

Committee: JUD
LA: MJR/SS
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PROPOSED COMMITTEE AMENDMENT
Representative Talbot Ross

File Name: G:\COMMITTEES\JUD\BILL WORKING FILES\129th\Implementing Act TF\LD 1392 Amendment (Rep. Talbot Ross).docx (8/6/2020 08:13:00 AM)

COMMITTEE AMENDMENT “.” To LD 1392, An Act To Establish a Formal Tribal Consultation Process with the State

Amend the bill by striking out the title and inserting in its place the following:

An Act to Amend the Maine Implementing Act

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

Sec. 1. 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 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 ~~behave 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 ~~behave 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 chapter enacted in 2020 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.

Sec. 2. 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.

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~~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 other 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~~money from the original \$900,000 congressional appropriation and interest thereon deposited in the Land Acquisition Fund established for the Houlton Band of Maliseet Indians pursuant to United States Public Law 96-420, Section 5, ~~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, or as otherwise authorized by section 6205-A.

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, rules ~~or regulations~~ and the common law of the State and its political subdivisions, and subsequent amendments thereto or judicial interpretations thereof.

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 Nicasaw 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~~ W.E.L.S., 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.

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.

Sec. 3. 30 MRSA §6205, as amended by PL 2013, c. 91, §§1 and 2 and affected by §3, is further amended to read:

§ 6205. Indian territory

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

A. The Passamaquoddy Indian Reservation;

B. The first 150,000 acres of land acquired by the secretary for the benefit of the Passamaquoddy Tribe within the following counties: Penobscot, Franklin, Hancock, Piscataquis, Somerset, Washington, and Aroostook, provided, however, that, except as provided in paragraph F below, no lands within any city, town, village or plantation shall be added to the Passamaquoddy Indian territory without the following agreements in place between the Passamaquoddy Tribe and the relevant city, town, village or plantation within whose borders such land is located:

(1) an agreement by which the Passamaquoddy Tribe agrees to make a payment in lieu of taxes for such lands that equals the amount of taxes levied by a county, a district, the State or other taxing authority immediately prior to the date on which the Passamaquoddy Tribe purchased such lands, unless otherwise agreed to between the Passamaquoddy Tribe and the relevant city, town, village or plantation within whose borders such land is located;

(2) an agreement for cooperation and mutual aid regarding which government will be responsible for law enforcement over such lands; and

(3) an agreement by which the Passamaquoddy Tribe agrees to use such lands in a manner that is not contrary to the local zoning ordinances in place prior to the date on which the Passamaquoddy Tribe purchased such lands, or is consistent with existing uses of land occurring within the city, town, village or plantation, unless otherwise agreed to between the Passamaquoddy Tribe and the relevant city, town, village or plantation within whose borders such land is located.

C. If the agreements required by paragraph B are not in place within ninety days from the date on which the Passamaquoddy Tribe purchases land within any city, town, village or plantation, and provides written notice to the city, town, village or plantation of the need to develop an agreement, either party may the dispute, claim, question or disagreement to binding arbitration that shall be governed by the rules of the American Arbitration Association or such other rules as the parties may mutually agree. The parties shall submit their last best offer agreements to the arbitration panel and such panel shall decide which agreement best meets the requirements of paragraph B.

~~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 before January 1, 1991;~~

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 ~~acquired by the secretary prior to January 1, 2001,~~ is not held in common with any other person or entity, ~~and is certified by the secretary by January 31, 2001, 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 ~~acquired by the secretary prior to January 31,~~

~~2020, is not held in common with any other person or entity and is certified by the secretary by January 31, 2020 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 ~~acquired by the secretary prior to January 31, 2017, is not held in common with any other person or entity and is certified by the secretary by January 31, 2017 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 ~~acquired by the secretary prior to January 31, 2023, is not held in common with any other person or entity and is certified by the secretary by January 31, 2023 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 ~~acquired by the secretary prior to January 31, 2017, is not held in common with any other person or entity and is certified by the secretary by January 31, 2017 as held for the benefit of the Passamaquoddy Tribe.~~

F. “Passamaquoddy Indian territory” shall also include lands owned in fee simple by the Passamaquoddy Tribe as of August 1, 2020, which the Passamaquoddy Tribe requests to have acquired in trust status by the secretary for the benefit of the Passamaquoddy Tribe, provided that the lands are within the geographic area and acreage restrictions set forth in paragraph B. Notwithstanding anything in this Section or the Act, the addition of lands owned in fee simple by the Passamaquoddy Tribe to the Passamaquoddy Indian territory pursuant to this paragraph shall not be subject to approval by any municipality within the State.

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

B. The first 150,000 acres of land acquired by the secretary for the benefit of the Penobscot Nation within the following counties: Penobscot, Franklin, Hancock, Piscataquis, Somerset, Washington, and Aroostook, provided, however, that no lands within any city, town, village or plantation shall be added to the Penobscot Indian

territory without the following agreements in place between the Penobscot Nation and the relevant city, town, village or plantation within whose borders such land is located:

(1) an agreement by which the Penobscot Nation agrees to make a payment in lieu of taxes for such lands that equals the amount of taxes levied by a county, a district, the State or other taxing authority immediately prior to the date on which the Penobscot Nation purchased such lands, unless otherwise agreed to between the Penobscot Nation and the relevant city, town, village or plantation within whose borders such land is located;

(2) an agreement for cooperation and mutual aid regarding which government will be responsible for law enforcement over such lands; and

(3) an agreement by which the Penobscot Nation agrees to use such lands in a manner that is not contrary to the local zoning ordinances in place prior to the date on which the Penobscot Nation purchased such lands or is consistent with existing uses of land occurring within the city, town, village or plantation, unless otherwise agreed to between the Penobscot Nation and the relevant city, town, village or plantation within whose borders such land is located.

C. If the agreements required by paragraph B are not in place within ninety days from the date on which the Penobscot Nation purchases land within any city, town, village or plantation, and provides written notice to the city, town, village or plantation of the need to develop an agreement, either party may submit the dispute, claim, question or disagreement to binding arbitration that shall be governed by the rules of the American Arbitration Association or such other rules as the parties may mutually agree. The parties shall submit their last best offer agreements to the arbitration panel and such panel shall decide which agreement best meets the requirements of paragraph B.

~~from the following areas or lands to the extent that those lands are acquired by the secretary prior to January 31, 2021, are not held in common with any other person or entity and are certified by the secretary by January 31, 2021, 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, provided that the mutual agreement must be finalized prior to August 31, 1991; any lands in Lakeville acquired by the Penobscot Nation before January 1, 1991; 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.~~

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 a federally recognized ~~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.

Sec. 4. 30 MRSA §6205-A, as enacted by PL 1981, c. 675, §§2 and 8, is amended to read:

§ 6205-A. ~~Acquisition of Houlton Band Trust Land~~

1. ApprovalAcquisition. ~~The State of Maine approves the acquisition, Lands acquired by the secretary, offor the benefit of the Houlton Band Trust Land within the State of Maine provided as follows of Maliseet Indians in accordance with the requirements of this subsection are known as Houlton Band Trust Land.~~

A. No land or other natural resources acquired by the secretary may have the status of Houlton Band Trust Land, or be deemed to be land or other 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 other natural resources so acquired. Filing by mail ~~shall be~~ is complete upon mailing.

~~B. No land or other 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 the secretary 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 the secretary has adopted.~~

~~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.~~

Sec. 5. 30 MRSA §6208, as amended by PL 2009, c. 384, Pt. A, §2 and affected by §4, is further amended by adding at the end:

4. Sales Tax. Notwithstanding any other provision of this Section or this Act:

A. The Penobscot Nation, Passamaquoddy Tribe, and Houlton Band of Maliseet Indians, and their respective tribal members and tribal entities,

(1) shall be exempt from sales tax for sales on, in, into, or otherwise sourced to their respective Indian territory or Trust lands, and

(2) shall be exempt from income tax on income earned on or otherwise sourced to their respective Indian territory or Trust lands, so long as the tribal member or tribal entity resides on Indian territory or Trust lands.

B. The State shall make payments to the Penobscot Nation, Passamaquoddy Tribe, and Houlton Band of Maliseet Indians of the amounts of revenue attributable to the sales tax collected on sales on, in, into, or otherwise sourced to their respective Indian territory or Trust lands, reduced by the transfer to the Local Government Fund provided for by Title 30-A, section 5681, as of the effective date of this legislation.

C. Maine Revenue Service is authorized to enter into sales tax revenue sharing agreements with the Penobscot Nation, Passamaquoddy Tribe, and Houlton Band of Maliseet Indians with respect to tax collected on sales on, in, into or otherwise sourced to tribally-owned fee lands.

D. For purposes of this subsection, “tribal entity” means an entity, including but not limited to a corporation, partnership, or other enterprise, that is owned by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or their members, where more than fifty percent of the ownership interests are held by any combination of the tribe and its members, or that is owned by a married couple, at least one of whom is a tribal member.

E. Maine Revenue Service is authorized to promulgate regulations to implement this subsection, and shall confer with the Penobscot Nation, Passamaquoddy Tribe, and Houlton Band of Maliseet Indians Tribes regarding any such proposed regulations.

Sec. 6. 36 MRSA §111, subsections 8 and 8-A are enacted to read:

8. Certain terms relating to Maine Tribes. The following terms as used in this Title shall have the same meaning as provided in Title 30 M.R.S. Chapter 601: “Houlton Band of Maliseet Indians,” “Houlton Band Trust Land,” “Passamaquoddy Tribe,” “Passamaquoddy Indian Reservation,” “Passamaquoddy Indian territory,” “Penobscot Nation,” “Penobscot Indian Reservation” and “Penobscot Indian territory.”

8-A. Resident tribal member. “Resident tribal member” means a member of a Maine Indian tribe listed in subsection 8 and who resides on their respective Indian territory or Trust land.

8-B. Tribal entity. “Tribal entity” means an entity, including but not limited to a corporation, partnership, or other enterprise, that is owned by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or their members, where more than fifty percent of the ownership interests are held by any combination of the tribe and its members, or that is owned by a married couple, at least one of whom is a tribal member.

Sec. 7. 36 MRSA §1760, sub-§104, is enacted to read:

104. Certain sales to Maine Tribes and their tribal members. Sales in, into, on or otherwise sourced to:

A. Passamaquoddy Indian territory to the Passamaquoddy Tribe or its tribal members or tribal entities;

B. Penobscot Indian territory to the Penobscot Nation or its tribal members or tribal entities; and

C. Houlton Band Trust Land to the Houlton Band of Maliseet Indians or its tribal members or tribal entities.

If the property or service is used by the purchaser, including by any lessee, primarily outside of the 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 the time during the period that begins on the date on which the property or service is first placed in service by the purchaser and ends 1 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. 8. 36 MRSA §1815, as enacted by PL 1999, c. 477, §1, is amended to read:

§1815. Tax from sales occurring on Passamaquoddy and Penobscot reservations and Houlton Band 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 amounts of revenue attributable to the tax collected under this Part in the previous month on sales occurring on, in, into or otherwise sourced to the Passamaquoddy reservation ~~Indian territory at either Pleasant Point or Indian Township,~~ the Penobscot Indian territory, and the Houlton Band Trust Land, reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681, as of the effective date of this legislation. When notified by the assessor, the State Controller shall transfer ~~that 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 respective funds.

4. Quarterly reconciliation. The monthly payments due under this section shall be adjusted by any credit or debit necessary to account 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.

5. Certain excluded sales. Sales or use tax that becomes due under Section 1760(104) of this Part shall not be included in subsections 2 or 3 of this section, and shall be accounted for through quarterly reconciliation under subsection 4.

Sec. 9. 36 MRSA §5122, sub-§2, ¶UU, is enacted to read:

UU. For taxable years beginning on or after January 1, 2021, the Penobscot Nation, Passamaquoddy Tribe, and Houlton Band of Maliseet Indians, and their respective tribal members and tribal entities shall be exempt from income tax on income earned on or otherwise sourced to their respective Indian territory or Trust lands, so long as the tribal member or tribal entity resides on Indian territory or Trust lands.

Sec. 10. 30 MRSA §6209-A, as amended by PL 2009, c. 384, Pt. E, §1 and affected by §3, 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. Class C, D and E Criminal offenses-crimes 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 on the Indian Reservation of the Passamaquoddy Tribe by a member of a 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, provided that 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 within on the reservation of the 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, 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 these 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 crimes:

A. Certain Class D crimes committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group 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, against the 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 applies to only the following offenses: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011.

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this paragraph. 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.

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. In exercising the jurisdiction under this paragraph, 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).

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.

1-B. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B, and sub section 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. Further, nothing in subsection 1 or 1-A shall affect, alter or preempt the ability or authority of the Attorney General to investigate or prosecute any conduct occurring in the State, including 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. 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 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 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 offense. A lesser included offense is as defined under the laws of the State.

4. Double jeopardy, collateral estoppel. A prosecution for a ~~criminal offense 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, 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 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.

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. 11. 30 MRSA §6209-B, as corrected by RR 2009, c. 1, §19 and affected by §3, 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. ~~Class C, D and E Criminal offenses—crimes 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 Penobscot Indian Territory on the Indian Reservation of the Penobscot Nation~~ by a member of a 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, provided that 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 the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation within on the reservation of the Penobscot 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 Penobscot Nation 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 Penobscot Nation 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 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, 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 these 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 crimes:

A. Certain Class D crimes committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group 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, against the 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 applies to only the following offenses: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011.

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this paragraph. 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.

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. In exercising the jurisdiction under this paragraph, 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).

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.

1-B. Exclusive jurisdiction of the State. Except as provided in subsection 1, paragraphs A and B, and sub section 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. Further, nothing in subsection 1 or 1-A shall affect, alter or preempt the ability or authority of the Attorney General to investigate or prosecute any conduct occurring in the State, including 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. 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.

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Penobscot Tribal Court shall inquire whether fingerprints have been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Penobscot 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 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 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 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 offense. A lesser included offense is as defined under the laws of the State.

4. Double jeopardy, collateral estoppel. A prosecution for a ~~criminal offense~~ 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, 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 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 Penobscot 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 Penobscot tribal forum.

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. 12. 30 MRSA §6209-C, as corrected by RR 2011, c. 1, §45, is further 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. ~~Class C, D and E Criminal offenses~~ crimes for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and that are committed on the 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, provided that 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 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 Passamaquoddy Tribe, the Houlton Band of Maliseet Indians 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 in 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. 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. Certain Class D crimes 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, now or in the future, against the 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 applies to only the following offenses: Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011.

The governing body of the Houlton Band of Maliseet Indians shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this paragraph. 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.

B. Class C, D and E crimes committed on 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. In exercising the jurisdiction under this paragraph, 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).

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

Exclusive jurisdiction over certain matters Penobscot Nation members. ~~Except as provided in subsections 3 and 4, the~~ The Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

~~A. Class C, D and E crimes 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 Trust Land by a member of a federally recognized Indian tribe, nation, band or other group, except when committed the Penobscot Nation against a person who is not a member or property of a member of those federally recognized Indian tribe, nation, band or other group or against 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 person who is not a member of any federally recognized Indian tribe, nation, band or other group, provided that 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(e); 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 Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, or the Penobscot Nation on the Houlton Band Jurisdiction Trust 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 Trust Land and cognizable as small claims under the laws of the State and civil actions against a member of the Penobscot Nation, Passamaquoddy Tribe or the Houlton Band of Maliseet Indians under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Trust Land by a member of the Penobscot Nation, Passamaquoddy Tribe or Houlton Band of Maliseet Indians;~~

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

~~E. Other domestic relations matters, including marriage, divorce and support, between members of 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, Passamaquoddy Tribe or Houlton Band of Maliseet Indians both of whom reside on the Houlton Band Jurisdiction Trust 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 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 on Houlton Band Trust Land and the State has exclusive jurisdiction over those offenses and crimes. Further, nothing in subsection 1 or 1-A shall affect, alter or preempt the ability or authority of the Attorney General to investigate or prosecute any conduct occurring in the State, including on Houlton Band Trust Land.

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.~~

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. Issuance and execution of criminal process are also 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.

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 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 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 offense. A lesser included offense is as defined under the laws of the State.

4. Double jeopardy, collateral estoppel. A prosecution for a ~~criminal offense 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 ~~criminal offense crime~~ over which the Houlton Band of Maliseet Indians 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, 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 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.~~

~~**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.~~

AMENDMENT SUMMARY

Section 5 of the Amendment makes certain changes to the provisions of the Maine Implementing Act regarding taxation, 30 MRSA § 6208, including with respect to sales and income tax on the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, and their respective tribal members and tribal entities, and with respect to the payment and sharing of sales tax revenues sourced to tribal lands.

Section 6 of the Amendment defines certain terms used in the Amendment.

Section 7 of the Amendment exempts from sales tax sales in, into or on the identified Indian territory and Trust land to the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and their tribal members and tribal entities, respectively. The exempted sales are made subject to use tax for certain use outside the identified area.

Section 8 of the Amendment amends and expands the tax sharing and funds allocation and distributions in 36 MRS §1815 for sales tax collected on certain taxable sales in the identified Indian territory and Trust Land areas, provides for quarterly accounts reconciliation, and excludes from tax sharing and funds allocation sales or use tax that becomes due under 36 MRS §1760(104).

Section 9 of the Amendment provides an income tax exemption for income of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, and their respective tribal members and tribal entities, so long as the income is earned on or otherwise sourced to their respective Indian territory or Trust lands, and the tribal member or tribal entity resides on Indian territory or Trust land.

Section 1 through 4 and Sections 10 through 12 address land acquisition and criminal jurisdiction.