 1620). | <p>Maliseet Indians Supplementary Claims Settlement Act of 1986, Pub. L. No. 99-566 (Oct. 27, 1986), which requires:</p> <ul style="list-style-type: none"> ○ The secretary to file a certified copy of the instrument of conveyance with the Secretary of State describing the boundaries; and ○ The secretary to file proof that a Houlton Band Tax Fund contains at least \$200,000 (originally from federal settlement act funds), to be used to make payments in lieu of property taxes on the land. <ul style="list-style-type: none"> ● Also include in “Houlton Band Trust Land” all land or natural resources obtained by the secretary in trust for the band under any other federal law, <i>e.g.</i>, the federal Indian Reorganization Act <p>Also repeal §6208-A, the Houlton Band Tax Fund provision of the MIA (<i>which was also created through P.L. 1981, ch. 675 and thus its effectiveness is disputed by the band</i>).</p> |
| | <p>Enact new §6205-B(2):</p> <ul style="list-style-type: none"> ● Other land <ul style="list-style-type: none"> ○ Acquired by the secretary in trust for the band in accordance with federal law, <i>e.g.</i>, federal Indian Reorganization Act and its implementing regulations. ○ State and local approval not required unless required by federal law. |

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <p>MIA §6205-A(3): Rescission.</p> <ul style="list-style-type: none"> If title is transferred to a non-member of the band, it is no longer part of the band’s Houlton Band Trust Land. <p><i>Note: The Houlton Band of Maliseet Indians does not agree that P.L. 1981, ch. 675, which enacted MIA §6205-A, ever took effect.</i></p> | <p>Repeal all of §6205-A (including sub-§3).</p> |
| <i>Mi’kmaq Nation Trust Land / Mi’kmaq Nation Jurisdiction Land – under MNRA</i> | |
| <p>Mi’kmaq Nation Trust Land – MNRA §7203(6)</p> <ul style="list-style-type: none"> All land or natural resources acquired by the secretary in trust for the benefit of the nation (cross-references the definition from federal <i>Aroostook Band of Micmacs Settlement Act</i>, Pub. L. No. 102-171 (1991)). <p><i>However, most of the powers and authorities of the Mi’kmaq Nation recognized in the MNRA apply to a more limited subset of the nation’s trust land:</i></p> <p>Mi’kmaq Nation Jurisdiction Land – MNRA §7203(5):</p> <ul style="list-style-type: none"> All land held by secretary in trust for the nation on the effective date of LD 1620 (“existing trust land”); and All future land acquired by secretary in trust for the nation if it is <u>both</u> within Aroostook County <u>and</u> within 50 miles of existing trust land (as described above). | <p>n/a</p> |

7. STATE TAKINGS OF TRIBAL LANDS

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <p>Under MIA §6205(3):</p> <ul style="list-style-type: none"> Passamaquoddy Indian territory and Penobscot Indian territory are subject to takings by a public entity or public utility only if, after hearing, the public entity or PUC finds “there is no reasonably feasible alternative to the proposed taking.” <ul style="list-style-type: none"> After taking land in a reservation, the public entity or public utility must purchase land of equal value adjacent to the reservation as compensation. | <p>Repeal §6205(3).</p> |

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <ul style="list-style-type: none"> ○ After taking land in Indian territory that is not in a reservation, funds received in compensation for the taking must be used to purchase new Indian territory land within 2 years. | |
| <p>Under MIA §6205-A(2):</p> <ul style="list-style-type: none"> ● Houlton Band Trust Land may be taken “to the same extent as privately held land and the United States is a necessary party to any condemnation proceeding. <ul style="list-style-type: none"> ○ Proceeds from the taking must be placed in the band’s land acquisition fund. <p><i>Note: The Houlton Band of Maliseet Indians does not agree that P.L. 1981, ch. 675, which enacted MIA §6205-A, ever took effect.</i></p> | <p>Repeal §6205-A.</p> |
| <i>Mi’kmaq Nation Trust Land</i> | |
| <p>Under the federal ABMSA §5(c):</p> <ul style="list-style-type: none"> ● Mi’kmaq Nation Trust Land may be taken by the State or any political subdivision of the State “only upon such terms and conditions as shall be agreed upon in writing between the State and [the Mi’kmaq Nation].” <p><i>Note: the MNRA does not contain a takings provision.</i></p> | <p>n/a</p> |

8. FISHING, HUNTING, TRAPPING AND TAKING OF WILDLIFE

LD 1626 proposed to adopt federal Indian law regarding the exclusive jurisdiction of the affected Wabanaki Nations to regulate fishing and hunting by both tribal members and nonmembers on their respective tribal lands, but to retain the Maine Indian Tribal-State Commission’s (MITSC’s) authority to regulate fishing on waters at the boundary of tribal lands. LD 1626 would have also authorized the State, solely for conservation purposes, to regulate such activities by tribal members off tribal lands to the extent permitted under general principles of federal Indian law and in a manner consistent with reserved tribal treaty rights.

| Current Law (as of December 2023) | LD 1626 (as amended by majority JUD Committee amendment) |
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| <p align="center">Passamaquoddy Tribe and Penobscot Nation</p> <p>General authority: Under MIA §6207(1):</p> <ul style="list-style-type: none"> The Passamaquoddy Tribe and the Penobscot Nation have exclusive authority to regulate hunting, trapping and taking of wildlife in their Indian territory and regulate fishing on any < 10-acre pond wholly within their Indian territory. The tribe’s or nation’s hunting, trapping, taking of wildlife and fishing ordinances must not discriminate between tribal members and nonmembers. | <p>Repeal §6207(1) and enact new §6207(1-A), which would mirror current law except it would:</p> <ul style="list-style-type: none"> Recognize similar exclusive authority to the Houlton Band of Maliseet Indians to regulate hunting, trapping, taking of wildlife and fishing on Houlton Band Trust Land; and Not prohibit the 3 affected Wabanaki Nations from enacting ordinances that favor tribal members over nonmembers. |
| <p>Sustenance fishing: Under MIA §6207(4):</p> <ul style="list-style-type: none"> Members of the Passamaquoddy Tribe and the Penobscot Nation may take fish within their own respective reservations for individual sustenance, except as limited by IFW Commissioner regulations (see below) governing fishing or taking of wildlife on tribal lands. | <p>Amend §6207(4) to expand this provision:</p> <ul style="list-style-type: none"> Apply the provision to members of the Houlton Band of Maliseet Indians (not just members of the Passamaquoddy Tribe and the Penobscot Nation); Allow both fishing and taking of wildlife (not just fishing); Within their own tribe’s Indian territory or trust land (not just reservation lands); No longer limit the members’ taking of fish or wildlife on these lands to individual sustenance; and No longer subject the members’ taking of fish or wildlife on these lands to limitation by IFW Commissioner. |
| <p>Registration stations: Under MIA §6207(2):</p> <ul style="list-style-type: none"> The Passamaquoddy Tribe and the Penobscot Nation have must maintain registration stations for wildlife killed in their territories; report registered wildlife to the IFW Commissioner; and make their records open for inspection. | <p>Repeal §6207(2).</p> |
| <p>Regulation of Motors: Under MIA §6207(3-A) and 12 M.R.S. §685-C(10):</p> <ul style="list-style-type: none"> MITSC has exclusive authority to adopt rules regulating use of motors on < 200-acre waters within Passamaquoddy or Penobscot Indian territory. | <p>Repeal §6207(3-A) and the relevant language in 12 M.R.S. §685-C(10).</p> |
| <p>Boundary Waters: Under MIA §6207(3):</p> <ul style="list-style-type: none"> MITSC has exclusive authority to adopt fishing regulations for certain boundary waters and ponds > 10 acres (great | <p>Amend §6207(3):</p> <ul style="list-style-type: none"> Expand MITSC’s authority to boundary waters of Houlton Band Trust Land; and |

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| Current Law (as of December 2023) | LD 1626 (as amended by majority JUD Committee amendment) |
| <p>ponds) wholly within Passamaquoddy or Penobscot Indian territory, subject to a mandated balancing of specific factors.</p> <ul style="list-style-type: none"> MITSC regulations may not discriminate between tribal members and nonmembers. | <ul style="list-style-type: none"> Clarify that MITSC’s regulations may not limit sustenance fishing by tribal members within their respective Indian territory or trust land. |
| <p>MITSC Studies: Under MIA §6207(8):</p> <ul style="list-style-type: none"> MITSC must conduct studies and consult with the Passamaquoddy Tribe, Penobscot Nation, landowners and state officials, and recommend to the IFW Commissioner policies for non-tribal land to protect fish and wildlife stock on lands or waters subject to the tribe’s, nation’s or MITSC’s regulations. | <p>Amend §6207(8):</p> <ul style="list-style-type: none"> Require MITSC to conduct similar studies and make similar recommendations to protect fish and wildlife stock on land or waters subject to regulation by the Houlton Band of Maliseet Indians and boundary waters regulated by MITSC. |
| <p>Posting: Under MIA §6207(5):</p> <ul style="list-style-type: none"> Lands and waters subject to Passamaquoddy Tribe, Penobscot Nation or MITSC regulation must be posted conspicuously. | <p>Amend §6207(5) so that it also applies to:</p> <ul style="list-style-type: none"> Lands and waters subject to regulation by the Houlton Band of Maliseet Indians |
| <p>State Regulation: Under MIA §6207(6):</p> <ul style="list-style-type: none"> The IFW Commissioner may conduct fish and wildlife surveys within Passamaquoddy and Penobscot Indian territories and, if the commissioner believes the stock of any fish or wildlife outside of Indian territories is adversely affected by tribal or MITSC regulations or lack thereof, the commissioner may adopt remedial measures (after following specified processes), including applying state regulations to tribal lands. | <p>Repeal §6207(6) and enact new §6207(2-A):</p> <ul style="list-style-type: none"> Authorize the State to regulate fishing, hunting, trapping and taking of wildlife by Indians off of all three Affected Wabanaki Nations’ Indian territory or trust land: <ul style="list-style-type: none"> Solely for conservation purposes; and Only to the extent authorized by federal Indian law and consistent with reserved tribal treaty rights. |
| <p>Transporting game: Under MIA §6207(7):</p> <ul style="list-style-type: none"> Fish & wildlife lawfully taken on Passamaquoddy and Penobscot Indian territory may be transported in the State | <p>Amend §6207(7) so that it:</p> <ul style="list-style-type: none"> Also applies to Houlton Band Trust Land |
| Houlton Band of Maliseet Indians | |
| <p>Under MIA §6204 and §6206-A (<i>the latter of which is disputed by the Houlton Band of Maliseet Indians because it was enacted in P.L. 1981, ch. 675</i>):</p> | <ul style="list-style-type: none"> Repeal §6206-A; and Make the changes outlined in the chart above for the Houlton Band of Maliseet Indians and Houlton Band Trust Land. |

| Current Law (as of December 2023) | LD 1626 (as amended by majority JUD Committee amendment) |
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| <ul style="list-style-type: none"> The Houlton Band of Maliseet Indians and MITSC lack authority to regulate hunting, trapping, taking of wildlife or fishing on any Houlton Band Trust Land. <p><i>Recent Legislation:</i></p> <ul style="list-style-type: none"> <i>P.L. 2023, ch. 369 (LD 1620)</i>, enacted new MIA §6207-C, giving the Houlton Band of Maliseet Indians, their members, MITSC and the IFW Commissioner similar authority over “Houlton Band Jurisdiction Land”—i.e., existing trust land or new trust land that is located both in Aroostook County and within 50 miles of existing trust land—as the Passamaquoddy Tribe, Penobscot Nation and IFW Commissioner have over those tribes’ Indian territories and reservations as described above. <ul style="list-style-type: none"> <i>Exception:</i> MITSC does not have authority to regulate use of motors on < 200-acre waters within Houlton Band Jurisdiction Land. However, it is not clear that the Houlton Band of Maliseet Indians certified its agreement to <i>P.L. 2023, ch. 369 (LD 1620)</i>. | |
| <i>Mi’kmaq Nation</i> | |
| <p>Under MNRA §7206:</p> <ul style="list-style-type: none"> The Mi’kmaq Nation, its members and IFW Commissioner have the same rights and obligations regarding hunting and fishing on “Mi’kmaq Nation Jurisdiction Land” — i.e., existing trust land or new trust land that is located both in Aroostook County and within 50 miles of existing trust land — as the Passamaquoddy, Penobscot Nation and the IFW Commissioner have over those tribes’ Indian territories and reservations as described above. <ul style="list-style-type: none"> <i>Exception:</i> MITSC does not have any authority regarding Mi’kmaq Nation Jurisdiction Land. | n/a |

9. LAND USE AND NATURAL RESOURCES

LD 1626 proposed to recognize the affected Wabanaki Nations’ authority to regulate natural resources and land use within their respective tribal lands under federal Indian law.

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <p>Maine Implementing Act</p> <ul style="list-style-type: none"> Under MIA §6204, state law applies to all federally recognized Indian tribes, tribal members, tribal lands and natural resources in the State, except as otherwise specified in the MIA. <p>Exception in current MIA</p> <ul style="list-style-type: none"> The Passamaquoddy Tribe [<i>and Mi'kmaq Nation</i>] may exercise authority under the federal Safe Drinking Water Act (and related federal drinking water laws enacted after Oct. 10, 1980). (See MIA §6207(10) and §6207-A; MNRA §7206(8) and §7207) P.L. 2023, ch. 369 (LD 1620) granted similar authority to the Penobscot Nation and the Houlton Band of Maliseet Indians, but it is not clear that they certified their agreement to this legislation. <p>Federal Settlement Act</p> <ul style="list-style-type: none"> Sections 6(h) and 16(b) of the federal Settlement Act generally prevent the application of federal laws for the benefit of Indians, Indian tribes or tribal lands within Maine, <i>including laws relating to land use or environmental matters</i>, if such laws affect or preempt the civil, criminal, or regulatory jurisdiction of the State. <p><i>Analyst Note: more detail on these provisions appears above in section 4 of this summary.</i></p> | <p>Repeal §6204 and enact new §6207-A:</p> <ul style="list-style-type: none"> The affected Wabanaki Nations and the State agree under the federal Settlement Act that the affected Wabanaki Nations have the authority to regulate natural resources and land use within the boundaries of their respective Indian territory or trust land to the extent provided in federal Indian law. <p>Enact new §6216:</p> <ul style="list-style-type: none"> The affected Wabanaki Nations and the State agree and intend under the federal Settlement Act that state laws, including land use or environmental laws, do not apply to the affected Wabanaki Nations, their members and lands, except as provided in the MIA or under federal Indian law. Federal laws for the benefit of Indians, Indian tribes or tribal lands apply within Maine [with exceptions not relevant here]. <p><i>Analyst Note: For more information on the regulation of land use and natural resources under federal Indian law, see pp. 45-46 of the Task Force Report and the chart appearing in Appendix M (at pp. 231-32 of the scanned PDF version of the report).</i></p> |

10. TAXATION

LD 1626 proposed to amend both the MIA and Title 36 of the Maine Revised Statutes to adopt certain principles of federal Indian law involving state and tribal authority to tax activities by Indian tribes, tribal members and activities on tribal lands. Since LD 1626 was proposed, the Legislature enacted [P.L. 2021, ch. 681 \(LD 585\)](#), *An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering*, which adopted new provisions of tax law **outside of the MIA** for the 3 affected Wabanaki Nations. A summary of this legislation, as compared to the Tax Force's consensus recommendations regarding tax law, appears on pages 10-11 of this memorandum.

Importantly, unlike the other provisions of [P.L. 2021, ch. 681 \(LD 585\)](#), the tax provisions do not apply to the Mi'kmaq Nation. Under the MNRA:

- Under §7204, except as provided in the MNRA, state tax laws apply to the Mi’kmaq Nation, its members and any of its trust lands; and
- Under §7205, the Mi’kmaq Nation may impose taxes to the same extent as a municipality (municipalities may not impose income or sales tax).

11. GAMING

In consensus recommendation #12, the Task Force recommended that the Indian Gaming Regulatory Act (IGRA)—a federal law enacted after Oct. 10, 1980 that establishes guardrails for federally recognized Indian tribes to conduct different types of gaming, with enhanced regulatory oversight and state compacts required for more serious, casino-style gaming—in the State of Maine. As the Task Force noted in its report, in *Passamaquoddy Tribe v. State of Maine*, 75 F.3d 784 (1st Cir. 1996), the U.S. Court of Appeals for the First Circuit had held that IGRA does not apply within the State. In reaching this conclusion, the court relied on section 16(b) of the federal Settlement Act, which prohibits the application of any federal law enacted after Oct. 10, 1980 for the benefit of Indians from applying in Maine if those laws would affect or preempt the laws of the State.

Analyst Note: For more information on IGRA, see pp. 49-50 of the [Task Force Report](#) and the chart appearing in Appendix M (at pp. 245-50).

Gaming is one area where the proposal in LD 1626 deviated significantly from the Task Force’s consensus recommendations. Although new MIA §6216 in LD 1626 (as amended by the majority JUD committee amendment) was designed generally to override section 16(b) of the federal Settlement Act, that section also provided that affected Wabanaki Nations may conduct gaming activities “only in accordance with state law and may not conduct gaming activities in under the authority of [IGRA and its implementing regulations].”

Since LD 1626 was proposed, the Legislature enacted [P.L. 2021, ch. 681 \(LD 585\)](#), *An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering*. As is described on page 11 of this memorandum, under this legislation, the 4 federally recognized Indian tribes in the State were given the exclusive authority to conduct mobile sports wagering in the State. These 4 tribes were also given authority to obtain any future type of mobile gaming license or permit created in the State.

12. CIVIL REGULATORY (LEGISLATIVE) JURISDICTION

LD 1626 proposed to amend the MIA to restore to the affected Wabanaki Nations exclusive authority to exercise “civil regulatory jurisdiction” over tribal members and nonmembers on tribal lands. *Analyst Note: in the Task Force Report, such jurisdiction was referred to as “civil legislative jurisdiction.”*

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <p>Under MIA §6204:</p> <ul style="list-style-type: none"> • State law applies to all federally recognized Indian tribes, tribal members and tribal lands and natural resources in the State, including nonmember activities on tribal lands in the State, except as otherwise specified in the MIA. <p>Under MIA §6206(1) [<i>and MNRA §7205(2)</i>]:</p> <ul style="list-style-type: none"> • The Passamaquoddy Tribe and Penobscot Nation [<i>and Mi’Kmaq Nation</i>] have the same authority as municipalities to adopt ordinances for their Indian territories and the State | <p>Repeal §6204 and §6206-A.</p> <p>Amend §6206(1):</p> <ul style="list-style-type: none"> • The affected Wabanaki Nations and the State agree and intend under the federal Settlement Act that these nations and their members have the same rights, privileges, powers, duties and immunities that federally recognized Indian tribes have under federal Indian law. <p>Enact new §6215:</p> |

| Current Law (as of December 2023) | LD 1626 proposal (as amended by majority JUD Committee amendment) |
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| <p>lacks authority to regulate internal tribal matters for the Passamaquoddy Tribe and Penobscot Nation.</p> <ul style="list-style-type: none"> • The Passamaquoddy Tribe [<i>and Mi'kmaq Nation</i>] also has exclusive authority to enact ordinances regulating drinking water within Passamaquoddy Indian territory. <ul style="list-style-type: none"> ○ P.L. 2023, ch. 369 (LD 1620) granted similar authority to the Penobscot Nation, and the Houlton Band of Maliseet Indians, but it is not clear that they certified their agreement to this legislation. <p>Under MIA §6206-A (<i>the effectiveness of which is disputed by the band because it was part of P.L. 1981, ch. 675</i>):</p> <ul style="list-style-type: none"> • The MIA does <u>not</u> recognize similar authority for the Houlton Band of Maliseet Indians to adopt ordinances for Houlton Band Trust Land. | <ul style="list-style-type: none"> • The affected Wabanaki Nations and the State agree under the federal Settlement Act to adopt federal Indian law, except when that law conflicts with the MIA, regarding: <ul style="list-style-type: none"> ○ The inapplicability of state law and the exclusive civil regulatory jurisdiction of the affected Wabanaki Nations over the tribes, tribal members and tribal entities on their respective tribal lands; ○ Concurrent civil regulatory authority of the State and of the affected Wabanaki Nations over nonmembers on tribal lands. <p><i>Analyst Note: the analysis of whether either the state or the tribe has civil legislative (regulatory) jurisdiction over nontribal members on tribal lands under federal Indian law is complex. For more information, see pp. 51-52 of the Task Force Report and the chart appearing in Appendix M (at pp. 204-16 of the scanned PDF version of the report).</i></p> |
| <p>Under MIA §6214:</p> <ul style="list-style-type: none"> • The Passamaquoddy Tribe and Penobscot Nation have authority to create their own tribal school communities, which “shall operate under the laws of the State applicable to school administrative units.” | <p>Amends §6214 to:</p> <ul style="list-style-type: none"> • Authorize the Houlton Band of Maliseet Indians to create a tribal school community (state law will still apply). |

13. CIVIL JURISDICTION OF TRIBAL COURTS

LD 1626 proposed to amend the MIA to provide that tribal courts of the affected Wabanaki Nations enjoy civil adjudicatory jurisdiction over Indians and non-Indians on tribal lands to the extent provided by federal Indian law. As in current law, if any of these nations does not exercise or terminates its exercise of its civil adjudicatory jurisdiction, the State has exclusive civil adjudicatory jurisdiction over these matters. *See* MIA §§6209-A(1), -B(1), -C(1).

| Current Law (as of December 2023) | LD 1626 (as amended by majority JUD Committee amendment) |
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| <p>Under MIA §§6209-A(1), -B(1), and -C(1) [<i>and MNRA §7208</i>]</p> <ul style="list-style-type: none"> • The tribal courts of the 3 affected Wabanaki Nations [<i>and the Mi'kmaq Nation</i>] may, if the relevant affected nation so elects, exercise exclusive jurisdiction over: <ul style="list-style-type: none"> ○ Small claims between members of specific tribes arising on the tribal court’s own reservation land or, for the band’s tribal court, on Houlton Band Jurisdiction Land (a specific subset of Houlton Band Trust Land); | <p>Amend §§6209-A(1), -B(1) and -C(1) to:</p> <ul style="list-style-type: none"> • Render the authority of the 3 affected Wabanaki Nation’s tribal courts equal with respect to the tribal members over whom the courts have small claims and domestic relations jurisdiction—<i>i.e.</i>, members of any of the 3 affected Wabanaki Nations; and • Expand the civil jurisdiction of the potential Houlton Band of Maliseet Indians Tribal Court to Houlton Band Trust Land—but retain the language restricting |

| Current Law (as of December 2023) | LD 1626 (as amended by majority JUD Committee amendment) |
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| <ul style="list-style-type: none"> ○ Indian child custody proceedings to the extent authorized by the Indian Child Welfare Act [<i>and state law</i>]; ○ Domestic relations matters, including marriage, divorce and support between members of specific tribes residing on the tribal court’s own reservation land or, for the band’s tribal court, on Houlton Band Jurisdiction Land. <p><i>Analyst Notes / Recent Legislation:</i></p> <ul style="list-style-type: none"> ● To my knowledge, the Houlton Band of Maliseet Indians and Mi’Kmaq Nation have not yet established tribal courts. ● P.L. 2023, ch. 359 (LD 1970) enacted the Maine Indian Child Welfare Act. It also amended the MIA (subject to approval of affected tribes) so that the tribal courts of the 3 affected Wabanaki Nations would have jurisdiction over Indian child custody proceedings to the extent authorized by ICWA <u>and</u> state law. <i>It is not clear that any of the affected Wabanaki Nations certified their approval of the amendments to the MIA in this legislation.</i> [However, this language is in effect for the Mi’kmaq Nation under the MNRA.] ● Under P.L. 2023, ch. 369 (LD 1620), all 4 tribal courts have jurisdiction over small claims and domestic relations matters between members of any of the 4 tribes occurring on the court’s respective Indian territory or trust land. This legislation also adopted a new definition of “Houlton Band Jurisdiction Land” (described in the chart above). While the Passamaquoddy Tribe and Mi’kmaq Nation certified their approval of this law, <i>it is not clear that the Penobscot Nation or Houlton Band of Maliseet Indians have done so.</i> | <p>the Passamaquoddy Tribe’s and Penobscot Nation’s tribal court civil jurisdiction to their respective reservations.</p> <p>Enact new §§6209-A(4-A), -B(4-A) & -C(5-A):</p> <ul style="list-style-type: none"> ● The State and the affected Wabanaki Nations agree and intend under the federal Settlement Act that, except as otherwise provided in the MIA, the affected Wabanaki Nations’ tribal courts and the courts of the State have authority to exercise jurisdiction over civil actions arising on their respective tribal lands, to the extent provided by federal Indian law. <p><i>Analyst Note: under federal Indian law, tribal courts generally have civil jurisdiction over (a) conduct by tribal members on tribal land; (b) internal tribal matters; and (c) certain types of conduct by nonmembers. For more information on tribal court civil jurisdiction see pp. 51-52 of the Task Force Report and the chart in Appendix M (at pp. 204-16).</i></p> |
| <p>Under MIA §6206(3):</p> <ul style="list-style-type: none"> ● The Passamaquoddy Tribe and Penobscot Nation have exclusive authority to enforce violations of their ordinances within their respective Indian territories by members of either tribe or nation. <p><i>Recent Legislation:</i></p> | <p>Repeal §6206(3) and enact new §§6209-A(4-A), -B(4-A) & -C(5-A):</p> <ul style="list-style-type: none"> ● Recognizing the authority of each affected Wabanaki Nation’s tribal court to enforce violations of its nation’s ordinances by members of any of the 3 affected Wabanaki Nations. |

| Current Law (as of December 2023) | LD 1626 (as amended by majority JUD Committee amendment) |
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| <ul style="list-style-type: none"> • P.L. 2023, ch. 369, Pt. E (LD 1620) extended the tribe’s and nation’s authority to violations of their ordinances within their respective Indian territories by members of any federally recognized Indian tribe. While the Passamaquoddy Tribe certified its approval of these amendments to the MIA, it is not clear that the Penobscot Nation did so. <i>Because certification by both the tribe and nation was required for Part E, it is not clear that this Part of the law took effect.</i> | |

14. CRIMINAL JURISDICTION OF TRIBAL COURTS AND LAW ENFORCEMENT

Federal Indian law provides broader criminal jurisdiction for tribal courts than is available under the MIA or the MNRA for the existing Passamaquoddy Tribal Court and Penobscot Nation Tribal Court as well as for the potential Houlton Band of Maliseet Indians Tribal Court and the Mi’kmaq Nation Tribal Court. LD 1626 proposed to repeal most of the MIA’s limitations on the affected Wabanaki Nation’s tribal court criminal jurisdiction and to recognize and adopt most of federal Indian law, including the Indian Civil Rights Act of 1968, the Tribal Law and Order Act of 2010 (“TLOA”) and other federal laws addressing tribal court jurisdiction and the obligations of the tribal courts. Specifically, under LD 1626, the MIA would be amended recognize the criminal jurisdiction of the affected Wabanaki Nations’ tribal courts to impose the maximum penalties other tribal courts are authorized to impose under TLOA, as long as the due process protections required by that Act are observed.

As in current law, the definitions of all crimes and punishments for those crimes under LD 1626 would have been governed by State law, except that the punishments imposed by tribal courts may not exceed the maximum punishments authorized under federal law (as explained in the chart below). *See* §6209-A(2); §62-0-B(2) and §6209-C (2). In addition, as in current law, under LD 1626 the affected Wabanaki Nations would have retained discretion whether to exercise criminal jurisdiction. If any of these nations chose not to exercise, or terminated its exercise of, exclusive or concurrent criminal jurisdiction, the State would have exclusive jurisdiction over those matters.

In addition, LD 1626 proposed to amend the MIA to make the exclusive criminal jurisdiction of the Penobscot Nation Tribal Court and the potential Houlton Band of Maliseet Indians Tribal Court equivalent to the broader exclusive criminal jurisdiction of the Passamaquoddy Tribal Court.

Analyst Note: Since LD 1626 was considered, [P.L. 2023, ch. 369 \(LD 1620\)](#), *An Act to Amend the Laws Regarding the Mi’kmaq Nation and to Provide Parity to the Wabanaki Nations*.

- Part A of this law, the MNRA, granted the Mi’kmaq Nation the authority to establish a tribal court with criminal jurisdiction equivalent to that of the Passamaquoddy Tribal Court under the MIA over certain crimes and juvenile crimes committed on Mi’kmaq Nation Jurisdiction Land—*i.e.* its existing trust lands and future trust lands if located in Aroostook County within 50 miles of existing trust land. Part B of this law extended the exclusive criminal jurisdiction of the Passamaquoddy Tribal Court to certain crimes and juvenile crimes committed on its Indian territories and not just on its reservations. The Mi’kmaq Nation and Passamaquoddy Tribe have certified their agreement to Part A and B of this law, respectively.
- Parts C and D would generally have made the exclusive criminal jurisdiction of the Penobscot Nation Tribal Court and the potential Houlton Band of Maliseet Indians Tribal Court equivalent with the broader exclusive criminal jurisdiction of the Passamaquoddy Tribal Court. *However, it is not clear that the Penobscot Nation or Houlton Band of Maliseet Indians certified their agreement to Part C or D, respectively.*

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| Current Law (as of Dec. 2023; including the MNRA) | LD 1626 proposal (as amended by majority JUD Committee amend.) |
| General Due Process Protections in Tribal Court MIA §6209-A(2), §6209-B(2), and §6209-C(2); [MNRA §7208(3)] | |
| Tribal courts must provide defendants the rights in 25 U.S.C. §1301-§1303: <ul style="list-style-type: none"> • Search and seizure rights; • Double jeopardy protections; • Right against self-incrimination; • Right to a speedy and public trial; • Right to be informed of the charges; • Rights to confront witnesses against and to compulsory process for favorable witnesses; • Right to obtain counsel at own expense; • No excessive bail, excessive fines, or cruel and unusual punishments; • Prohibition on ex post facto laws; • Right to a jury of ≥ 6 members if a sentence of imprisonment may be imposed; and • Right to habeas corpus. | No change proposed. |
| Tribal Court exclusive criminal jurisdiction MIA §6209-A(1)(A, B); §6209-B(1)(A, B); §6209-C(1)(A, B); [MNRA §7208(1)(A), (B)] | |
| <i>Crimes committed by a tribal member against another tribal member or for which there is no victim.</i> | |
| <ul style="list-style-type: none"> • Crimes committed on the tribe’s, nation’s or band’s Indian territory or Jurisdiction Land • For which the maximum sentence is < 1 year and the maximum fine is ≤ \$5,000 (<i>Analyst Note: this includes Class D & E crimes</i>): <p><i>Analyst Note: Because LD 1620 does not appear to have been certified by all of the affected tribes, sections 6209-A(1)(A) of the current MIA recognizes broader exclusive criminal jurisdiction for the Passamaquoddy Tribal Court than §6209-B and §6209-C do with respect to the Penobscot Nation Tribal Court and the potential Houlton Band of Maliseet Indians Tribal Court. The summary of current law in this chart focuses on the broader</i></p> | <ul style="list-style-type: none"> • Crimes committed on the tribe’s Indian territory or Houlton Band Trust Land • That are Class C, Class D or Class E crimes — however, the maximum penalties to be imposed, even for Class C crimes, are set forth in 25 U.S.C. §1302(a)(7): <ul style="list-style-type: none"> ○ For a single offense, a sentence of 1 year and a \$5,000 fine—except that, if the defendant has been previously convicted of a comparable offense or is being prosecuted for an offense that would be a felony under federal law, the max. penalties are a sentence of 3 years and a \$15,000 fine. ○ No more than a total sentence of 9 years may be imposed for all offenses charged in a single criminal proceeding. • Defendants charged with Class C crimes must be afforded the additional due process protections in 25 U.S.C. §1302(c): <ul style="list-style-type: none"> ○ Effective assistance of counsel; |

| Current Law (as of Dec. 2023; including the MNRA) | LD 1626 proposal (as amended by majority JUD Committee amend.) |
|---|---|
| <p><i>jurisdiction for simplicity, given that one of the goals of LD 1626 was to afford each tribal court equivalent criminal jurisdiction.</i></p> | <ul style="list-style-type: none"> ○ For indigent defendants, provide at tribal expense an attorney licensed to practice law in a jurisdiction with appropriate professional licensing standards that effectively ensure competence and professional responsibility; ○ Judge must be licensed to practice law and have sufficient legal training to preside over the criminal proceeding; ○ Criminal laws and tribe’s rules of evidence and rules of criminal procedure must be publicly available prior to charging the defendant; and ○ Must record the proceeding. |
| <ul style="list-style-type: none"> • Juvenile crimes involving conduct that, if committed by an adult, would fall under the exclusive tribal court jurisdiction above. • Juvenile drug and liquor offenses in 15 M.R.S. §3103(1)(A) & (B) committed on the tribe’s, nation’s or band’s Indian territory or Jurisdiction Land. | <ul style="list-style-type: none"> • The juvenile crimes include conduct that, if committed by an adult, would fall under the expanded exclusive tribal court jurisdiction listed above for adult defendants. • Juvenile drug and liquor offenses in 15 M.R.S. §3103(1)(A) & (B) committed on the tribe’s, nation’s or band’s Indian territory or Houlton Band Trust Land. |
| <p>Tribal Court and State Court concurrent criminal jurisdiction MIA §6209-A(1-A), §6209-B(1-A), and new §6209-C(1-C); [MNRA §7208(2)]</p> | |
| <p><i>Non-juvenile crimes committed (1) by a nonmember of any tribe against a tribal member</i></p> | |
| <ul style="list-style-type: none"> • Certain Class D domestic violence offenses ¹ for which the maximum sentence is ≤ 1 year and ≤ \$2,000. • Committed on the tribe’s tribal lands • Tribal court must provide the following additional due process rights to defendants: <ul style="list-style-type: none"> ○ A unanimous verdict of 12 jurors; ○ An impartial jury that does not systematically exclude any distinctive group, including non-Indians; ○ The rights under 25 U.S.C. §1302(c) (listed in the right-hand column above under exclusive jurisdiction); and ○ All other rights necessary under the Constitution in order for the State to exercise its concurrent jurisdiction. | <p>Same.</p> |

¹ The specific offenses are: 17-A M.R.S. §207-A (domestic violence assault); §209-A (domestic violence criminal threatening); §210-B (domestic violence terrorizing); §210-C (domestic violence stalking); and §211-A (domestic violence reckless conduct) and 19-A M.R.S. §4011 (violation of protection orders) – **but: should be §4113.**

| | |
|--|---|
| Current Law (as of Dec. 2023; including the MNRA) | LD 1626 proposal (as amended by majority JUD Committee amend.) |
| <i>Non-juvenile crimes committed: (2) by a tribal member against a nonmember.</i> | |
| <p>Same as above:</p> <ul style="list-style-type: none"> • Certain Class D domestic violence offenses ¹ for which the maximum sentence is ≤ 1 year and ≤ \$2,000. • Committed on the tribe’s tribal lands • Tribal court must provide the following additional due process rights to defendants: <ul style="list-style-type: none"> ○ A unanimous verdict of 12 jurors; ○ An impartial jury that does not systematically exclude any distinctive group, including non-Indians; ○ The rights under 25 U.S.C. §1302(c) (listed in the right-hand column above under exclusive jurisdiction); and ○ All other rights whose protection is necessary under the Constitution in order for the State to exercise its concurrent jurisdiction. | <ul style="list-style-type: none"> • All Class C, D, and E crimes (not just DV offenses) — however, the max. penalties to be imposed, even for Class C crimes, are in 25 U.S.C. §1302(a)(7): <ul style="list-style-type: none"> ○ For a single offense, a sentence of 1 year and a \$5,000 fine—except that, if the defendant has been previously convicted of a comparable offense or is being prosecuted for an offense that would be a felony under federal law, the max. penalties are a sentence of 3 years and a \$15,000 fine. ○ No more than a total sentence of 9 years may be imposed for all offenses charged in a single criminal proceeding. • Committed on the tribe’s tribal lands: • Tribal court must provide the same additional due process rights (see left). <p><i>Analyst Note: this new concurrent jurisdiction is similar to the tribal courts’ expanded exclusive jurisdiction over tribal defendants in the bill, except:</i></p> <ul style="list-style-type: none"> • <u>Jurisdiction is exclusive if the victim is a tribal member or there is no victim</u> • <u>Jurisdiction is concurrent with State if the victim is not a member of any tribe.</u> |
| <p>State Court Exclusive Criminal Jurisdiction §6209-A(1), §6209-B(1) & §6209-C(1); [MNRA §7208(1)]</p> | |
| <ul style="list-style-type: none"> • All crimes and juvenile crimes for which the tribal courts do not have exclusive or concurrent jurisdiction. | <p>Same as current law—but moved to new:</p> <ul style="list-style-type: none"> • §6209-A(1-B); §6209-B(1-B); & §6209-C(1-D) |

| | |
|---|---|
| Law Enforcement Authority | |
| Passamaquoddy Tribe and Penobscot Nation | |
| <p>Under MIA §6210(1) [<i>and MNRA §729(1)</i>]:</p> <ul style="list-style-type: none"> • Passamaquoddy Tribe and Penobscot Nation [<i>and Mi’kmaq Nation</i>] tribal law enforcement officers have exclusive authority: <ul style="list-style-type: none"> ○ To enforce their tribal ordinances within their respective Indian territories; and ○ To enforce the criminal, juvenile, civil and domestic relations laws over which their courts have exclusive jurisdiction on their respective reservations. | <p>Amend §6210(1):</p> <ul style="list-style-type: none"> • Extend analogous exclusive authority to Houlton Band of Maliseet Indians tribal law enforcement officers to enforce the band’s tribal ordinances on Houlton Band Trust Land; and <ul style="list-style-type: none"> ○ Expand exclusive tribal law enforcement authority over criminal, juvenile, civil and domestic relations laws for which the relevant tribal court has exclusive jurisdiction <u>to</u> the affected Wabanaki Nation’s Indian territory or trust land. |

| | |
|--|---|
| <p>Under MIA §6210(2) [<i>and MNRA §7208</i>]:</p> <ul style="list-style-type: none"> • Passamaquoddy Tribe, Penobscot Nation, state & county law enforcement officers have concurrent authority within their respective Indian territories: <ul style="list-style-type: none"> ○ To enforce MITSC fishing ordinances; and ○ To enforce all other laws of the State. [<i>Mi'kmaq Nation</i>] | <p>Amend §6210(2):</p> <ul style="list-style-type: none"> • Extend analogous concurrent authority to the Houlton Band of Maliseet Indians tribal law enforcement officers on Houlton Band Trust land. |
| <p><i>Recent Legislation:</i></p> <ul style="list-style-type: none"> • P.L. 2023, ch. 369, Part E (LD 1620) amended §6210 to grant the Passamaquoddy Tribe and Penobscot Nation law enforcement officers exclusive authority to enforce civil and domestic relations laws over which their courts have exclusive jurisdiction on their respective Indian territories (not just their reservations). While the Passamaquoddy Tribe certified its approval of this law, <i>it is not clear that the Penobscot Nation did so. Because certification by both the tribe and nation was required for Part E, it is not clear that this Part of the law took effect.</i> | |
| Houlton Band of Maliseet Indians | |
| <p>Under MIA §6206-B:</p> <ul style="list-style-type: none"> • The band may appoint tribal law enforcement officers to enforce state law within Houlton Band Trust Land. • State, county and local (Houlton) law enforcement officers may also enforce all state laws in Houlton Band Trust Land. <p><i>Recent Legislation:</i></p> <ul style="list-style-type: none"> • P.L. 2023, ch. 369 (LD 1620) amended §6206-B to establish Houlton Band of Maliseet Indians tribal law enforcement officers have, on Houlton Band Jurisdiction Land, exclusive authority analogous to that of Passamaquoddy Tribe and Penobscot Nation law enforcement officers described above. <i>However, it is not clear that the Houlton Band of Maliseet Indians certified its agreement to this law.</i> | <ul style="list-style-type: none"> • Repeal §6206-B; and • Include the Houlton Band of Maliseet Indians within amended §6210 described above. |

15. TRIBAL-STATE COLLABORATION

LD 1626 proposed to *amend the MIA* by adding new §6217 through §6219 which, briefly summarized, would have:

- Established a tribal consultation process for all state agencies requiring each agency: (a) to offer each of the 3 affected Wabanaki Nations that may directly and substantially be affected by a proposed agency action the opportunity to engage in a government-to-government consultation process; (b) adopt a policy to promote effective consultation, collaboration and communication with the affected Wabanaki Nations; (c) to appoint a tribal liaison and (d) ensure employees responsible for consultation receive training on their responsibilities, communication and cultural competency;
- Required the Governor’s Office and MITSC to maintain contact information for the chief of each tribe (or designee) and each tribal liaison;
- Authorized the State and its political subdivisions to enter into cooperative agreements with all 4 federally recognized Indian tribes in the State (including the Mi’kmaq Nation) to facilitate the delivery of government services and avoid disputes on issues of mutual interest;
- Required the Governor to annually convene an assembly with the chiefs of the affected Wabanaki Nations to discuss the tribal-state relationship;
- Required MITSC to biennially organize an assembly between the chiefs of the affected Wabanaki Nations, members of their tribal councils and state legislators to discuss the tribal-state relationship; and
- Required the Governor, with the assistance of MITSC, to collaborate with the chiefs of the affected Wabanaki Nations to develop an agreement to be known as “the Bicentennial Accord” to establish principles for tribal-state relations.

Since LD 1626 was proposed, the Legislature enacted [P.L. 2021, ch. 681 \(LD 585\)](#), *An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering*, which adopted a Tribal-State Collaboration Act **outside of the MIA** for all 4 federally recognized Indian tribes in the State. A summary of Tribal-State Collaboration Act, as compared to the Tax Force’s consensus recommendation regarding tribal-state consultation and alternative dispute resolution, appears on page 7 of this memorandum.

16. IMMUNITY FROM SUIT / SOVEREIGN IMMUNITY

| Current Law (as of December 2023) | LD 1626 (as amended by majority JUD Committee amendment) |
|--|--|
| <p>Under MIA §6206(2):</p> <ul style="list-style-type: none"> • The Passamaquoddy Tribe and Penobscot Nation and their officers and employees “are immune from suit when the respective tribe or nation is acting in its governmental capacity to the same extent as any municipality” and its officers and employees. (MIA §6206(2)) | <p>Amend §6206(2):</p> <ul style="list-style-type: none"> • Apply this provision to the Houlton Band of Maliseet Indians and its officers and employees; and • Eliminate the restriction that immunity applies only “when the respective tribe or nation is acting in its governmental capacity – and instead afford immunity from suit to the 4 federally recognized Indian tribes, their officers and their employees “to the same extent as . . . other federally recognized Indian tribes and their officers and employees under federal Indian law.” |

129th Legislature
Judiciary Committee Bills - Tribal Law

| LD | LR | Sponsor | Title | Major Subject | Gov. Action | Chapter Number | Final Disposition |
|--------------|-----------|--------------------------|--|------------------|-------------|------------------------------------|---|
| 573 | 1796 | Moonen, Matt | An Act To Extend Time Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| 680 | 984 | Evangelos, Jeffrey | An Act To Clarify the Intent of the Federal Maine Indian Claims Settlement Act of 1980 To Ensure the Federal Principle of Inherent Tribal Sovereignty | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| 766 | 1623 | Talbot Ross, Rachel | An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013 | NATIVE AMERICANS | Signed | P.L. 2019, ch. 621 | Enacted |
| 954 | 1615 | Collings, Benjamin | An Act To Rescind An Act To Implement the Maine Indian Claims Settlement | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| 1392 | 2027 | Newell, Rena | An Act To Establish a Formal Tribal Consultation Process with the State | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| 1653 | 2272 | Dillingham, Kathleen | Resolve, Establishing the Conference To Address and Improve Relations between Maine Indian Tribes and the Legislature | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| 1709 | 1941 | Collings, Benjamin | An Act To Amend the Act To Implement the Maine Indian Claims Settlement | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| 1907 | 2671 | Talbot Ross, Rachel | An Act To Restore to the Penobscot Nation and Passamaquoddy Tribe the Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| 2094 | 3168 | Judiciary Committee Bill | An Act To Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| 2118 | 3214 | Judiciary Committee Bill | An Act To Establish an Enhanced Process for Tribal-State Collaboration and Consultation and To Develop a Process for Alternative Dispute Resolution | NATIVE AMERICANS | | | Died Upon Conclusion of the 129th Legislature |
| Total | 10 | | | | | 1 enacted | |

130th Legislature
Judiciary Committee Bills - Tribal Law

| LD | LR | Sponsor | Title | Major Subject | Gov. Action | Chapter Number | Final Disposition |
|--------------|----------|-----------------------|---|------------------|-------------|------------------------------------|--|
| 71 | 226 | Stearns, Paul | An Act To Provide State Recognition for the Kineo Band of Maliseet Indians | NATIVE AMERICANS | | | Accepted Majority (ONTP) Report |
| 159 | 749 | Wood, Barbara | An Act To Eliminate Time Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement | NATIVE AMERICANS | Signed | P.L. 2021, ch. 139 | Enacted |
| 585 | 1337 | Talbot Ross, Rachel | An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Casinos, Off-track Betting Facilities, Federally Recognized Indian Tribes and Certain Commercial Tracks To Conduct Sports Wagering | NATIVE AMERICANS | Signed | P.L. 2021, ch. 681 | Enacted |
| 906 | 1056 | Newell, Rena | An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water | PUBLIC SAFETY | Signed | P.L. 2021, ch. 650 | Enacted |
| 1218 | 1064 | Newell, Rena | Resolve, To Require the Attorney General To Provide an Update on Maine's Implementation of the Federal Law Called "Savanna's Act" | NATIVE AMERICANS | | | Ought Not to Pass Pursuant to Joint Rule 310 |
| 1568 | 196 | Evangelos, Jeffrey | An Act To Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act | NATIVE AMERICANS | | | Ought Not to Pass Pursuant to Joint Rule 310 |
| 1626 | 1341 | Talbot Ross, Rachel | An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act | NATIVE AMERICANS | | | Died On Adjournment |
| 1665 | 1787 | Babbidge, Christopher | An Act To Amend AN ACT to Implement the Maine Indian Claims Settlement Concerning Land Acquisition and Criminal Jurisdiction | NATIVE AMERICANS | | | Ought Not to Pass Pursuant to Joint Rule 310 |
| Total | 8 | | | | | 3 enacted | |

131st Legislature
Judiciary Committee Bills - Tribal Law

| LD | LR | Sponsor | Title | Major Subject | Gov. Action | Chapter Number | Final Disposition |
|------|------|---------------------|---|------------------|-------------|--|---|
| 78 | 4 | Talbot Ross, Rachel | RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require All Provisions in the Constitution to Be Included in the Official Printing | NATIVE AMERICANS | | Constitutional Resolution, ch. 1 | Finally Passed by Legislature and adopted by a majority of Maine voters on Nov. 7, 2023 |
| 336 | 749 | Poirier, Jennifer | An Act Regarding State Recognition of Native American Tribes | NATIVE AMERICANS | | | Accepted Majority (ONTP) Report |
| 578 | 913 | Bennett, Richard | RESOLUTION, Proposing an Amendment to the Constitution of Maine Concerning the Publication of Maine Indian Treaty Obligations | NATIVE AMERICANS | | | Ought Not to Pass Pursuant to Joint Rule 310 |
| 1620 | 797 | Talbot Ross, Rachel | An Act to Amend the Laws Regarding the Mi'kmaq Nation and to Provide Parity to the Wabanaki Nations | NATIVE AMERICANS | Signed | P.L. 2023, ch. 369 | Enacted |
| 1679 | 747 | Dana, Aaron | An Act Regarding the Maine Indian Tribal-State Commission | NATIVE AMERICANS | Signed | P.L. 2023, ch. 370 | Enacted |
| 1834 | 5 | Talbot Ross, Rachel | RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish an Officer on Tribal Relations | NATIVE AMERICANS | | | Carried Over in Committee |
| 1835 | 1580 | Talbot Ross, Rachel | An Act to Require the State to Notify Indian Tribes and Indian Nations When New Laws Are Enacted That Need to Be Certified | NATIVE AMERICANS | | | Carried Over in Committee |
| 1970 | 1324 | Bailey, Donna | An Act to Enact the Maine Indian Child Welfare Act | NATIVE AMERICANS | Signed | P.L. 2023, ch. 359 | Emergency Enacted |
| 2004 | 1325 | Talbot Ross, Rachel | An Act to Restore Access to Federal Laws Beneficial to the Wabanaki Nations | NATIVE AMERICANS | Veto | | Veto Sustained |
| 2007 | 1184 | Talbot Ross, Rachel | An Act to Advance Self-determination for Wabanaki Nations (concept draft) | NATIVE AMERICANS | | | Carried Over in Committee |

131st Legislature
Judiciary Committee Bills - Tribal Law

| | | | | | | |
|--------------|-----------|--|--|--|------------------|-----------------------|
| Total | 10 | | | | 4 enacted | 3 carried over |
|--------------|-----------|--|--|--|------------------|-----------------------|

Public Law 96-420
96th Congress

An Act

To provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

Oct. 10, 1980

[H.R. 7919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maine Indian Claims Settlement Act of 1980".

Maine Indian
Claims
Settlement Act
of 1980.
25 USC 1721
note.

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) Congress hereby finds and declares that:

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Maliseet Tribe are asserting claims for possession of lands within the State of Maine and for damages on the ground that the lands in question were originally transferred in violation of law, including, but without limitation, the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments or versions thereof.

(2) The Indians, Indian nations, and tribes and bands of Indians, other than the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, that once may have held aboriginal title to lands within the State of Maine long ago abandoned their aboriginal holdings.

(3) The Penobscot Nation, as represented as of the time of passage of this Act by the Penobscot Nation's Governor and Council, is the sole successor in interest to the aboriginal entity generally known as the Penobscot Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(4) The Passamaquoddy Tribe, as represented as of the time of passage of this Act by the Joint Tribal Council of the Passamaquoddy Tribe, is the sole successor in interest to the aboriginal entity generally known as the Passamaquoddy Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(5) The Houlton Band of Maliseet Indians, as represented as of the time of passage of this Act by the Houlton Band Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Maliseet Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(6) Substantial economic and social hardship to a large number of landowners, citizens, and communities in the State of Maine, and therefore to the economy of the State of Maine as a whole, will result if the aforementioned claims are not resolved promptly.

(7) This Act represents a good faith effort on the part of Congress to provide the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians with a fair and

25 USC 1721.

just settlement of their land claims. In the absence of congressional action, these land claims would be pursued through the courts, a process which in all likelihood would consume many years and thereby promote hostility and uncertainty in the State of Maine to the ultimate detriment of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, their members, and all other citizens of the State of Maine.

(8) The State of Maine, with the agreement of the Passamaquoddy Tribe and the Penobscot Nation, has enacted legislation defining the relationship between the Passamaquoddy Tribe, the Penobscot Nation, and their members, and the State of Maine.

(9) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians. During this same period, the United States provided few special services to the respective tribe, nation, or band, and repeatedly denied that it had jurisdiction over or responsibility for the said tribe, nation, and band. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this claims settlement.

(b) It is the purpose of this Act—

(1) to remove the cloud on the titles to land in the State of Maine resulting from Indian claims;

(2) to clarify the status of other land and natural resources in the State of Maine;

(3) to ratify the Maine Implementing Act, which defines the relationship between the State of Maine and the Passamaquoddy Tribe, and the Penobscot Nation, and

(4) to confirm that all other Indians, Indian nations and tribes and bands of Indians now or hereafter existing or recognized in the State of Maine are and shall be subject to all laws of the State of Maine, as provided herein.

DEFINITIONS

25 USC 1722.

SEC. 3. For purposes of this Act, the term—

(a) "Houlton Band of Maliseet Indians" means the sole successor to the Maliseet Tribe of Indians as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Houlton Band of Maliseet Indians is represented, as of the date of the enactment of this Act, as to lands within the United States, by the Houlton Band Council of the Houlton Band of Maliseet Indians;

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including but without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(c) "Land Acquisition Fund" means the Maine Indian Claims Land Acquisition Fund established under section 5(c) of this Act;

(d) "laws of the State" means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof;

(e) "Maine Implementing Act" means section 1, section 30, and section 31, of the "Act to Implement the Maine Indian Claims Settlement" enacted by the State of Maine in chapter 732 of the public laws of 1979;

(f) "Passamaquoddy Indian Reservation" means those lands as defined in the Maine Implementing Act;

(g) "Passamaquoddy Indian Territory" means those lands as defined in the Maine Implementing Act;

(h) "Passamaquoddy Tribe" means the Passamaquoddy Indian Tribe, as constituted in aboriginal times and all its predecessors and successors in interest. The Passamaquoddy Tribe is represented, as of the date of the enactment of this Act, by the Joint Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian Township and Pleasant Point Reservations;

(i) "Penobscot Indian Reservation" means those lands as defined in the Maine Implementing Act;

(j) "Penobscot Indian Territory" means those lands as defined in the Maine Implementing Act;

(k) "Penobscot Nation" means the Penobscot Indian Nation as constituted in aboriginal times, and all its predecessors and successors in interest. The Penobscot Nation is represented, as of the date of enactment of this Act, by the Penobscot Nation Governor and Council;

(l) "Secretary" means the Secretary of the Interior;

(m) "Settlement Fund" means the Maine Indian Claims Settlement Fund established under section 5(a) of this Act; and

(n) "transfer" includes but is not limited to any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF INDIAN TITLE AND CLAIMS OF THE PASSAMAQUODDY TRIBE, THE PENOBSCOT NATION, THE HOULTON BAND OF MALISEET INDIANS, AND ANY OTHER INDIANS, INDIAN NATION, OR TRIBE OR BAND OF INDIANS WITHIN THE STATE OF MAINE

SEC. 4. (a)(1) Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: *Provided however*, That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

25 USC 1723.

(2) The United States is barred from asserting on behalf of any Indian, Indian nation, or tribe or band of Indians any claim under the laws of the State of Maine arising before the date of this Act and arising from any transfer of land or natural resources by any Indian, Indian nation, or tribe or band of Indians, located anywhere within the State of Maine, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, on the grounds that such transfer was not made in accordance with the laws of the State of Maine.

(3) The United States is barred from asserting by or on behalf of any individual Indian any claim under the laws of the State of Maine arising from any transfer of land or natural resources located anywhere within the State of Maine from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State.

(b) To the extent that any transfer of land or natural resources described in subsection (a)(1) of this section may involve land or natural resources to which the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, such subsection (a)(1) shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

(d) The provisions of this section shall take effect immediately upon appropriation of the funds authorized to be appropriated to implement the provisions of section 5 of this Act. The Secretary shall publish notice of such appropriation in the Federal Register when such funds are appropriated.

ESTABLISHMENT OF FUNDS

SEC. 5. (a) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Settlement Fund in which \$27,000,000 shall be deposited following the appropriation of sums authorized by section 14 of this Act.

(b)(1) One-half of the principal of the settlement fund shall be held in trust by the Secretary for the benefit of the Passamaquoddy Tribe, and the other half of the settlement fund shall be held in trust for the benefit of the Penobscot Nation. Each portion of the settlement fund shall be administered by the Secretary in accordance with reasonable terms established by the Passamaquoddy Tribe or the Penobscot Nation, respectively, and agreed to by the Secretary: *Provided*, That the Secretary may not agree to terms which provide for investment of the settlement fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the respective tribe or

Effective date.

Publication in
Federal
Register.

Maine Indian
Claims
Settlement
Fund.
25 USC 1724.

Waiver.

25 USC 162a.

nation first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment: *Provided, further*, That until such terms have been agreed upon, the Secretary shall fix the terms for the administration of the portion of the settlement fund as to which there is no agreement.

(2) Under no circumstances shall any part of the principal of the settlement fund be distributed to either the Passamaquoddy Tribe or the Penobscot Nation, or to any member of either tribe or nation: *Provided, however*, That nothing herein shall prevent the Secretary from investing the principal of said fund in accordance with paragraph (1) of this subsection.

(3) The Secretary shall make available to the Passamaquoddy Tribe and the Penobscot Nation in quarterly payments, without any deductions except as expressly provided in subsection 6(d)(2) and without liability to or on the part of the United States, any income received from the investment of that portion of the settlement fund allocated to the respective tribe or nation, the use of which shall be free of regulation by the Secretary. The Passamaquoddy Tribe and the Penobscot Nation annually shall each expend the income from \$1,000,000 of their portion of the settlement fund for the benefit of their respective members who are over the age of sixty. Once payments under this paragraph have been made to the tribe or nation, the United States shall have no further trust responsibility to the tribe or nation or their members with respect to the sums paid, any subsequent distribution of these sums, or any property or services purchased therewith.

(c) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Land Acquisition Fund in which \$54,500,000 shall be deposited following the appropriation of sums authorized by section 14 of this Act.

Maine Indian
Claims Land
Acquisition
Fund,
establishment.

(d) The principal of the land acquisition fund shall be apportioned as follows:

(1) \$900,000 to be held in trust for the Houlton Band of Maliseet Indians;

(2) \$26,800,000 to be held in trust for the Passamaquoddy Tribe; and

(3) \$26,800,000 to be held in trust for the Penobscot Nation.

The Secretary is authorized and directed to expend, at the request of the affected tribe, nation or band, the principal and any income accruing to the respective portions of the land acquisition fund for the purpose of acquiring land or natural resources for the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians and for no other purpose. The first 150,000 acres of land or natural resources acquired for the Passamaquoddy Tribe and the first 150,000 acres acquired for the Penobscot Nation within the area described in the Maine Implementing Act as eligible to be included within the Passamaquoddy Indian Territory and the Penobscot Indian Territory shall be held in trust by the United States for the benefit of the respective tribe or nation. The Secretary is also authorized to take in trust for the Passamaquoddy Tribe or the Penobscot Nation any land or natural resources acquired within the aforesaid area by purchase, gift, or exchange by such tribe or nation. Land or natural resources acquired outside the boundaries of the aforesaid areas shall be held in fee by the respective tribe or nation, and the United States shall have no further trust responsibility with respect thereto. Land or natural resources acquired within the State of Maine for the Houlton Band of Maliseet Indians shall be held in trust by the United States for the benefit of the band: *Provided*, That

Land or natural
resources,
acquisition.

no land or natural resources shall be so acquired for or on behalf of the Houlton Band of Maliseet Indians without the prior enactment of appropriate legislation by the State of Maine approving such acquisition: *Provided further*, That the Passamaquoddy Tribe and the Penobscot Nation shall each have a one-half undivided interest in the corpus of the trust, which shall consist of any such property or subsequently acquired exchange property, in the event the Houlton Band of Maliseet Indians should terminate its interest in the trust.

State of Maine
and Houlton
Band of Maliseet
Indians,
negotiations.

(4) The Secretary is authorized to, and at the request of either party shall, participate in negotiations between the State of Maine and the Houlton Band of Maliseet Indians for the purpose of assisting in securing agreement as to the land or natural resources to be acquired by the United States to be held in trust for the benefit of the Houlton Band. Such agreement shall be embodied in the legislation enacted by the State of Maine approving the acquisition of such lands as required by section 5(d)(3). The agreement and the legislation shall be limited to:

(A) provisions providing restrictions against alienation or taxation of land or natural resources held in trust for the Houlton Band no less restrictive than those provided by this Act and the Maine Implementing Act for land or natural resources to be held in trust for the Passamaquoddy Tribe or Penobscot Nation;

(B) provisions limiting the power of the State of Maine to condemn such lands that are no less restrictive than the provisions of this Act and the Maine Implementing Act that apply to the Passamaquoddy Indian Territory and the Penobscot Indian Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation;

(C) consistent with the trust and restricted character of the lands, provisions satisfactory to the State and the Houlton Band concerning:

(i) payments by the Houlton Band in lieu of payment of property taxes on land or natural resources held in trust for the band, except that the band shall not be deemed to own or use any property for governmental purposes under the Maine Implementing Act;

(ii) payments of other fees and taxes to the extent imposed on the Passamaquoddy Tribe and the Penobscot Nation under the Maine Implementing Act, except that the band shall not be deemed to be a governmental entity under the Maine Implementing Act or to have the powers of a municipality under the Maine Implementing Act;

(iii) securing performance of obligations of the Houlton Band arising after the effective date of agreement between the State and the band.

(D) provisions on the location of these lands.

Except as set forth in this subsection, such agreement shall not include any other provisions regarding the enforcement or application of the laws of the State of Maine. Within one year of the date of enactment of this Act, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the status of these negotiations.

(e) Notwithstanding the provisions of section 1 of the Act of August 1, 1888 (25 Stat. 357), as amended, and section 1 of the Act of

Report to
congressional
committees.

February 26, 1931 (46 Stat. 1421), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner. Except for the provisions of this Act, the United States shall have no other authority to acquire lands or natural resources in trust for the benefit of Indians or Indian nations, or tribes, or bands of Indians in the State of Maine.

40 USC 258a.

(f) The Secretary may not expend on behalf of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians any sums deposited in the funds established pursuant to the subsections (a) and (c) of this section unless and until he finds that authorized officials of the respective tribe, nation, or band have executed appropriate documents relinquishing all claims to the extent provided by sections 4, 11, and 12 of this Act and by section 6213 of the Maine Implementing Act, including stipulations to the final judicial dismissal with prejudice of their claims.

(g)(1) The provisions of section 2116 of the Revised Statutes shall not be applicable to (A) the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation, or tribe or band of Indians in the State of Maine, or (B) any land or natural resources owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine. Except as provided in subsections (d)(4) and (g)(2), such land or natural resources shall not otherwise be subject to any restraint on alienation by virtue of being held in trust by the United States or the Secretary.

25 USC 177.

(2) Except as provided in paragraph (3) of this subsection, any transfer of land or natural resources within Passamaquoddy Indian Territory or Penobscot Indian Territory, except (A) takings for public uses consistent with the Maine Implementing Act, (B) takings for public uses pursuant to the laws of the United States, or (C) transfers of individual Indian use assignments from one member of the Passamaquoddy Tribe or Penobscot Nation to another member of the same tribe or nation, shall be void ab initio and without any validity in law or equity.

(3) Land or natural resources within the Passamaquoddy Indian Territory or the Penobscot Indian Territory or held in trust for the benefit of the Houlton Band of Maliseet Indians may, at the request of the respective tribe, nation, or band, be—

Land or natural resources held in trust.

(A) leased in accordance with the Act of August 9, 1955 (69 Stat. 539), as amended;

25 USC
415-415d, 396.

(B) leased in accordance with the Act of May 11, 1938 (52 Stat. 347), as amended;

25 USC
396a-396f and
notes.
25 USC 407.

(C) sold in accordance with section 7 of the Act of June 25, 1910 (36 Stat. 857), as amended;

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (62 Stat. 17);

25 USC 323-328
and note.

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the affected

tribe, nation, or band, as the circumstances require, so long as payment does not exceed 25 per centum of the total value of the interests in land to be transferred by the tribe, nation, or band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

Land or natural resources, administration.

(h) Land or natural resources acquired by the Secretary in trust for the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective tribe or nation and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (88 Stat. 2206), or other existing law.

25 USC 450f.

(i)(1) Trust or restricted land or natural resources within the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. In the event that the compensation for the taking is in the form of substitute land to be added to the reservation, such land shall become a part of the reservation in accordance with the Maine Implementing Act and upon notification to the Secretary of the location and boundaries of the substitute land. Such substitute land shall have the same trust or restricted status as the land taken. To the extent that the compensation is in the form of monetary proceeds, it shall be deposited and reinvested as provided in paragraph (2) of this subsection.

(2) Trust land of the Passamaquoddy Tribe or the Penobscot Nation not within the Passamaquoddy Reservation or Penobscot Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. The proceeds from any such condemnation shall be deposited in the land acquisition fund established by section 5(c) and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the respective tribe or nation shall designate, with the approval of the United States, and within thirty days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land not acquired in trust shall be held in fee by the respective tribe or nation. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired.

Condemnation proceedings.

(3) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

State jurisdiction, U.S. judicial review.

(j) When trust or restricted land or natural resources of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited and reinvested in accordance with subsection (i)(2) of this section.

APPLICATION OF STATE LAWS

SEC. 6. (a) Except as provided in section 8(e) and section 5(d)(4), all Indians, Indian nations, or tribes or bands of Indians in the State of Maine, other than the Passamaquoddy Tribe, the Penobscot Nation, and their members, and any lands or natural resources owned by any such Indian, Indian nation, tribe or band of Indians and any lands or natural resources held in trust by the United States, or by any other person or entity, for any such Indian, Indian nation, tribe, or band of Indians shall be subject to the civil and criminal jurisdiction of the State, the laws of the State, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein.

State civil and
criminal
jurisdiction.
25 USC 1725.

(b)(1) The Passamaquoddy Tribe, the Penobscot Nation, and their members, and the land and natural resources owned by, or held in trust for the benefit of the tribe, nation, or their members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act and that Act is hereby approved, ratified, and confirmed.

(2) Funds appropriated for the benefit of Indian people or for the administration of Indian affairs may be utilized, consistent with the purposes for which they are appropriated, by the Passamaquoddy Tribe and the Penobscot Nation to provide part or all of the local share as provided by the Maine Implementing Act.

(3) Nothing in this section shall be construed to supersede any Federal laws or regulations governing the provision or funding of services or benefits to any person or entity in the State of Maine unless expressly provided by this Act.

(4) Not later than October 30, 1982, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the Federal and State funding provided the Passamaquoddy Tribe and Penobscot Nation compared with the respective Federal and State funding in other States.

Report to
congressional
committees.

(c) The United States shall not have any criminal jurisdiction in the State of Maine under the provisions of sections 1152, 1153, 1154, 1155, 1156, 1160, 1161, and 1165 of title 18 of the United States Code. This provision shall not be effective until sixty days after the publication of notice in the Federal Register as required by subsection 4(d) of this Act.

State criminal
jurisdiction,
effective date.

(d)(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and all members thereof, and all other Indians, Indian nations, or tribes or bands of Indians in the State of Maine may sue and be sued in the courts of the State of Maine and the United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in those courts; and section 1362 of title 28, United States Code, shall be applicable to civil actions brought by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians: *Provided, however,* That the Passamaquoddy Tribe, the Penobscot Nation, and their officers and employees shall be immune from suit to the extent provided in the Maine Implementing Act.

(2) Notwithstanding the provisions of section 3477 of the Revised Statutes, as amended, the Secretary shall honor valid final orders of a Federal, State, or territorial court which enters money judgments for causes of action which arise after the date of the enactment of this Act against either the Passamaquoddy Tribe or the Penobscot Nation by making an assignment to the judgment creditor of the right to

31 USC 203.

receive income out of the next quarterly payment from the settlement fund established pursuant to section 5(a) of this Act and out of such future quarterly payments as may be necessary until the judgment is satisfied.

(e)(1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: *Provided*, That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

(2) Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the band or its members.

Separate
jurisdiction.

(f) The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

(g) The Passamaquoddy Tribe, the Penobscot Nation, and the State of Maine shall give full faith and credit to the judicial proceedings of each other.

(h) Except as otherwise provided in this Act, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.

Certain Indian
tribes, financial
benefits and tax
treatment.

(i) As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be treated in the same manner as other federally recognized tribes for the purposes of Federal taxation and any lands which are held by the respective tribe, nation, or band subject to a restriction against alienation or which are held in trust for the benefit of the respective tribe, nation, or band shall be considered Federal Indian reservations for purposes of Federal taxation.

TRIBAL ORGANIZATION

SEC. 7. (a) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians may each organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the tribe, nation, or band when each is acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act and the Maine Implementing Act. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall each file with the Secretary a copy of its organic governing document and any amendments thereto.

25 USC 1726.

(b) For purposes of benefits under this Act and the recognition extended the Houlton Band of Maliseet Indians, no person who is not a citizen of the United States may be considered a member of the Houlton Band of Maliseets, except persons who, as of the date of this Act, are enrolled members on the band's existing membership roll, and direct lineal descendants of such members. Membership in the band shall be subject to such further qualifications as may be provided by the band in its organic governing document or amendments thereto subject to the approval of the Secretary.

Houlton Band of Maliseet Indians, membership.

IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT

SEC. 8. (a) The Passamaquoddy Tribe or the Penobscot Nation may assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act of 1978 (92 Stat. 3069). Before the respective tribe or nation may assume such jurisdiction over Indian child custody proceedings, the respective tribe or nation shall present to the Secretary for approval a petition to assume such jurisdiction and the Secretary shall approve that petition in the manner prescribed by sections 108(a)-(c) of said Act.

Indian child custody proceedings, tribal jurisdiction. 25 USC 1727. 25 USC 1901 note. 25 USC 1918.

(b) Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe or the Penobscot Nation shall be considered and determined by the Secretary in accordance with sections 108 (b) and (c) of the Act.

(c) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction.

(d) For the purposes of this section, the Passamaquoddy Indian Reservation and the Penobscot Indian Reservation are "reservations" within section 4(10) of the Act.

Reservations.

(e) For the purposes of this section, the Houlton Band of Maliseet Indians is an "Indian tribe" within section 4(8) of the Act, provided, that nothing in this subsection shall alter or effect the jurisdiction of the State of Maine over child welfare matters as provided in subsection 6(e)(2) of this Act.

Indian tribe.

(f) Until the Passamaquoddy Tribe or the Penobscot Nation has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over Indian child custody proceedings of that tribe or nation.

Indian child custody proceedings, jurisdiction.

EFFECT OF PAYMENTS TO PASSAMAQUODDY TRIBE, PENOBSCOT NATION, AND HOULTON BAND OF MALISEET INDIANS

SEC. 9. (a) No payments to be made for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet

25 USC 1728.

Indians pursuant to the terms of this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) The eligibility for or receipt of payments from the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation or any of their members pursuant to the Maine Implementing Act shall not be considered by any department or agency of the United States in determining the eligibility of or computing payments to the Passamaquoddy Tribe or the Penobscot Nation or any of their members under any financial aid program of the United States: *Provided*, That to the extent that eligibility for the benefits of such a financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

(c) The availability of funds or distribution of funds pursuant to section 5 of this Act may not be considered as income or resources or otherwise utilized as the basis (1) for denying any Indian household or member thereof participation in any federally assisted housing program, (2) for denying or reducing the Federal financial assistance or other Federal benefits to which such household or member would otherwise be entitled, or (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be eligible or entitled.

DEFERRAL OF CAPITAL GAINS

- 25 USC 1729. SEC. 10. For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer by private owners of land purchased or otherwise acquired by the Secretary with moneys from the land acquisition fund whether in the name of the United States or of the respective tribe, nation or band shall be deemed to be an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954, as amended.
- 26 USC 1033.

TRANSFER OF TRIBAL TRUST FUNDS HELD BY THE STATE OF MAINE

- 25 USC 1730. SEC. 11. All funds of either the Passamaquoddy Tribe or the Penobscot Nation held in trust by the State of Maine as of the effective date of this Act shall be transferred to the Secretary to be held in trust for the respective tribe or nation and shall be added to the principal of the settlement fund allocated to that tribe or nation. The receipt of said State funds by the Secretary shall constitute a full discharge of any claim of the respective tribe or nation, its predecessors and successors in interest, and its members, may have against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds. Upon receipt of said State funds, the Secretary, on behalf of the respective tribe and nation, shall execute general releases of all claims against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds.

OTHER CLAIMS DISCHARGED BY THIS ACT

- 25 USC 1731. SEC. 12. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Maine and all of its political subdivisions, agencies, departments, and

all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of any Indian nation, or tribe or band of Indians or the United States as trustee therefor, including those actions now pending in the United States District Court for the District of Maine captioned United States of America against State of Maine (Civil Action Nos. 1966-ND and 1969-ND).

LIMITATION OF ACTIONS

SEC. 13. Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act. 25 USC 1732.

AUTHORIZATION

SEC. 14. There is hereby authorized to be appropriated \$81,500,000 for the fiscal year beginning October 1, 1980, for transfer to the funds established by section 5 of this Act. 25 USC 1733.

INSEPARABILITY

SEC. 15. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect. 25 USC 1734.

CONSTRUCTION

SEC. 16. (a) In the event a conflict of interpretation between the provisions of the Maine Implementing Act and this Act should emerge, the provisions of this Act shall govern. 25 USC 1735.

(b) The provisions of any Federal law enacted after the date of enactment of this Act for the benefit of Indians, Indian nations, or tribes or bands of Indians, which would affect or preempt the application of the laws of the State of Maine, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this Act and the Maine Implementing Act, shall not apply within the State of Maine, unless such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1353 (Comm. on Interior and Insular Affairs).
 SENATE REPORT No. 96-957 accompanying S. 2829 (Comm. on Indian Affairs).
 CONGRESSIONAL RECORD, Vol. 126 (1980):
 Sept. 22, considered and passed House.
 Sept. 23, considered and passed Senate.
 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
 Oct. 11, Presidential statement.

CHAPTER 601**MAINE INDIAN CLAIMS SETTLEMENT****§6201. Short title**

This Act shall be known and may be cited as "AN ACT to Implement the Maine Indian Claims Settlement." [PL 1979, c. 732, §§ 1, 31 (NEW).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW).

§6202. Legislative findings and declaration of policy

The Legislature finds and declares the following. [PL 1979, c. 732, §§1, 31 (NEW).]

The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians are asserting claims for possession of large areas of land in the State and for damages alleging that the lands in question originally were transferred in violation of the Indian Trade and Intercourse Act of 1790, 1 Stat. 137, or subsequent reenactments or versions thereof. [PL 1979, c. 732, §§1, 31 (NEW).]

Substantial economic and social hardship could be created for large numbers of landowners, citizens and communities in the State, and therefore to the State as a whole, if these claims are not resolved promptly. [PL 1979, c. 732, §§1, 31 (NEW).]

The claims also have produced disagreement between the Indian claimants and the State over the extent of the state's jurisdiction in the claimed areas. This disagreement has resulted in litigation and, if the claims are not resolved, further litigation on jurisdictional issues would be likely. [PL 1979, c. 732, §§1, 31 (NEW).]

The Indian claimants and the State, acting through the Attorney General, have reached certain agreements which represent a good faith effort on the part of all parties to achieve a fair and just resolution of those claims which, in the absence of agreement, would be pursued through the courts for many years to the ultimate detriment of the State and all its citizens, including the Indians. [PL 1979, c. 732, §§1, 31 (NEW).]

The foregoing agreement between the Indian claimants and the State also represents a good faith effort by the Indian claimants and the State to achieve a just and fair resolution of their disagreement over jurisdiction on the present Passamaquoddy and Penobscot Indian reservations and in the claimed areas. To that end, the Passamaquoddy Tribe and the Penobscot Nation have agreed to adopt the laws of the State as their own to the extent provided in this Act. The Houlton Band of Maliseet Indians and its lands will be wholly subject to the laws of the State. [PL 1979, c. 732, §§1, 31 (NEW).]

It is the purpose of this Act to implement in part the foregoing agreement. [PL 1979, c. 732, §§1, 31 (NEW).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW).

§6203. Definitions**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

As used in this Act, unless the context indicates otherwise, the following terms have the following meanings. [PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

1-A. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. D, §8) Houlton Band Jurisdiction Land. "Houlton Band Jurisdiction Land" means:

A. All Houlton Band Trust Land that exists as of the effective date of this subsection; and [PL 2023, c. 369, Pt. D, §1 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

B. All Houlton Band Trust Land acquired after the effective date of this subsection that is both within Aroostook County and within 50 miles of land described in paragraph A. [PL 2023, c. 369, Pt. D, §1 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]
[PL 2023, c. 369, Pt. D, §1 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

2-A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. D, §8) 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.

[PL 1981, c. 675, §§1, 8 (NEW).]

2-A. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. D, §8) Houlton Band Trust Land. "Houlton Band Trust Land" has the same meaning as "Houlton Band trust land" in Section 2(2) of the federal Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, Public Law 99-566.

[PL 2023, c. 369, Pt. D, §2 (RPR); PL 2023, c. 369, Pt. D, §8 (AFF).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

5. Passamaquoddy Indian Reservation. "Passamaquoddy Indian Reservation" means those lands reserved to the Passamaquoddy Tribe by agreement with the State of Massachusetts dated September 19, 1794, excepting any parcel within such lands transferred to a person or entity other than a member of the Passamaquoddy Tribe subsequent to such agreement and prior to the effective date of this Act. If any lands reserved to the Passamaquoddy Tribe by the aforesaid agreement hereafter are acquired by the Passamaquoddy Tribe, or the secretary on its behalf, that land shall be included within the Passamaquoddy Indian Reservation. For purposes of this subsection, the lands reserved to the Passamaquoddy Tribe by the aforesaid agreement shall be limited to Indian Township in Washington

County; Pine Island, sometimes referred to as Taylor's Island, located in Big Lake, in Washington County; 100 acres of land located on Nemcass Point, sometimes referred to as Governor's Point, located in Washington County and shown on a survey of John Gardner which is filed in the Maine State Archives, Executive Council Records, Report Number 264 and dated June 5, 1855; 100 acres of land located at Pleasant Point in Washington County as described in a deed to Captain John Frost from Theodore Lincoln, Attorney for Benjamin Lincoln, Thomas Russell, and John Lowell dated July 14, 1792, and recorded in the Washington County Registry of Deeds on April 27, 1801, at Book 3, Page 73; and those 15 islands in the St. Croix River in existence on September 19, 1794 and located between the head of the tide of that river and the falls below the forks of that river, both of which points are shown on a 1794 plan of Samuel Titcomb which is filed in the Maine State Archives in Maine Land Office Plan Book Number 1, page 33. The "Passamaquoddy Indian Reservation" includes those lands which have been or may be acquired by the Passamaquoddy Tribe within that portion of the Town of Perry which lies south of Route 1 on the east side of Route 190 and south of lands now owned or formerly owned by William Follis on the west side of Route 190, provided that no such lands may be included in the Passamaquoddy Indian Reservation until the Secretary of State receives certification from the treasurer of the Town of Perry that the Passamaquoddy Tribe has paid to the Town of Perry the amount of \$350,000, provided that the consent of the Town of Perry would be voided unless the payment of the \$350,000 is made within 120 days of the effective date of this section. Any commercial development of those lands must be by approval of the voters of the Town of Perry with the exception of land development currently in the building stages.
[PL 1985, c. 747, §1 (AMD).]

6. Passamaquoddy Indian territory. "Passamaquoddy Indian territory" means that territory defined by section 6205, subsection 1.
[PL 1979, c. 732, §§1, 31 (NEW).]

7. Passamaquoddy Tribe. "Passamaquoddy Tribe" means the Passamaquoddy Indian Tribe as constituted on March 4, 1789, and all its predecessors and successors in interest, which, as of the date of passage of this Act, are represented by the Joint Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian Township and Pleasant Point Reservations.
[PL 1979, c. 732, §§1, 31 (NEW).]

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

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

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

[PL 2009, c. 636, Pt. B, §1 (AMD); PL 2009, c. 636, Pt. B, §2 (AFF).]

9. Penobscot Indian territory. "Penobscot Indian territory" means that territory defined by section 6205, subsection 2.

[PL 1979, c. 732, §§1, 31 (NEW).]

10. Penobscot Nation. "Penobscot Nation" means the Penobscot Indian Nation as constituted on March 4, 1789, and all its predecessors and successors in interest, which, as of the date of passage of this Act, are represented by the Penobscot Reservation Tribal Council.

[PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW). PL 1981, c. 675, §§1,8 (AMD). PL 1985, c. 747, §1 (AMD). PL 1987, c. 712, §§1,2 (AMD). PL 2009, c. 636, Pt. B, §1 (AMD). PL 2009, c. 636, Pt. B, §2 (AFF). PL 2023, c. 369, Pt. D, §§1, 2 (AMD). PL 2023, c. 369, Pt. D, §8 (AFF).

§6204. Laws of the State to apply to Indian Lands

Except as otherwise provided in this Act, all Indians, Indian nations, and tribes and bands of Indians in the State and any lands or other natural resources owned by them, held in trust for them by the United States or by any other person or entity shall be subject to the laws of the State and to the civil and criminal jurisdiction of the courts of the State to the same extent as any other person or lands or other natural resources therein. [PL 1979, c. 732, §§ 1, 31 (NEW).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW).

§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; [PL 1993, c. 713, §1 (AMD); PL 1993, c. 713, §2 (AFF).]

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; [PL 2021, c. 139, §1 (AMD); PL 2021, c. 139, §3 (AFF).]

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

- (1) The acquisition of the land by the tribe is approved by the legislative body of that city; and
- (2) A tribal-state compact under the federal Indian Gaming Regulatory Act is agreed to by the State and the Passamaquoddy Tribe or the State is ordered by a court to negotiate such a compact; [PL 2021, c. 139, §1 (AMD); PL 2021, c. 139, §3 (AFF).]

D. All land acquired by the secretary for the benefit of the Passamaquoddy Tribe in T. 19, M.D. to the extent that the land is not held in common with any other person or entity and is certified by the secretary as held for the benefit of the Passamaquoddy Tribe; [PL 2021, c. 139, §1 (AMD); PL 2021, c. 139, §3 (AFF).]

D-1. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Centerville consisting of Parcels A, B and C conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by quitclaim deed dated July 27, 1981, recorded in the Washington County Registry of Deeds in Book 1147, Page 251, to the extent that the land is not held in common with any other person or entity and is certified by the secretary as held for the benefit of the Passamaquoddy Tribe; [PL 2021, c. 139, §1 (AMD); PL 2021, c. 139, §3 (AFF).]

D-2. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Centerville conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by quitclaim deed dated May 4, 1982, recorded in the Washington County Registry of Deeds in Book 1178, Page 35, to the extent that the land is not held in common with any other person or entity and is certified by the secretary as held for the benefit of the Passamaquoddy Tribe; [PL 2021, c. 650, §2 (AMD); PL 2021, c. 650, §13 (AFF).]

E. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Township 21 consisting of Gordon Island in Big Lake, conveyed by Domtar Maine Corporation to the Passamaquoddy Tribe by corporate quitclaim deed dated April 30, 2002, recorded in the Washington County Registry of Deeds in Book 2624, Page 301, to the extent that the land is not held in common with any other person or entity and is certified by the secretary as held for the benefit of the Passamaquoddy Tribe; and [PL 2021, c. 650, §3 (AMD); PL 2021, c. 650, §13 (AFF).]

F. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Perry consisting of:

- (1) Land conveyed by Denise E. Plouffe to the Passamaquoddy Tribe by quitclaim deed dated October 5, 2017, recorded in the Washington County Registry of Deeds in Book 4403, Pages 18 and 19; and

(2) Land conveyed by Austin Humphries to the Passamaquoddy Tribe by deed dated November 18, 1983, recorded in the Washington County Registry of Deeds in Book 1252, Pages 93 to 95.

Notwithstanding subsection 5 and any other provision of this Act to the contrary, the addition of land to the Passamaquoddy Indian territory pursuant to this paragraph is not subject to approval by any city, town, village or plantation within the State. [PL 2021, c. 650, §4 (NEW); PL 2021, c. 650, §13 (AFF).]

[PL 2021, c. 650, §§2-4 (AMD); PL 2021, c. 650, §13 (AFF).]

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

A. The Penobscot Indian Reservation; and [PL 1979, c. 732, §1 (NEW).]

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

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; 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. [PL 2021, c. 139, §2 (AMD); PL 2021, c. 139, §3 (AFF).]

[PL 2021, c. 139, §2 (AMD); PL 2021, c. 139, §3 (AFF).]

3. Takings under the laws of the State.

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

In the event of a taking of land for public uses within the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation, the public entity or public utility making the taking shall, at the election of the affected tribe or nation, and with respect to individually allotted lands, at the election

of the affected allottee or allottees, acquire by purchase or otherwise for the respective tribe, nation, allottee or allottees a parcel or parcels of land equal in value to that taken; contiguous to the affected Indian reservation; and as nearly adjacent to the parcel taken as practicable. The land so acquired shall, upon written certification to the Secretary of State by the public entity or public utility acquiring such land describing the location and boundaries thereof, be included within the Indian Reservation of the affected tribe or nation without further approval of the State. For purposes of this section, land along and adjacent to the Penobscot River shall be deemed to be contiguous to the Penobscot Indian Reservation. The acquisition of land for the Passamaquoddy Tribe or the Penobscot Nation or any allottee under this subsection shall be full compensation for any such taking. If the affected tribe, nation, allottee or allottees elect not to have a substitute parcel acquired in accordance with this subsection, the moneys received for such taking shall be reinvested in accordance with the provisions of paragraph B. [PL 1979, c. 732, §1 (NEW).]

B. If land within either the Passamaquoddy Indian Territory or the Penobscot Indian Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation is taken for public uses in accordance with the laws of the State the money received for said land shall be reinvested in other lands within 2 years of the date on which the money is received. To the extent that any moneys received are so reinvested in land with an area not greater than the area of the land taken and located within an unorganized or unincorporated area of the State, the lands so acquired by such reinvestment shall be included within the respective Indian territory without further approval of the State. To the extent that any moneys received are so reinvested in land with an area greater than the area of the land taken and located within an unorganized or unincorporated area of the State, the respective tribe or nation shall designate, within 30 days of such reinvestment, that portion of the land acquired by such reinvestment, not to exceed the area taken, which shall be included within the respective Indian territory. No land acquired pursuant to this paragraph shall be included within either Indian Territory until the Secretary of Interior has certified, in writing, to the Secretary of State the location and boundaries of the land acquired. [PL 1979, c. 732, §1 (NEW).]

[PL 1979, c. 732, §1 (NEW).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

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 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 no lands within any city, town, village or plantation shall be added to either the Passamaquoddy Indian territory or the Penobscot Indian territory without approval of the legislative body of said city, 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 status prior to the inclusion thereof within Indian territory.

[PL 1979, c. 732, §§1, 31 (NEW).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW). PL 1983, c. 493, §1 (AMD). PL 1983, c. 494, §1 (AMD). PL 1983, c. 660, §§1,2 (AMD). PL 1983, c. 676, §§1,2 (AMD). PL 1985, c. 69, §1 (AMD). PL 1985, c. 637, §§1,2 (AMD). PL 1985, c. 639, §§1,2 (AMD). PL 1985, c. 747, §2 (AMD). PL 1987, c. 153, §§1-3 (AMD). PL 1991, c. 720, §1 (AMD). PL 1991, c. 720, §2 (AFF). PL 1991, c. 721, §1 (AMD). PL 1991, c. 721, §2 (AFF). PL 1993, c. 713, §1 (AMD). PL 1993, c. 713, §2 (AFF). PL 1995, c. 601, §1 (AMD). PL 1995, c. 601, §2 (AFF). PL 1999, c. 625, §1 (AMD). PL 2001, c. 251, §§1-3 (AMD). PL 2001, c. 251, §4 (AFF). RR 2007, c. 1, §§14, 15 (COR). PL 2007, c. 221, §§1-3 (AMD). PL 2007, c. 221, §4 (AFF). PL 2007, c. 223, §§1-3 (AMD). PL 2007, c. 223, §4 (AFF). PL 2013, c. 91, §§1, 2 (AMD). PL 2013, c. 91, §3 (AFF). PL 2021, c. 139, §§1, 2 (AMD). PL 2021, c. 139, §3 (AFF). PL 2021, c. 650, §§2-4 (AMD). PL 2021, c. 650, §13 (AFF).

§6205-A. Acquisition of Houlton Band Trust Land

1. Approval. The State of Maine approves the acquisition, by the secretary, of Houlton Band Trust Land within the State of Maine provided as follows.

A. No land or natural resources acquired by the secretary may have the status of Houlton Band Trust Land, or be deemed to be land or natural resources held in trust by the United States, until the secretary files with the Maine Secretary of State a certified copy of the deed, contract or other instrument of conveyance, setting forth the location and boundaries of the land or natural resources so acquired. Filing by mail shall be complete upon mailing. [PL 1981, c. 675, §§2, 8 (AMD).]

B. No land or natural resources may be acquired by the secretary for the Houlton Band of Maliseet Indians until the secretary files with the Maine Secretary of State a certified copy of the instrument creating the trust described in section 6208-A, together with a letter stating that he holds not less than \$100,000 in a trust account for the payment of Houlton Band of Maliseet Indians' obligations, and a copy of the claim filing procedures he has adopted. [PL 1981, c. 675, §§2, 8 (AMD).]

C. No land or natural resources located within any city, town, village or plantation may be acquired by the secretary for the Houlton Band of Maliseet Indians without the approval of the legislative body of the city, town, village or plantation. [PL 1981, c. 675, §§2, 8 (AMD).]

[PL 1981, c. 675, §§2, 8 (AMD).]

2. Takings for public uses. Houlton Band Trust Land may be taken for public uses in accordance with the laws of the State of Maine to the same extent as privately-owned land. The proceeds from any such taking shall be deposited in the Land Acquisition Fund. The United States shall be a necessary party to any such condemnation proceeding. After exhausting all state administrative remedies, the United States shall have an absolute right to remove any action commenced in the courts of this State to a United States' court of competent jurisdiction.

[PL 1981, c. 675, §§2, 8 (AMD).]

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

A. Takings for public uses pursuant to the laws of this State; [PL 1981, c. 675, §§2, 8 (AMD).]

B. Takings for public uses pursuant to the laws of the United States; [PL 1981, c. 675, §§2, 8 (AMD).]

C. Transfers of individual use assignments from one member of the Houlton Band of Maliseet Indians to another band member; [PL 1981, c. 675, §§2, 8 (AMD).]

D. Transfers authorized by United States Public Law 96-420, Section 5(g)(3), United States Code, Title 25, Section 1724(g)(3); and [PL 1981, c. 675, §§2, 8 (AMD).]

E. Transfers made pursuant to a special act of Congress. [PL 1981, c. 675, §§2, 8 (AMD).]

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

[PL 1981, c. 675, §§2, 8 (AMD).]

SECTION HISTORY

PL 1981, c. 675, §§2,8 (NEW).

§6206. Powers and duties of the Indian tribes within their respective Indian territories

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. C, §6) General powers. Except as otherwise provided in this Act, the Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories, shall have, exercise and enjoy all the rights, privileges, powers 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, the use or disposition of settlement fund income and the exercise of power pursuant to section 6207, subsection 10, section 6207-A and section 6209-A, subsection 1, paragraph F 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 respective Indian territories and the residents thereof. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the respective tribe or nation nonetheless shall be equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services which are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and shall be entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory.

[PL 2021, c. 650, §5 (AMD); PL 2021, c. 650, §13 (AFF).]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. C, §6) General powers. Except as otherwise provided in this Act, the Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories, have and may exercise and enjoy all the rights, privileges, powers and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and are 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, the use or disposition of settlement fund income and the exercise of power by the Passamaquoddy Tribe pursuant to section 6207, subsection 10, section 6207-A and section 6209-A, subsection 1, paragraph F and by the Penobscot Nation pursuant to section 6207, subsection 11, section 6207-B and section 6209-B, subsection 1, paragraph F, respectively, is not 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 respective Indian territories and the residents thereof. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the respective tribe or nation nonetheless is equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services that are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and is entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory.

[PL 2023, c. 369, Pt. C, §1 (AMD); PL 2023, c. 369, Pt. C, §6 (AFF).]

2. Power to sue and be sued. The Passamaquoddy Tribe, the Penobscot Nation and their members may sue and be sued in the courts of the State to the same extent as any other entity or person in the State provided, however, that the respective tribe or nation and its officers and employees shall be immune from suit when the respective tribe or nation is acting in its governmental capacity to the same extent as any municipality or like officers or employees thereof within the State.

[PL 1979, c. 732, §§1, 31 (NEW).]

3. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. E, §5) Ordinances. The Passamaquoddy Tribe and the Penobscot Nation each has the right to exercise exclusive jurisdiction within its respective Indian territory over violations by members of either tribe or nation of tribal ordinances adopted pursuant to this section or section 6207. The decision to exercise or terminate the jurisdiction authorized by this section must be made by each tribal governing body. If either tribe or nation chooses not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or section 6207, the State has exclusive jurisdiction over violations of tribal ordinances by members of either tribe or nation within the Indian territory of that tribe or nation. The State has exclusive jurisdiction over violations of tribal ordinances by persons not members of either tribe or nation except as provided in the section or sections referenced in the following:

A. Section 6209-A. [PL 2019, c. 621, Pt. B, §1 (NEW); PL 2019, c. 621, Pt. B, §3 (AFF).]

REVISOR'S NOTE: (Paragraph A as enacted by PL 2019, c. 621, Pt. A, §1 is REALLOCATED TO TITLE 30, SECTION 6206, SUBSECTION 3, PARAGRAPH B)

B. **(REALLOCATED FROM T. 30, §6206, sub-§3, ¶A)** Section 6209-B. [RR 2019, c. 2, Pt. A, §30 (RAL).]
[RR 2019, c. 2, Pt. A, §30 (AMD).]

3. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. E, §5) Ordinances. The Passamaquoddy Tribe and the Penobscot Nation each has the right to exercise exclusive jurisdiction within its respective Indian territory over violations by members of any federally recognized Indian tribe, nation, band or other group of tribal ordinances adopted pursuant to this section or section 6207. The decision to exercise or terminate the jurisdiction authorized by this section must be made by each tribal governing body. If either tribe or nation chooses not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or section 6207, the State has exclusive jurisdiction over violations of tribal ordinances by members of any federally recognized Indian tribe, nation, band or other group within the Indian territory of that tribe or nation. The State has exclusive jurisdiction over violations of tribal ordinances by persons not members any federally recognized Indian tribe, nation, band or other group except as provided in the section or sections referenced in the following:

A. Section 6209-A. [PL 2019, c. 621, Pt. B, §1 (NEW); PL 2019, c. 621, Pt. B, §3 (AFF).]

REVISOR'S NOTE: (Paragraph A as enacted by PL 2019, c. 621, Pt. A, §1 is REALLOCATED TO TITLE 30, SECTION 6206, SUBSECTION 3, PARAGRAPH B)

B. **(REALLOCATED FROM T. 30, §6206, sub-§3, ¶A)** Section 6209-B. [RR 2019, c. 2, Pt. A, §30 (RAL).]
[PL 2023, c. 369, Pt. E, §1 (AMD); PL 2023, c. 369, Pt. E, §5 (AFF).]

SECTION HISTORY

PL 1979, c. 732, §§1, 31 (NEW). PL 2019, c. 621, Pt. A, §1 (AMD). PL 2019, c. 621, Pt. A, §3 (AFF). PL 2019, c. 621, Pt. B, §1 (AMD). PL 2019, c. 621, Pt. B, §3 (AFF). RR 2019, c. 2, Pt. A, §30 (AMD). PL 2021, c. 650, §5 (AMD). PL 2021, c. 650, §13 (AFF). PL 2023, c. 369, Pt. C, §1 (AMD). PL 2023, c. 369, Pt. C, §6 (AFF). PL 2023, c. 369, Pt. E, §1 (AMD). PL 2023, c. 369, Pt. E, §5 (AFF).

§6206-A. Powers of the Houlton Band of Maliseet Indians

The Houlton Band of Maliseet Indians shall not exercise nor enjoy the powers, privileges and immunities of a municipality nor exercise civil or criminal jurisdiction within their lands prior to the enactment of additional legislation specifically authorizing the exercise of those governmental powers. [PL 1981, c. 675, §3, 8 (NEW).]

SECTION HISTORY

PL 1981, c. 675, §3,8 (NEW).

§6206-B. Law enforcement powers of Houlton Band of Maliseet Indians**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. D, §8) Appointment of tribal law enforcement officers. The Houlton Band of Maliseet Indians may appoint law enforcement officers who have the authority to enforce all the laws of the State within the Houlton Band Trust Land. This section does not limit the existing authority of tribal officers under tribal law or affect the performance of federal duties by tribal officers. [PL 2005, c. 310, §1 (NEW); PL 2005, c. 310, §2 (AFF).]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. D, §8) Appointment of tribal law enforcement officers. The Houlton Band of Maliseet Indians may appoint law enforcement officers who have the authority to enforce all the laws of the State within the Houlton Band Trust Land. Law enforcement officers appointed by the Houlton Band of Maliseet Indians have exclusive authority to enforce, within Houlton Band Jurisdiction Land, the criminal, juvenile, civil and domestic relations laws over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under section 6209-C, subsection 1, and to enforce, on Houlton Band Jurisdiction Land, ordinances adopted under section 6207-C, subsection 1. This section does not limit the existing authority of tribal officers under tribal law or affect the performance of federal duties by tribal officers. [PL 2023, c. 369, Pt. D, §3 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

2. Authority of state, county and local law enforcement officers. State and county law enforcement officers and law enforcement officers appointed by the Town of Houlton have the authority to enforce all laws of the State within the Houlton Band Trust Land. [PL 2005, c. 310, §1 (NEW); PL 2005, c. 310, §2 (AFF).]

3. Agreements for cooperation and mutual aid. The Houlton Band of Maliseet Indians and any state, county or local law enforcement agency may enter into agreements for cooperation and mutual aid. [PL 2005, c. 310, §1 (NEW); PL 2005, c. 310, §2 (AFF).]

4. Powers, duties and training requirements. Law enforcement officers appointed by the Houlton Band of Maliseet Indians pursuant to this section possess the same powers, enjoy the same immunities and are subject to the same duties, limitations and training requirements as other corresponding law enforcement officers under the laws of the State. [PL 2005, c. 310, §1 (NEW); PL 2005, c. 310, §2 (AFF).]

5. Report to Legislature. By January 1, 2010, the Houlton Band of Maliseet Indians shall file a report with the joint standing committee of the Legislature having jurisdiction over judiciary matters detailing the band's experience with the exercise of law enforcement authority under this section. The report must include observations and comments from the state and county law enforcement agencies providing law enforcement services in Aroostook County and from the Houlton Police Department. [PL 2005, c. 310, §1 (NEW); PL 2005, c. 310, §2 (AFF).]

6. Repeal. [PL 2009, c. 384, Pt. A, §1 (RP); PL 2009, c. 384, Pt. A, §4 (AFF).]

SECTION HISTORY

PL 2005, c. 310, §1 (NEW). PL 2005, c. 310, §2 (AFF). PL 2009, c. 384, Pt. A, §1 (AMD). PL 2009, c. 384, Pt. A, §4 (AFF). PL 2023, c. 369, Pt. D, §3 (AMD). PL 2023, c. 369, Pt. D, §8 (AFF).

§6207. Regulation of natural resources**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

1. Adoption of hunting, trapping and fishing ordinances by the tribe or nation. Subject to the limitations of subsection 6, the Passamaquoddy Tribe and the Penobscot Nation each shall have exclusive authority within their respective Indian territories to enact ordinances regulating:

- A. Hunting, trapping or other taking of wildlife; and [PL 1979, c. 732, §§1, 31 (NEW).]
- B. Taking of fish on any pond in which all the shoreline and all submerged lands are wholly within Indian territory and which is less than 10 acres in surface area. [PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 2021, c. 650, §7 (AMD); PL 2021, c. 650, §13 (AFF).]

2. Registration stations. The Passamaquoddy Tribe and the Penobscot Nation shall establish and maintain registration stations for the purpose of registering bear, moose, deer and other wildlife killed within their respective Indian territories and shall adopt ordinances requiring registration of such wildlife to the extent and in substantially the same manner as such wildlife are required to be registered under the laws of the State. These ordinances requiring registration shall be equally applicable to all persons without distinction based on tribal membership. The Passamaquoddy Tribe and the Penobscot Nation shall report the deer, moose, bear and other wildlife killed and registered within their respective Indian territories to the Commissioner of Inland Fisheries and Wildlife of the State at such times as the commissioner deems appropriate. The records of registration of the Passamaquoddy Tribe and the Penobscot Nation shall be available, at all times, for inspection and examination by the commissioner. [PL 1979, c. 732, §§1, 31 (NEW).]

3. Adoption of regulations by the commission. Subject to the limitations of subsection 6, the commission shall have exclusive authority to promulgate fishing rules or regulations on:

- A. Any pond other than those specified in subsection 1, paragraph B, 50% or more of the linear shoreline of which is within Indian territory; [PL 1979, c. 732, §§1, 31 (NEW).]
- B. Any section of a river or stream both sides of which are within Indian territory; and [PL 1979, c. 732, §§1, 31 (NEW).]
- C. Any section of a river or stream one side of which is within Indian territory for a continuous length of 1/2 mile or more. [PL 1979, c. 732, §§1, 31 (NEW).]

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

Said rules or regulations shall be equally applicable on a nondiscriminatory basis to all persons regardless of whether such person is a member of the Passamaquoddy Tribe or Penobscot Nation. Rules and regulations promulgated by the commission may include the imposition of fees and permits or license requirements on users of such waters other than members of the Passamaquoddy Tribe and the Penobscot Nation. In adopting rules or regulations pursuant to this subsection, the commission shall comply with the Maine Administrative Procedure Act.

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

[PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 1997, c. 739, §12 (NEW); PL 1997, c. 739, §§13, 14 (AFF).]

REVISOR'S NOTE: Subsection 3-A not in effect as to Passamaquoddy Tribe or Penobscot Nation because requirements of PL 1997, c. 739, §§13, 14 were not met.

4. Sustenance fishing within the Indian reservations. Notwithstanding any rule or regulation promulgated by the commission or any other law of the State, the members of the Passamaquoddy Tribe and the Penobscot Nation may take fish, within the boundaries of their respective Indian reservations, for their individual sustenance subject to the limitations of subsection 6.

[PL 1979, c. 732, §§1, 31 (NEW).]

5. Posting. Lands or waters subject to regulation by the commission, the Passamaquoddy Tribe or the Penobscot Nation shall be conspicuously posted in such a manner as to provide reasonable notice to the public of the limitations on hunting, trapping, fishing or other use of such lands or waters.

[PL 1979, c. 732, §§1, 31 (NEW).]

6. Supervision by Commissioner of Inland Fisheries and Wildlife. The Commissioner of Inland Fisheries and Wildlife, or his successor, shall be entitled to conduct fish and wildlife surveys within the Indian territories and on waters subject to the jurisdiction of the commission to the same extent as he is authorized to do so in other areas of the State. Before conducting any such survey the commissioner shall provide reasonable advance notice to the respective tribe or nation and afford it a reasonable opportunity to participate in such survey. If the commissioner, at any time, has reasonable grounds to believe that a tribal ordinance or commission regulation adopted under this section, or the absence of such a tribal ordinance or commission regulation, is adversely affecting or is likely to adversely affect the stock of any fish or wildlife on lands or waters outside the boundaries of land or waters subject to regulation by the commission, the Passamaquoddy Tribe or the Penobscot Nation, he shall inform the governing body of the tribe or nation or the commission, as is appropriate, of his opinion and attempt to develop appropriate remedial standards in consultation with the tribe or nation or the commission. If such efforts fail, he may call a public hearing to investigate the matter further. Any such hearing shall be conducted in a manner consistent with the laws of the State applicable to adjudicative hearings. If, after hearing, the commissioner determines that any such ordinance, rule or regulation, or the absence of an ordinance, rule or regulation, is causing, or there is a reasonable likelihood that it will cause, a significant depletion of fish or wildlife stocks on lands or waters outside the boundaries of lands or waters subject to regulation by the Passamaquoddy Tribe, the Penobscot Nation or the commission, he may adopt appropriate remedial measures including rescission of any such ordinance, rule or regulation and, in lieu thereof, order the enforcement of the generally applicable laws or regulations of the State. In adopting any remedial measures the commission shall utilize the least restrictive means possible to prevent a substantial diminution of the stocks in question and shall take into consideration the effect

that non-Indian practices on non-Indian lands or waters are having on such stocks. In no event shall such remedial measure be more restrictive than those which the commissioner could impose if the area in question was not within Indian territory or waters subject to commission regulation.

In any administrative proceeding under this section the burden of proof shall be on the commissioner. The decision of the commissioner may be appealed in the manner provided by the laws of the State for judicial review of administrative action and shall be sustained only if supported by substantial evidence. [PL 1979, c. 732, §§1, 31 (NEW).]

7. Transportation of game. Fish lawfully taken within Indian territory or in waters subject to commission regulation and wildlife lawfully taken within Indian territory and registered pursuant to ordinances adopted by the Passamaquoddy Tribe and the Penobscot Nation, may be transported within the State.

[PL 1979, c. 732, §§1, 31 (NEW).]

8. Fish and wildlife on non-Indian lands. The commission shall undertake appropriate studies, consult with the Passamaquoddy Tribe and the Penobscot Nation and landowners and state officials, and make recommendations to the commissioner and the Legislature with respect to implementation of fish and wildlife management policies on non-Indian lands in order to protect fish and wildlife stocks on lands and water subject to regulation by the Passamaquoddy Tribe, the Penobscot Nation or the commission.

[PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

10. Regulation of drinking water by Passamaquoddy Tribe. Unless the Passamaquoddy Tribe, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within the Passamaquoddy Indian territory:

A. The Passamaquoddy Tribe has exclusive authority to enact ordinances regulating drinking water within Passamaquoddy Indian territory; [PL 2021, c. 650, §8 (NEW); PL 2021, c. 650, §13 (AFF).]

B. The State may not exercise primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within the Passamaquoddy Indian territory; and [PL 2021, c. 650, §8 (NEW); PL 2021, c. 650, §13 (AFF).]

C. The Passamaquoddy Tribe may seek to be treated as a state and to obtain primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within the Passamaquoddy Indian territory. [PL 2021, c. 650, §8 (NEW); PL 2021, c. 650, §13 (AFF).]

Notwithstanding any other provision of this subsection, the Passamaquoddy Tribe's jurisdiction does not extend beyond the Passamaquoddy Indian territory.

[PL 2023, c. 369, Pt. B, §1 (AMD); PL 2023, c. 369, Pt. B, §4 (AFF).]

11. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. C, §6) Regulation of drinking water by Penobscot Nation. Unless the Penobscot Nation, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within the Penobscot Indian territory:

A. The Penobscot Nation has exclusive authority to enact ordinances regulating drinking water within Penobscot Indian territory; [PL 2023, c. 369, Pt. C, §2 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

B. The State may not exercise primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within the Penobscot Indian territory; and [PL 2023, c. 369, Pt. C, §2 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

C. The Penobscot Nation may seek to be treated as a state and to obtain primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within Penobscot Indian territory. [PL 2023, c. 369, Pt. C, §2 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

Notwithstanding any other provision of this subsection, the Penobscot Nation's jurisdiction does not extend beyond the Penobscot Indian territory.

[PL 2023, c. 369, Pt. C, §2 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW). PL 1997, c. 739, §12 (AMD). PL 1997, c. 739, §§13,14 (AFF). PL 2021, c. 650, §§6-8 (AMD). PL 2021, c. 650, §13 (AFF). PL 2023, c. 369, Pt. B, §1 (AMD). PL 2023, c. 369, Pt. B, §4 (AFF). PL 2023, c. 369, Pt. C, §2 (AMD). PL 2023, c. 369, Pt. C, §6 (AFF).

§6207-A. Jurisdiction of the Passamaquoddy Tribe over drinking water within the Passamaquoddy Indian territory

Notwithstanding any provision of state law to the contrary, pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(1), the State and the Passamaquoddy Tribe agree and establish that: [PL 2021, c. 650, §9 (NEW); PL 2021, c. 650, §13 (AFF).]

1. Jurisdiction of Passamaquoddy Tribe to administer drinking water-related programs. The Passamaquoddy Tribe may seek to be treated as a state pursuant to the federal Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing regulations, as amended, within the Passamaquoddy Indian territory and may otherwise benefit from and exercise jurisdiction under any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs; and [PL 2021, c. 650, §9 (NEW); PL 2021, c. 650, §13 (AFF).]

2. Administration of drinking water-related programs does not affect or preempt state law. The application of any provision of the federal Safe Drinking Water Act and its implementing regulations, as amended, and of any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs, and the enforcement of such laws and regulations by the Passamaquoddy Tribe under subsection 1 does not affect or preempt the laws of the State.

[PL 2021, c. 650, §9 (NEW); PL 2021, c. 650, §13 (AFF).]

Notwithstanding any other provision of this section, the Passamaquoddy Tribe's jurisdiction does not extend beyond the Passamaquoddy Indian territory. [PL 2021, c. 650, §9 (NEW); PL 2021, c. 650, §13 (AFF).]

SECTION HISTORY

PL 2021, c. 650, §9 (NEW). PL 2021, c. 650, §13 (AFF).

§6207-B. Jurisdiction of Penobscot Nation over drinking water within the Penobscot Indian territory

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. C, §6)**

Notwithstanding any provision of state law to the contrary, pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(1), the State and the Penobscot Nation agree and establish that: [PL 2023, c. 369, Pt. C, §3 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

1. Jurisdiction of Penobscot Nation to administer drinking water-related programs. The Penobscot Nation may seek to be treated as a state pursuant to the federal Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing regulations, as amended, within the Penobscot Indian territory and may otherwise benefit from and exercise jurisdiction under any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs; and [PL 2023, c. 369, Pt. C, §3 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

2. Administration of drinking water-related programs does not affect or preempt state law. The application of any provision of the federal Safe Drinking Water Act and its implementing regulations, as amended, and of any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs and the enforcement of such laws and regulations by the Penobscot Nation under subsection 1 does not affect or preempt the laws of the State. [PL 2023, c. 369, Pt. C, §3 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

Notwithstanding any other provision of this section, the Penobscot Nation's jurisdiction does not extend beyond the Penobscot Indian territory. [PL 2023, c. 369, Pt. C, §3 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

SECTION HISTORY

PL 2023, c. 369, Pt. C, §3 (NEW). PL 2023, c. 369, Pt. C, §6 (AFF).

§6207-C. Regulation of natural resources on Houlton Band Jurisdiction Land**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)****(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. D, §8)**

1. Adoption of hunting, trapping and fishing ordinances by the Houlton Band of Maliseet Indians. Subject to the limitations of subsection 6, the Houlton Band of Maliseet Indians has exclusive authority within Houlton Band Jurisdiction Land to enact ordinances regulating:

- A. Hunting, trapping or other taking of wildlife; and [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]
- B. Taking of fish on any pond in which all the shoreline and all submerged lands are wholly within Houlton Band Jurisdiction Land and that is less than 10 acres in surface area. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

Ordinances under this subsection must be equally applicable, on a nondiscriminatory basis, to all persons regardless of whether a person is a member of the Houlton Band of Maliseet Indians except that, subject to the limitations of subsection 6, ordinances under this subsection may include special provisions for the sustenance of the individual members of the Houlton Band of Maliseet Indians. In addition to the authority provided by this subsection, the Houlton Band of Maliseet Indians, subject to the limitations of subsection 6, may exercise within Houlton Band Trust Land all the rights incident to ownership of land under the laws of the State.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

2. Registration stations. The Houlton Band of Maliseet Indians shall establish and maintain registration stations for the purpose of registering bear, moose, deer and other wildlife killed within

Houlton Band Jurisdiction Land and shall adopt ordinances requiring registration of such wildlife to the extent and in substantially the same manner as such wildlife are required to be registered under the laws of the State. These ordinances requiring registration must be equally applicable to all persons without distinction based on tribal membership. The Houlton Band of Maliseet Indians shall report the deer, moose, bear and other wildlife killed and registered within Houlton Band Jurisdiction Land to the Commissioner of Inland Fisheries and Wildlife at such times as the commissioner considers appropriate. The records of registration of the Houlton Band of Maliseet Indians must be available, at all times, for inspection and examination by the commissioner.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

3. Adoption of regulations by commission. Subject to the limitations of subsection 6, the commission has exclusive authority to adopt fishing rules or regulations on:

- A. Any pond other than those specified in subsection 1, paragraph B, 50% or more of the linear shoreline of which is within Houlton Band Jurisdiction Land; [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]
- B. Any section of a river or stream, both sides of which are within Houlton Band Jurisdiction Land; and [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]
- C. Any section of a river or stream one side of which is within Houlton Band Jurisdiction Land for a continuous length of 1/2 mile or more. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

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

Said rules or regulations must be equally applicable on a nondiscriminatory basis to all persons regardless of whether such person is a member of the Houlton Band of Maliseet Indians. Rules and regulations adopted by the commission may include the imposition of fees and permits or license requirements on users of such waters other than members of the Houlton Band of Maliseet Indians. In adopting rules or regulations pursuant to this subsection, the commission shall comply with the Maine Administrative Procedure Act.

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

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

4. Sustenance fishing within Houlton Band Jurisdiction Land. Subject to the limitations of subsection 6 and notwithstanding any other provision of state law to the contrary, the members of the Houlton Band of Maliseet Indians may take fish for their individual sustenance within the boundaries of Houlton Band Jurisdiction Land to the same extent as authorized under section 6207, subsection 4. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

5. Posting. Lands or waters subject to regulation by the commission or the Houlton Band of Maliseet Indians must be conspicuously posted in such a manner as to provide reasonable notice to the public of the limitations on hunting, trapping, fishing or other use of the lands or waters.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

6. Supervision by Commissioner of Inland Fisheries and Wildlife. The Commissioner of Inland Fisheries and Wildlife, or the commissioner's successor, is entitled to conduct fish and wildlife surveys within Houlton Band Jurisdiction Land and on waters subject to the jurisdiction of the commission to the same extent as the commissioner is authorized to conduct surveys in other areas of the State. Before conducting any such survey, the commissioner shall provide reasonable advance notice to the Houlton Band of Maliseet Indians and afford it a reasonable opportunity to participate in such survey. If the commissioner, at any time, has reasonable grounds to believe that a tribal ordinance or commission rule adopted under this section, or the absence of such a tribal ordinance or commission rule, is adversely affecting or is likely to adversely affect the stock of any fish or wildlife on lands or waters outside the boundaries of land or waters subject to regulation by the commission or the Houlton Band of Maliseet Indians, the commissioner shall inform the governing body of the band or the commission, as is appropriate, of the commissioner's opinion and attempt to develop appropriate remedial standards in consultation with the band or the commission. If such efforts fail, the commissioner may call a public hearing to investigate the matter further. Any such hearing must be conducted in a manner consistent with the laws of the State applicable to adjudicative hearings. If, after hearing, the commissioner determines that any such ordinance or rule, or the absence of an ordinance or rule, is causing, or there is a reasonable likelihood that it will cause, a significant depletion of fish or wildlife stocks on lands or waters outside the boundaries of lands or waters subject to regulation by the Houlton Band of Maliseet Indians or the commission, the commissioner may adopt appropriate remedial measures including rescission of any such ordinance or rule and, in lieu thereof, order the enforcement of the generally applicable laws or rules of the State. In adopting any remedial measures the commissioner shall use the least restrictive means possible to prevent a substantial diminution of the stocks in question and shall take into consideration the effect that non-Indian practices on non-Indian lands or waters are having on those stocks. The remedial measures adopted by the commissioner may not be more restrictive than those that the commissioner could impose if the area in question was not within Houlton Band Jurisdiction Land or waters subject to commission regulation.

In any administrative proceeding under this section the commissioner has the burden of proof. The decision of the commissioner may be appealed in the manner provided by the laws of the State for judicial review of administrative action and may be sustained only if supported by substantial evidence. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

7. Transportation of game. Fish lawfully taken within Houlton Band Jurisdiction Land or in waters subject to commission regulation and wildlife lawfully taken within Houlton Band Jurisdiction Land and registered pursuant to ordinances adopted by the Houlton Band of Maliseet Indians, may be transported within the State. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

8. Fish and wildlife on non-Indian lands. The commission shall undertake appropriate studies, consult with the Houlton Band of Maliseet Indians and landowners and state officials, and make recommendations to the commissioner and the Legislature with respect to implementation of fish and wildlife management policies on non-Indian lands in order to protect fish and wildlife stocks on lands and water subject to regulation by the Houlton Band of Maliseet Indians or the commission. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

9. Fish. As used in this section, the term "fish" means a cold-blooded, completely aquatic vertebrate animal having permanent fins, gills and an elongated streamlined body usually covered with scales and includes inland fish and anadromous and catadromous fish when in inland water. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

10. Regulation of drinking water. Unless the Houlton Band of Maliseet Indians, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within Houlton Band Jurisdiction Land:

A. The Houlton Band of Maliseet Indians has exclusive authority to enact ordinances regulating drinking water within Houlton Band Jurisdiction Land; [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

B. The State may not exercise primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within Houlton Band Jurisdiction Land; and [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

C. The Houlton Band of Maliseet Indians may seek to be treated as a state and to obtain primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within Houlton Band Jurisdiction Land. [PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

Notwithstanding any other provision of this subsection, the Houlton Band of Maliseet Indians' jurisdiction does not extend beyond Houlton Band Jurisdiction Land.

[PL 2023, c. 369, Pt. D, §4 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

SECTION HISTORY

PL 2023, c. 369, Pt. D, §4 (NEW). PL 2023, c. 369, Pt. D, §8 (AFF).

§6207-D. Jurisdiction of the Houlton Band of Maliseet Indians over drinking water within Houlton Band Jurisdiction Land

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. D, §8)

Notwithstanding any provision of state law to the contrary, pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(2), the State and the Houlton Band of Maliseet Indians agree and establish that: [PL 2023, c. 369, Pt. D, §5 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

1. Jurisdiction of Houlton Band of Maliseet Indians to administer drinking water-related programs. The Houlton Band of Maliseet Indians may seek to be treated as a state pursuant to the federal Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing regulations, as amended, within Houlton Band Jurisdiction Land and may otherwise benefit from and exercise jurisdiction under any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs; and [PL 2023, c. 369, Pt. D, §5 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

2. Administration of drinking water-related programs does not affect or preempt state law. The application of any provision of the federal Safe Drinking Water Act and its implementing regulations, as amended, and of any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs and the enforcement of such laws and regulations by the Houlton Band of Maliseet Indians under subsection 1 does not affect or preempt the laws of the State.

[PL 2023, c. 369, Pt. D, §5 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

Notwithstanding any other provision of this section, the Houlton Band of Maliseet Indians' jurisdiction does not extend beyond Houlton Band Jurisdiction Land. [PL 2023, c. 369, Pt. D, §5 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

SECTION HISTORY

PL 2023, c. 369, Pt. D, §5 (NEW). PL 2023, c. 369, Pt. D, §8 (AFF).

§6208. Taxation

1. Settlement Fund income. The Settlement Fund and any portion of such funds or income therefrom distributed to the Passamaquoddy Tribe or the Penobscot Nation or the members thereof shall be exempt from taxation under the laws of the State.
[PL 1979, c. 732, §§1, 31 (NEW).]

2. Property taxes. The Passamaquoddy Tribe and the Penobscot Nation shall make payments in lieu of taxes on all real and personal property within their respective Indian territory in an amount equal to that which would otherwise be imposed by a county, a district, the State, or other taxing authority on such real and personal property provided, however, that any real or personal property within Indian territory used by either tribe or nation predominantly for governmental purposes shall be exempt from taxation to the same extent that such real or personal property owned by a municipality is exempt under the laws of the State. The Houlton Band of Maliseet Indians shall make payments in lieu of taxes on Houlton Band Trust Land in an amount equal to that which would otherwise be imposed by a municipality, county, district, the State or other taxing authority on that land or natural resource. Any other real or personal property owned by or held in trust for any Indian, Indian Nation or tribe or band of Indians and not within Indian territory, shall be subject to levy and collection of real and personal property taxes by any and all taxing authorities, including but without limitation municipalities, except that such real and personal property owned by or held for the benefit of and used by the Passamaquoddy Tribe or the Penobscot Nation predominantly for governmental purposes shall be exempt from property taxation to the same extent that such real and personal property owned by a municipality is exempt under the laws of the State.
[PL 1985, c. 672, §§2, 4 (AMD).]

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.
[PL 2009, c. 384, Pt. A, §2 (NEW); PL 2009, c. 384, Pt. A, §4 (AFF).]

3. Other taxes. The Passamaquoddy Tribe, the Penobscot Nation, the members thereof, and any other Indian, Indian Nation, or tribe or band of Indians shall be liable for payment of all other taxes and fees to the same extent as any other person or entity in the State. For purposes of this section either tribe or nation, when acting in its business capacity as distinguished from its governmental capacity, shall be deemed to be a business corporation organized under the laws of the State and shall be taxed as such.
[PL 1985, c. 672, §§3, 4 (AMD).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW). PL 1981, c. 675, §§4-6,8 (AMD). PL 1985, c. 672, §§2-4 (AMD). PL 2009, c. 384, Pt. A, §2 (AMD). PL 2009, c. 384, Pt. A, §4 (AFF).

§6208-A. Houlton Band Tax Fund

1. Fund. The satisfaction of obligations, described in section 6208, owed to a governmental entity by the Houlton Band of Maliseet Indians shall be assured by a trust fund to be known as the Houlton Band Tax Fund. The secretary shall administer the fund in accordance with reasonable and prudent trust management standards. The initial principal of the fund shall be not less than \$100,000. The principal shall be formed with moneys transferred from 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. Any interest earned by the Houlton Band Tax Fund shall be added to the principal as it accrues and that interest shall be exempt from taxation. The secretary shall maintain a permanent reserve of \$25,000 at all times and that reserve shall not be made available for the payment of claims. The interest earned by the reserved funds shall also be added to the principal available for the payment of obligations.

[PL 1981, c. 675, §§7, 8 (NEW).]

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

[PL 1981, c. 675, §§7, 8 (NEW).]

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

[PL 1981, c. 675, §§7, 8 (NEW).]

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

[PL 1981, c. 675, §§7, 8 (NEW).]

SECTION HISTORY

PL 1981, c. 675, §§7,8 (NEW).

§6209. Jurisdiction over criminal offenses, juvenile crimes, civil disputes and domestic relations (REPEALED)

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW). PL 1987, c. 756, §§1,2 (AMD). PL 1989, c. 169, §§1,2 (AMD). PL 1991, c. 484, §8 (AMD). PL 1991, c. 484, §9 (AFF). PL 1991, c. 766, §1 (AMD). PL 1991, c. 766, §2 (AFF). PL 1995, c. 388, §5 (RP). PL 1995, c. 388, §8 (AFF).

§6209-A. Jurisdiction of the Passamaquoddy Tribal Court

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 within Passamaquoddy Indian territory by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not

a member of any federally recognized Indian tribe, nation, band or other group; [PL 2023, c. 369, Pt. B, §2 (AMD); PL 2023, c. 369, Pt. B, §4 (AFF).]

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 the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation within Passamaquoddy Indian territory; [PL 2023, c. 369, Pt. B, §2 (AMD); PL 2023, c. 369, Pt. B, §4 (AFF).]

C. Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation arising within Passamaquoddy Indian territory and cognizable as small claims under the laws of the State and civil actions against a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation under Title 22, section 2383 involving conduct within Passamaquoddy Indian territory by a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation; [PL 2023, c. 369, Pt. B, §2 (AMD); PL 2023, c. 369, Pt. B, §4 (AFF).]

D. Indian child custody proceedings to the extent authorized by applicable state and federal law; [PL 2023, c. 359, §10 (AMD); PL 2023, c. 359, §13 (AFF); PL 2023, c. 369, Pt. B, §2 (AMD); PL 2023, c. 369, Pt. B, §4 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation, both of whom reside within the Passamaquoddy Indian territory; and [PL 2023, c. 369, Pt. B, §2 (AMD); PL 2023, c. 369, Pt. B, §4 (AFF).]

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 6207, subsection 10, except that the Passamaquoddy Tribe may not exercise jurisdiction over a nonprofit public municipal corporation, including, but not limited to, the water district established by Private and Special Law 1983, chapter 25. [PL 2021, c. 650, §12 (NEW); PL 2021, c. 650, §13 (AFF).]

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 Passamaquoddy Indian territory and the State has exclusive jurisdiction over those offenses and crimes.

[PL 2023, c. 359, §10 (AMD); PL 2023, c. 359, §13 (AFF); PL 2023, c. 369, Pt. B, §2 (AMD); PL 2023, c. 369, Pt. B, §4 (AFF).]

1-A. Concurrent jurisdiction over certain criminal offenses. The Passamaquoddy Tribe has the right to exercise jurisdiction, concurrently with the State, over the following Class D crimes committed by a person on the Passamaquoddy Indian Reservation or on lands taken into trust by the secretary for the benefit of the Passamaquoddy Tribe, now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group against the person or property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group.

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2, the Passamaquoddy Tribe may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.

In exercising the concurrent jurisdiction authorized by this subsection, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Passamaquoddy Tribe has concurrent jurisdiction under this subsection are governed by the laws of the State. Issuance and execution of criminal process also are governed by the laws of the State.

[PL 2019, c. 621, Pt. D, §2 (NEW); PL 2019, c. 621, Pt. D, §5 (AFF).]

2. Definitions of crimes; tribal procedures. In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Passamaquoddy Tribe has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

[PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Passamaquoddy Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Passamaquoddy Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Passamaquoddy Tribe's exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Passamaquoddy Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

[PL 2019, c. 621, Pt. D, §3 (NEW); PL 2019, c. 621, Pt. D, §5 (AFF).]

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 Passamaquoddy Tribe 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.

[PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

4. Double jeopardy, collateral estoppel. A prosecution for a criminal offense or juvenile crime over which the Passamaquoddy Tribe 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 over which the Passamaquoddy Tribe has concurrent jurisdiction under this section does not bar a prosecution for a criminal offense, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a criminal offense over which the State has concurrent jurisdiction under this section does not bar a prosecution for a criminal offense, arising out of the same conduct, over which the Passamaquoddy Tribe 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 Passamaquoddy Tribe has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a Passamaquoddy 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 Passamaquoddy tribal forum.

[PL 2019, c. 621, Pt. D, §4 (AMD); PL 2019, c. 621, Pt. D, §5 (AFF).]

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

[PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

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

[PL 2023, c. 369, Pt. B, §3 (NEW); PL 2023, c. 369, Pt. B, §4 (AFF).]

SECTION HISTORY

PL 1995, c. 388, §6 (NEW). PL 1995, c. 388, §8 (AFF). PL 2009, c. 93, §14 (AMD). PL 2009, c. 384, Pt. E, §1 (AMD). PL 2009, c. 384, Pt. E, §3 (AFF). PL 2019, c. 621, Pt. D, §§1-4 (AMD). PL 2019, c. 621, Pt. D, §5 (AFF). PL 2021, c. 650, §§10-12 (AMD). PL 2021, c. 650, §13 (AFF). PL 2023, c. 359, §10 (AMD). PL 2023, c. 359, §13 (AFF). PL 2023, c. 369, Pt. B, §§2, 3 (AMD). PL 2023, c. 369, Pt. B, §4 (AFF).

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

(CONFLICT)

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. C, §6) Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Penobscot Nation 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 Indian reservation of the Penobscot Nation by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not

a member of any federally recognized Indian tribe, nation, band or other group; [PL 1997, c. 595, §1 (AMD); PL 1997, c. 595, §2 (AFF).]

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation 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 or the Penobscot Nation on the Indian reservation of the Penobscot Nation; [RR 2009, c. 1, §19 (COR).]

C. Civil actions between members of either the Passamaquoddy Tribe or the Penobscot Nation arising on the Indian reservation of the Penobscot Nation and cognizable as small claims under the laws of the State, and civil actions against a member of either the Passamaquoddy Tribe or the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian reservation of the Penobscot Nation by a member of either the Passamaquoddy Tribe or the Penobscot Nation; [PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

D. Indian child custody proceedings to the extent authorized by applicable federal law; and [PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of either the Passamaquoddy Tribe or the Penobscot Nation, both of whom reside on the Indian reservation of the Penobscot Nation. [PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Penobscot Nation 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 Penobscot Indian reservation and the State has exclusive jurisdiction over those offenses and crimes.

[RR 2009, c. 1, §19 (COR).]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. C, §6) Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Penobscot Nation 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 within Penobscot Indian territory by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group; [PL 2023, c. 369, Pt. C, §4 (AMD); PL 2023, c. 369, Pt. C, §6 (AFF).]

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation 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, the Mi'kmaq Nation or the Penobscot Nation within Penobscot Indian territory; [PL 2023, c. 369, Pt. C, §4 (AMD); PL 2023, c. 369, Pt. C, §6 (AFF).]

C. Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation arising within Penobscot Indian territory and cognizable as small claims under the laws of the State, and civil actions against a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation under Title 22, section 2383 involving conduct within Penobscot Indian territory by a

member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation; [PL 2023, c. 369, Pt. C, §4 (AMD); PL 2023, c. 369, Pt. C, §6 (AFF).]

D. **(CONFLICT: Text as amended by PL 2023, c. 359, §11)** Indian child custody proceedings to the extent authorized by applicable state and federal law; and [PL 2023, c. 359, §11 (AMD); PL 2023, c. 359, §13 (AFF).]

D. **(CONFLICT: Text as amended by PL 2023, c. 369, Pt. C, §4)** Indian child custody proceedings to the extent authorized by applicable state and federal law; [PL 2023, c. 369, Pt. C, §4 (AMD); PL 2023, c. 369, Pt. C, §6 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation or the Penobscot Nation, both of whom reside within Penobscot Indian territory; and [PL 2023, c. 369, Pt. C, §4 (AMD); PL 2023, c. 369, Pt. C, §6 (AFF).]

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 6207, subsection 11, except that the Penobscot Nation may not exercise jurisdiction over a nonprofit public municipal corporation. [PL 2023, c. 369, Pt. C, §4 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Penobscot Nation 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 Penobscot Indian territory and the State has exclusive jurisdiction over those offenses and crimes.

[PL 2023, c. 359, §11 (AMD); PL 2023, c. 359, §13 (AFF); PL 2023, c. 369, Pt. C, §4 (AMD); PL 2023, c. 369, Pt. C, §6 (AFF).]

1-A. Concurrent jurisdiction over certain criminal offenses. The Penobscot Nation has the right to exercise jurisdiction, concurrently with the State, over the following Class D crimes committed by a person on the Penobscot Indian Reservation or on lands taken into trust by the secretary for the benefit of the Penobscot Nation now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group against the person or property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group.

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2, the Penobscot Nation may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.

In exercising the concurrent jurisdiction authorized by this subsection, the Penobscot Nation is deemed to be enforcing Penobscot tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Penobscot Nation has concurrent jurisdiction under

this subsection are governed by the laws of the State. Issuance and execution of criminal process also are governed by the laws of the State.

[PL 2019, c. 621, Pt. C, §1 (NEW); PL 2019, c. 621, Pt. C, §4 (AFF).]

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

[PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Penobscot Nation Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Penobscot Nation Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Penobscot Nation's exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Penobscot Nation Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

[PL 2019, c. 621, Pt. C, §2 (NEW); PL 2019, c. 621, Pt. C, §4 (AFF).]

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 Penobscot Nation 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.

[PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

4. Double jeopardy, collateral estoppel. A prosecution for a criminal offense or juvenile crime over which the Penobscot Nation 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 over which the Penobscot Nation has concurrent jurisdiction under this section does not bar a prosecution for a criminal offense, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a criminal offense over which the State has concurrent jurisdiction under this section does not bar a prosecution for a criminal offense, arising out of the same conduct, over which the Penobscot Nation 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 Penobscot Nation 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.

[PL 2019, c. 621, Pt. C, §3 (AMD); PL 2019, c. 621, Pt. C, §4 (AFF).]

5. Future Indian communities. Any 25 or more adult members of the Penobscot Nation residing within their Indian territory and in reasonable proximity to each other may petition the commission for designation as an extended reservation. If the commission determines, after investigation, that the petitioning tribal members constitute an extended reservation, the commission shall establish the boundaries of the extended reservation and recommend to the Legislature that, subject to the approval of the governing body of the Penobscot Nation, it amend this Act to extend the jurisdiction of the Penobscot Nation to the extended reservation. The boundaries of an extended reservation may not exceed those reasonably necessary to encompass the petitioning tribal members.
[PL 1995, c. 388, §6 (NEW); PL 1995, c. 388, §8 (AFF).]

6. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. C, §6) Full faith and credit. The State shall give full faith and credit to the judicial proceedings of the Penobscot Nation. The Penobscot Nation shall give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation and the State.
[PL 2023, c. 369, Pt. C, §5 (NEW); PL 2023, c. 369, Pt. C, §6 (AFF).]

SECTION HISTORY

PL 1995, c. 388, §6 (NEW). PL 1995, c. 388, §8 (AFF). PL 1997, c. 595, §1 (AMD). PL 1997, c. 595, §2 (AFF). RR 2009, c. 1, §19 (COR). PL 2019, c. 621, Pt. C, §§1-3 (AMD). PL 2019, c. 621, Pt. C, §4 (AFF). PL 2023, c. 359, §11 (AMD). PL 2023, c. 359, §13 (AFF). PL 2023, c. 369, Pt. C, §§4, 5 (AMD). PL 2023, c. 369, Pt. C, §6 (AFF).

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

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. D, §8)

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; [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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; [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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; [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

D. Indian child custody proceedings to the extent authorized by applicable federal law; and [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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. [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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. [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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; [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

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; [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

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; [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

D. Indian child custody proceedings to the extent authorized by applicable federal law; and [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

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. [PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

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

[PL 2009, c. 384, Pt. D, §1 (NEW); PL 2009, c. 384, Pt. D, §2 (AFF).]

REVISOR'S NOTE: (Subsection 1-A as enacted by PL 2009, c. 384, Pt. E, §2 and affected by §3 is REALLOCATED TO TITLE 30, SECTION 6209-C, SUBSECTION 1-B)

1-B. (REALLOCATED FROM T. 30, §6209-C, sub-§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; [RR 2011, c. 1, §45 (RAL).]

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; [RR 2011, c. 1, §45 (RAL).]

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; [RR 2011, c. 1, §45 (RAL).]

D. Indian child custody proceedings to the extent authorized by applicable federal law; and [RR 2011, c. 1, §45 (RAL).]

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. [RR 2011, c. 1, §45 (RAL).]

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

[RR 2011, c. 1, §45 (RAL).]

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.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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 [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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. [PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

SECTION HISTORY

PL 2009, c. 384, Pt. B, §1 (NEW). PL 2009, c. 384, Pt. B, §2 (AFF). PL 2009, c. 384, Pt. D, §1 (AMD). PL 2009, c. 384, Pt. D, §2 (AFF). PL 2009, c. 384, Pt. E, §2 (AMD). PL 2009, c. 384, Pt. E, §3 (AFF). RR 2011, c. 1, §45 (COR).

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

(CONFLICT)

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. D, §8)

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 Houlton Band Jurisdiction Land by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group; [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

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, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation within Houlton Band Jurisdiction Land; [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

C. Civil actions between members of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation arising on 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, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation under Title 22, section 2383 involving conduct within Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation; [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

D. **(CONFLICT: Text as amended by PL 2023, c. 359, §12)** Indian child custody proceedings to the extent authorized by applicable state and federal law; and [PL 2023, c. 359, §12 (AMD); PL 2023, c. 359, §13 (AFF).]

D. **(CONFLICT: Text as amended by PL 2023, c. 369, Pt. D, §6)** Indian child custody proceedings to the extent authorized by applicable state and federal law; [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Mi'kmaq Nation, both of whom reside within the Houlton Band Jurisdiction Land; and [PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 6207-C, subsection 10, except that the Houlton Band of Maliseet Indians may not exercise jurisdiction over a nonprofit public municipal corporation. [PL 2023, c. 369, Pt. D, §6 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

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 paragraphs A and B, 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. [PL 2023, c. 359, §12 (AMD); PL 2023, c. 359, §13 (AFF); PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

1-A. Exclusive jurisdiction over Penobscot Nation members.

[PL 2023, c. 369, Pt. D, §6 (RP); PL 2023, c. 369, Pt. D, §8 (AFF).]

REVISOR'S NOTE: (Subsection 1-A as enacted by PL 2009, c. 384, Pt. E, §2 and affected by §3 is REALLOCATED TO TITLE 30, SECTION 6209-C, SUBSECTION 1-B)

1-B. (REALLOCATED FROM T. 30, §6209-C, sub-§1-A) Exclusive jurisdiction over Passamaquoddy Tribe members.

[PL 2023, c. 369, Pt. D, §6 (RP); PL 2023, c. 369, Pt. D, §8 (AFF).]

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.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Houlton Band of Maliseet Indians Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Houlton Band of Maliseet Indians Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Houlton Band of Maliseet Indians' exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Houlton Band of Maliseet Indians Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

[PL 2023, c. 369, Pt. D, §6 (NEW); PL 2023, c. 369, Pt. D, §8 (AFF).]

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.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

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.

[PL 2009, c. 384, Pt. B, §1 (NEW); PL 2009, c. 384, Pt. B, §2 (AFF).]

5. Houlton Band Jurisdiction Land.

[PL 2023, c. 369, Pt. D, §6 (RP); PL 2023, c. 369, Pt. D, §8 (AFF).]

6. Full faith and credit. 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 the Passamaquoddy Tribe, the Penobscot Nation, the Mi'kmaq Nation and the State.

[PL 2023, c. 369, Pt. D, §6 (AMD); PL 2023, c. 369, Pt. D, §8 (AFF).]

SECTION HISTORY

PL 2009, c. 384, Pt. B, §1 (NEW). PL 2009, c. 384, Pt. B, §2 (AFF). PL 2009, c. 384, Pt. D, §1 (AMD). PL 2009, c. 384, Pt. D, §2 (AFF). PL 2009, c. 384, Pt. E, §2 (AMD). PL 2009, c. 384, Pt. E, §3 (AFF). RR 2011, c. 1, §45 (COR). PL 2023, c. 359, §12 (AMD). PL 2023, c. 359, §13 (AFF). PL 2023, c. 369, Pt. D, §6 (AMD). PL 2023, c. 369, Pt. D, §8 (AFF).

§6209-D. Full faith and credit

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. D, §8)

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. [PL 2009, c. 384, Pt. C, §1 (NEW); PL 2009, c. 384, Pt. C, §2 (AFF).]

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. [PL 2009, c. 384, Pt. C, §1 (NEW); PL 2009, c. 384, Pt. C, §2 (AFF).]

SECTION HISTORY

PL 2009, c. 384, Pt. C, §1 (NEW). PL 2009, c. 384, Pt. C, §2 (AFF).

§6209-D. Full faith and credit

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

**(WHOLE SECTION TEXT REPEALED ON CONTINGENCY: See PL 2023, c. 369, Pt. D, §8)
(REPEALED)**

SECTION HISTORY

PL 2009, c. 384, Pt. C, §1 (NEW). PL 2009, c. 384, Pt. C, §2 (AFF). PL 2023, c. 369, Pt. D, §7 (RP). PL 2023, c. 369, Pt. D, §8 (AFF).

§6210. Law enforcement on Indian reservations and within Indian territory**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. E, §5) Exclusive authority of tribal law enforcement officers. Law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation have exclusive authority to enforce, within their respective Indian territories, ordinances adopted under section 6206 and section 6207, subsection 1, and to enforce, on their respective Indian reservations, the criminal, juvenile, civil and domestic relations laws over which the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section 6209-A, subsection 1 and section 6209-B, subsection 1, respectively.

[PL 1995, c. 388, §7 (AMD); PL 1995, c. 388, §8 (AFF).]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. E, §5) Exclusive authority of tribal law enforcement officers. Law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation have exclusive authority to enforce:

A. Within their respective Indian territories, ordinances adopted under section 6206 and section 6207, subsections 1, 10 and 11; [PL 2023, c. 369, Pt. E, §2 (NEW); PL 2023, c. 369, Pt. E, §5 (AFF).]

B. On their respective Indian reservations, the criminal, juvenile, civil and domestic relations laws over which the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section 6209-A, subsection 1 and section 6209-B, subsection 1, respectively; and [PL 2023, c. 369, Pt. E, §2 (NEW); PL 2023, c. 369, Pt. E, §5 (AFF).]

C. Within their respective Indian territories, the civil and domestic relations laws over which the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section 6209-A, subsection 1, paragraphs C to F and section 6209-B, subsection 1, paragraphs C to F, respectively. [PL 2023, c. 369, Pt. E, §2 (NEW); PL 2023, c. 369, Pt. E, §5 (AFF).]

[PL 2023, c. 369, Pt. E, §2 (RPR); PL 2023, c. 369, Pt. E, §5 (AFF).]

2. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. E, §5) Joint authority of tribal and state law enforcement officers. Law enforcement officers appointed by the Passamaquoddy Tribe or the Penobscot Nation have the authority within their respective Indian territories and state and county law enforcement officers have the authority within both Indian territories to enforce rules or regulations adopted by the commission under section 6207, subsection 3 and to enforce all laws of the State other than those over which the Passamaquoddy Tribe or the Penobscot Nation has exclusive jurisdiction under section 6209-A, subsection 1 and section 6209-B, subsection 1, respectively.

[PL 1995, c. 388, §7 (AMD); PL 1995, c. 388, §8 (AFF).]

2. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. E, §5) Joint authority of tribal and state law enforcement officers. Law enforcement officers appointed by the Passamaquoddy Tribe or the Penobscot Nation have the authority within their respective Indian territories and state and county law enforcement officers have the authority within both Indian territories to enforce:

A. Rules or regulations adopted by the commission under section 6207, subsection 3; and [PL 2023, c. 369, Pt. E, §3 (NEW); PL 2023, c. 369, Pt. E, §5 (AFF).]

B. All laws of the State other than those over which law enforcement officers appointed by the Passamaquoddy Tribe or the Penobscot Nation have exclusive jurisdiction under subsection 1. [PL 2023, c. 369, Pt. E, §3 (NEW); PL 2023, c. 369, Pt. E, §5 (AFF).]

[PL 2023, c. 369, Pt. E, §3 (RPR); PL 2023, c. 369, Pt. E, §5 (AFF).]

3. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2023, c. 369, Pt. E, §5) Agreements for cooperation and mutual aid. This section does not prevent the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law enforcement agency from entering into agreements for cooperation and mutual aid.

[PL 1995, c. 388, §7 (AMD); PL 1995, c. 388, §8 (AFF).]

3. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2023, c. 369, Pt. E, §5) Agreements for cooperation and mutual aid. This section does not impact existing agreements for cooperation and mutual aid between the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law enforcement agency or prevent the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law enforcement agency from entering into future agreements for cooperation and mutual aid.

[PL 2023, c. 369, Pt. E, §4 (AMD); PL 2023, c. 369, Pt. E, §5 (AFF).]

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

[PL 1995, c. 388, §7 (AMD); PL 1995, c. 388, §8 (AFF).]

4-A. Reports to the State Bureau of Identification by Passamaquoddy Tribe. Passamaquoddy Tribe law enforcement agencies shall submit to the Department of Public Safety, State Bureau of Identification uniform crime reports and other information required by Title 25, section 1544.

[PL 2019, c. 621, Pt. B, §2 (NEW); PL 2019, c. 621, Pt. B, §3 (AFF).]

5. Reports to the State Bureau of Identification by Penobscot Nation. Penobscot Nation law enforcement agencies shall submit to the Department of Public Safety, State Bureau of Identification uniform crime reports and other information required by Title 25, section 1544.

[PL 2019, c. 621, Pt. A, §2 (NEW); PL 2019, c. 621, Pt. A, §3 (AFF).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW). PL 1983, c. 498, §1 (AMD). PL 1995, c. 388, §7 (AMD). PL 1995, c. 388, §8 (AFF). PL 2019, c. 621, Pt. A, §2 (AMD). PL 2019, c. 621, Pt. A, §3 (AFF). PL 2019, c. 621, Pt. B, §2 (AMD). PL 2019, c. 621, Pt. B, §3 (AFF). PL 2023, c. 369, Pt. E, §§2-4 (AMD). PL 2023, c. 369, Pt. E, §5 (AFF).

§6211. Eligibility of Indian tribes and state funding

1. Eligibility generally. The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians are eligible for participation and entitled to receive benefits from the State under any state program that provides financial assistance to all municipalities as a matter of right. Such entitlement must be determined using statutory criteria and formulas generally applicable to municipalities in the State. To the extent that any such program requires municipal financial participation as a condition of state funding, the share for the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians may be raised through any source of revenue available to the respective tribe, 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 money employs a factor for the municipal real property tax rate, and in the absence of such tax within the Indian territory, the formula applicable to such Indian territory 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 money employs a factor representing municipal valuation, the valuation applicable to such Indian territory must be determined by the State Tax Assessor in the manner generally provided by the laws of the State as long as property owned by or held in trust for a tribe, nation or band and used for governmental purposes is treated for purposes of valuation as like property owned by a municipality.

[PL 2009, c. 384, Pt. A, §3 (AMD); PL 2009, c. 384, Pt. A, §4 (AFF).]

2. Limitation on eligibility. In computing the extent to which the Passamaquoddy Tribe, 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, 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, nation or band by the State. Unless otherwise provided by federal law, in computing the extent to which the Passamaquoddy Tribe, 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, 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.

[PL 2009, c. 384, Pt. A, §3 (AMD); PL 2009, c. 384, Pt. A, §4 (AFF).]

2-A. Limitation on eligibility.

[PL 1997, c. 626, §2 (RP); PL 1997, c. 626, §3 (AFF).]

3. Eligibility for discretionary funds. The Passamaquoddy Tribe, the Penobscot Nation 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.

[PL 2009, c. 384, Pt. A, §3 (AMD); PL 2009, c. 384, Pt. A, §4 (AFF).]

4. Eligibility of individuals for state funds. Residents of the Indian 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 as long as in computing the extent to which any person is entitled to receive any such funds any 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 is deducted in computing any payment to be made by the State.

[PL 2009, c. 384, Pt. A, §3 (AMD); PL 2009, c. 384, Pt. A, §4 (AFF).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW). PL 1991, c. 705, §§1,2 (AMD). PL 1991, c. 705, §§4,5 (AFF). PL 1997, c. 626, §§1,2 (AMD). PL 1997, c. 626, §3 (AFF). PL 2009, c. 384, Pt. A, §3 (AMD). PL 2009, c. 384, Pt. A, §4 (AFF).

§6212. Maine Indian Tribal-State Commission

1. Commission created. The Maine Indian Tribal-State Commission is established. The commission consists of 13 members, 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.

[PL 2009, c. 384, Pt. F, §1 (AMD); PL 2009, c. 384, Pt. F, §4 (AFF).]

2. Chair. The commission, by a majority vote of its 12 members, shall select an individual who is a resident of the State to act as chair. In the event of the death, resignation, replacement or disability of the chair, the commission may select, by a majority vote of its 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 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.

[PL 2009, c. 384, Pt. F, §2 (AMD); PL 2009, c. 384, Pt. F, §4 (AFF).]

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 Passamaquoddy Tribe and the Penobscot Nation as it determines appropriate.

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

[PL 2009, c. 384, Pt. F, §3 (AMD); PL 2009, c. 384, Pt. F, §4 (AFF).]

4. Personnel, fees, expenses of commissioners. The commission may employ personnel as it considers necessary and desirable in order to effectively discharge its duties and responsibilities. These employees are not subject to state personnel laws or rules.

The commission members are entitled to receive \$75 per day for their services and to reimbursement for reasonable expenses, including travel.

[PL 1993, c. 600, Pt. A, §24 (AMD); PL 1993, c. 600, Pt. A, §25 (AFF).]

5. Interagency cooperation. In order to facilitate the work of the commission, all other agencies of the State shall cooperate with the commission and make available to it without charge information and data relevant to the responsibilities of the commission.

[PL 1993, c. 600, Pt. A, §24 (AMD); PL 1993, c. 600, Pt. A, §25 (AFF).]

6. Funding. The commission may receive and accept, from any source, allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this chapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from a private source, federal agency or governmental subdivision of the State or its agencies. Notwithstanding Title 5, chapter 149, upon receipt of a written request from the commission, the State Controller shall pay the commission's full state allotment for each fiscal year to meet the estimated annual disbursement requirements of the commission.

The Governor or the Governor's designee and the chief executive elected leader or the chief executive elected leader's designee of the following tribes shall communicate to produce a proposed biennial budget for the commission and to discuss any adjustments to funding:

A. The Houlton Band of Maliseet Indians; [PL 2009, c. 636, Pt. C, §3 (NEW); PL 2009, c. 636, Pt. C, §4 (AFF).]

B. The Passamaquoddy Tribe; and [PL 2009, c. 636, Pt. C, §3 (NEW); PL 2009, c. 636, Pt. C, §4 (AFF).]

C. The Penobscot Nation. [PL 2009, c. 636, Pt. C, §3 (NEW); PL 2009, c. 636, Pt. C, §4 (AFF).]

[PL 2013, c. 81, §§4, 5 (AMD); PL 2013, c. 81, §6 (AFF).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW). PL 1983, c. 492, §1 (AMD). PL 1983, c. 812, §§186,187 (AMD). PL 1985, c. 295, §§46,47 (AMD). PL 1993, c. 600, §A24 (AMD). PL 1993, c. 600, §A25 (AFF). PL 2001, c. 173, §1 (AMD). PL 2001, c. 173, §2 (AFF). PL 2009, c. 384, Pt. F, §§1-3 (AMD). PL 2009, c. 384, Pt. F, §4 (AFF). PL 2009, c. 636, Pt. C, §3 (AMD). PL 2009, c. 636, Pt. C, §4 (AFF). PL 2013, c. 81, §§1-5 (AMD). PL 2013, c. 81, §6 (AFF).

§6213. Approval of prior transfers

1. Approval of tribal transfers. Any transfer of land or other natural resources located anywhere within the State, from, by, or on behalf of any Indian nation, or tribe or band of Indians including but without limitation any transfer pursuant to any treaty, compact or statute of any state, which transfer occurred prior to the effective date of this Act, shall be deemed to have been made in accordance with the laws of the State.

[PL 1979, c. 732, §§1, 31 (NEW).]

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

[PL 1979, c. 732, §§1, 31 (NEW).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW).

§6214. Tribal school committees

The Passamaquoddy Tribe and the Penobscot Nation are authorized to create respective tribal school committees, in substitution for the committees heretofore provided for under the laws of the State. Such tribal school committees shall operate under the laws of the State applicable to school administrative units. The presently constituted tribal school committee of the respective tribe or nation shall continue in existence and shall exercise all the authority heretofore vested by law in it until such time as the respective tribe or nation creates the tribal school committee authorized by this section. [PL 1979, c. 732, §§1, 31 (NEW).]

SECTION HISTORY

PL 1979, c. 732, §§1,31 (NEW).

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CHAPTER 603**MI'KMAQ NATION RESTORATION ACT****§7201. Short title**

This Act may be known and cited as "The Mi'kmaq Nation Restoration Act." [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

§7202. Legislative findings and declaration of policy

The Legislature finds and declares the following. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

The Mi'kmaq Nation, previously known as the Aroostook Band of Micmacs, as represented as of the effective date of this chapter by the Mi'kmaq Nation Tribal Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Mi'kmaq Nation that years ago claimed aboriginal title to certain lands in the State. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

The Mi'kmaq Nation was not referred to in the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

There exist aboriginal lands in the State jointly used by the Mi'kmaq Nation and other tribes to which the Mi'kmaq Nation could have asserted aboriginal title but for the extinguishment of all such claims by the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

In 1991, the United States formally recognized the Mi'kmaq Nation as a sovereign government to whom it owed a special trust relationship by enacting the federal Aroostook Band of Micmacs Settlement Act, Public Law 102-171. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

Section 6(d) of the federal Aroostook Band of Micmacs Settlement Act, Public Law 102-171, authorized the State of Maine and the Mi'kmaq Nation to execute agreements regarding the State's jurisdiction over lands owned by or held in trust for the benefit of the Mi'kmaq Nation or any citizen of the nation and provided the advance consent of the United States to amendments of the state Micmac Settlement Act in Public Law 1989, chapter 148 for this purpose. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

The State of Maine and the Mi'kmaq Nation agree and intend that this Act constitutes a jurisdictional agreement pursuant to Section 6(d) of the federal Aroostook Band of Micmacs Settlement Act, Public Law 102-171, that amends the state Micmac Settlement Act, originally enacted in Public Law 1989, chapter 148. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 365, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

§7203. Definitions

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

1. Aroostook Band of Micmacs Settlement Act. "Aroostook Band of Micmacs Settlement Act" means the federal Aroostook Band of Micmacs Settlement Act, Public Law 102–171. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

2. Lands or other natural resources. "Lands or other natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including, but not limited to, minerals and mineral rights, timber and timber rights, water and water rights and hunting and fishing rights. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

3. Laws of the State. "Laws of the State" means the Constitution of Maine and all statutes, rules or regulations and the common law of the State and its political subdivisions, and subsequent amendments thereto or judicial interpretations thereof. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

4. Mi'kmaq Nation. "Mi'kmaq Nation" has the same meaning as "Band" in Section 3(1) of the Aroostook Band of Micmacs Settlement Act. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

5. Mi'kmaq Nation Jurisdiction Land. "Mi'kmaq Nation Jurisdiction Land" means:

A. All Mi'kmaq Nation Trust Land that exists as of the effective date of this subsection; and [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

B. All Mi'kmaq Nation Trust Land acquired after the effective date of this subsection that is both within Aroostook County and within 50 miles of land described in paragraph A. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]
[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

6. Mi'kmaq Nation Trust Land. "Mi'kmaq Nation Trust Land" has the same meaning as "Band Trust Land" in Section 3(3) of the Aroostook Band of Micmacs Settlement Act. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

7. Secretary. "Secretary" means the United States Secretary of the Interior. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, §§2, 5 (AFF).

§7204. Laws of State to apply to Indian Lands

Except as otherwise provided in this Act, the Mi'kmaq Nation and all members of the Mi'kmaq Nation in the State and any lands or other natural resources owned by them or held in trust for them by the United States or by any other person or entity are subject to the laws of the State and to the civil and criminal jurisdiction of the courts of the State to the same extent as any other person or lands or other natural resources in the State. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

§7205. Powers and duties of Mi'kmaq Nation within Mi'kmaq Nation Jurisdiction Land

1. Sovereign status. The State recognizes that the Mi'kmaq Nation predates the State of Maine and the United States and possesses the power and authority to self-govern as limited by the Aroostook Band of Micmacs Settlement Act and this Act. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

2. General powers. Except as otherwise provided in this Act, the Mi'kmaq Nation, within Mi'kmaq Nation Jurisdiction Land, may, separate and distinct from the State, exercise exclusive jurisdiction, including by enacting ordinances, over internal tribal matters, including membership in the nation, the right to reside within Mi'kmaq Nation Jurisdiction Land, tribal organization, tribal government and tribal elections and the exercise of power pursuant to section 7206, subsection 8, section 7207 and section 7208, subsection 1, paragraph F and such matters are not subject to regulation by the State. Pursuant to the Mi'kmaq Nation's power and authority to self-govern, the Mi'kmaq Nation has the same, and no more, power to enact ordinances within Mi'kmaq Nation Jurisdiction Land as municipalities have within the State. The Mi'kmaq Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to Mi'kmaq Nation Jurisdiction Land and the residents thereof. Any resident of Mi'kmaq Nation Jurisdiction Land who is not a member of the nation is equally entitled to receive any municipal or governmental services provided by the nation or by the State, except those services that are provided exclusively to members of the nation pursuant to state or federal law, and are entitled to vote in national, state and county elections in the same manner as any tribal member residing within Mi'kmaq Nation Jurisdiction Land. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

3. Power to sue and be sued. The Mi'kmaq Nation and its members may sue and be sued in the courts of the State to the same extent as any other entity or person in the State except that the nation and its officers and employees are immune from suit when the nation is acting in its governmental capacity to the same extent as municipalities or like officers or employees thereof within the State. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

4. Ordinances. The Mi'kmaq Nation has the right to exercise exclusive jurisdiction within Mi'kmaq Nation Jurisdiction Land over violations by members of any federally recognized Indian tribe, nation, band or other group of tribal ordinances adopted by the nation pursuant to this section or section 7206. The decision to exercise or terminate the jurisdiction authorized by this section must be made by the Mi'kmaq Nation Tribal Council. If the nation chooses not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or section 7206, the State has exclusive jurisdiction over violations of the nation's tribal ordinances by members of any federally recognized Indian tribe, nation, band or other group within Mi'kmaq Nation Jurisdiction Land. The State has exclusive jurisdiction over violations of the nation's tribal ordinances by persons not members of any federally recognized Indian tribe, nation, band or other group except as provided in section 7208. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

§7206. Regulation of natural resources

1. Adoption of hunting, trapping and fishing ordinances by Mi'kmaq Nation. Subject to the limitations of subsection 5, the Mi'kmaq Nation has exclusive authority within Mi'kmaq Nation Jurisdiction Land to enact ordinances regulating:

A. Hunting, trapping or other taking of wildlife; and [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

B. Taking of fish on any pond in which all the shoreline and all submerged lands are wholly within Mi'kmaq Nation Jurisdiction Land and that is less than 10 acres in surface area. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

Ordinances under this subsection must be equally applicable, on a nondiscriminatory basis, to all persons regardless of whether a person is a member of the Mi'kmaq Nation except that, subject to the limitations of subsection 5, ordinances under this subsection may include special provisions for the sustenance of the individual members of the Mi'kmaq Nation. In addition to the authority provided by

this subsection, the Mi'kmaq Nation, subject to the limitations of subsection 5, may exercise within Mi'kmaq Nation Trust Land all the rights incident to ownership of land under the laws of the State.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

2. Registration stations. The Mi'kmaq Nation shall establish and maintain registration stations for the purpose of registering bear, moose, deer and other wildlife killed within Mi'kmaq Nation Jurisdiction Land and shall adopt ordinances requiring registration of such wildlife to the extent and in substantially the same manner as such wildlife are required to be registered under the laws of the State. These ordinances requiring registration must be equally applicable to all persons without distinction based on tribal membership. The Mi'kmaq Nation shall report the deer, moose, bear and other wildlife killed and registered within Mi'kmaq Nation Jurisdiction Land to the Commissioner of Inland Fisheries and Wildlife at such times as the commissioner considers appropriate. The records of registration of the Mi'kmaq Nation must be available, at all times, for inspection and examination by the commissioner.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

3. Sustenance fishing within Mi'kmaq Nation Jurisdiction Land. Subject to the limitations of subsection 5 and notwithstanding any other provision of state law to the contrary, the members of the Mi'kmaq Nation may take fish for their individual sustenance within the boundaries of Mi'kmaq Nation Jurisdiction Land to the same extent as authorized under section 6207, subsection 4.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

4. Posting. Lands or waters subject to regulation by the Mi'kmaq Nation must be conspicuously posted in such a manner as to provide reasonable notice to the public of the limitations on hunting, trapping, fishing or other use of those lands or waters.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

5. Supervision by Commissioner of Inland Fisheries and Wildlife. The Commissioner of Inland Fisheries and Wildlife, or the commissioner's successor, is entitled to conduct fish and wildlife surveys within Mi'kmaq Nation Jurisdiction Land to the same extent as the commissioner is authorized to conduct such surveys in other areas of the State. Before conducting any such survey, the commissioner shall provide reasonable advance notice to the Mi'kmaq Nation and afford the nation a reasonable opportunity to participate in that survey. If the commissioner, at any time, has reasonable grounds to believe that a tribal ordinance adopted under this section, or the absence of such a tribal ordinance, is adversely affecting or is likely to adversely affect the stock of any fish or wildlife on lands or waters outside the boundaries of lands or waters subject to regulation by the Mi'kmaq Nation, the commissioner shall inform the governing body of the nation of the commissioner's opinion and attempt to develop appropriate remedial standards in consultation with the nation. If such efforts fail, the commissioner may call a public hearing to investigate the matter further. Any such hearing must be conducted in a manner consistent with the laws of the State applicable to adjudicative hearings. If, after a hearing, the commissioner determines that any such tribal ordinance or the absence of a tribal ordinance is causing, or there is a reasonable likelihood that it will cause, a significant depletion of fish or wildlife stocks on lands or waters outside the boundaries of lands or waters subject to regulation by the Mi'kmaq Nation, the commissioner may adopt appropriate remedial measures including rescission of any such tribal ordinance and, in lieu thereof, order the enforcement of the generally applicable laws or rules of the State. In adopting any remedial measures, the commissioner shall use the least restrictive means possible to prevent a substantial diminution of the stocks in question and shall take into consideration the effect that non-Indian practices on non-Indian lands or waters are having on those stocks. The remedial measures adopted by the commissioner may not be more restrictive than those that the commissioner could impose if the area in question was not within Mi'kmaq Nation Jurisdiction Land.

In any administrative proceeding under this section, the commissioner has the burden of proof. The decision of the commissioner may be appealed in the manner provided by the laws of the State for judicial review of administrative action and may be sustained only if supported by substantial evidence. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

6. Transportation of game. Fish lawfully taken within Mi'kmaq Nation Jurisdiction Land and wildlife lawfully taken within Mi'kmaq Nation Jurisdiction Land and registered pursuant to ordinances adopted by the Mi'kmaq Nation may be transported within the State. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

7. Fish. As used in this section, "fish" means a cold-blooded, completely aquatic vertebrate animal having permanent fins, gills and an elongated streamlined body usually covered with scales and includes inland fish and anadromous and catadromous fish when in inland water. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

8. Regulation of drinking water. Unless the Mi'kmaq Nation, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within Mi'kmaq Nation Jurisdiction Land:

A. The Mi'kmaq Nation has exclusive authority to enact ordinances regulating drinking water within Mi'kmaq Nation Jurisdiction Land; [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

B. The State may not exercise primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within Mi'kmaq Nation Jurisdiction Land; and [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

C. The Mi'kmaq Nation may seek to be treated as a state and to obtain primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within Mi'kmaq Nation Jurisdiction Land. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

Notwithstanding any other provision of this subsection, the Mi'kmaq Nation's jurisdiction does not extend beyond Mi'kmaq Nation Jurisdiction Land.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

§7207. Jurisdiction of Mi'kmaq Nation over drinking water within Mi'kmaq Nation Jurisdiction Land

Notwithstanding any provision of state law to the contrary, pursuant to the Aroostook Band of Micmacs Settlement Act, Section 6(d), the State and the Mi'kmaq Nation agree and establish that: [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

1. Jurisdiction of Mi'kmaq Nation to administer drinking water-related programs. The Mi'kmaq Nation may seek to be treated as a state pursuant to the federal Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing regulations, as amended, within Mi'kmaq Nation Jurisdiction Land and may otherwise benefit from and exercise jurisdiction under any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs; and [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

2. Administration of drinking water-related programs does not affect or preempt state law. The application of any provision of the federal Safe Drinking Water Act and its implementing regulations, as amended, and of any other federal law enacted after October 10, 1980 that permits a

federally recognized Indian tribe to administer drinking water-related programs and the enforcement of such laws and regulations by the Mi'kmaq Nation under subsection 1 does not affect or preempt the laws of the State.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

Notwithstanding any other provision of this section, the Mi'kmaq Nation's jurisdiction does not extend beyond Mi'kmaq Nation Jurisdiction Land. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

§7208. Jurisdiction of the Mi'kmaq Tribal Court

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 5 and 6, the Mi'kmaq Nation 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 Mi'kmaq Nation Jurisdiction Land by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group; [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Mi'kmaq Nation 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 Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation within Mi'kmaq Nation Jurisdiction Land; [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

C. Civil actions between members of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation arising on Mi'kmaq Nation Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383 involving conduct within Mi'kmaq Nation Jurisdiction Land by a member of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation; [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

D. Indian child custody proceedings to the extent authorized by applicable state and federal law; [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

E. Other domestic relations matters, including marriage, divorce and support, between members of the Mi'kmaq Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, both of whom reside within Mi'kmaq Nation Jurisdiction Land; and [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 7206, subsection 8, except that the Mi'kmaq Nation may not exercise jurisdiction over a nonprofit public municipal corporation. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

The governing body of the Mi'kmaq Nation 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 F may be made separately. Until the Mi'kmaq Nation notifies the Attorney General that the nation 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 Mi'kmaq Nation 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. When the Mi'kmaq Nation chooses to reassert the exercise of exclusive jurisdiction over any or all of the areas under paragraphs A to F, the nation must first provide 30 days' notice to the Attorney General. Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within Mi'kmaq Nation Jurisdiction Land and the State has exclusive jurisdiction over those offenses and crimes.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

2. Concurrent jurisdiction over certain criminal offenses. The Mi'kmaq Nation has the right to exercise jurisdiction, concurrently with the State, over the following Class D crimes committed by a person within Mi'kmaq Nation Jurisdiction Land or on lands taken into trust by the secretary for the benefit of the Mi'kmaq Nation, now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group against the person or property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group.

The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 3, the Mi'kmaq Nation may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.

In exercising the concurrent jurisdiction authorized by this subsection, the Mi'kmaq Nation is deemed to be enforcing Mi'kmaq tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Mi'kmaq Nation has concurrent jurisdiction under this subsection are governed by the laws of the State. Issuance and execution of criminal process also are governed by the laws of the State.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

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

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

4. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Mi'kmaq Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Mi'kmaq Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Mi'kmaq Nation's exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Mi'kmaq Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

5. 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 Mi'kmaq Nation 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. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

6. Double jeopardy, collateral estoppel. A prosecution for a criminal offense or juvenile crime over which the Mi'kmaq Nation 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 over which the Mi'kmaq Nation has concurrent jurisdiction under this section does not bar a prosecution for a criminal offense, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a criminal offense over which the State has concurrent jurisdiction under this section does not bar a prosecution for a criminal offense, arising out of the same conduct, over which the Mi'kmaq Nation 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 Mi'kmaq Nation has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a Mi'kmaq 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 Mi'kmaq tribal forum.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

7. Full faith and credit. The State shall give full faith and credit to the judicial proceedings of the Mi'kmaq Nation. The Mi'kmaq Nation shall give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and the State. [PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

§7209. Law enforcement within Mi'kmaq Nation Jurisdiction Land

1. Exclusive authority of Mi'kmaq Nation law enforcement officers. Law enforcement officers appointed by the Mi'kmaq Nation have exclusive authority to enforce, within Mi'kmaq Nation Jurisdiction Land, the criminal, juvenile, civil and domestic relations laws over which the Mi'kmaq Nation has exclusive jurisdiction under section 7208, subsection 1, and to enforce, on Mi'kmaq Nation Jurisdiction Land, ordinances adopted under section 7205 and section 7206, subsection 1.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

2. Joint authority of Mi'kmaq Nation and state law enforcement officers. Law enforcement officers appointed by the Mi'kmaq Nation and state and county law enforcement officers have the authority within Mi'kmaq Nation Jurisdiction Land to enforce all laws of the State other than those over which the Mi'kmaq Nation has exclusive jurisdiction under section 7208, subsection 1.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

3. Agreements for cooperation and mutual aid. This section does not prevent the Mi'kmaq Nation and any state, county or local law enforcement agency from entering into agreements for cooperation and mutual aid.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

4. Powers and training requirements. Law enforcement officers appointed by the Mi'kmaq Nation possess the same powers and are subject to the same duties, limitations and training requirements as other corresponding law enforcement officers under the laws of the State.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

5. Reports to the State Bureau of Identification by Mi'kmaq Nation. Mi'kmaq Nation law enforcement agencies shall submit to the Department of Public Safety, State Bureau of Identification uniform crime reports and other information required by Title 25, section 1544.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

§7210. Eligibility of Mi'kmaq Nation and state funding

1. Eligibility for discretionary funds. The Mi'kmaq Nation is eligible to apply for any federally funded 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.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

2. Eligibility of individuals for state funds. Residents of Mi'kmaq Nation 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 as long as in computing the extent to which any person is entitled to receive any such funds any money received by the 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 is deducted in computing any payment to be made by the State.

[PL 1989, c. 148, §§3, 4 (NEW); PL 2023, c. 369, Pt. A, §§2, 5 (AFF).]

SECTION HISTORY

PL 1989, c. 148, §§3, 4 (NEW). PL 2023, c. 369, Pt. A, §§2, 5 (AFF).

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CHAPTER 701**RIGHTS OF FEDERALLY RECOGNIZED INDIAN TRIBES****§8001. Mobile gaming**

1. Legislative purpose. The Legislature finds and declares that the conduct of mobile gaming will, if conducted by federally recognized Indian tribes in the State, serve as an effective economic development tool for tribal governments and provide economic stimulus to rural areas of the State. The purpose of this section is to ensure that each federally recognized Indian tribe in this State has the right to conduct all forms of mobile gaming newly authorized in this State on or after the effective date of this section.

[PL 2021, c. 681, Pt. J, §10 (NEW).]

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

A. "Gambling" has the same meaning as in Title 17-A, section 952, subsection 4. [PL 2021, c. 681, Pt. J, §10 (NEW).]

B. "Lawful gambling activity" means any type of gambling authorized under the laws of this State, including, but not limited to, the gambling activities described in Title 8, section 1001, subsection 15. [PL 2021, c. 681, Pt. J, §10 (NEW).]

C. "Mobile gaming" means lawful gambling activity conducted through mobile applications or other digital platforms that involve, at least in part, the use of the Internet. [PL 2021, c. 681, Pt. J, §10 (NEW).]

[PL 2021, c. 681, Pt. J, §10 (NEW).]

3. Authority to conduct mobile gaming. Notwithstanding any provision of law to the contrary, a federally recognized Indian tribe in this State has the same right as any other person or entity to obtain any license, permit or registration to conduct mobile gaming under a law of this State enacted on or after the effective date of this section as long as the federally recognized Indian tribe meets all of the qualifications for the license, permit or registration, except that the federally recognized Indian tribe is not required to meet any requirement:

A. That the federally recognized Indian tribe is unable to meet due to its status as a federally recognized Indian tribe; or [PL 2021, c. 681, Pt. J, §10 (NEW).]

B. That an applicant possess another type of gambling or wagering license, registration or permit. [PL 2021, c. 681, Pt. J, §10 (NEW).]

[PL 2021, c. 681, Pt. J, §10 (NEW).]

SECTION HISTORY

PL 2021, c. 681, Pt. J, §10 (NEW).

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STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
H.P. 428 - L.D. 585

**An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws
Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe
and the Penobscot Nation and To Authorize Casinos, Off-track Betting
Facilities, Federally Recognized Indian Tribes and Certain Commercial
Tracks To Conduct Sports Wagering**

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

PART A

Sec. A-1. 5 MRSA c. 376 is enacted to read:

CHAPTER 376

TRIBAL-STATE COLLABORATION

§11051. Short title

This chapter may be known and cited as "the Tribal-State Collaboration Act."

§11052. Definitions

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

1. Agency. "Agency" means the following:

- A. The Department of Agriculture, Conservation and Forestry;
- B. The Department of Corrections;
- C. The Department of Economic and Community Development;
- D. The Department of Education;
- E. The Department of Environmental Protection;
- F. The Department of Health and Human Services;
- G. The Department of Inland Fisheries and Wildlife;

- H. The Department of Labor;
- I. The Department of Public Safety;
- J. The Department of Administrative and Financial Services;
- K. The Department of Professional and Financial Regulation;
- L. The Department of Defense, Veterans and Emergency Management;
- M. The Department of Marine Resources;
- N. The Department of Transportation;
- O. The Office of the Public Advocate; and
- P. The Public Utilities Commission.

2. Indian tribe. "Indian tribe" means a federally recognized Indian tribe within the State of Maine.

§11053. Collaboration between agencies and Indian tribes

- 1. Required policies.** An agency shall develop and implement a policy that:
- A. Promotes effective communication and collaboration between the agency and the Indian tribes;
 - B. Promotes positive government-to-government relations between the State and the Indian tribes;
 - C. Promotes cultural competency in the agency's interactions with the Indian tribes and tribal members;
 - D. Establishes a process for collaboration between the agency and the Indian tribes regarding the agency's programs, rules and services that substantially and uniquely affect the Indian tribes or tribal members. In the context of emergency rulemaking pursuant to section 8054, the policy must require notice and collaboration to the extent practicable. Collaboration under this paragraph must be in addition to any process available to members of the general public and must include:
 - (1) Providing the Indian tribes reasonable written notice of the contemplated program, rule or service;
 - (2) Allowing the Indian tribes a reasonable opportunity to provide information, advice and opinions on the contemplated program, rule or service;
 - (3) Requiring the agency to consider the information, advice and opinions it receives from the Indian tribes under subparagraph (2); and
 - (4) Requiring the agency to make reasonable efforts to complete the collaboration process before taking final action on the contemplated program or service or, in the case of a rule, before publication of the proposed rule pursuant to section 8053, subsection 5; and
 - E. Establishes a method for informing employees of the agency of the provisions of this Act and the policy that the agency adopts pursuant to this section.

2. Consultation in policy development. An agency shall request comments from each Indian tribe and the Maine Indian Tribal-State Commission, and consider each comment received, before adopting a policy under subsection 1.

3. Tribal liaison. An agency shall designate an individual who reports directly to the head of the agency to serve as the agency's tribal liaison. The tribal liaison shall:

A. Assist with developing and ensuring the implementation of the policy required by subsection 1;

B. Serve as a contact person responsible for facilitating effective communication between the agency and the Indian tribes; and

C. Coordinate the training of agency employees as provided in section 11054.

§11054. Mandatory training

An agency shall ensure that the tribal liaison designated pursuant to section 11053, subsection 3, other employees responsible for tribal collaboration under this Act and other employees whose work substantially and uniquely affects Indian tribes or tribal members receive training designed to promote:

1. Communication and collaboration. Effective communication and collaboration between the agency and the Indian tribes;

2. Government-to-government relations. Positive government-to-government relations between the State and Indian tribes; and

3. Cultural competency. Cultural competency in tribal issues.

§11055. Tribal-State Summit; reports by agencies and Indian tribes

1. Annual Tribal-State Summit. The Governor shall meet at least annually with the leaders of Indian tribes in a Tribal-State Summit to address issues of mutual concern, which may include:

A. Implementation of the Maine Native American study provisions of Title 20-A, section 4706;

B. Implementation of the provisions of this Act; and

C. Improving communication between the State and the Indian tribes.

2. Biennial agency reports. Beginning January 10, 2023 and biennially by January 10th thereafter, an agency shall file a report with the joint standing committee or committees of the Legislature having jurisdiction over the agency and with the Maine Indian Tribal-State Commission on the activities of the agency pursuant to this Act. The report must include:

A. A copy of the current policy adopted under section 11053, subsection 1 and a description of any changes that have been made to that policy since the filing of the previous report. If the agency has not yet adopted a policy under section 11053, subsection 1, the agency must describe the steps the agency has taken to adopt such a policy;

B. The name and contact information of the tribal liaison designated by the agency under section 11053, subsection 3;

C. A description of training provided pursuant to section 11054;

D. A statement of programs, rules or services, to the extent known at the time of the report, that the agency intends to adopt, amend or provide in the coming reporting period that substantially and uniquely affect Indian tribes or tribal members; and

E. A summary of tribal collaboration activities the agency has engaged in under the provisions of this Act during the prior biennium and any recommendations for improving the effectiveness of this Act, including recommendations regarding other agency actions for which it may be appropriate to require collaboration under this Act.

3. Reports by Indian tribes. Beginning January 10, 2023 and biennially by January 10th thereafter, an Indian tribe may file a report with the joint standing committee of the Legislature having jurisdiction over judiciary matters and the Maine Indian Tribal-State Commission that includes a summary of the collaboration between the Indian tribe and agencies under this Act during the prior biennium and any recommendations for improving the effectiveness of this Act, including recommendations regarding other agency actions for which it may be appropriate to require collaboration under this Act.

§11056. Cause of action and right of review not conferred; savings clause

1. Cause of action and right of review not conferred. An agency's failure to comply with the requirements of this Act does not:

A. Create a cause of action or a right of judicial review of any action by an agency;

B. Constitute grounds for a court to invalidate an agency rule under section 8058; or

C. Constitute grounds for a court to reverse or modify an agency action under section 11007, subsection 4, paragraph C or to direct an agency to engage in any further action under section 11007, subsection 4, paragraph B.

2. Federal funding requirements. Nothing in this Act affects, modifies or replaces any tribal collaboration or consultation requirement imposed on or assumed by an agency as a condition of the acceptance of federal funding.

Sec. A-2. 30-A MRSA §2202, sub-§2, as enacted by PL 2009, c. 636, Pt. D, §2, is amended to read:

2. Party. "Party" means a public agency or the following federally recognized Indian tribes or their political subdivisions:

A. The Passamaquoddy Tribe; and

B. The Penobscot Nation.; and

C. The Houlton Band of Maliseet Indians.

PART B

Sec. B-1. Legislative findings and purpose. The Legislature finds and declares that the changes to the State's tax laws that appear in Parts C to H of this Act will:

1. Improve the economic opportunities available to and welfare of the Penobscot Nation, the Passamaquoddy Tribe and the Houlton Band of Maliseet Indians and their tribal members;

2. Encourage economic development within the tribal lands of the Penobscot Nation, the Passamaquoddy Tribe and the Houlton Band of Maliseet Indians, the benefits of which will accrue not only to the tribes and their tribal members but also to surrounding communities and the State; and

3. Clarify and simplify the application of the State's tax laws to the Penobscot Nation, the Passamaquoddy Tribe and the Houlton Band of Maliseet Indians as well as to their tribal lands and tribal members, in order to reduce the costs of tax compliance to the tribes and their members and to reduce the cost to the State of administering its tax laws.

PART C

Sec. C-1. 36 MRSA §111, sub-§1-D is enacted to read:

1-D. Houlton Band of Maliseet Indians. "Houlton Band of Maliseet Indians" has the same meaning as in Title 30, section 6203, subsection 2.

Sec. C-2. 36 MRSA §111, sub-§1-E is enacted to read:

1-E. Houlton Band Trust Land. "Houlton Band Trust Land" has the same meaning as in the federal Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, Public Law 99-566, Section 2(2).

Sec. C-3. 36 MRSA §111, sub-§2-A is enacted to read:

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

Sec. C-4. 36 MRSA §111, sub-§2-B is enacted to read:

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

Sec. C-5. 36 MRSA §111, sub-§2-C is enacted to read:

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

Sec. C-6. 36 MRSA §111, sub-§2-D is enacted to read:

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

Sec. C-7. 36 MRSA §111, sub-§8 is enacted to read:

8. Tribal entity. "Tribal entity" means a business entity:

A. Wholly owned by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation, a tribal member or tribal members or some combination thereof. For purposes of determining ownership of an entity, a married couple including at least one tribal member is treated as one tribal member, regardless of which spouse owns the entity; or

B. Where 75% of the ownership interests are held in aggregate by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation and the entity is controlled and managed by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation, consistent with the requirements of 13 Code of Federal Regulations, Section 124.109(c)(4); as determined by the federal

Small Business Administration or the assessor as consistent with 13 Code of Federal Regulations, Section 124.109(c)(4)(i)(A); or as determined by the federal Small Business Administration as consistent with 13 Code of Federal Regulations, Section 124.109(c)(4)(i)(B).

A tribal entity must be a separate and distinct legal entity organized or chartered by federal, state or tribal authorities.

Sec. C-8. 36 MRSA §111, sub-§9 is enacted to read:

9. Tribal land. "Tribal land" means land within the Houlton Band Trust Land, the Passamaquoddy Indian territory or the Penobscot Indian territory.

Sec. C-9. 36 MRSA §111, sub-§10 is enacted to read:

10. Tribal member. "Tribal member" means an enrolled member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation.

Sec. C-10. 36 MRSA §194-E is enacted to read:

§194-E. Tribes deemed as acting in a governmental capacity

For purposes of Parts 3 and 8 of this Title, the Passamaquoddy Tribe and the Penobscot Nation are deemed to act in a governmental capacity as described in Title 30, section 6208, subsection 3 and not in a business capacity. For purposes of Parts 3 and 8 of this Title, the Houlton Band of Maliseet Indians is deemed to act in a governmental capacity and not in a business capacity.

PART D

Sec. D-1. 36 MRSA §1760, sub-§112 is enacted to read:

112. Tribes. Sales to the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation. For purposes of section 1760-C, sales to the tribes identified in this subsection for any purpose are exempt.

Sec. D-2. 36 MRSA §1760, sub-§113 is enacted to read:

113. Tribal members. Sales to a tribal member that are sales sourced to tribal land, except that, if the property or service is used by the purchaser, including any lessee, primarily outside of tribal land, the purchaser is liable for use tax based on the original sale price, unless otherwise exempt under this Part.

For purposes of this subsection:

A. "Primarily" means more than 50% of that period of time that begins on the date on which the property or service is first placed in service by the purchaser and ends one year from that date or at the time that the property or service is sold, scrapped, destroyed or otherwise permanently removed from service, whichever occurs first; and

B. "Sales sourced to tribal land" means sales sourced pursuant to section 1819 to a location on tribal land.

Sec. D-3. 36 MRSA §1760, sub-§114 is enacted to read:

114. Tribal entities. Sales to a tribal entity that are sales sourced to tribal land, except that, if the property or service is used by the purchaser, including any lessee, primarily

outside of tribal land, the purchaser is liable for use tax based on the original sale price, unless otherwise exempt under this Part.

For purposes of this subsection:

A. "Primarily" means more than 50% of that period of time that begins on the date on which the property or service is first placed in service by the purchaser and ends one year from that date or at the time that the property or service is sold, scrapped, destroyed or otherwise permanently removed from service, whichever occurs first; and

B. "Sales sourced to tribal land" means sales sourced pursuant to section 1819 to a location on tribal land.

Sec. D-4. Application. This Part applies to sales occurring on or after January 1, 2023.

PART E

Sec. E-1. 36 MRSA §191, sub-§2, ¶QQQ is enacted to read:

QQQ. The disclosure of information to the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation necessary for the administration of sales tax revenue transfers under section 1815.

Sec. E-2. 36 MRSA §1815, as enacted by PL 1999, c. 477, §1, is amended to read:

§1815. Tax from sales occurring on ~~Passamaquoddy reservation~~ tribal land

1. Passamaquoddy Sales Tax Fund. The Passamaquoddy Sales Tax Fund, referred to in this section as "the Passamaquoddy fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Passamaquoddy Tribe pursuant to subsections 2 and 3.

1-A. Penobscot Sales Tax Fund. The Penobscot Sales Tax Fund, referred to in this section as "the Penobscot fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Penobscot Nation pursuant to subsections 2 and 3.

1-B. Maliseet Sales Tax Fund. The Maliseet Sales Tax Fund, referred to in this section as "the Maliseet fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Houlton Band of Maliseet Indians pursuant to subsections 2 and 3.

2. Monthly transfer. By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under this ~~Part~~ chapter in the previous month on sales occurring on the ~~Passamaquoddy reservation at either Pleasant Point or Indian Township~~ Indian territory, the Penobscot Indian territory and the Houlton Band Trust Land, respectively, reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681. When notified by the assessor, the State Controller shall transfer ~~that amount~~ those amounts to the ~~Passamaquoddy Sales Tax Fund~~ fund, the Penobscot fund and the Maliseet fund, respectively.

For purposes of this subsection, a sale occurs on the Passamaquoddy Indian territory, the Penobscot Indian territory or the Houlton Band Trust Land if:

A. The business location of the seller from which the purchase is made is on Passamaquoddy Indian territory, Penobscot Indian territory or Houlton Band Trust Land, respectively; and

B. The tangible personal property or taxable service is received by the purchaser also on Passamaquoddy Indian territory, Penobscot Indian territory or Houlton Band Trust Land, respectively. For purposes of this paragraph, "received" has the same meaning as in section 1819.

3. Monthly payment. By the end of each month, the Treasurer of State shall make payments to the Passamaquoddy Tribe from the Passamaquoddy ~~Sales Tax Fund fund~~, to the Penobscot Nation from the Penobscot fund and to the Houlton Band of Maliseet Indians from the Maliseet fund equal to the amounts transferred into the respective fund.

4. Quarterly reconciliation. The monthly payments due under this section must be adjusted by any credit or debit necessary for a quarterly reconciliation of payments and transfers made under this section for any erroneous payment or transfers and any erroneous collection and corresponding refund and by any subsequent assessment, remittance or refund of sales tax to or by the State.

Sec. E-3. Application. This Part applies to sales occurring on or after January 1, 2023.

PART F

Sec. F-1. 36 MRSA §2724, sub-§2, as amended by PL 1993, c. 452, §15, is further amended to read:

2. Commercial forest land. "Commercial forest land" means land that is classified or that is eligible for classification as forest land pursuant to the Maine Tree Growth Tax Law, chapter 105, subchapter H-A 2-A, except that "commercial forest land" does not include land described in section 573, subsection 3, paragraph B or C when all commercial harvesting of forest products is prohibited. In determining whether land not classified under the Maine Tree Growth Tax Law is eligible for classification under that law, all facts and circumstances must be considered, including whether the landowner is engaged in the forest products business and the land is being used in that business or there is a forest management plan for commercial use of the land or a particular parcel of land has been harvested for commercial purposes within the preceding 5 years. "Commercial forest land" does not include tribal land.

Sec. F-2. 36 MRSA §4303, first ¶, as amended by PL 2019, c. 222, §1 and affected by §7, is further amended to read:

~~There~~ Except as provided in section 4303-B, there is levied and imposed a tax at the rate of 1 1/2¢ per pound on all wild blueberries processed in the State and on all unprocessed wild blueberries shipped to a destination outside the State. All wild blueberries harvested in the State that are to be shipped outside the State for processing must be weighed on a state-certified scale in the State prior to being shipped outside the State. The tax is computed on the gross weight of the wild blueberries as delivered prior to any processing or shipping. The processor that first receives unprocessed wild blueberries in the State, or the shipper that transports unprocessed wild blueberries to a destination outside the State, is responsible for reporting and paying the tax.

Sec. F-3. 36 MRSA §4303-B is enacted to read:

§4303-B. Exemption for wild blueberries grown on tribal land

The tax imposed by section 4303 does not apply to wild blueberries grown on tribal land.

Sec. F-4. 36 MRSA §4605, sub-§1, as amended by PL 2011, c. 7, §4, is further amended to read:

1. Rate. Except as provided in subsection 1-A, a tax is levied and imposed at the rate of \$.06 per hundredweight, effective September 1, 2011, on all potatoes grown in this State, except that no tax may be imposed on any potatoes that are retained by the grower to be used by the grower for seed purposes or for home consumption and no tax may be imposed on any potatoes received by a processor that are certified as unmerchantable by a federal state inspector.

Sec. F-5. 36 MRSA §4605, sub-§1-A is enacted to read:

1-A. Exemptions. The tax imposed by this section does not apply to:

A. Any potatoes that are retained by the grower to be used by the grower for seed purposes or for home consumption;

B. Any potatoes received by a processor that are certified as unmerchantable by a federal state inspector; or

C. Any potatoes grown on tribal land.

Sec. F-6. Application. That section of this Part that amends the Maine Revised Statutes, Title 36, section 2724, subsection 2 applies to commercial forestry excise tax due on or after January 1, 2023. Those sections of this Part that amend Title 36, section 4303, first paragraph and enact Title 36, section 4303-B apply to unprocessed wild blueberries received in this State for processing, or transported to a destination outside the State, on or after January 1, 2023. That portion of this Part that enacts Title 36, section 4605, subsection 1-A, paragraph C applies to potatoes received, sold or shipped by a shipper in this State on or after January 1, 2023.

PART G

Sec. G-1. 36 MRSA §5102, sub-§5-A is enacted to read:

5-A. Tribal member residing on tribal land. "Tribal member residing on tribal land" means an individual who is a tribal member and:

A. Who is domiciled on tribal land, unless:

(1) The tribal member does not maintain a permanent place of abode on tribal land, maintains a permanent place of abode off of tribal land and spends in the aggregate not more than 30 days of the taxable year on tribal land; or

(2) Within any period of 548 consecutive days, the tribal member:

(a) Is present in a foreign country or countries for at least 450 days;

(b) Is not present on tribal land for more than 90 days;

(c) Does not maintain a permanent place of abode on tribal land at which a minor child of the tribal member or the tribal member's spouse is present for more than 90 days, unless the tribal member and the tribal member's spouse are legally separated; and

(d) During the nonresident portion of the taxable year with which, or within which, such period of 548 consecutive days begins and the nonresident portion of the taxable year with which, or within which, such period ends, is present on tribal land for a number of days that does not exceed an amount that bears the same ratio to 90 as the number of days contained in such portion of the taxable year bears to 548; or

B. Who is not domiciled on tribal land, but maintains a permanent place of abode on tribal land and spends in the aggregate more than 183 days of the taxable year on tribal land, unless the tribal member is in the Armed Forces of the United States.

The geographic location of a political organization or political candidate that receives one or more contributions from the tribal member is not in and of itself determinative on the question of whether the tribal member is domiciled on tribal land. The geographic location of a professional advisor retained by a tribal member or the geographic location of a financial institution with an active account or loan of a tribal member may not be used to determine whether or not a tribal member is domiciled on tribal land. For purposes of this subsection, "professional advisor" includes, but is not limited to, a person that renders medical, financial, legal, accounting, insurance, fiduciary or investment services. Charitable contributions may not be used to determine whether or not a tribal member is domiciled on tribal land.

Sec. G-2. 36 MRSA §5102, sub-§6, as amended by PL 2007, c. 240, Pt. KKKK, §6 and affected by §7, is further amended by enacting a new last blocked paragraph to read: "Corporation" does not include the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or a corporation organized by the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians under Section 17 of the federal Indian Reorganization Act, 25 United States Code, Section 5124.

Sec. G-3. 36 MRSA §5122, sub-§1, ¶PP is enacted to read:

PP. For a tribal member residing on tribal land and for an estate of a decedent who at the time of death was a tribal member residing on tribal land, the absolute value of the Maine adjusted gross income derived from or connected with sources on tribal land as determined under section 5132 if the net amount is less than zero.

Sec. G-4. 36 MRSA §5122, sub-§2, ¶XX is enacted to read:

XX. For a tribal member residing on tribal land and for an estate of a decedent who at the time of death was a tribal member residing on tribal land, the Maine adjusted gross income derived from or connected with sources on tribal land as determined under section 5132 if the net amount is greater than zero.

Sec. G-5. 36 MRSA §5132 is enacted to read:

§5132. Income or loss from sources on tribal land

1. General. The Maine adjusted gross income of a tribal member derived from or connected with sources on tribal land is the sum of the following amounts:

A. The net amount of items of income, gain, loss and deduction entering into the tribal member's federal adjusted gross income that are derived from or connected with sources on tribal land including:

(1) The tribal member's distributive share of partnership or limited liability company income and deductions derived from or connected with sources on tribal land determined following the methods for sourcing income to this State under section 5192, except that subsections 2 to 6 of this section and not section 5142 apply under section 5192, subsection 1;

(2) The tribal member's share of estate or trust income and deductions derived from or connected with sources on tribal land determined following the methods for sourcing income to this State under section 5176, except that subsections 2 to 6 of this section and not section 5142 apply under section 5176, subsection 1; and

(3) The tribal member's pro rata share of the income of an S corporation derived from or connected with sources on tribal land; and

B. The portion of the modifications described in section 5122, subsections 1 and 2 that relates to income derived from or connected with sources on tribal land, including any modifications attributable to the tribal member as a partner of a partnership, shareholder of an S corporation, member of a limited liability company or beneficiary of an estate or trust.

2. Attribution. Items of income, gain, loss and deduction derived from or connected with sources within tribal land are those items attributable to:

A. The ownership or disposition of any interest in real or tangible personal property on tribal land;

B. A business, trade, profession or occupation carried on within tribal land; and

C. Proceeds from any gambling activity conducted on tribal land or lottery tickets purchased on tribal land, including payments received from a 3rd party for the transfer of the rights to future proceeds related to any such gambling activity or lottery tickets, except that proceeds from Maine State Lottery tickets, including payments received from a 3rd party for the transfer of the rights to future proceeds related to the lottery tickets, are not derived from or connected with sources on tribal land.

3. Intangibles. Income from intangible personal property including annuities, dividends, interest and gains from the disposition of intangible personal property constitutes income derived from sources within tribal land only to the extent that such income is from property employed in a business, trade, profession or occupation carried on within tribal land.

4. Gain or loss on sale of partnership interest. Notwithstanding subsection 3, the gain or loss on the sale of a partnership interest is sourced to tribal land in an amount equal to the gain or loss multiplied by the ratio obtained by dividing the original cost of partnership tangible property located on tribal land by the original cost of partnership tangible property everywhere, determined at the time of the sale. Tangible property includes property owned or rented and is valued in accordance with section 5211,

subsection 10. If more than 50% of the value of the partnership's assets consists of intangible property, gain or loss from the sale of the partnership interest is sourced to tribal land in accordance with the property and payroll factors of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold. For purposes of this subsection, the property and payroll factors of a partnership are determined in accordance with chapter 821. This subsection does not apply to the sale of a limited partner's interest in an investment partnership where more than 80% of the value of the partnership's total assets consists of intangible personal property held for investment, except that such property cannot include an interest in a partnership unless that partnership is itself an investment partnership.

If the apportionment provisions of this subsection do not fairly represent the extent of the partnership's business activity on tribal land, the taxpayer may petition for, or the State Tax Assessor may require, in respect to all or any part of the partnership's business activity the employment of any other method to effectuate an equitable apportionment to tribal land of the partner's income from the sale of the partnership interest.

5. Deductions for losses. Deductions with respect to capital losses, net long-term capital gains and net operating losses must be based solely on income, gains, losses and deductions derived from or connected with sources on tribal land, under regulations to be prescribed by the assessor, but otherwise must be determined in the same manner as the corresponding federal deductions.

6. Apportionment. If a business, trade, profession or occupation is carried on partly within and partly without tribal land, the items of income and deduction derived from or connected with sources within tribal land must be determined as apportioned to tribal land according to the following methods:

A. Except as provided in paragraph B, according to the methods for apportioning income to this State under chapter 821, except that instead of apportioning income to tribal land using the sales factor pursuant to section 5211, subsection 8, income is apportioned to tribal land by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor and the denominator of which is 2; or

B. In the case of the rendering of purely personal services by a tribal member, according to the methods established in regulations to be prescribed by the assessor.

Sec. G-6. Application. This Part applies to tax years beginning on or after January 1, 2023.

PART H

Sec. H-1. Rulemaking. The Department of Administrative and Financial Services, Bureau of Revenue Services may adopt rules to implement Parts C, D, E, F and G of this Act. Rules adopted under this section may include, but are not limited to, rules specifying reporting requirements and the maintenance by the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and provision to the bureau of lists of each tribe's respective tribal land, tribal members, tribal entities and corporations organized under Section 17 of the federal Indian Reorganization Act, 25 United States Code, Section 5124. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

PART I

Sec. I-1. Legislative findings and purpose. The Legislature finds and declares, with respect to the regulatory structure established for sports wagering in Part J of this Act, that:

1. If conducted by federally recognized Indian tribes in the State, mobile sports wagering will serve as an effective economic development tool for tribal governments and tribal members and provide economic stimulus to rural areas of the State;

2. Authorizing the federally recognized Indian tribes in the State to conduct mobile sports wagering is fair and equitable because those Indian tribes previously have been excluded from conducting most forms of gaming in the State;

3. If conducted by licensed off-track betting facilities, commercial tracks and casinos, facility-based sports wagering will support the harness racing industry and agricultural interests that support the harness racing industry; and

4. Off-track betting facilities, commercial tracks and casinos are well suited to conduct facility-based sports wagering because of their infrastructure and experience with the conduct of wagering in the State.

PART J

Sec. J-1. 7 MRSA §86, sub-§8, as enacted by PL 2005, c. 563, §3, is amended to read:

8. Maximum allowed distribution from Stipend Fund. A licensee may not receive a stipend from the Stipend Fund greater than the amount actually raised and spent by the licensee on premiums and gratuities in the classes provided in subsection 5. A licensee may not receive a stipend from the Stipend Fund in excess of \$10,000, except that this limitation does not apply to any additional stipend provided for by Title 8, section 287 or to funds distributed from the Fair Fund ~~or in accordance with section 85,~~ the Agricultural Fair Support Fund in accordance with section 91 ~~or the Agricultural Fair Promotion Fund in accordance with section 103.~~

Sec. J-2. 7 MRSA §103 is enacted to read:

§103. Agricultural Fair Promotion Fund

1. Eligible nonprofit organization defined. As used in this section, "eligible nonprofit organization" means a nonprofit organization that is exempt from federal income taxation under Section 501(a) of the United States Internal Revenue Code of 1986 as an organization described by Section 501(c) and that has had, for at least the preceding 25 years, a sole or primary purpose of promoting agricultural fairs in the State.

2. Identification of eligible nonprofit organizations. On January 1st and July 1st of each year, the commissioner shall send a list of all eligible nonprofit organizations to the Treasurer of State.

3. Fund created. The Treasurer of State shall establish an account to be known as "the Agricultural Fair Promotion Fund" and shall credit to it all money received under Title 8, section 1218, subsection 1, paragraph E. The fund is a dedicated, nonlapsing fund. All revenues deposited in the fund must be disbursed in accordance with this section.

4. Distribution. On January 31st and July 31st of each year, all amounts credited to the fund established pursuant to this section as of the last day of the preceding month and not distributed before that day must be distributed by the Treasurer of State in equal shares to each organization in the State that has been identified by the commissioner as an eligible nonprofit organization under subsection 2.

Sec. J-3. 8 MRSA §290, as enacted by PL 1997, c. 528, §46, is amended to read:

§290. Purse supplement

1. Payment. Amounts received pursuant to section 1218, subsection 1, paragraph C and amounts calculated as purse supplement share under section 286 must be paid to the commission for distribution as provided in subsection 2.

2. Distribution. On May 30th, September 30th and January 30th, ~~payments made~~ amounts received under ~~this subsection and~~ subsection 1 for distribution in accordance with this subsection must be divided among the licensees conducting live racing in the State. The amount of the payment made to a licensee is calculated by ~~dividing~~ multiplying the amount of money available for distribution by a fraction, the numerator of which is the number of race dates on which that licensee conducted live racing in any calendar year by and the denominator of which is the total number of race dates on which all licensees conducted live racing in that year. Beginning January 30, 1997, the January 30th payment must be adjusted to reflect the dates when live racing was actually conducted during the previous year, not the dates granted.

Sec. J-4. 8 MRSA §1003, sub-§5, as repealed and replaced by PL 2017, c. 475, Pt. A, §11, is amended to read:

5. Additional duties of the director. The director also serves as the director of the Gambling Control Unit, established as a bureau within the Department of Public Safety under Title 25, section 2902, subsection 12. As director of the unit, the director shall administer and enforce the laws governing fantasy contests under chapter 33, sports wagering under chapter 35 and beano and games of chance under Title 17, chapters 13-A and 62, respectively.

Sec. J-5. 8 MRSA §1104, sub-§2, as enacted by PL 2017, c. 303, §2, is amended to read:

2. Certain leagues and contests prohibited. A fantasy contest operator may not offer a fantasy contest based on the performances of participants in ~~collegiate or~~ high school athletic events or other athletic events involving participants under 18 years of age.

Sec. J-6. 8 MRSA c. 35 is enacted to read:

CHAPTER 35

REGULATION OF SPORTS WAGERING

§1201. Authorization of sports wagering; license required

Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.

A person or entity may not engage in any activities in this State that require a license under this chapter unless all necessary licenses have been obtained in accordance with this chapter and rules adopted under this chapter.

§1202. Definitions

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

1. Adjusted gross sports wagering receipts. "Adjusted gross sports wagering receipts" means an operator's gross receipts from sports wagering less the total of all winnings paid to patrons, which includes the cash equivalent of any merchandise or thing of value awarded as a prize, and less excise tax payments remitted to the Federal Government.

2. Collegiate sports or athletic event. "Collegiate sports or athletic event" means a sports or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers postsecondary educational services.

3. Commissioner. "Commissioner" means the Commissioner of Public Safety.

4. Department. "Department" means the Department of Public Safety.

5. Director. "Director" means the director of the Gambling Control Unit within the department.

6. Facility operator. "Facility operator" means a facility sports wagering licensee under subsection 7, paragraph A.

7. License. "License" means any license applied for or issued by the director under this chapter, including, but not limited to:

A. A facility sports wagering license under section 1206 to conduct sports wagering in which wagers are placed within a physical location in this State;

B. A mobile sports wagering license under section 1207 to permit a mobile operator to operate sports wagering through an approved mobile application or other digital platform that involves, at least in part, the use of the Internet;

C. A supplier license under section 1208 to sell goods and services to be used in connection with sports wagering, but not to directly accept wagers;

D. A management services license under section 1209 to manage sports wagering on behalf of a facility sports wagering licensee or a mobile sports wagering licensee; and

E. An occupational license under section 1210 to be employed by a facility sports wagering licensee or a mobile sports wagering licensee to operate sports wagering when the employee performs duties in furtherance of or associated with the operation of sports wagering.

8. Mobile operator. "Mobile operator" means a mobile sports wagering licensee under subsection 7, paragraph B.

9. Operator. "Operator" includes a facility operator and a mobile operator.

10. Professional sports or athletic event. "Professional sports or athletic event" means an event at which 2 or more persons participate in sports or athletic contests and receive compensation in excess of actual expenses for their participation in the event.

11. Prohibited sports event. "Prohibited sports event" means a high school sports or athletic event, any other event in which a majority of the participants are under 18 years of age or a collegiate sports or athletic event in which any Maine collegiate sports team participates, regardless of where the event takes place. "Prohibited sports event" does not include any game or match that is part of a tournament in which a Maine collegiate sports team participates, as long as a Maine collegiate sports team does not participate in that particular game or match.

12. Sports event. "Sports event" means any professional sports or athletic event, collegiate sports or athletic event or amateur sports or athletic event, including but not limited to an Olympic or international sports or athletic event, a motor vehicle race or an electronic sports event, commonly referred to as "e-sports."

13. Sports governing body. "Sports governing body" means an organization that is headquartered in the United States and prescribes final rules and enforces codes of conduct with respect to a sports event and participants in the sports event.

14. Sports wagering. "Sports wagering" means the business of accepting wagers on sports events or portions of sports events, the individual performance statistics of athletes in a sports event or a combination of any of the same by any system or method of wagering approved by the director, including, but not limited to, in person on the property of a facility operator or via a mobile operator's mobile applications and digital platforms that use communications technology to accept wagers. "Sports wagering" does not include the sale of pari-mutuel pools authorized under chapter 11 or the operation of fantasy contests as defined in section 1101, subsection 4.

15. Wager. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

§1203. Powers and duties of director

1. Powers and duties. In administering and enforcing this chapter, the director:

A. Has the power to regulate the conduct of sports wagering;

B. Shall determine the eligibility of a person to hold or continue to hold a license, shall issue all licenses and shall maintain a record of all licenses issued under this chapter;

C. Shall levy and collect all fees, civil penalties and tax on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter;

D. May sue to enforce any provision of this chapter or any rule of the director by civil action or petition for injunctive relief;

E. May hold hearings, administer oaths and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law; and

F. May exercise any other powers necessary to effectuate the provisions of this chapter and the rules of the director.

2. Rules. The director shall adopt rules governing the conduct of sports wagering in the State, which must, at a minimum, include the following:

A. Additional qualifications and procedures for obtaining a facility sports wagering license, supplier license, management services license, mobile sports wagering license

or occupational license, including the job classifications subject to the occupational license requirement;

B. Additional qualifications and procedures for obtaining a temporary facility sports wagering license, temporary supplier license, temporary management services license and temporary mobile sports wagering license;

C. The methods of operation of sports wagering, including but not limited to the permitted systems and methods of wagers; the use of credit and checks by persons making wagers; the types of wagering receipts that may be used; the method of issuing receipts; the prevention of sports wagering on prohibited sports events; the protection of patrons placing wagers; and the promotion of social responsibility and responsible gaming and display of information on resources for problem gambling at a facility operator's premises or on any mobile application or digital platform used to place wagers;

D. If the director determines that establishment of a maximum wager is necessary for the protection of public safety, the maximum wager that may be accepted from any one person on a single sports event;

E. Standards for the adoption of comprehensive house rules governing sports wagering by operators and the approval of house rules by the director as required under section 1211;

F. Minimum design and security requirements for the physical premises of facility operators in which sports wagering is conducted, including but not limited to minimum requirements for the acceptance of wagers at a self-serve kiosk located on the premises and minimum required methods for verifying the identity and age of a person who places a wager with a facility operator, for verifying that the person making a wager is not prohibited from making a wager under section 1213 and for requiring the refund of any wager determined to have been placed by a person prohibited from making a wager under section 1213;

G. Minimum design and security requirements for mobile applications and digital platforms for the acceptance of wagers by mobile operators, including required methods for verifying the age and identity of a person who places a wager with a mobile operator, for verifying that the person making the wager is physically located in the State and is not prohibited from making a wager under section 1213 and for requiring the refund of any wager determined to have been placed by a person prohibited from making a wager under section 1213;

H. The types of interested parties, including sports team or league employees or owners, from whom operators are prohibited from accepting wagers under section 1213, subsection 4;

I. Minimum design, security, testing and approval requirements for sports wagering equipment, systems or services sold by suppliers licensed under section 1208;

J. Minimum requirements for a contract between a management services licensee under section 1209 and an operator on whose behalf the management services licensee conducts sports wagering, including but not limited to requirements that the person providing management services be licensed prior to entering a contract; that the contract be approved by the director prior to the conduct of sports wagering; that, if the

management services licensee contracts with more than one operator, the contract include a condition requiring the management services licensee to employ a method approved by the director for separately accounting for each operator's gross receipts from sports wagering and adjusted gross sports wagering receipts; and that the contract not authorize the person providing management services to receive more than 30% of the operator's adjusted gross sports wagering receipts, except that the director may approve a contract authorizing the management services licensee to receive up to 40% of the operator's adjusted gross sports wagering receipts if the director determines that the management services licensee has demonstrated that the fee is commercially reasonable given the management services licensee's capital investments and the operator's projected adjusted gross sports wagering receipts;

K. Establishment of a list of persons who are not authorized to place a wager on a sports event, including but not limited to those persons who voluntarily request that their names be included on the list of unauthorized persons. The rules adopted under this paragraph must define the standards for involuntary placement on the list and for removal from the list;

L. Minimum internal control standards for operators and management services licensees, including but not limited to procedures for safeguarding assets and revenues; the recording of cash and evidence of indebtedness; the maintenance of reliable records, accounts and reports of transactions, operations and events; required audits; and the content and frequency of reports of sports wagering activities and revenues that must be made to the director; and

M. Restrictions on the advertisement and marketing of sports wagering, including but not limited to prohibiting misleading, deceptive or false advertisements; requiring an operator to disclose its status as a commercial track, casino or off-track betting facility licensed in the State or a federally recognized Indian tribe or a business entity wholly owned by a federally recognized Indian tribe in the State; and restricting, to the extent permissible, advertising that has a high probability of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age.

3. Rulemaking. Rules adopted by the director pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§1204. Application; criminal history background check

1. Application. An application for a license or for renewal of a license required under this chapter must be submitted on a form or in a format approved by the director. An application submitted to the director must, at a minimum, include the following:

- A. The full name, current address and contact information of the applicant;
- B. Disclosure of each person that has control of the applicant as described in subsection 2;
- C. Consent to permit the director to conduct a criminal history record check in accordance with subsection 3 of the applicant and each person disclosed under paragraph B in accordance with procedures established by the director;
- D. For the applicant and each person disclosed under paragraph B, a record of previous issuances and denials of or any adverse action taken against a gambling-related license

or application under this Title or in any other jurisdiction. For purposes of this paragraph, "adverse action" includes, but is not limited to, a condition resulting from an administrative, civil or criminal violation, a suspension or revocation of a license or a voluntary surrender of a license to avoid or resolve a civil, criminal or disciplinary action; and

E. Any additional information required by the director by rule.

2. Persons that have control. The following persons are considered to have control of an applicant or a licensee:

A. Each corporate holding company, parent company or subsidiary company of a corporate applicant or licensee and each person that owns 10% or more of the corporate applicant or licensee and that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;

B. Each person associated with a noncorporate applicant or licensee that directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's business operation or that the director otherwise determines has the ability to control the noncorporate applicant or licensee; and

C. Key personnel of an applicant or licensee, including any executive, employee or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's or licensee's relevant business operation.

3. Criminal history record check. The director shall request a criminal history record check in accordance with this subsection for each applicant for initial licensure and each person required to be disclosed by the applicant for initial licensure under subsection 1, paragraph B. The director may require a criminal history record check in accordance with this subsection from a licensee seeking to renew a license, from any person the licensee is required to disclose under subsection 1, paragraph B as part of the license renewal application and from any person identified by the licensee under subsection 4. A criminal history record check conducted pursuant to this subsection must include criminal history record information obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the Federal Bureau of Investigation.

A. Criminal history record information obtained from the Maine Criminal Justice Information System pursuant to this subsection must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

B. Criminal history record information obtained from the Federal Bureau of Investigation pursuant to this subsection must include other state and national criminal history record information.

C. An individual required to submit to a criminal history record check under this subsection shall submit to having the individual's fingerprints taken. The State Police, upon payment by the individual of the fee required under paragraph E, shall take or cause to be taken the individual's fingerprints and shall immediately forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. Any person who fails to transmit criminal fingerprint records to the

State Bureau of Identification pursuant to this paragraph is subject to the provisions of Title 25, section 1550.

D. The Department of Public Safety, Bureau of State Police, State Bureau of Identification shall conduct the state and national criminal history record checks required under this subsection. Except for the portion of a payment, if any, that constitutes the processing fee for a criminal history record check charged by the Federal Bureau of Investigation, all money received by the State Police under this subsection must be paid to the Treasurer of State, who shall apply the money to the expenses incurred by the Department of Public Safety in the administration of this subsection.

E. The director shall by rule set the amount of the fee to be paid for each criminal history record check required to be performed under this subsection.

F. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

G. State and national criminal history record information obtained by the director under this subsection may be used only for the purpose of screening an applicant for a license or a license renewal under this chapter.

H. All criminal history record information obtained by the director pursuant to this subsection is confidential, is for the official use of the director only and may not be disseminated by the director or disclosed to any other person or entity except as provided in paragraph F.

I. The director, after consultation with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this subsection.

4. Material change to application. A person licensed under this chapter shall give the director written notice within 30 days of any material change to any information provided in the licensee's application for a license or renewal, including any change in the identity of persons considered to have control of the licensee as described in subsection 2.

5. Gambling Control Unit employees prohibited. An employee of the Gambling Control Unit within the department may not be an applicant for a license issued under this chapter.

§1205. Denial of license; administrative sanctions

1. Grounds for denial of license or imposition of administrative sanctions. The following are grounds for the director to deny a license or license renewal or for the imposition of administrative sanctions, in accordance with this section, on a person licensed under this chapter:

A. If the applicant or licensee has knowingly made a false statement of material fact to the director;

B. If the applicant or licensee has not disclosed the existence or identity of other persons that have control of the applicant or licensee as required by section 1204, subsections 1 and 4;

C. If the applicant or licensee has had a license revoked by any government authority responsible for regulation of gaming activities;

D. If the applicant, the licensee or a person having control of the applicant or licensee under section 1204, subsection 2 is not of good moral character. In determining whether the applicant, licensee or person is of good moral character, the director shall consider qualities that include but are not limited to honesty, candor, trustworthiness, diligence, reliability, observance of fiduciary and financial responsibility and respect for the rights of others;

E. If the applicant, the licensee or a person having control of the applicant or licensee under section 1204, subsection 2:

(1) Has, in any jurisdiction, been convicted of or pled guilty or nolo contendere to a crime punishable by one year or more of imprisonment;

(2) Has, in any jurisdiction, been adjudicated of committing a civil violation or been convicted of a criminal violation involving dishonesty, deception, misappropriation or fraud;

(3) Has engaged in conduct in this State or any other jurisdiction that would constitute a violation of this chapter; chapter 11 involving gambling; chapter 31; chapter 33; Title 17, chapter 13-A or 62; Title 17-A, chapter 39; or substantially similar offenses in other jurisdictions;

(4) Is a fugitive from justice, a drug user, a person with substance use disorder, an illegal alien or a person who was dishonorably discharged from the Armed Forces of the United States; or

(5) Is not current in filing all applicable tax returns and in the payment of all taxes, penalties and interest owed to this State, any other state or the United States Internal Revenue Service, excluding items under formal appeal;

F. If the applicant or licensee has not demonstrated to the satisfaction of the director sufficient financial assets to meet the requirements of the licensed business or proposed business and to meet any financial obligations imposed by this chapter;

G. If the applicant, the licensee or a person having control of the applicant or licensee under section 1204, subsection 2 has not demonstrated financial responsibility. For the purposes of this paragraph, "financial responsibility" means a demonstration of a current and expected future condition of financial solvency sufficient to satisfy the director that the applicant, the licensee or the person can successfully engage in business without jeopardy to the public health, safety and welfare. Financial responsibility may be determined by an evaluation of the total history concerning the applicant, the licensee or the person, including past, present and expected condition and record of financial solvency, business record and accounting and managerial practices;

H. If the applicant or licensee has not met the requirements of this chapter; or

I. If the applicant or licensee has violated any provision of this chapter or of the rules adopted under this chapter.

2. Denial of initial license or renewed license; notice; hearing. The director may deny an application for a license or for renewal of a license for the reasons set forth in

subsection 1. The director shall notify the applicant or the licensee in writing of the decision and of the opportunity to request a hearing conducted by the commissioner.

If the applicant or licensee fails to request a hearing within 30 days of the date that the notice was mailed under this subsection, the director may issue a final decision denying the application for a license or for renewal of a license. If the applicant or licensee makes a timely request for a hearing, the commissioner shall conduct an adjudicatory hearing in accordance with Title 5, chapter 375, subchapter 4. The director's decision to deny the license or license renewal stands until the commissioner issues a decision to uphold, modify or overrule the director's decision.

After hearing, if the commissioner finds grounds for denying a license or license renewal under subsection 1, the commissioner may deny the application for a license or for renewal of a license.

3. Investigation of complaints; notice; hearing. The director or the director's designee shall investigate a complaint on the director's own motion or upon receipt of a written complaint regarding noncompliance with or violation of this chapter or of any rules adopted under this chapter. Following the investigation, the director may mail the licensee a notice of violation informing the licensee of the administrative sanction under subsection 4 the director proposes to impose and of the licensee's opportunity to request a hearing.

If the licensee fails to request a hearing within 30 days of the date that a notice was mailed under this subsection, the director may issue a final decision imposing the sanction proposed in the notice. If the licensee makes a timely request for a hearing, the commissioner shall conduct an adjudicatory hearing in accordance with Title 5, chapter 375, subchapter 4. If, after the hearing, the commissioner finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, the commissioner may impose an administrative sanction under subsection 4.

4. Administrative sanctions. The director or the commissioner may, pursuant to subsection 3, impose the following administrative sanctions on a licensee:

- A. A written reprimand;
- B. Conditions of probation of a license;
- C. A license suspension;
- D. A license revocation; or
- E. A civil penalty of up to \$25,000 per violation of any provision of this chapter or rule adopted pursuant to this chapter.

5. Appeals. A person aggrieved by the final decision of the commissioner under subsection 2 or 3 may appeal the commissioner's decision to the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

§1206. Facility sports wagering license

1. Issuance of license. The director shall issue a facility sports wagering license upon finding that the applicant meets all requirements of this section, sections 1204 and 1205 and rules adopted under this chapter. The director may issue no more than 10 facility sports wagering licenses under this section.

2. Eligibility; transfer prohibited. To be eligible to receive a facility sports wagering license, an applicant must be:

A. A commercial track as defined in section 275-A, subsection 1 not located in Bangor;

B. A casino licensed under section 1011; or

C. An off-track betting facility licensed under section 275-D or Public Law 2019, chapter 626, section 16.

Each off-track betting facility may receive only one facility sports wagering license under this section. A facility sports wagering license may not be transferred or assigned.

3. Authority to conduct sports wagering; management services permitted. A facility sports wagering license granted by the director pursuant to this section grants a licensee lawful authority to conduct sports wagering in which wagers are placed within a physical location controlled by the licensee in the State within the terms and conditions of the license and any rules adopted under this chapter. A facility sports wagering licensee may contract with a management services licensee under section 1209.

4. Fees. The fee for an initial or renewed facility sports wagering license is \$4,000 and must be retained by the director for the costs of administering this chapter. In addition to the license fee, the director may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

5. Term of license. Except as provided in subsection 6, a license granted or renewed under this section is valid for 4 years unless sooner revoked by the director or the commissioner under section 1205. The failure of a facility sports wagering licensee to maintain its underlying off-track betting license voids the facility sports wagering license.

6. Temporary license. An applicant for a facility sports wagering license may submit with the application a request for a temporary license. A request for a temporary license must include the initial license fee of \$4,000. If the director determines that the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license and has paid the initial license fee and the director is not aware of any reason the applicant is ineligible for a license under this section, the director may issue a temporary facility sports wagering license. A temporary license issued under this subsection is valid for one year or until a final determination on the facility sports wagering license application is made, whichever is sooner. If after investigation the director determines that the applicant is eligible for a facility sports wagering license under this chapter, the director shall issue the initial facility sports wagering license, at which time the temporary license terminates. The initial facility sports wagering license is valid for 4 years from the date that the temporary license was issued by the director. Sports wagering conducted under authority of a temporary license must comply with the facility operator's house rules adopted under section 1211.

7. Occupational license required. A facility sports wagering licensee, including a temporary licensee under subsection 6, may conduct sports wagering only through persons holding a valid occupational license under section 1210.

8. Municipal control. Nothing in this chapter may be construed to restrict the authority of municipalities under municipal home rule provisions of the Constitution of Maine, including zoning and public safety authority.

§1207. Mobile sports wagering license

1. Issuance of license. The director shall issue a mobile sports wagering license upon finding that the applicant meets all requirements of this section, sections 1204 and 1205 and rules adopted under this chapter.

2. Eligibility; transfer to wholly owned entity. To be eligible to receive a mobile sports wagering license, an applicant must be a federally recognized Indian tribe in this State. Each federally recognized Indian tribe may receive only one mobile sports wagering license under this section. A mobile sports wagering license may not be transferred or assigned, except that a federally recognized Indian tribe may transfer its mobile sports wagering license to a business entity with a principal place of business in the State that is wholly owned by that federally recognized Indian tribe.

3. Authority to conduct sports wagering; management services permitted. A mobile sports wagering license granted by the director pursuant to this section grants a licensee lawful authority to conduct sports wagering in which wagers are placed by persons who are physically located in the State through any mobile applications or digital platforms approved by the director within the terms and conditions of the license and any rules adopted under this chapter. A mobile sports wagering licensee may contract with no more than one management services licensee under section 1209.

4. Fees. The fee for an initial or renewed mobile sports wagering license is \$200,000 and must be retained by the director for the costs of administering this chapter. In addition to the license fee, the director may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

5. Term of license. Except as provided in subsection 6, a license granted or renewed under this section is valid for 4 years unless sooner revoked by the director or the commissioner under section 1205.

6. Temporary license. An applicant for a mobile sports wagering license may submit with the application a request for a temporary license. A request for a temporary license must include the initial license fee of \$200,000. If the director determines that the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license and has paid the initial license fee and the director is not aware of any reason the applicant is ineligible for a license under this section, the director may issue a temporary mobile sports wagering license. A temporary license issued under this subsection is valid for one year or until a final determination on the mobile sports wagering license application is made, whichever is sooner. If after investigation the director determines that the applicant is eligible for a mobile sports wagering license under this chapter, the director shall issue the initial mobile sports wagering license, at which time the temporary license terminates. The initial mobile sports wagering license is valid for 4 years from the date that the temporary license was issued by the director. Sports wagering conducted under

authority of a temporary license must comply with the mobile operator's house rules adopted under section 1211.

7. Occupational license required. A mobile sports wagering licensee, including a temporary licensee under subsection 6, may conduct sports wagering only through persons holding a valid occupational license under section 1210.

§1208. Supplier license

1. Issuance of license; eligibility. The director shall issue a supplier license upon finding that the applicant meets all requirements of this section, sections 1204 and 1205 and rules adopted under this chapter.

2. Equipment. An applicant for a supplier license shall demonstrate that the equipment, systems or services that the applicant plans to offer to an operator conform to standards established by rule by the director. The director may accept approval by another jurisdiction that is specifically determined by the director to have similar equipment standards as evidence the applicant meets the standards established by the director by rule.

3. Authority to supply operators. A supplier license granted by the director pursuant to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems or services to operators in the State within the terms and conditions of the license and any rules adopted under this chapter.

4. Fees. The fee for an initial or renewed supplier license is \$40,000 and must be retained by the director for the costs of administering this chapter. In addition to the license fee, the director may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

5. Term of license. Except as provided in subsection 6, a license granted or renewed under this section is valid for 4 years unless sooner revoked by the director or the commissioner under section 1205.

6. Temporary license. An applicant for a supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the initial license fee of \$40,000. If the director determines that the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license and has paid the initial license fee and the director is not aware of any reason the applicant is ineligible for a license under this section, the director may issue a temporary supplier license. A temporary license issued under this subsection is valid for one year or until a final determination on the supplier license application is made, whichever is sooner. If after investigation the director determines that the applicant is eligible for a supplier license under this chapter, the director shall issue the initial supplier license, at which time the temporary license terminates. The initial supplier license is valid for 4 years from the date that the temporary license was issued by the director.

7. Inventory. A supplier licensee shall submit to the director a list of all sports wagering equipment, systems and services sold or leased to, delivered to or offered to an operator in this State as required by the director, all of which must be tested and approved by an independent testing laboratory approved by the director. An operator may continue

to use supplies acquired from a licensed supplier if the supplier's license subsequently expires or is otherwise revoked, unless the director finds a defect in the supplies.

§1209. Management services license

1. Issuance of license; eligibility. The director shall issue a management services license upon finding that the applicant meets all requirements of this section, sections 1204 and 1205 and rules adopted under this chapter and that the applicant has sufficient knowledge and experience in the business of operating sports wagering to effectively conduct sports wagering in accordance with this chapter and the rules adopted under this chapter.

2. Authority to enter contract with operator. A management services licensee may contract with an operator to manage sports wagering operations on behalf of the operator in accordance with rules adopted under this chapter.

3. Contract approval; material change in written contract. A person may not contract with an operator to conduct sports wagering on behalf of the operator unless the person is licensed under this section and the director approves the written contract. A management services licensee shall submit to the director any proposed material change to the written contract that has been approved by the director under this subsection. A management services licensee may not transfer, assign, delegate or subcontract any portion of the management services licensee's responsibilities under the contract or any portion of the management services licensee's right to compensation under the contract to any other person who does not hold a management services license.

4. Fees. The fee for an initial or renewed management services license is \$40,000 and must be retained by the director for the costs of administering this chapter. In addition to the license fee, the director may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

5. Term of license. Except as provided in subsection 6, a license granted or renewed under this section is valid for 4 years unless sooner revoked by the director or the commissioner under section 1205.

6. Temporary license. An applicant for a management services license may submit with the application a request for a temporary license. A request for a temporary license must include the initial license fee of \$40,000. If the director determines that the applicant is qualified under subsection 1, meets the requirements established by rule for a temporary license and has paid the initial license fee and the director is not aware of any reason the applicant is ineligible for a license under this section, the director may issue a temporary management services license. A temporary license issued under this subsection is valid for one year or until a final determination on the management services license application is made, whichever is sooner. If after investigation the director determines that the applicant is eligible for a management services license under this chapter, the director shall issue the initial management services license, at which time the temporary license terminates. The initial management services license is valid for 4 years from the date that the temporary license was issued by the director.

§1210. Occupational license

1. License required. A person may not be employed by an operator to be engaged directly in sports wagering-related activities or otherwise to conduct or operate sports wagering without a valid occupational license issued by the director under this section. The director shall issue an occupational license to a person who meets the requirements of this section, section 1204 and section 1205. The director shall by rule establish a process for issuance of occupational licenses that is, as far as possible, identical to the process for licensing employees of a casino under section 1015.

2. Authority to be employed in sports wagering. An occupational license authorizes the licensee to be employed by an operator in the capacity designated by the director while the license is active. The director may establish, by rule, job classifications with different requirements to recognize the extent to which a particular job has the ability to affect the proper operation of sports wagering.

3. Application and fee. Except as provided in subsection 5, an applicant shall submit any required application forms established by the director and pay a nonrefundable application fee of \$250. The fee may be paid on behalf of an applicant by the operator. Fees paid under this subsection must be retained by the director for the costs of administering this chapter.

4. Renewal fee and form. An occupational licensee must pay a fee of \$25 to renew the license for a one-year term or a fee of \$50 to renew the license for a 3-year term. The fee may be paid on behalf of the occupational licensee by the operator. In addition to a renewal fee, an occupational licensee must annually submit a renewal application on a form or in a format approved by the director. Fees paid under this subsection must be retained by the director for the costs of administering this chapter.

5. Exception. An individual who is actively licensed under section 1015 as an employee of a casino that has a facility sports wagering license may obtain or renew a license under this section without paying an initial license fee or a renewal license fee under this section.

§1211. Sports wagering house rules

1. Adoption of house rules. An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with its patrons. House rules must be approved by the director prior to implementation and meet the minimum standards established by the director by rule, including, but not limited to, requiring that the house rules specify the amounts to be paid on winning wagers and the effect of sports event schedule changes, the circumstances under which the operator will void a wager and treatment of errors, late wagers and related contingencies.

2. Advertisement of house rules. The house rules, together with any other information the director determines to be appropriate, must be advertised as required by the director by rule and must be made readily available to patrons.

§1212. Access to premises and equipment

A licensee under this chapter shall permit the director, the department or a designee of the director unrestricted access, during regular business hours, including access to locked or secured areas, to inspect any facility and any equipment, prizes, records or other items to be used in the operation of sports wagering.

§1213. Persons prohibited from making wagers on sports events

An operator and a management services licensee conducting sports wagering on behalf of an operator may not accept a wager on a sports event from the following persons:

- 1. Persons under 21 years of age.** A person who has not attained 21 years of age;
- 2. Sports event participants.** An athlete or individual who participates or officiates in the sports event that is the subject of the wager;
- 3. Operators and employees.** An operator or management services licensee; directors, officers and employees of an operator or management services licensee; or a relative living in the same household as any of these persons. This subsection does not prohibit a relative living in the same household as a director, officer or employee of an operator or management services licensee from making a sports wager with an unaffiliated operator or management services licensee;
- 4. Interested parties.** A person with an interest in the outcome of the sports event identified by the director by rule. The interested parties identified by the director by rule under this subsection may include, but are not limited to, legal or beneficial owners of or employees of a sports team participating in the event or another sports team in the same league as a sports team participating in the event as well as directors, owners or employees of the sports league conducting the event;
- 5. Unauthorized persons.** A person on a list established by rule by the director under section 1203, subsection 2, paragraph K of persons who are not authorized to make wagers on sports events;
- 6. Third parties.** A person making a wager on behalf of or as the agent or custodian of another person; and
- 7. Regulatory staff.** An employee of the Gambling Control Unit within the department.

§1214. Certain sports wagers prohibited

1. Prohibited wagers. An operator may not, with respect to a sports event of a sport governing body headquartered in the United States, offer or accept wagers on the occurrence of injuries or penalties, the outcome of player disciplinary rulings or replay reviews.

2. Request from sports governing body. A sports governing body may submit to the director in writing a request to restrict, limit or exclude a certain type, form or category of sports wagering with respect to sports events of that sports governing body if the sports governing body believes that that type, form or category of sports wagering with respect to sports events of that sports governing body may undermine the integrity or perceived integrity of that sports governing body or sports events of that sports governing body. The director shall request comment from operators on all requests under this subsection. After giving due consideration to all comments received, the director shall, upon a demonstration of good cause from the sports governing body that the type, form or category of sports wagering is likely to undermine the integrity or perceived integrity of that sports governing body or sports events of that sports governing body, grant the request. The director shall respond to a request concerning a particular event before the start of the event or, if it is not feasible to respond before the start of the event, no later than 7 days after the request is

made. If the director determines that the sports governing body is more likely than not to prevail in successfully demonstrating good cause for its request, the director may provisionally grant the request of the sports governing body until the director makes a final determination as to whether the sports governing body has demonstrated good cause. Absent such a provisional grant by the director, an operator may continue to offer sports wagering on sports events that are the subject of that request during the pendency of the director's consideration of the request.

§1215. Abnormal wagering activity

1. Duty to report. An operator shall, as soon as practicable, report to the director any information relating to abnormal wagering activity or patterns that may indicate a concern with the integrity of a sports event or any other conduct that corrupts a wagering outcome of a sports event for purposes of financial gain, including match fixing. An operator shall concurrently report that information to the relevant sports governing body.

2. Cooperation efforts. An operator shall use commercially reasonable efforts to cooperate with investigations conducted by sports governing bodies or law enforcement agencies, including but not limited to using commercially reasonable efforts to provide or facilitate the provision of wagering information.

3. Information confidentiality. The director and operators shall maintain the confidentiality of information provided by a sports governing body for purposes of investigating or preventing the conduct described in this section, unless disclosure is otherwise required by the director or by law or unless the sports governing body consents to disclosure.

4. Information use and disclosure. With respect to any information provided by an operator to a sports governing body relating to conduct described in this section, a sports governing body:

A. May use such information only for integrity-monitoring purposes and may not use the information for any commercial or other purpose; and

B. Shall maintain the confidentiality of the information, unless disclosure is otherwise required by the director or by law or unless the operator consents to disclosure, except that the sports governing body may make disclosures necessary to conduct and resolve integrity-related investigations and may publicly disclose such information if required by the sports governing body's integrity policies or if determined by the sports governing body in its reasonable judgment to be necessary to maintain the actual or perceived integrity of its sports events. Prior to any public disclosure that would identify the operator by name, the sports governing body shall provide that operator with notice of the disclosure and an opportunity to object to the disclosure.

§1216. Security, maintenance and sharing of wagering records

1. Records maintenance. An operator shall maintain for 3 years after a sports event occurs at least the following records of all wagers placed with respect to that sports event:

A. Personally identifiable information of each person placing a wager;

B. The amount and type of each wager;

C. The time each wager was placed;

- D. The location of each wager, including the Internet protocol address if applicable;
- E. The outcome of each wager; and
- F. Instances of abnormal wagering activity.

In addition, an operator shall maintain video recordings in the case of in-person wagers for at least one year after the sports event occurs. An operator shall make the records required to be maintained under this subsection available for inspection upon request of the director or as required by court order.

2. Anonymized information. An operator shall use commercially reasonable efforts to maintain, in real time and at the account level, anonymized information regarding a person who places a wager and the amount and type of the wager, the time the wager was placed, the location of the wager, including the Internet protocol address if applicable, the outcome of the wager and records of abnormal wagering activity. The director may request that information in the form and manner required by rule. Nothing in this subsection requires an operator to provide any information that is prohibited by federal or state law, including without limitation laws and rules relating to privacy and personally identifiable information.

3. Records monitoring. If a sports governing body has notified the director that access to the information described in subsection 2 for wagers placed on sports events of that sports governing body is necessary to monitor the integrity of that sports governing body's sports events, and the sports governing body represents to the director that it specifically uses that data for the purpose of monitoring the integrity of sports events of that sports governing body, then an operator shall share, in a commercially reasonable frequency, form and manner, with the sports governing body or its designee the same information the operator is required to maintain under subsection 2 with respect to sports wagers on sports events of that sports governing body. A sports governing body and its designee may use information received under this subsection only for integrity-monitoring purposes and may not use information received under this subsection for any commercial or other purpose. Nothing in this subsection requires an operator to provide any information if prohibited by federal or state law, including without limitation laws and rules relating to privacy and personally identifiable information.

4. Security. An operator shall use commercially reasonable methods to maintain the security of wagering data, customer data and other confidential information from unauthorized access and dissemination. Nothing in this chapter precludes the use of Internet-based or so-called cloud-based hosting of that data and information or disclosure as required by law.

§1217. Interception of sports wagering winnings to pay child support debt

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

- A. "Child support debt" means child support debt that has been liquidated by judicial or administrative action.
- B. "Department" means the Department of Health and Human Services.
- C. "Licensee" means a facility operator, a mobile operator or a management services licensee under section 1209.

D. "Registry operator" means the department or an entity with which the department enters into a contract to maintain the registry pursuant to subsection 3.

E. "Winner" means a sports wagering patron to whom cash is returned as winnings for placement of a sports wager.

2. Interception. A licensee shall intercept sports wagering winnings to pay child support debt in accordance with this section.

3. Registry. The department shall create and maintain, or shall contract with a private entity to create and maintain, a secure, electronically accessible registry containing information regarding individuals with outstanding child support debt. The department shall regularly enter into the registry information including:

A. The name and social security number of each individual with outstanding child support debt;

B. The account number or identifier assigned by the department to the outstanding child support debt;

C. The amount of the outstanding child support debt; and

D. Any other information necessary to effectuate the purposes of this section.

4. Electronic access to information; procedures. A licensee shall electronically access the registry in accordance with this subsection.

A. Before making a payout of winnings of an amount equal to or greater than the amount for which the licensee is required to file a Form W-2G or substantially equivalent form with the United States Internal Revenue Service, the licensee shall obtain the name, address, date of birth and social security number of the winner and shall electronically submit this information to the registry operator.

B. Upon receipt of information pursuant to paragraph A, the registry operator shall electronically inform the licensee whether the winner is listed in the registry. If the winner is listed in the registry, the registry operator shall inform the licensee of the amount of the winner's outstanding child support debt and the account number or identifier assigned to the outstanding child support debt and shall provide the licensee with a notice of withholding that informs the winner of the right to an administrative hearing.

C. If the registry operator informs the licensee that the winner is not listed in the registry or if the licensee is unable to obtain information from the registry operator on a real-time basis after attempting in good faith to do so, the licensee may make payment to the winner.

D. If the registry operator informs the licensee that the winner is listed in the registry, the licensee may not make payment to the winner unless the amount of the payout exceeds the amount of outstanding child support debt, in which case the licensee may make payment to the winner of the amount of winnings that is in excess of the amount of the winner's outstanding child support debt.

5. Lien against winnings. If the registry operator informs a licensee pursuant to this section that a winner is listed in the registry, the department has a valid lien upon and claim of lien against the winnings in the amount of the winner's outstanding child support debt.

6. Withholding of winnings. The licensee shall withhold from any winnings an amount equal to the amount of the lien created under subsection 5 and shall provide a notice of withholding to the winner. Within 7 days after withholding an amount pursuant to this subsection, the licensee shall transmit the amount withheld to the department together with a report of the name, address and social security number of the winner, the account number or identifier assigned to the debt, the amount withheld, the date of withholding and the name and location of the licensee.

7. Licensee costs. Notwithstanding subsection 6, the licensee may retain \$10 from an amount withheld pursuant to this section to cover the cost of the licensee's compliance with this section.

8. Administrative hearing. A winner from whom an amount was withheld pursuant to this section has the right, within 15 days of receipt of the notice of withholding, to request from the department an administrative hearing. The hearing is limited to questions of whether the debt is liquidated and whether any post-liquidation events have affected the winner's liability. The administrative hearing decision constitutes final agency action.

9. Authorization to provide information. Notwithstanding any provision of law to the contrary, the licensee may provide to the department or registry operator any information necessary to effectuate the intent of this section. The department or registry operator may provide to the licensee any information necessary to effectuate the intent of this section.

10. Confidentiality of information. The information obtained by the department or registry operator from a licensee pursuant to this section and the information obtained by the licensee from the department or registry operator pursuant to this section are confidential and may be used only for the purposes set forth in this section. An employee or prior employee of the department, the registry operator or a licensee who knowingly or intentionally discloses any such information commits a civil violation for which a fine not to exceed \$1,000 may be adjudged.

11. Effect of compliance; noncompliance. A licensee, the department and the registry operator are not liable for any action taken in good faith to comply with this section. A licensee who fails to make a good faith effort to obtain information from the registry operator or who fails to withhold and transmit the amount of the lien created under subsection 5 is liable to the department for the greater of \$500 and the amount the person was required to withhold and transmit to the department under this section, together with costs, interest and reasonable attorney's fees.

12. Biennial review. The department shall include in its report to the Legislature under section 1066 the following information:

A. The number of names of winners submitted by licensees to the registry operator pursuant to this section in each of the preceding 2 calendar years;

B. The number of winners who were found to be listed in the registry in each of the preceding 2 calendar years;

C. The amount of winnings withheld by licensees pursuant to this section in each of the preceding 2 calendar years; and

D. The amount of withheld winnings refunded to winners as the result of administrative hearings requested pursuant to this section in each of the preceding 2 calendar years.

§1218. Allocation of funds

1. Tax imposed; allocation of funds. An operator shall collect and distribute 10% of adjusted gross sports wagering receipts to the director to be forwarded by the director to the Treasurer of State for distribution as follows:

A. One percent of the adjusted gross sports wagering receipts must be deposited in the General Fund for the administrative expenses of the Gambling Control Unit within the department;

B. One percent of the adjusted gross sports wagering receipts must be deposited in the Gambling Addiction Prevention and Treatment Fund established by Title 5, section 20006-B;

C. Fifty-five hundredths of 1% of the adjusted gross sports wagering receipts must be paid to the State Harness Racing Commission for distribution as described in section 290, subsection 2;

D. Fifty-five hundredths of 1% of the adjusted gross sports wagering receipts must be deposited in the Sire Stakes Fund established in section 281;

E. Four-tenths of 1% of the adjusted gross sports wagering receipts must be deposited in the Agricultural Fair Promotion Fund established pursuant to Title 7, section 103; and

F. Six and one-half percent of the adjusted gross sports wagering receipts must be deposited in the General Fund.

2. Due dates; late payments. The director may adopt rules establishing the dates on which payments required by this section are due. All payments not remitted when due must be paid together with interest on the unpaid balance at a rate of 1.5% per month.

§1219. Applicability of other laws

1. Authorized conduct. The provisions of Title 17, chapter 62 and Title 17-A, chapter 39 do not apply to sports wagering conducted in accordance with this chapter and the rules adopted under this chapter.

2. Unlicensed conduct. A person who engages in an activity for which a license is required under this chapter and who does not possess the required license to engage in that activity is subject to any criminal or civil penalties that may be imposed pursuant to Title 17-A, chapter 39.

3. Unauthorized conduct by licensees. In addition to any penalties that may be imposed pursuant to section 1205, a licensee who conducts sports wagering in violation of this chapter or the rules adopted under this chapter is subject to any criminal or civil penalties that may be imposed pursuant to Title 17-A, chapter 39.

Sec. J-7. 17-A MRSA §951, as amended by PL 2017, c. 284, Pt. KKKKK, §32, is further amended to read:

§951. Inapplicability of chapter

Any person licensed or registered by the Gambling Control Unit as provided in Title 17, chapter 13-A or chapter 62, or authorized to operate or conduct a raffle pursuant to Title 17, section 1837-A; or licensed to operate sports wagering pursuant to Title 8, chapter 35 is exempt from the application of the provisions of this chapter insofar as that person's conduct is within the scope of the license or registration.

Sec. J-8. 25 MRSA §1542-A, sub-§1, ¶Z is enacted to read:

Z. Who is required to have a criminal history record check under Title 8, section 1204.

Sec. J-9. 25 MRSA §1542-A, sub-§3, ¶Y is enacted to read:

Y. The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph Z at the request of that person or the director of the Gambling Control Unit within the Department of Public Safety and upon payment of the fee established by the director of the Gambling Control Unit pursuant to Title 8, section 1204, subsection 3.

Sec. J-10. 30 MRSA Pt. 5 is enacted to read:

PART 5

FEDERALLY RECOGNIZED INDIAN TRIBES

CHAPTER 701

RIGHTS OF FEDERALLY RECOGNIZED INDIAN TRIBES

§8001. Mobile gaming

1. Legislative purpose. The Legislature finds and declares that the conduct of mobile gaming will, if conducted by federally recognized Indian tribes in the State, serve as an effective economic development tool for tribal governments and provide economic stimulus to rural areas of the State. The purpose of this section is to ensure that each federally recognized Indian tribe in this State has the right to conduct all forms of mobile gaming newly authorized in this State on or after the effective date of this section.

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

A. "Gambling" has the same meaning as in Title 17-A, section 952, subsection 4.

B. "Lawful gambling activity" means any type of gambling authorized under the laws of this State, including, but not limited to, the gambling activities described in Title 8, section 1001, subsection 15.

C. "Mobile gaming" means lawful gambling activity conducted through mobile applications or other digital platforms that involve, at least in part, the use of the Internet.

3. Authority to conduct mobile gaming. Notwithstanding any provision of law to the contrary, a federally recognized Indian tribe in this State has the same right as any other person or entity to obtain any license, permit or registration to conduct mobile gaming

under a law of this State enacted on or after the effective date of this section as long as the federally recognized Indian tribe meets all of the qualifications for the license, permit or registration, except that the federally recognized Indian tribe is not required to meet any requirement:

A. That the federally recognized Indian tribe is unable to meet due to its status as a federally recognized Indian tribe; or

B. That an applicant possess another type of gambling or wagering license, registration or permit.

Sec. J-11. Emergency rules. The director of the Gambling Control Unit within the Department of Public Safety may adopt emergency rules under the Maine Revised Statutes, Title 5, section 8054 as necessary to implement this Part without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health, safety or general welfare.

PART K

Sec. K-1. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Gambling Control Board Z002

Initiative: Provides funding for one Public Safety Manager II position, one Public Safety Inspector I position and associated All Other costs.

| GENERAL FUND | 2021-22 | 2022-23 |
|-------------------------------|----------------|------------------|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 2.000 |
| Personal Services | \$0 | \$194,445 |
| All Other | \$0 | \$12,578 |
| GENERAL FUND TOTAL | \$0 | \$207,023 |

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS

| | 2021-22 | 2022-23 |
|-------------------------------------|----------------|------------------|
| GENERAL FUND | \$0 | \$207,023 |
| DEPARTMENT TOTAL - ALL FUNDS | \$0 | \$207,023 |

TREASURER OF STATE, OFFICE OF

Maliseet Sales Tax Fund N952

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

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

Penobscot Sales Tax Fund N951

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

| | 2021-22 | 2022-23 |
|--|----------------|----------------|
| OTHER SPECIAL REVENUE FUNDS | | |
| All Other | \$0 | \$500 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | <u>\$0</u> | <u>\$500</u> |

TREASURER OF STATE, OFFICE OF DEPARTMENT TOTALS

| | 2021-22 | 2022-23 |
|-------------------------------------|----------------|----------------|
| OTHER SPECIAL REVENUE FUNDS | \$0 | \$1,000 |
| DEPARTMENT TOTAL - ALL FUNDS | <u>\$0</u> | <u>\$1,000</u> |

SECTION TOTALS

| | 2021-22 | 2022-23 |
|------------------------------------|----------------|------------------|
| GENERAL FUND | \$0 | \$207,023 |
| OTHER SPECIAL REVENUE FUNDS | \$0 | \$1,000 |
| SECTION TOTAL - ALL FUNDS | <u>\$0</u> | <u>\$208,023</u> |

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

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**

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

Sec. 1. 12 MRSA §685-C, sub-§10, as enacted by PL 1997, c. 739, §1, is amended to read:

10. Operating a personal watercraft. Operating a personal watercraft is prohibited on the following categories of great ponds:

A. Great ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission pursuant to subsection 1 as being not accessible within 1/4 mile by 2-wheel drive vehicles, with less than one development unit per mile, and at least one outstanding resource value;

B. Great ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission as being accessible within 1/4 mile by 2-wheel drive vehicles, with less than one development unit per mile, with 2 or more outstanding resource values in fisheries, wildlife, scenic or shore character;

C. Great ponds and smaller ponds located entirely or partly within the jurisdiction of the commission that are identified in an official comprehensive land use plan adopted by the commission as being not accessible within 1/2 mile by 2-wheel drive vehicles, with no more than one noncommercial remote camp and with a cold water game fishery; and

D. Great ponds with less than all but more than 2/3 of their surface area in or partly in the jurisdiction of the commission that are identified as being of statewide significance in the "Maine Wildlands Lake Assessment" dated June 1, 1987 prepared by the commission, with 2 or more outstanding resource values in fisheries, wildlife, scenic or shore character and with more than 1/2 of their shoreline in public and private conservation ownership with guaranteed public access for low-impact public recreation.

The commission shall implement this subsection by rule adopted in accordance with section 685-A. Rules adopted to implement this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A ~~2-A~~.

~~This section does not apply to any waters subject to regulation by the Maine Indian Tribal-State Commission under Title 30, section 6207, subsection 3-A.~~

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

§6202. Legislative findings and declaration of policy

The Legislature finds and declares the following.

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

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

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

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

~~The foregoing agreement between the Indian claimants and the State also represents a good faith effort by the Indian claimants and the State to achieve a just and fair resolution of their disagreement over jurisdiction on the present Passamaquoddy and Penobscot Indian reservations and in the claimed areas. To that end, the Passamaquoddy Tribe and the Penobscot Nation have agreed to adopt the laws of the State as their own to the extent provided in this Act. The Houlton Band of Maliseet Indians and its lands will be wholly subject to the laws of the State.~~

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

1. Rights, privileges, powers, duties and immunities. The purpose of the amendments to this Act enacted in 2021 is to establish that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians enjoy rights, privileges,

powers, duties and immunities similar to those of other federally recognized Indian tribes within the United States.

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.

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

§6203. Definitions

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

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

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.

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

~~**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.~~

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.

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

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

4-A. Nontribal citizen or nonmember. "Nontribal citizen" or "nonmember" means a person or entity that is not a member of the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians and is not a tribal entity.

5. Passamaquoddy Indian Reservation. "Passamaquoddy Indian Reservation" means those lands reserved to the Passamaquoddy Tribe by agreement with the State Commonwealth of Massachusetts dated September 19, 1794, excepting any parcel within such lands transferred to a person or entity other than a member of the Passamaquoddy Tribe subsequent to such agreement and prior to ~~the effective date of this Act~~ October 10, 1980. If any lands reserved to the Passamaquoddy Tribe by the aforesaid agreement hereafter are acquired by the Passamaquoddy Tribe, or the secretary on its behalf, that land ~~shall~~ must be included within the Passamaquoddy Indian Reservation. For purposes of this subsection, the lands reserved to the Passamaquoddy Tribe by the aforesaid agreement ~~shall~~ be are limited to Indian Township in Washington County; Pine Island, sometimes referred to as Taylor's Island, located in Big Lake, in Washington County; 100 acres of land located on Nemcass Point, sometimes referred to as Governor's Point, located in Washington County and shown on a survey of John Gardner ~~which that~~ is filed in the Maine State Archives, Executive Council Records, Report Number 264 and dated June 5, 1855; 100 acres of land located at Pleasant Point in Washington County as described in a deed to Captain John Frost from Theodore Lincoln, Attorney for Benjamin Lincoln, Thomas Russell, and John Lowell dated July 14, 1792, and recorded in the Washington County Registry of Deeds on April 27, 1801, at Book 3, Page 73; and those 15 islands in the St. Croix River in existence on September 19, 1794 and located between the head of the tide of that river and the falls below the forks of that river, both of which points are shown on a 1794 plan of Samuel Titcomb ~~which that~~ is filed in the Maine State Archives in Maine Land Office Plan Book Number 1, page 33. The "Passamaquoddy Indian Reservation" includes those lands ~~which that~~ have been or may be acquired by the Passamaquoddy Tribe within that portion of the Town of Perry ~~which that~~ lies south of Route 1 on the east side of Route 190 and south of lands now owned or formerly owned by William Follis on the west side of Route 190, ~~provided that no such lands may be included in the Passamaquoddy Indian Reservation until the Secretary of State receives certification from the treasurer of the Town of Perry that the Passamaquoddy Tribe has paid to the Town of Perry the amount~~

of \$350,000, provided that the consent of the Town of Perry would be voided unless the payment of the \$350,000 is made within 120 days of the effective date of this section. Any commercial development of those lands must be by approval of the voters of the Town of Perry with the exception of land development currently in the building stages.

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

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

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

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

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

9. Penobscot Indian territory. "Penobscot Indian territory" means that territory defined by section 6205, subsection 2.

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

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

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

13. Transfer. "Transfer" includes, but is not necessarily limited to, any voluntary or involuntary sale, grant, lease, allotment, partition or other conveyance; any transaction the

purpose of which was to effect a sale, grant, lease, allotment, partition or other conveyance; and any act, event or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or other natural resources.

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.

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

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

§6205. Indian territory

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

A. The Passamaquoddy Indian Reservation;

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

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

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

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

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

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

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

(a) Under which the Passamaquoddy Tribe is required:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The Penobscot Indian Reservation; and

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

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

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

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

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

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

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

(a) Under which the Penobscot Nation is required:

(i) To make an annual payment in lieu of taxes on the land that equals the amount of taxes levied on that land by the relevant taxing authority for the

benefit of the relevant city, town, village or plantation immediately prior to the date on which the Penobscot Nation acquires the land; or

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

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

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

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

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

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

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

3. Takings under the laws of the State.

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

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

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

~~**4. Taking under the laws of the United States.** In the event of a taking of land within the Passamaquoddy Indian territory or the Penobscot Indian territory for public uses in accordance with the laws of the United States and the reinvestment of the moneys received from such taking within 2 years of the date on which the moneys are received, the status of the lands acquired by such reinvestment shall 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 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 no lands within any city, town, village or plantation shall be added to either the Passamaquoddy Indian territory or the Penobscot Indian territory~~

without approval of the legislative body of said city, 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 status prior to the inclusion thereof within Indian territory.

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

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

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

Sec. 8. 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 respective Indian territories and the residents thereof. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the respective tribe or nation nonetheless shall be equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services which are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and shall be entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory that federally recognized Indian tribes and their members generally have or exercise under federal Indian law, including laws and regulations of the United States enacted for the benefit of Indians, Indian nations or tribes or bands of Indians and laws and regulations 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 held in trust for Indians.~~

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

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

~~A. Section 6209-A.~~

~~B. Section 6209-B.~~

Sec. 9. 30 MRSA §6206-A, as enacted by PL 1981, c. 675, §§3 and 8, is repealed.

Sec. 10. 30 MRSA §6206-B, as amended by PL 2009, c. 384, Pt. A, §1 and affected by §4, is repealed.

Sec. 11. 30 MRSA §6207, as amended by PL 1997, c. 739, §12 and affected by §§13 and 14, is further amended to read:

§6207. Regulation of fish fishing, hunting, trapping and other taking of wildlife resources

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

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

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

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

1-A. Jurisdiction of tribes. Except as otherwise specified in subsections 2-A and 3, the State recognizes the exclusive jurisdiction that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians have under federal Indian law to regulate fishing, hunting, trapping and other taking of wildlife within the boundaries of their respective Indian territory or trust land by:

A. Tribal members of any federally recognized Indian tribes; and

B. Nontribal citizens.

2. Registration stations. ~~The Passamaquoddy Tribe and the Penobscot Nation shall establish and maintain registration stations for the purpose of registering bear, moose, deer and other wildlife killed within their respective Indian territories and shall adopt ordinances requiring registration of such wildlife to the extent and in substantially the same manner as such wildlife are required to be registered under the laws of the State. These ordinances requiring registration shall be equally applicable to all persons without distinction based on tribal membership. The Passamaquoddy Tribe and the Penobscot Nation shall report the deer, moose, bear and other wildlife killed and registered within their respective Indian territories to the Commissioner of Inland Fisheries and Wildlife of the State at such times as the commissioner deems appropriate. The records of registration of the Passamaquoddy Tribe and the Penobscot Nation shall be available, at all times, for inspection and examination by the commissioner.~~

2-A. Regulation by State solely for conservation purposes. Solely for conservation purposes, the State has jurisdiction with respect to the regulation of fishing, hunting, trapping and other taking of wildlife by Indians off Indian territory or trust land to the extent permitted under federal Indian law and in a manner consistent with reserved tribal treaty rights.

3. Adoption of regulations rules by the commission. ~~Subject to the limitations of subsection 6~~ Except as provided in subsection 4 with respect to sustenance fishing by tribal members within the boundaries of their respective Indian territory or trust land that is

subject to the exclusive jurisdiction of the respective tribe, nation or band, the commission shall have ~~has~~ exclusive authority to ~~promulgate~~ adopt fishing rules ~~or regulations~~ on for:

- A. Any pond 50% or more of the linear shoreline of which is within Indian territory or trust land, other than those specified in subsection 1, paragraph B, 50% or more of the linear shoreline of which is ponds in which all the shoreline and all submerged lands are wholly within Indian territory or trust land and that are less than 10 acres in surface area;
- B. Any section of a river or stream both sides of which are within Indian territory or trust land; and
- C. Any section of a river or stream one side of which is within Indian territory or trust land for a continuous length of 1/2 mile or more.

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

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

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

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

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

5. Posting. Lands or waters subject to regulation by the commission, the Passamaquoddy Tribe ~~or the Penobscot Nation~~ shall or the Houlton Band of Maliseet

Indians must be conspicuously posted in such a manner as to provide reasonable notice to the public of the limitations on hunting, trapping, fishing or other use of such lands or waters.

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

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

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

~~8. **Fish and wildlife on non-Indian lands** Indian territory or trust land. The commission shall undertake appropriate studies, consult with the Passamaquoddy Tribe ~~and~~ the Penobscot Nation and the Houlton Band of Maliseet Indians and landowners and state officials, and make recommendations to the ~~commissioner~~ Commissioner of Inland Fisheries and Wildlife and the Legislature with respect to implementation of fish and~~

wildlife management policies on ~~non-Indian~~ nontribal lands in order to protect fish and wildlife stocks on lands and water subject to regulation by the Passamaquoddy Tribe, the Penobscot Nation, ~~the Houlton Band of Maliseet Indians~~ or the commission.

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

Sec. 12. 30 MRSA §6207-A is enacted to read:

§6207-A. Land use and natural resources

The State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to United States Public Law 96-420 to recognize that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians have the authority to regulate natural resources and land use within the boundaries of their respective Indian territory or trust land to the extent provided in federal Indian law.

Sec. 13. 30 MRSA §6208, as amended by PL 2009, c. 384, Pt. A, §2 and affected by §4, is further amended to read:

§6208. Taxation

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

~~**2. Property taxes.** The Passamaquoddy Tribe and the Penobscot Nation shall make payments in lieu of taxes on all real and personal property within their respective Indian territory in an amount equal to that which would otherwise be imposed by a county, a district, the State, or other taxing authority on such real and personal property provided, however, that any real or personal property within Indian territory used by either tribe or nation predominantly for governmental purposes shall be exempt from taxation to the same extent that such real or personal property owned by a municipality is exempt under the laws of the State. The Houlton Band of Maliseet Indians shall make payments in lieu of taxes on Houlton Band Trust Land in an amount equal to that which would otherwise be imposed by a municipality, county, district, the State or other taxing authority on that land or natural resource. Any other real or personal property owned by or held in trust for any Indian, Indian Nation or tribe or band of Indians and not within Indian territory, shall be subject to levy and collection of real and personal property taxes by any and all taxing authorities, including but without limitation municipalities, except that such real and personal property owned by or held for the benefit of and used by the Passamaquoddy Tribe or the Penobscot Nation predominantly for governmental purposes shall be exempt from property taxation to the same extent that such real and personal property owned by a municipality is exempt under the laws of the State.~~

~~**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.

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

4. Exclusive jurisdiction; tribal members, tribal entities. 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 authority of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to exercise exclusive jurisdiction to tax tribal members and tribal entities on their respective Indian territory and trust land.

5. Not subject to state and local sales taxation. 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 right of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their tribal members and tribal entities to not be subject to state or local sales taxation on their respective Indian territory and trust land.

6. Not subject to state income tax. For taxable years beginning January 1, 2023, 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 right of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their tribal members and tribal entities who reside on Indian territory or trust land of their respective tribe, nation or band to not be subject to state tax for income earned on their respective Indian territory or trust land.

7. Not subject to state and local real property tax. 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 right of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their tribal members and tribal entities to not have their respective Indian territory or trust land be subject to state or local real property tax.

8. Concurrent jurisdiction to tax nontribal citizens. 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 authority of:

A. The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to exercise concurrent jurisdiction to tax nontribal citizens on their respective Indian territory or trust land; and

B. State and local governments to exercise concurrent jurisdiction to tax nontribal citizens on Indian territory or trust land unless the State's or local government's jurisdiction is preempted.

9. Sales tax; income tax; rule-making authority. This subsection applies to sales tax and income tax based on sales on, in, into, from or otherwise sourced to or income earned on or from activities on or otherwise sourced to Indian territory or trust land of the tribe, nation or band.

A. Notwithstanding any other provision of this Act, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their respective tribal members and tribal entities:

(1) Are exempt from state sales tax for sales on, in, into, from or otherwise sourced to their respective Indian territory or trust land; and

(2) Are exempt from state income tax on income earned on or from activities on or otherwise sourced to their respective Indian territory or trust land, as long as the tribal member or tribal entity resides on that Indian territory or trust land.

B. The State shall make payments to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians of the amounts of revenue attributable to the sales tax on nonmembers collected for sales on, in, into, from or otherwise sourced to their respective Indian territory or trust land, reduced by the transfer to the Local Government Fund provided for by Title 30-A, section 5681.

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

D. The Department of Administrative and Financial Services, Maine Revenue Services may adopt rules to implement this section and shall confer with the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians regarding any proposed rules. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 14. 30 MRSA §6208-A, as enacted by PL 1981, c. 675, §§7 and 8, is repealed.

Sec. 15. 30 MRSA §6209-A, as amended by PL 2019, c. 621, Pt. D, §§1 to 4 and affected by §5, is further amended to read:

§6209-A. Jurisdiction of the Passamaquoddy Tribal Court

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~~

Class C, D and E crimes committed on the Indian reservation of the within Passamaquoddy Tribe Indian territory by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group. The Passamaquoddy Tribe may not deny to any criminal defendant prosecuted under this paragraph for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c);

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 the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation ~~on the reservation of the within~~ Passamaquoddy Tribe ~~Indian territory~~;

C. Civil actions between members of 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 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 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 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, or 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.~~

1-A. Concurrent jurisdiction over certain criminal offenses. The Passamaquoddy Tribe has the right to exercise jurisdiction, concurrently with the State, over the following ~~Class D crimes committed by a person on the Passamaquoddy Indian Reservation or on lands taken into trust by the secretary for the benefit of the Passamaquoddy Tribe, now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized~~

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

A. Class D crimes set out under Title 17-A, sections 207 A, 209 A, 210 B, 210 C and 211 A and Title 19 A, section 4011 committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group on the Passamaquoddy Indian territory against a person or property of a person who is a member of a federally recognized Indian tribe, nation, band or other group. The concurrent jurisdiction authorized by this paragraph does not include offenses committed by a juvenile; and

B. Class C, D and E crimes committed within Passamaquoddy Indian territory by a member of a federally recognized Indian tribe, nation, band or other group committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group.

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2, the Passamaquoddy Tribe may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.

In exercising the concurrent jurisdiction authorized by this subsection, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Passamaquoddy Tribe has concurrent jurisdiction under this subsection are governed by the laws of the State, except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7). Issuance and execution of criminal process also are governed by the laws of the State.

1-B. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B and subsection 1-A, all laws of the State relating to crimes and juvenile crimes apply within Passamaquoddy Indian territory and the State has exclusive jurisdiction over those offenses and crimes. Nothing in subsection 1 or 1-A affects, alters or preempts the ability or authority of the Attorney General to investigate or prosecute any conduct occurring in the State, including on Passamaquoddy Indian territory.

2. Definitions of crimes; tribal procedures. In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the ~~criminal offenses~~ crimes and juvenile crimes and the punishments applicable to those ~~criminal offenses~~ crimes and juvenile crimes over which the Passamaquoddy Tribe has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State, except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7). The procedures for the establishment and operation of tribal forums created to effectuate

the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Passamaquoddy Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Passamaquoddy Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Passamaquoddy Tribe's exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Passamaquoddy Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

3. Lesser included criminal offenses in state courts. In any criminal proceeding in the courts of the State in which a ~~criminal offense~~ crime or juvenile crime under the exclusive jurisdiction of the Passamaquoddy Tribe constitutes a lesser included criminal offense of the ~~criminal offense~~ crime or juvenile crime charged, the defendant may be convicted or the juvenile adjudicated in the courts of the State of the lesser included criminal offense. A lesser included criminal offense is as defined under the laws of the State.

4. Double jeopardy; collateral estoppel. A prosecution for a ~~criminal offense~~ crime or juvenile crime over which the Passamaquoddy Tribe has exclusive jurisdiction under this section does not bar a prosecution for a ~~criminal offense~~ crime or juvenile crime, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a ~~criminal offense~~ crime over which the Passamaquoddy Tribe has concurrent jurisdiction under this section does not bar a prosecution for a ~~criminal offense~~ crime, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a ~~criminal offense~~ crime over which the State has concurrent jurisdiction under this section does not bar a prosecution for a ~~criminal offense~~ crime, arising out of the same conduct, over which the Passamaquoddy Tribe has exclusive jurisdiction. A prosecution for a ~~criminal offense~~ crime or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a ~~criminal offense~~ crime or juvenile crime, arising out of the same conduct, over which the Passamaquoddy Tribe has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a Passamaquoddy 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 Passamaquoddy tribal forum.

4-A. Civil adjudicatory jurisdiction over matters arising on Passamaquoddy Indian territory. The State and the Passamaquoddy Tribe 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 authority of the Passamaquoddy Tribe to exercise adjudicatory jurisdiction over civil actions arising on Passamaquoddy Indian territory. The courts of the State have adjudicatory jurisdiction over civil actions arising on Passamaquoddy Indian territory to the extent provided by federal Indian law or as otherwise provided in this Act.

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

Sec. 16. 30 MRSA §6209-B, as amended by PL 2019, c. 621, Pt. C, §§1 to 3 and affected by §4, is further amended to read:

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

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Penobscot Nation 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 Class C, D and E crimes committed on the Indian reservation of the within Penobscot Nation Indian territory~~ by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group. The Penobscot Nation may not deny to any criminal defendant prosecuted under this paragraph for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c);

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation 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 Indian reservation of the within Penobscot Nation Indian territory;~~

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 Penobscot Nation 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 Penobscot Nation 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 on the Indian reservation of the Penobscot Nation.

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Penobscot Nation chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, or 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 Penobscot Indian reservation and the State has exclusive jurisdiction over those offenses and crimes.~~

1-A. Concurrent jurisdiction over certain criminal offenses. The Penobscot Nation has the right to exercise jurisdiction, concurrently with the State, over the following ~~Class D crimes committed by a person on the Penobscot Indian Reservation or on lands taken into trust by the secretary for the benefit of the Penobscot Nation now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group against the person or property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group.~~

A. Class D crimes set out under Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011 committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group on the Penobscot Indian territory against a person or property of a person who is a member of a federally recognized Indian tribe, nation, band or other group. The concurrent jurisdiction authorized by this paragraph does not include offenses committed by a juvenile; and

B. Class C, D and E crimes committed within Penobscot Indian territory by a member of a federally recognized Indian tribe, nation, band or other group committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group.

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2, the Penobscot Nation may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on

the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.

In exercising the concurrent jurisdiction authorized by this subsection, the Penobscot Nation is deemed to be enforcing Penobscot tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Penobscot Nation has concurrent jurisdiction under this subsection are governed by the laws of the State, except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7). Issuance and execution of criminal process also are governed by the laws of the State.

1-B. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B and subsection 1-A, all laws of the State relating to crimes and juvenile crimes apply within Penobscot Indian territory and the State has exclusive jurisdiction over those offenses and crimes. Nothing in subsection 1 or 1-A affects, alters or preempts the ability or authority of the Attorney General to investigate or prosecute any conduct occurring in the State, including on Penobscot Indian territory.

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

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Penobscot Nation Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Penobscot Nation Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Penobscot Nation's exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Penobscot Nation Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

3. Lesser included criminal offenses in state courts. In any criminal proceeding in the courts of the State in which a ~~criminal offense~~ crime or juvenile crime under the exclusive jurisdiction of the Penobscot Nation constitutes a lesser included criminal offense

of the ~~criminal offense crime~~ or juvenile crime charged, the defendant may be convicted or the juvenile adjudicated in the courts of the State of the lesser included criminal offense. A lesser included criminal offense is as defined under the laws of the State.

4. Double jeopardy; collateral estoppel. A prosecution for a ~~criminal offense crime~~ or juvenile crime over which the Penobscot Nation has exclusive jurisdiction under this section does not bar a prosecution for a ~~criminal offense crime~~ or juvenile crime, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a ~~criminal offense crime~~ over which the Penobscot Nation has concurrent jurisdiction under this section does not bar a prosecution for a ~~criminal offense crime~~, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a ~~criminal offense crime~~ over which the State has concurrent jurisdiction under this section does not bar a prosecution for a ~~criminal offense crime~~, arising out of the same conduct, over which the Penobscot Nation has exclusive jurisdiction. A prosecution for a ~~criminal offense crime~~ or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a ~~criminal offense crime~~ or juvenile crime, arising out of the same conduct, over which the Penobscot Nation 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.

4-A. Civil adjudicatory jurisdiction over matters arising on Penobscot Indian territory. The State and the Penobscot Nation 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 authority of the Penobscot Nation to exercise adjudicatory jurisdiction over civil actions arising on Penobscot Indian territory. The courts of the State have adjudicatory jurisdiction over civil actions arising on Penobscot Indian territory to the extent provided by federal Indian law or as otherwise provided in this Act.

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

Sec. 17. 30 MRSA §6209-C, as corrected by RR 2011, c. 1, §45, is amended 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~~

Class C, D and E crimes committed on the Houlton Band Jurisdiction Trust Land by a member of the Houlton Band of Maliseet Indians a federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of the Houlton Band of Maliseet Indians any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of the Houlton Band of Maliseet Indians any federally recognized Indian tribe, nation, band or other group. The Houlton Band of Maliseet Indians may not deny to any criminal defendant prosecuted under this paragraph for a Class C crime the rights and protections enumerated in 25 United States Code, Section 1302(c);

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, the Houlton Band of Maliseet Indians or the Penobscot Nation on the Houlton Band ~~Jurisdiction~~ Trust Land;

C. Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation arising on the Houlton Band ~~Jurisdiction~~ Trust Land and cognizable as small claims under the laws of the State and civil actions against a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383 involving conduct on the Houlton Band ~~Jurisdiction~~ Trust Land by a member of 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 the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation, both of whom reside within the Houlton Band ~~Jurisdiction~~ Trust 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.~~

~~**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.~~

~~**1-B. 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.~~

1-C. Concurrent jurisdiction over certain criminal offenses. The Houlton Band of Maliseet Indians has the right to exercise jurisdiction, concurrently with the State, over the following crimes:

A. Class D crimes set out under Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011 committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group on the Houlton Band Trust Land against a person or property of a person who is a member of a federally recognized Indian tribe, nation, band or other group. The concurrent jurisdiction authorized by this paragraph does not include offenses committed by a juvenile; and

B. Class C, D and E crimes committed within Houlton Band Trust Land by a member of a federally recognized Indian tribe, nation, band or other group committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group.

The governing body of the Houlton Band of Maliseet Indians shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2, the Houlton Band of Maliseet Indians may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the

prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily.

In exercising the concurrent jurisdiction authorized by this subsection, the Houlton Band of Maliseet Indians is deemed to be enforcing Houlton Band tribal law. The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Houlton Band of Maliseet Indians has concurrent jurisdiction under this subsection are governed by the laws of the State, except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7). Issuance and execution of criminal process also are governed by the laws of the State.

1-D. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B and subsection 1-C, all laws of the State relating to crimes and juvenile crimes apply within Houlton Band Trust Land and the State has exclusive jurisdiction over those offenses and crimes. Nothing in subsection 1 or 1-C affects, alters or preempts the ability or authority of the Attorney General to investigate or prosecute any conduct occurring in the State, including on Houlton Band Trust Land.

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~~ crimes and juvenile crimes and the punishments applicable to those ~~criminal offenses~~ crimes 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, except that the punishments imposed may not exceed the maximum punishments set forth in 25 United States Code, Section 1302(a)(7). 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.

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Houlton Band of Maliseet Indians Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Houlton Band of Maliseet Indians Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Houlton Band of Maliseet Indians' exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Houlton Band of Maliseet Indians Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

3. Lesser included criminal offenses in state courts. In any criminal proceeding in the courts of the State in which a ~~criminal offense~~ crime or juvenile crime under the

exclusive jurisdiction of the Houlton Band of Maliseet Indians constitutes a lesser included criminal offense of the ~~criminal offense~~ crime or juvenile crime charged, the defendant may be convicted or the juvenile adjudicated in the courts of the State of the lesser included criminal offense. A lesser included criminal offense is as defined under the laws of the State.

4. Double jeopardy; collateral estoppel. A prosecution for a ~~criminal offense~~ crime 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~~ crime or juvenile crime arising out of the same conduct over which the State has exclusive jurisdiction. A prosecution for a crime over which the Houlton Band of Maliseet Indians has concurrent jurisdiction under this section does not bar a prosecution for a crime, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a crime over which the State has concurrent jurisdiction under this section does not bar a prosecution for a crime, arising out of the same conduct, over which the Houlton Band of Maliseet Indians has exclusive jurisdiction. A prosecution for a ~~criminal offense~~ crime or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a ~~criminal offense~~ crime 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 applicable 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.~~

5-A. Civil adjudicatory jurisdiction over matters arising on Houlton Band Trust Land. The State 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 authority of the Houlton Band of Maliseet Indians to exercise adjudicatory jurisdiction over civil actions arising on Houlton Band Trust Land. The courts of the State have adjudicatory jurisdiction over civil actions arising on Houlton Band Trust Land to the extent provided by federal Indian law or as otherwise provided in this Act.

~~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. 18. 30 MRSA §6209-D, as enacted by PL 2009, c. 384, Pt. C, §1 and affected by §2, is amended 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 Passamaquoddy Tribe, the Penobscot Nation and 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.~~

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

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

Sec. 19. 30 MRSA §6210, as amended by PL 2019, c. 621, Pt. A, §2 and affected by §3 and amended by Pt. B, §2 and affected by §3, is further amended to read:

§6210. Law enforcement on ~~Indian reservations and within~~ Houlton Band Trust Land, Passamaquoddy Indian territory and Penobscot Indian territory

1. Exclusive authority of tribal law enforcement officers. Law enforcement officers appointed by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation have exclusive authority to enforce, ~~within their respective Indian territories, ordinances adopted under section 6206 and section 6207, subsection 1, and to enforce,~~ on their respective Indian ~~reservations, territory or trust land~~ the criminal, juvenile, civil and domestic relations laws over which the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section 6209-A, subsection 1 ~~and~~ section 6209-B, subsection 1, ~~respectively~~ and section 6209-C, subsection 1.

1-A. Appointment of tribal law enforcement officers. The Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation may appoint law enforcement officers who have the authority to enforce the laws of the State that are applicable within Indian territory or trust land. This subsection does not limit the appointment or authority of tribal officers under tribal law or affect the performance of federal duties by tribal officers.

2. Joint authority of tribal and state law enforcement officers. Law enforcement officers appointed by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation have the authority within their respective Indian territories or trust land and state and county law enforcement officers have the authority within ~~both~~ Indian territories territory or trust land to enforce rules ~~or regulations~~ adopted by the commission under section 6207, subsection 3 and to enforce all laws of the State ~~other than those~~ over which the ~~Passamaquoddy Tribe or the Penobscot Nation~~ State has exclusive or concurrent

jurisdiction under section 6209-A, ~~subsection 1 and~~ subsections 1-A and 1-B, section 6209-B, ~~subsection 1,~~ respectively subsections 1-A and 1-B and section 6209-C, subsections 1-C and 1-D.

3. Agreements for cooperation and mutual aid. This section does not prevent the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law enforcement agency from entering into agreements for cooperation and mutual aid.

4. Powers and training requirements. ~~Law~~ When enforcing applicable state law, law enforcement officers appointed by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation possess the same powers and are subject to the same duties, limitations and training requirements as other corresponding law enforcement officers under the laws of the State.

4-A. Reports to the State Bureau of Identification by Passamaquoddy Tribe. Passamaquoddy Tribe law enforcement agencies shall submit to the Department of Public Safety, State Bureau of Identification uniform crime reports and other information required by Title 25, section 1544.

5. Reports to the State Bureau of Identification by Penobscot Nation. Penobscot Nation law enforcement agencies shall submit to the Department of Public Safety, State Bureau of Identification uniform crime reports and other information required by Title 25, section 1544.

6. Reports to the State Bureau of Identification by Houlton Band of Maliseet Indians. Houlton Band of Maliseet Indians law enforcement agencies shall submit to the Department of Public Safety, State Bureau of Identification uniform crime reports and other information required by Title 25, section 1544.

Sec. 20. 30 MRSA §6211, sub-§1, as amended by PL 2009, c. 384, Pt. A, §3 and affected by §4, is further amended to read:

1. Eligibility generally. The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians are eligible for participation and entitled to receive benefits from the State under any state program that provides financial assistance to all municipalities as a matter of right. Such entitlement must be determined using statutory criteria and formulas generally applicable to municipalities in the State. To the extent that any such program requires municipal financial participation as a condition of state funding, the share for the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians may be raised through any source of revenue available to the respective tribe, nation or band, including ~~but~~ without limitation taxation to the extent authorized within its respective Indian territory or trust land. In the event that any applicable formula regarding distribution of money employs a factor for the municipal real property tax rate, and in the absence of such tax within the Indian territory or trust land, the formula applicable to such Indian territory or trust land 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 money employs a factor representing municipal valuation, the valuation applicable to such Indian territory or trust land must be determined by the State Tax Assessor in the manner generally provided by the laws of the State as long as property owned by or held in trust for a tribe,

nation or band and used for governmental purposes is treated for purposes of valuation as like property owned by a municipality.

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

§6213. Approval of prior transfers

1. Approval of tribal transfers. Any transfer of land or other natural resources located anywhere within the State, from, by, or on behalf of any Indian nation, or tribe or band of Indians, including ~~but~~ without limitation any transfer pursuant to any treaty, compact or statute of any state, ~~which transfer that occurred prior to the effective date of this Act~~ October 10, 1980, shall be is deemed to have been made in accordance with the laws of the State.

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

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

§6214. Tribal school committees

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

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

§6215. Civil jurisdiction

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

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

including state and local civil regulatory jurisdiction, on their respective Indian territory or trust land.

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

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

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

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

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

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

Sec. 25. 30 MRSA §6217 is enacted to read:

§6217. Consultation with tribes prior to state agency action

1. Consultation required. A state agency shall consult with the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, referred to collectively in this section as "the tribes" and individually as "tribe," in connection with a proposed action. For the purposes of this section, "proposed action" means a proposal by a state agency to develop rules, legislation or other policy statements or actions by a state agency, including but not limited to guidance documents and directives, that may directly and substantially affect one or more of the tribes, including tribal rights in land or other natural resources, the relationship between the State and the tribes or the jurisdiction and responsibilities of the State and the tribes with respect to one another.

2. Request for consultation. To promote effective communication and positive government-to-government relationships, a state agency shall request a government-to-government consultation with each tribe that may be affected by a proposed action.

A. A request for consultation must be sent by certified mail and e-mail to the chief of each tribe and to a person designated by each tribe to receive consultation requests. The request must provide no less than 30 days from the date of the actual receipt or 35 days after the date of mailing, whichever is earlier, for the tribe to either elect to engage in or decline consultation. The request must provide clear information about the proposed action, clearly state the deadline and preferred method for response and provide contact information for the tribal liaison under subsection 5.

B. If a statute of limitations, court rule or other law or rule requires a proposed action to be resolved in less than 30 days, the request for consultation must clearly state the deadline and identify the source of the deadline. The state agency shall make every reasonable effort to consult with the tribe within the time available.

C. If a tribe does not respond by the deadline established in the request for consultation, the state agency may conclude that the tribe has declined consultation on the relevant proposed action.

3. Consultation procedures. If a tribe elects to engage in consultation with a state agency in accordance with subsection 2, paragraph A, the state agency shall use its best efforts to complete consultation prior to taking a proposed action. Consultation must include, at a minimum, the following:

A. The state agency shall provide the tribe with a preliminary draft or explanation of the proposed action as soon as possible following receipt of the tribe's acceptance to engage in consultation;

B. The state agency and the tribe or tribes determine an appropriate mechanism for the consultation, such as in person, telephonic or by video. When practicable, the consultation must be held in person, either on the tribe's Indian territory or trust land or at a mutually agreeable location;

C. A meaningful and timely discourse and involve employees of the state agency who have a direct role in the proposed action and decision-making process; and

D. A process that ensures the ability of the tribe to provide detailed feedback on the proposed action.

An agency and a tribe or tribes may agree to different or other procedures than those listed in paragraphs A to E if they believe the other procedures will enhance the effectiveness of the consultation process.

After consultation, the state agency shall carefully consider the input of the tribe and, upon reaching a decision regarding the proposed action, shall notify the tribe in writing of its decision and the rationale in support of its decision.

The consultation must be separate from public comment and public hearing processes.

4. Consultation rules. By October 15, 2022 and thereafter as necessary, each state agency shall adopt or amend rules or policies that:

A. Promote effective communication, collaboration and consultation between the state agency and the tribes;

B. Promote robust government-to-government relationships between the State and the tribes;

C. Promote culturally competent practices;

D. Establish methods for notifying state agency employees of their responsibilities under this section; and

E. Require that all relevant state agency employees be provided with a copy of any rule or policy that the state agency adopts pursuant to this subsection.

State agencies shall consult with the chief of each tribe or the chief's designee throughout the process of developing the tribal consultation rules or policies.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Tribal liaisons. Beginning November 1, 2022, each state agency shall designate a tribal liaison, who reports directly to the head of the state agency, to assist the head of the state agency with developing procedures for and ensuring the implementation of a consultation required by subsection 1 and to serve as a contact person. The tribal liaison shall maintain ongoing communication between the state agency and the tribes and shall ensure that the training required under subsection 6 is provided to the relevant state agency employees.

6. Training required. A state agency shall ensure that all state agency employees responsible for tribal consultation or communication receive training regarding employee responsibilities under this section. The training must, at a minimum, include instruction in effective communication, the development of positive tribal-state government-to-government relations and cultural competency.

7. Tribal contact information. The Office of the Governor and the commission shall maintain and update a list of names and contact information, including telephone numbers, mailing addresses and e-mail addresses, of the chief of each tribe and the chief's designee, as well as of the tribal liaisons under subsection 5.

8. Report required. Beginning in 2023, each state agency shall provide annually by February 1st a report on tribal consultation under this section to the Governor, the chief of each tribe and the commission. The report must include the following information:

- A. The number of times the state agency requested consultation with each tribe, including information regarding the subject of each requested consultation;
- B. The number of times each tribe accepted or declined consultation, including information regarding the subject of each accepted or declined request; and
- C. A description of the outcome of each accepted request for consultation, including a description of the state agency decision regarding tribal input on a proposed action.

Sec. 26. 30 MRSA §6218 is enacted to read:

§6218. Tribal-state cooperative agreements

The State and its officers, departments, agencies and political subdivisions are authorized to enter into cooperative agreements with federally recognized Indian tribes within the State to facilitate cross-jurisdictional cooperation and the delivery of government services and to avoid disputes on issues of mutual interest, including but not limited to criminal jurisdiction and law enforcement, taxation, environmental regulation and natural resources. A tribal liaison designated under section 6217, subsection 5 may negotiate and enter into cooperative agreements with federally recognized Indian tribes within the State.

Sec. 27. 30 MRSA §6219 is enacted to read:

§6219. Assemblies

By December 15, 2022, and annually thereafter, the Governor shall convene an assembly of the Governor and chiefs of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to discuss issues relating to the relationship between the State and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.

On a biennial basis, during each first regular session of the Legislature, the commission shall organize a legislative assembly to discuss the relationship between the State and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians. In consultation with the chiefs of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, the commission shall invite state Legislators and tribal council members from each tribal government in the State to participate in the assembly.

Sec. 28. 30 MRSA §6220 is enacted to read:

§6220. Bicentennial Accord

1. Bicentennial Accord. The Governor shall collaborate with the chiefs of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians in establishing an agreement, to be known as the Bicentennial Accord, in order to institutionalize general principles governing tribal-state relations, including:

- A. A framework for respect for the sovereignty of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and the State;
- B. A framework for the government-to-government relationship between the State, through the Governor and the State's departments and agencies, and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians;

C. Delineation of the commitment by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and the Governor to implement government-to-government relationships to enhance and improve communication and consultation and to facilitate the resolution of issues;

D. An outline of a process for implementation of the Bicentennial Accord;

E. A commitment to specific tasks to improve the government-to-government relationship to make it more efficient and mutually beneficial;

F. A commitment to strengthen the Maine Native American studies provisions of Title 20-A, section 4706;

G. Development of a comprehensive public education initiative to inform the citizens of the State about tribal history, tribal culture, contemporary tribal and state government institutions and relations and the contribution of the Wabanaki Confederacy to the State;

H. A commitment to work in collaboration to engender mutual understanding and respect and to recognize and address discrimination and racial prejudice;

I. A framework for coordination and cooperation to enhance economic and infrastructure opportunities, protect natural resources and provide educational opportunities and community social services that meet the needs of all citizens; and

J. Provisions for a review and update of the Bicentennial Accord at an annual assembly convened pursuant to section 6219.

2. Support by the Maine Indian Tribal-State Commission. The commission shall provide logistical support and technical assistance in developing, implementing and updating the Bicentennial Accord at the annual assembly of the Governor and chiefs of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and at the biennial legislative assembly, pursuant to section 6219.

Sec. 29. 30-A MRSA §5681, sub-§7, as enacted by PL 1989, c. 871, §1 and affected by §22, is amended to read:

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

Sec. 30. 36 MRSA §111, sub-§1-D is enacted to read:

1-D. Houlton Band of Maliseet Indians. "Houlton Band of Maliseet Indians" has the same meaning as in Title 30, section 6203, subsection 2.

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

1-E. Houlton Band Trust Land. "Houlton Band Trust Land" has the same meaning as in Title 30, section 6203, subsection 2-B.

Sec. 32. 36 MRSA §111, sub-§1-F is enacted to read:

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

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

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

Sec. 34. 36 MRSA §111, sub-§2-B is enacted to read:

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

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

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

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

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

Sec. 37. 36 MRSA §111, sub-§8 is enacted to read:

8. Tribal entity. "Tribal entity" has the same meaning as in Title 30, section 6203, subsection 14.

Sec. 38. 36 MRSA §111, sub-§9 is enacted to read:

9. Tribal member. "Tribal member" means a member of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation.

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

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

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

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

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

If the property or service is used by the purchaser, including any lessee, primarily outside of the Indian territory or trust land identified in this subsection, the purchaser is liable for use tax based on the original sale price, unless otherwise exempt under this Part. For purposes of this subsection, "primarily" when used in relation to property or service means more than 50% of that period of time that begins on the date on which the property or

service is first placed in service by the purchaser and ends one year from that date or at the time that the property or service is sold, scrapped, destroyed or otherwise permanently removed from service, whichever occurs first.

Sec. 40. 36 MRSA §1815, as enacted by PL 1999, c. 477, §1, is amended to read:

§1815. Tax from sales occurring on ~~Passamaquoddy reservation~~ Indian territory or trust land

1. Passamaquoddy Sales Tax Fund. The Passamaquoddy Sales Tax Fund, referred to in this section as "the Passamaquoddy fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Passamaquoddy Tribe pursuant to subsections 2 and 3.

1-A. Penobscot Sales Tax Fund. The Penobscot Sales Tax Fund, referred to in this section as "the Penobscot fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Penobscot Nation pursuant to subsections 2 and 3.

1-B. Maliseet Sales Tax Fund. The Maliseet Sales Tax Fund, referred to in this section as "the Maliseet fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Houlton Band of Maliseet Indians pursuant to subsections 2 and 3.

2. Monthly transfer. By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under this Part in the previous month on sales ~~occurring on, in, into, from or otherwise sourced to the Passamaquoddy reservation at either Pleasant Point or Indian Township~~ Indian territory, the Penobscot Indian territory and the Houlton Band Trust Land, respectively, reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681. When notified by the assessor, the State Controller shall transfer ~~that amount~~ those amounts to the Passamaquoddy Sales Tax Fund fund, the Penobscot fund and the Maliseet fund, respectively.

3. Monthly payment. By the end of each month, the Treasurer of State shall make payments to the Passamaquoddy Tribe from the Passamaquoddy Sales Tax Fund fund, the Penobscot Nation from the Penobscot fund and the Houlton Band of Maliseet Indians from the Maliseet fund equal to the amounts transferred into the ~~fund~~ respective fund.

4. Quarterly reconciliation. The monthly payments due under this section must be adjusted by any credit or debit necessary for a quarterly reconciliation of payments and transfers made under this section for any erroneous payment or transfers, any erroneous collection and corresponding refund and by any subsequent assessment, remittance or refund of sales or use tax to or by the State.

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

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

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

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

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

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

Sec. 42. Dispute resolution. The Governor, the Attorney General and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, through their respective designees, will collaborate on an alternative dispute resolution process to resolve tribal-state disputes, to be known as "the ADR work group." The Maine Indian Tribal-State Commission shall provide assistance to the ADR work group by providing input and answering questions regarding alternative dispute resolution options appropriate to tribal-state disputes, including identifying best practices, developing mutual respect, working on a government-to-government basis, and respecting the sovereignty of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and the State, and any existing culturally appropriate models. No later than November 15, 2022, the ADR work group shall provide a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters that includes its findings and recommendations, including suggested legislation, regarding a tribal-state alternative dispute resolution process. The joint standing committee may report out legislation to the First Regular Session of the 131st Legislature based on the recommendations of the ADR work group.

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

TREASURER OF STATE, OFFICE OF

Maliseet Sales Tax Fund N952

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

| OTHER SPECIAL REVENUE FUNDS | 2021-22 | 2022-23 |
|--|----------------|----------------|
| All Other | \$0 | \$500 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | <u>\$0</u> | <u>\$500</u> |

Penobscot Sales Tax Fund N951

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

| OTHER SPECIAL REVENUE FUNDS | 2021-22 | 2022-23 |
|--|----------------|----------------|
| All Other | \$0 | \$500 |
| OTHER SPECIAL REVENUE FUNDS TOTAL | <u>\$0</u> | <u>\$500</u> |

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

| 2021-22 | 2022-23 |
|----------------|----------------|
|----------------|----------------|

| | | |
|-------------------------------------|------------|----------------|
| OTHER SPECIAL REVENUE FUNDS | \$0 | \$1,000 |
| DEPARTMENT TOTAL - ALL FUNDS | \$0 | \$1,000 |

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

In House of Representatives,20__

Read twice and passed to be enacted.

..... Speaker

In Senate,20__

Read twice and passed to be enacted.

..... President

Approved20__

..... Governor

OFFICE OF THE REVISOR OF STATUTES

ENGROSSER SUMMARY

LD 1626; H.P. 1210

Title:

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

Items included in LR 1341(4):

LR 1341(1) - Public Law

LR 1341(2) Committee Amendment "A"

H-1006