

**Legislative & Nominating
Committee Agenda
February 22, 2022**



MEMBERS
Councilor April Fournier, Chair
Mayor Kate Snyder
Councilor Pious Ali

ZOOM INFORMATION:

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Legislative & Nominating Committee and as authorized under 1 M.R.S. 403-B because of the existence of an emergency or urgent issue that requires the committee to meet by remote methods. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available following the meeting.

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II. Call to Order

III. Approval of Meeting Minutes

- a. Minutes from the meeting of February 15, 2022

IV. Legislative Update

- a. Review: Testimony in support of LD 1626 (An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act)
 - i. *A public hearing on LD 1626 was held on February 15, 2022.*
- b. Review: Testimony re: LD 1971 (An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Remote Participation)
 - i. *A public hearing on LD 1971 will be held February 25, 2022.*
- c. Review: Testimony in Support of LD 1337 (An Act To Increase Affordable Housing and Reduce Property Taxes through an Impact Fee on Vacant Residences)
- d. Discussion: LD 1673 (An Act To Create a Comprehensive Permit Process for the Construction of Affordable Housing)
 - i. *On February 15, 2022, Councilor Ali requested staff feedback on LD 1673. A memo is included in backup materials.*
- e. Review: Amendment to LD 1909 (An Act To Remove Restrictions on Syringe Service Programs)
- f. Review of New LDs and Legislative Tracker (Bernstein Shur)

V. Other Business

- a. 2022 Federal Priorities Memo (staff recommendations)
- b. Discussion re: Nominating Committee Interviews (Kathy Jones, City Clerk)

VI. Adjournment

**Legislative Committee & Portland
Delegation Minutes**
February 15, 2022



MEMBERS
Councilor April Fournier, Chair
Mayor Kate Snyder
Councilor Pious Ali

I. ZOOM INFORMATION:

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II. Call to Order & Introductions (2 minutes)

Chair Fournier called the meeting to order at 8:01 AM.

Chair April Fournier, Mayor Kate Snyder, Councilor Pious Ali, Dena Libner (Chief of Staff), Sheba Brown (Executive Office Manager), Kristen Dow, Tina Pettingill, Chief Gautreau, Interim Police Chief Heath Gorham, Anne Torregrossa, Caity Hager, Alysia Melnick, Kate Knox, Chris Feeney, Senator Ben Chipman, Senator Heather Sanborn, Representative Sam Zager, Representative Barb Wood, Representative Dan Brennan and Representative Ben Collings were present.

III. Approval of Meeting Minutes (1 minute)

Mayor Snyder made a motion to approve the minutes of the February 1, 2022 meeting, seconded by Councilor Ali, vote (3-0).

a. Minutes from the meeting of February 1, 2022

IV. Discussion: Resettlement of Asylum Seekers (20 minutes)

Chair Fournier introduced the discussion and introduced Kristen Dow, Director of Health & Human Services, and Mayor Snyder.

a. Staff Summary Memo (Kristen Dow, Director of Health & Human Services)

Kristen Dow reported on the limited capacity in City-run shelters and hotels housing asylum-seeking families and individuals, and current efforts the City is taking to address these issues.

b. Recap of Portland Delegation Update (February 8, 2022)

Representative Zager briefly discussed updates from the Portland Delegation.

V. Review of Legislation

a. LD 1879 (An Act To Support Law Enforcement Officers, Corrections Officers, E-9-1-1 Dispatchers, Firefighters and Emergency Medical Services Persons Diagnosed with Post-traumatic Stress Disorder)

The Committee discussed this legislation and took staff feedback on certain issues with this legislation. The Committee decided to monitor this legislation going forward.

i. *This item was voted out of the Committee on Labor and Housing on February 7, 2022.*

b. LD 1626 (An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act)

The Committee and Delegation discussed this legislation. Chair Fournier agreed to work with staff to draft testimony in support of this legislation, and will bring it to the Committee for a vote at the next meeting.

i. *Councilor Fournier requested a discussion of this bill among Committee members and the bill sponsor, Representative Talbot Ross, in light of a public hearing scheduled for February 15, 2022.*

- c. **LD 969 (An Act To Authorize a General Fund Bond Issue for the Construction of a Convention Center in Portland, Improvements to the Augusta Civic Center and a Competitive Grant Program for Capital Improvements to Public Venues across the State)**

The Committee discussed this legislation and asked Representative Zager to speak on the bill. Representative Zager explained that this bond measure would provide funding for public venues in City of Portland as well as numerous other municipalities in Maine.

- i. *If available, Committee members would like additional insight from bill sponsors regarding the practical implications of LD 969, including job creation, operational responsibilities, etc. to inform their potential support.*

After discussing the question of practical implications, the Committee decided to continue to monitor this legislation.

- d. **LD 1337 (An Act To Increase Affordable Housing and Reduce Property Taxes through an Impact Fee on Vacant Residences)**

- i. *This LD was originally reviewed by the Legislative & Nominating Committee in April 2021. At that time, the primary concern of staff was that the State would be implementing and administering this program. Staff believed that the program should be implemented at the discretion of local municipalities, with revenue staying in the community. The LD has since been amended and is enclosed for Committee members' review and discussion. On February 3, 2022, the Taxation Committee advanced the bill to the full Legislature (8-4).*

The Committee asked for staff feedback on this legislation. Staff have expressed strong support of this bill in its amended form. The Chair asked staff to draft testimony in support of this legislation for the Committee to vote on at the next meeting.

- e. **Discussion: Remote Meeting Bills (LD 1971 and LD 1772)**

This item was not discussed.

VI. Non-Agenda Discussion Initiated by Representative Brennan on the Governor's Budget

Representative Brennan asked to discuss the Governor's budget and bring to the Committee's attention a number of items directly related to the City of Portland,

specifically Education Stabilization funds, free lunch programs, childcare facilities, and numerous other issues.

VII. Adjournment

Councilor Ali made a motion to adjourn the meeting at 9:00 AM, seconded by Mayor Snyder, vote (3-0)



130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1626

H.P. 1210

House of Representatives, April 27, 2021

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

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.
Cosponsored by Senator CARNEY of Cumberland and
Representatives: COLLINGS of Portland, Speaker FECTEAU of Biddeford, HARNETT of
Gardiner, MARTIN of Greene, NEWELL of the Passamaquoddy Tribe, PERRY of Calais,
Senator: President JACKSON of Aroostook.

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

2 **Sec. 1. 12 MRSA §685-C, sub-§10**, as enacted by PL 1997, c. 739, §1, is amended
3 to read:

4 **10. Operating a personal watercraft.** Operating a personal watercraft is prohibited
5 on the following categories of great ponds:

6 A. Great ponds located entirely or partly within the jurisdiction of the commission that
7 are identified in an official comprehensive land use plan adopted by the commission
8 pursuant to subsection 1 as being not accessible within 1/4 mile by 2-wheel drive
9 vehicles, with less than one development unit per mile, and at least one outstanding
10 resource value;

11 B. Great ponds located entirely or partly within the jurisdiction of the commission that
12 are identified in an official comprehensive land use plan adopted by the commission as
13 being accessible within 1/4 mile by 2-wheel drive vehicles, with less than one
14 development unit per mile, with 2 or more outstanding resource values in fisheries,
15 wildlife, scenic or shore character;

16 C. Great ponds and smaller ponds located entirely or partly within the jurisdiction of
17 the commission that are identified in an official comprehensive land use plan adopted
18 by the commission as being not accessible within 1/2 mile by 2-wheel drive vehicles,
19 with no more than one noncommercial remote camp and with a cold water game
20 fishery; and

21 D. Great ponds with less than all but more than 2/3 of their surface area in or partly in
22 the jurisdiction of the commission that are identified as being of statewide significance
23 in the "Maine Wildlands Lake Assessment" dated June 1, 1987 prepared by the
24 commission, with 2 or more outstanding resource values in fisheries, wildlife, scenic
25 or shore character and with more than 1/2 of their shoreline in public and private
26 conservation ownership with guaranteed public access for low-impact public
27 recreation.

28 The commission shall implement this subsection by rule adopted in accordance with
29 section 685-A. Rules adopted to implement this subsection are routine technical rules
30 pursuant to Title 5, chapter 375, subchapter H-A 2-A.

31 ~~This section does not apply to any waters subject to regulation by the Maine Indian Tribal-~~
32 ~~State Commission under Title 30, section 6207, subsection 3-A.~~

33 **Sec. 2. 30 MRSA §6202**, as enacted by PL 1979, c. 732, §§1 and 31, is amended to
34 read:

35 **§6202. Legislative findings and declaration of policy**

36 The Legislature finds and declares the following.

37 The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
38 Indians ~~are asserting~~ asserted claims for possession of large areas of land in the State and
39 for damages alleging that the lands in question originally were transferred by treaty in
40 violation of the Indian Trade and Intercourse Act of 1790, 1 Stat. 137, or subsequent
41 reenactments or versions thereof.

1 ~~Substantial~~ At the time, the prospect that these claims would not be promptly resolved
2 threatened to ~~create substantial~~ economic and social hardship ~~could be created~~ for large
3 numbers of landowners, citizens and communities in the State, and therefore to the State as
4 a whole, ~~if these claims are not resolved promptly~~.

5 The claims also ~~have~~ produced disagreement between the Indian claimants and the
6 State over the extent of the ~~state's~~ State's jurisdiction in the claimed areas. This
7 disagreement ~~has~~ resulted in litigation and, if the claims are had not been resolved, further
8 litigation on jurisdictional issues would ~~be~~ have been likely.

9 ~~The~~ In the late 1970s, the Indian claimants and the State, acting through the Attorney
10 General, ~~have~~ reached certain agreements ~~which represent~~ that represented a good faith
11 effort on the part of all parties to achieve a fair and just resolution of those claims ~~which~~
12 ~~that~~, in the absence of agreement, would ~~be~~ have been pursued through the courts for many
13 years to the ultimate detriment of the State and all its citizens, including the Indians. The
14 resolution reached among the Indian claimants and the State affirmed the land transfers and
15 the reservations of rights embodied within the specific treaties that gave rise to the claims
16 at issue, and sought to definitively eliminate any prospect that the claims brought by the
17 Indian claimants would cloud private title to land in the State.

18 ~~The foregoing agreement between the Indian claimants and the State also represents a~~
19 ~~good faith effort by the Indian claimants and the State to achieve a just and fair resolution~~
20 ~~of their disagreement over jurisdiction on the present Passamaquoddy and Penobscot Indian~~
21 ~~reservations and in the claimed areas. To that end, the Passamaquoddy Tribe and the~~
22 ~~Penobscot Nation have agreed to adopt the laws of the State as their own to the extent~~
23 ~~provided in this Act. The Houlton Band of Maliseet Indians and its lands will be wholly~~
24 ~~subject to the laws of the State.~~

25 It is the purpose of this Act to implement in part the foregoing agreement.

26 **1. Rights, privileges, powers, duties and immunities.** The purpose of the
27 amendments to this Act enacted in 2021 is to establish that the Passamaquoddy Tribe, the
28 Penobscot Nation and the Houlton Band of Maliseet Indians enjoy rights, privileges,
29 powers, duties and immunities similar to those of other federally recognized Indian tribes
30 within the United States.

31 **2. Federal Indian law applies.** Except as otherwise specified in this Act, the State,
32 the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians
33 agree and intend pursuant to United States Public Law 96-420 and hereby recognize and
34 adopt the application of federal Indian law with regard to the rights, privileges, powers,
35 duties and immunities of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton
36 Band of Maliseet Indians, including laws and regulations of the United States enacted for
37 the benefit of Indians, Indian nations or tribes or bands of Indians and laws and regulations
38 that accord a special status or right to or that relate to a special status or right of any Indian,
39 Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country,
40 Indian territory or land held in trust for Indians.

41 **Sec. 3. 30 MRSA §6203**, as amended by PL 2009, c. 636, Pt. B, §1 and affected by
42 §2, is further amended to read:

43 **§6203. Definitions**

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

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

5 **1-A. Federal Indian law.** "Federal Indian law" means the United States Constitution
6 and all generally applicable federal statutes, regulations and case law and subsequent
7 amendments thereto or judicial interpretations thereof, relating to the rights, privileges,
8 powers, duties and immunities of federally recognized Indian tribes within the United
9 States.

10 **2. Houlton Band of Maliseet Indians.** "Houlton Band of Maliseet Indians" means
11 the Maliseet Tribe of Indians as constituted on March 4, 1789, and all its predecessors and
12 successors in interest, ~~which that, as of the date of passage of this Act April 3, 1980,~~ are
13 represented, as to lands within the United States, by the Houlton Band Council of the
14 Houlton Band of Maliseet Indians.

15 **2-A. Houlton Band Trust Land.** "Houlton Band Trust Land" means land or other
16 natural resources acquired by the secretary in trust for the Houlton Band of Maliseet
17 Indians, in compliance with the terms of ~~this Act section 6205-A~~ and the Maine Indian
18 Claims Settlement Act of 1980, United States Public Law 96-420, with ~~moneys~~ money
19 from the original \$900,000 congressional appropriation and interest thereon deposited in
20 the Land Acquisition Fund established for the Houlton Band of Maliseet Indians pursuant
21 to United States Public Law 96-420, Section 5, ~~United States Code, Title 25, Section 1724,~~
22 or with proceeds from a taking of Houlton Band Trust Land for public uses pursuant to the
23 laws of ~~this State or~~ the United States or as otherwise authorized by section 6205-A.

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

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

31 **4-A. Nontribal citizen or nonmember.** "Nontribal citizen" or "nonmember" means
32 a person or entity that is not a member of the Passamaquoddy Tribe, the Penobscot Nation
33 or the Houlton Band of Maliseet Indians and is not a tribal entity.

34 **5. Passamaquoddy Indian Reservation.** "Passamaquoddy Indian Reservation"
35 means those lands reserved to the Passamaquoddy Tribe by agreement with the State
36 Commonwealth of Massachusetts dated September 19, 1794, excepting any parcel within
37 such lands transferred to a person or entity other than a member of the Passamaquoddy
38 Tribe subsequent to such agreement and prior to ~~the effective date of this Act October 10,~~
39 1980. If any lands reserved to the Passamaquoddy Tribe by the aforesaid agreement
40 hereafter are acquired by the Passamaquoddy Tribe, or the secretary on its behalf, that land
41 ~~shall~~ must be included within the Passamaquoddy Indian Reservation. For purposes of this
42 subsection, the lands reserved to the Passamaquoddy Tribe by the aforesaid agreement ~~shall~~
43 be are limited to Indian Township in Washington County; Pine Island, sometimes referred
44 to as Taylor's Island, located in Big Lake, in Washington County; 100 acres of land located

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

22 **6. Passamaquoddy Indian territory.** "Passamaquoddy Indian territory" means that
23 territory defined by section 6205, subsection 1.

24 **7. Passamaquoddy Tribe.** "Passamaquoddy Tribe" means the Passamaquoddy Indian
25 Tribe as constituted on March 4, 1789, and all its predecessors and successors in interest;
26 ~~which that~~, as of the ~~date of passage of this Act~~ April 3, 1980, are represented by the Joint
27 Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian Township
28 and Pleasant Point Reservations.

29 **8. Penobscot Indian Reservation.** "Penobscot Indian Reservation" means the islands
30 in the Penobscot River reserved to the Penobscot Nation by agreement with the States
31 Commonwealth of Massachusetts and the State of Maine consisting solely of Indian Island,
32 also known as Old Town Island, and all islands in that river northward thereof that existed
33 on June 29, 1818; excepting any island transferred to a person or entity other than a member
34 of the Penobscot Nation subsequent to June 29, 1818; and prior to ~~the effective date of this~~
35 ~~Act~~ October 10, 1980. If any land within Nicatow Island is hereafter acquired by the
36 Penobscot Nation, or the secretary on its behalf, that land must be included within the
37 Penobscot Indian Reservation.

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

45 The "Penobscot Indian Reservation" also includes a certain parcel of land located in Argyle,
46 Penobscot County consisting of approximately 714 acres known as the Argyle East Parcel

1 and more particularly described as Parcel One in a deed from the Penobscot Indian Nation
2 to the United States of America dated November 22, 2005 and recorded at the Penobscot
3 County Registry of Deeds in Book 10267, Page 265.

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

6 **10. Penobscot Nation.** "Penobscot Nation" means the Penobscot Indian Nation as
7 constituted on March 4, 1789, and all its predecessors and successors in interest, ~~which~~
8 that, as of the date of passage of this Act April 3, 1980, are represented by the Penobscot
9 Reservation Tribal Council.

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

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

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

19 **14. Tribal entity.** "Tribal entity" means an entity, including but not limited to a
20 corporation, partnership or other enterprise, that is owned by the Passamaquoddy Tribe, the
21 Penobscot Nation or the Houlton Band of Maliseet Indians or the tribe's, nation's or band's
22 members, when more than 50% of ownership interests are held by any combination of the
23 tribe, nation or band and the tribe's, nation's or band's members. For the purpose of this
24 Title, "member" includes a married couple, at least one of whom is an enrolled tribal
25 member.

26 **Sec. 4. 30 MRSA §6204,** as enacted by PL 1979, c. 732, §§1 and 31, is repealed.

27 **Sec. 5. 30 MRSA §6205,** as amended by PL 2013, c. 91, §§1 and 2 and affected by
28 §3, is further amended to read:

29 **§6205. Indian territory**

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

32 A. The Passamaquoddy Indian Reservation;

33 B. ~~The first 150,000 acres of land acquired by the secretary for the benefit of the~~
34 ~~Passamaquoddy Tribe from the following areas or lands to the extent that those lands~~
35 ~~are acquired by the secretary prior to January 31, 1991, are not held in common with~~
36 ~~any other person or entity and are certified by the secretary by January 31, 1991, as~~
37 ~~held for the benefit of the Passamaquoddy Tribe:~~

38 ~~The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.~~
39 ~~(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.;~~
40 ~~the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,~~
41 ~~B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,~~
42 ~~B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;~~

1 any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle
2 Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram
3 C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion
4 of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of
5 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
6 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
7 portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion
8 of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International
9 Corporation, International Paper Company and Lincoln Pulp and Paper Company
10 located in Argyle; and the lands of the Dyer Interests in T.A.R.7 W.E.L.S., T.3 R.9
11 N.W.P., T.3 R.3, N.B.K.P. (Alder Brook Township), T.3 R.4 N.B.K.P. (Hammond
12 Township), T.2 R.4 N.B.K.P. (Pittston Academy Grant), T.2 R.3 N.B.K.P.
13 (Soldiertown Township), and T.4 R.4 N.B.K.P. (Prentiss Township), and any lands in
14 Albany Township acquired by the Passamaquoddy Tribe before January 1, 1991;

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

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

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

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

24 (c) Except as provided in paragraph F, after the effective date of this
25 subparagraph and the land is located within the borders of a city, town, village
26 or plantation;

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

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

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

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

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

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

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

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

8 (3) If any of the agreements required by subparagraph (2) are not in place within
9 90 days from the date the Passamaquoddy Tribe provides written notice to the city,
10 town, village or plantation of the need to develop agreements to meet the
11 requirements of subparagraph (2), either party may submit any dispute, claim,
12 question or disagreement regarding the requirements of subparagraph (2) to
13 binding arbitration, which must be governed by the rules of the American
14 Arbitration Association or its successor organization unless other rules are agreed
15 to by both parties. The parties shall submit their last best offer regarding the matter
16 to the arbitration panel, and the panel shall decide which last best offer on the
17 matter best meets the applicable requirements of subparagraph (2);

18 C. Any land not exceeding 100 acres in the City of Calais acquired by the secretary
19 for the benefit of the Passamaquoddy Tribe as long as the land is ~~acquired by the~~
20 ~~secretary prior to January 1, 2001,~~ is not held in common with any other person or
21 entity and ~~is certified by the secretary by January 31, 2001, as held for the benefit of~~
22 ~~the Passamaquoddy Tribe, if:~~

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

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

28 D. All land acquired by the secretary for the benefit of the Passamaquoddy Tribe in T.
29 19, M.D. to the extent that the land is ~~acquired by the secretary prior to January 31,~~
30 ~~2020,~~ is not held in common with any other person or entity and ~~is certified by the~~
31 ~~secretary by January 31, 2020 as held for the benefit of the Passamaquoddy Tribe;~~

32 D-1. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in
33 Centerville consisting of Parcels A, B and C conveyed by Bertram C. Tackeff to the
34 Passamaquoddy Tribe by quitclaim deed dated July 27, 1981, recorded in the
35 Washington County Registry of Deeds in Book 1147, Page 251, to the extent that the
36 land is ~~acquired by the secretary prior to January 31, 2017,~~ is not held in common with
37 any other person or entity and ~~is certified by the secretary by January 31, 2017 as held~~
38 ~~for the benefit of the Passamaquoddy Tribe;~~

39 D-2. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in
40 Centerville conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by quitclaim
41 deed dated May 4, 1982, recorded in the Washington County Registry of Deeds in
42 Book 1178, Page 35, to the extent that the land is ~~acquired by the secretary prior to~~
43 ~~January 31, 2023,~~ is not held in common with any other person or entity and ~~is certified~~

1 by the secretary by January 31, 2023 as held for the benefit of the Passamaquoddy
2 Tribe; and

3 E. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in
4 Township 21 consisting of Gordon Island in Big Lake, conveyed by Domtar Maine
5 Corporation to the Passamaquoddy Tribe by corporate quitclaim deed dated April 30,
6 2002, recorded in the Washington County Registry of Deeds in Book 2624, Page 301,
7 to the extent that the land is acquired by the secretary prior to January 31, 2017, is not
8 held in common with any other person or entity and is certified by the secretary by
9 January 31, 2017 as held for the benefit of the Passamaquoddy Tribe; and

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

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

20 A. The Penobscot Indian Reservation; and

21 ~~B. The first 150,000 acres of land acquired by the secretary for the benefit of the~~
22 ~~Penobscot Nation from the following areas or lands to the extent that those lands are~~
23 ~~acquired by the secretary prior to January 31, 2021, are not held in common with any~~
24 ~~other person or entity and are certified by the secretary by January 31, 2021, as held~~
25 ~~for the Penobscot Nation:~~

26 ~~The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.~~
27 ~~(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.;~~
28 ~~the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,~~
29 ~~B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,~~
30 ~~B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;~~
31 ~~any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle~~
32 ~~Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram~~
33 ~~C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion~~
34 ~~of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of~~
35 ~~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~~
36 ~~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~~
37 ~~portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion~~
38 ~~of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International~~
39 ~~Corporation, International Paper Company and Lincoln Pulp and Paper Company~~
40 ~~located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.; any 300 acres~~
41 ~~in Old Town mutually agreed upon by the City of Old Town and the Penobscot Nation~~
42 ~~Tribal Government, provided that the mutual agreement must be finalized prior to~~
43 ~~August 31, 1991; any lands in Lakeville acquired by the Penobscot Nation before~~
44 ~~January 1, 1991; and all the property acquired by the Penobscot Indian Nation from~~

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

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

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

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

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

12 (c) After the effective date of this subparagraph and the land is located within
13 the borders of a city, town, village or plantation;

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

17 (a) Under which the Penobscot Nation is required:

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

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

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

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

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

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

36 (3) If any of the agreements required by subparagraph (2) are not in place within
37 90 days from the date the Penobscot Nation provides written notice to the city,
38 town, village or plantation of the need to develop agreements to meet the
39 requirements of subparagraph (2), either party may submit any dispute, claim,
40 question or disagreement regarding the requirements of subparagraph (2) to
41 binding arbitration, which must be governed by the rules of the American
42 Arbitration Association or its successor organization unless other rules are agreed

1 to by both parties. The parties shall submit their last best offer regarding the matter
2 to the arbitration panel, and the panel shall decide which last best offer on the
3 matter best meets the applicable requirements of subparagraph (2).

4 **3. Takings under the laws of the State.**

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

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

35 B. ~~If land within either the Passamaquoddy Indian Territory or the Penobscot Indian~~
36 ~~Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot~~
37 ~~Indian Reservation is taken for public uses in accordance with the laws of the State the~~
38 ~~money received for said land shall be reinvested in other lands within 2 years of the~~
39 ~~date on which the money is received. To the extent that any moneys received are so~~
40 ~~reinvested in land with an area not greater than the area of the land taken and located~~
41 ~~within an unorganized or unincorporated area of the State, the lands so acquired by~~
42 ~~such reinvestment shall be included within the respective Indian territory without~~
43 ~~further approval of the State. To the extent that any moneys received are so reinvested~~
44 ~~in land with an area greater than the area of the land taken and located within an~~
45 ~~unorganized or unincorporated area of the State, the respective tribe or nation shall~~
46 ~~designate, within 30 days of such reinvestment, that portion of the land acquired by~~

1 such reinvestment, not to exceed the area taken, which shall be included within the
2 respective Indian territory. No land acquired pursuant to this paragraph shall be
3 included within either Indian Territory until the Secretary of Interior has certified, in
4 writing, to the Secretary of State the location and boundaries of the land acquired.

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

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

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

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

31 **Sec. 6. 30 MRSA §6205-A**, as enacted by PL 1981, c. 675, §§2 and 8, is amended
32 to read:

33 **§6205-A. Acquisition of Houlton Band Trust Land**

34 **1. Approval Acquisition.** ~~The State of Maine approves the acquisition, by the~~
35 ~~secretary, Lands acquired for the benefit of the Houlton Band Trust Land within the State~~
36 ~~of Maine provided as follows of Maliseet Indians in accordance with the requirements of~~
37 ~~this section are known as Houlton Band Trust Land.~~

38 A. No land or other natural resources acquired by the secretary may have the status of
39 Houlton Band Trust Land, or be deemed to be land or other natural resources held in
40 trust by the United States, until the secretary files with the Maine Secretary of State a
41 certified copy of the deed, contract or other instrument of conveyance, setting forth the
42 location and boundaries of the land or other natural resources so acquired. Filing by
43 mail shall be is complete upon mailing.

1 B. No land or natural resources may be acquired by the secretary for the Houlton Band
2 of Maliseet Indians until the secretary files with the Maine Secretary of State a certified
3 copy of the instrument creating the trust described in section 6208-A, together with a
4 letter stating that he holds not less than \$100,000 in a trust account for the payment of
5 Houlton Band of Maliseet Indians' obligations, and a copy of the claim filing
6 procedures he has adopted.

7 C. No land or natural resources located within any city, town, village or plantation
8 may be acquired by the secretary for the Houlton Band of Maliseet Indians without the
9 approval of the legislative body of the city, town, village or plantation.

10 **1-A. Acquisition of additional trust land.** Nothing in this Act limits the ability of
11 the Houlton Band of Maliseet Indians to acquire trust land in accordance with applicable
12 settlement acts and federal Indian law, including but not limited to the federal Indian
13 Reorganization Act, Public Law 73-383, and their implementing regulations. Except as
14 required by federal Indian law, acquisition of trust land is not subject to approval by the
15 State or any local government within the State.

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

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

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

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

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

29 D. Transfers authorized by United States Public Law 96-420, Section 5(g)(3), United
30 States Code, Title 25, Section 1724(g)(3); and

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

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

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

36 **§6206. Powers and duties Rights, privileges, powers, duties and immunities of the**
37 **Indian tribes within their respective Indian territories and the State**

38 **1. General Powers powers.** Except as otherwise provided specified in this Act, the
39 State, the Passamaquoddy Tribe and, the Penobscot Nation, ~~within their respective Indian~~
40 ~~territories, shall~~ and the Houlton Band of Maliseet Indians agree and intend pursuant to
41 United States Public Law 96-420 and hereby recognize that the Passamaquoddy Tribe, the
42 Penobscot Nation and the Houlton Band of Maliseet Indians and their respective members

1 have; and may exercise and enjoy all the rights, privileges, powers, duties and immunities;
2 including, but without limitation, the power to enact ordinances and collect taxes, and shall
3 be subject to all the duties, obligations, liabilities and limitations of a municipality of and
4 subject to the laws of the State, provided, however, that internal tribal matters, including
5 membership in the respective tribe or nation, the right to reside within the respective Indian
6 territories, tribal organization, tribal government, tribal elections and the use or disposition
7 of settlement fund income shall not be subject to regulation by the State. The
8 Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials
9 as are necessary to implement and administer those laws of the State applicable to the
10 respective Indian territories and the residents thereof. Any resident of the Passamaquoddy
11 Indian territory or the Penobscot Indian territory who is not a member of the respective
12 tribe or nation nonetheless shall be equally entitled to receive any municipal or
13 governmental services provided by the respective tribe or nation or by the State, except
14 those services which are provided exclusively to members of the respective tribe or nation
15 pursuant to state or federal law, and shall be entitled to vote in national, state and county
16 elections in the same manner as any tribal member residing within Indian territory that
17 federally recognized Indian tribes and their members generally have or exercise under
18 federal Indian law, including laws and regulations of the United States enacted for the
19 benefit of Indians, Indian nations or tribes or bands of Indians and laws and regulations that
20 accord a special status or right to or that relate to a special status or right of any Indian,
21 Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country,
22 Indian territory or land held in trust for Indians.

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

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

40 ~~A. Section 6209-A.~~

41 ~~B. Section 6209-B.~~

42 **Sec. 8. 30 MRSA §6206-A**, as enacted by PL 1981, c. 675, §§3 and 8, is repealed.

43 **Sec. 9. 30 MRSA §6206-B**, as amended by PL 2009, c. 384, Pt. A, §1 and affected
44 by §4, is repealed.

1 **Sec. 10. 30 MRSA §6207**, as amended by PL 1997, c. 739, §12 and affected by
2 §§13 and 14, is further amended to read:

3 **§6207. Regulation of fish fishing, hunting, trapping and other taking of wildlife**
4 **resources**

5 ~~**1. Adoption of ordinances by tribe.** Subject to the limitations of subsection 6, the~~
6 ~~Passamaquoddy Tribe and the Penobscot Nation each shall have exclusive authority within~~
7 ~~their respective Indian territories to promulgate and enact ordinances regulating:~~

8 ~~A. Hunting, trapping or other taking of wildlife; and~~

9 ~~B. Taking of fish on any pond in which all the shoreline and all submerged lands are~~
10 ~~wholly within Indian territory and which is less than 10 acres in surface area.~~

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

19 ~~**1-A. Jurisdiction of tribes.** Except as otherwise specified in subsections 2-A and 3,~~
20 ~~the State recognizes the exclusive jurisdiction that the Passamaquoddy Tribe, the Penobscot~~
21 ~~Nation and the Houlton Band of Maliseet Indians have under federal Indian law to regulate~~
22 ~~fishing, hunting, trapping and other taking of wildlife within the boundaries of their Indian~~
23 ~~territory or trust land by:~~

24 ~~A. Tribal members of any federally recognized Indian tribes; and~~

25 ~~B. Nontribal citizens.~~

26 ~~**2. Registration stations.** The Passamaquoddy Tribe and the Penobscot Nation shall~~
27 ~~establish and maintain registration stations for the purpose of registering bear, moose, deer~~
28 ~~and other wildlife killed within their respective Indian territories and shall adopt ordinances~~
29 ~~requiring registration of such wildlife to the extent and in substantially the same manner as~~
30 ~~such wildlife are required to be registered under the laws of the State. These ordinances~~
31 ~~requiring registration shall be equally applicable to all persons without distinction based on~~
32 ~~tribal membership. The Passamaquoddy Tribe and the Penobscot Nation shall report the~~
33 ~~deer, moose, bear and other wildlife killed and registered within their respective Indian~~
34 ~~territories to the Commissioner of Inland Fisheries and Wildlife of the State at such times~~
35 ~~as the commissioner deems appropriate. The records of registration of the Passamaquoddy~~
36 ~~Tribe and the Penobscot Nation shall be available, at all times, for inspection and~~
37 ~~examination by the commissioner.~~

38 ~~**2-A. Regulation by State solely for conservation purposes.** Solely for conservation~~
39 ~~purposes, the State has jurisdiction with respect to the regulation of fishing, hunting,~~
40 ~~trapping and other taking of wildlife by Indians off Indian territory or trust land to the extent~~
41 ~~permitted under federal Indian law and in a manner consistent with reserved tribal treaty~~
42 ~~rights.~~

1 **3. Adoption of regulations rules by the commission.** Subject to the limitations of
2 ~~subsection 6~~ Except as provided in subsection 4 with respect to sustenance fishing by tribal
3 members within the boundaries of their respective Indian territory or trust land that is
4 subject to the exclusive jurisdiction of the respective tribe, nation or band, the commission
5 ~~shall have~~ has exclusive authority to ~~promulgate adopt~~ fishing rules ~~or regulations on~~ for:

6 A. Any pond 50% or more of the linear shoreline of which is within Indian territory
7 or trust land, other than ~~those specified in subsection 1, paragraph B, 50% or more of~~
8 ~~the linear shoreline of which is~~ ponds in which all the shoreline and all submerged
9 lands are wholly within Indian territory or trust land and that are less than 10 acres in
10 surface area;

11 B. Any section of a river or stream both sides of which are within Indian territory or
12 trust land; and

13 C. Any section of a river or stream one side of which is within Indian territory or trust
14 land for a continuous length of 1/2 mile or more.

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

24 ~~Said~~ The rules or regulations shall must be equally applicable on a nondiscriminatory basis
25 to all persons regardless of whether such person is a member of the Passamaquoddy Tribe
26 ~~or, the~~ Penobscot Nation or the Houlton Band of Maliseet Indians. Rules ~~and regulations~~
27 ~~promulgated adopted~~ by the commission may include the imposition of fees and permits or
28 license requirements on users of such waters other than members of the Passamaquoddy
29 Tribe ~~and, the~~ Penobscot Nation or the Houlton Band of Maliseet Indians. In adopting
30 rules ~~or regulations~~ pursuant to this subsection, the commission shall comply with the
31 Maine Administrative Procedure Act.

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

37 ~~**3-A. Horsepower and use of motors.**~~ Subject to the limitations of subsection 6, the
38 commission ~~has~~ exclusive authority to adopt rules to regulate the horsepower and use of
39 ~~motors on waters less than 200 acres in surface area and entirely within Indian territory.~~

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

1 wildlife within the boundaries of their respective Indian territory, trust land and Indian
2 reservations, for their individual sustenance subject to the limitations of subsection 6.

3 **5. Posting.** Lands or waters subject to regulation by the commission, the
4 Passamaquoddy Tribe ~~or, the Penobscot Nation shall~~ or the Houlton Band of Maliseet
5 Indians must be conspicuously posted in such a manner as to provide reasonable notice to
6 the public of the limitations on hunting, trapping, fishing or other use of such lands or
7 waters.

8 ~~**6. Supervision by Commissioner of Inland Fisheries and Wildlife.** The~~
9 ~~Commissioner of Inland Fisheries and Wildlife, or his successor, shall be entitled to~~
10 ~~conduct fish and wildlife surveys within the Indian territories and on waters subject to the~~
11 ~~jurisdiction of the commission to the same extent as he is authorized to do so in other areas~~
12 ~~of the State. Before conducting any such survey the commissioner shall provide reasonable~~
13 ~~advance notice to the respective tribe or nation and afford it a reasonable opportunity to~~
14 ~~participate in such survey. If the commissioner, at any time, has reasonable grounds to~~
15 ~~believe that a tribal ordinance or commission regulation adopted under this section, or the~~
16 ~~absence of such a tribal ordinance or commission regulation, is adversely affecting or is~~
17 ~~likely to adversely affect the stock of any fish or wildlife on lands or waters outside the~~
18 ~~boundaries of land or waters subject to regulation by the commission, the Passamaquoddy~~
19 ~~Tribe or the Penobscot Nation, he shall inform the governing body of the tribe or nation or~~
20 ~~the commission, as is appropriate, of his opinion and attempt to develop appropriate~~
21 ~~remedial standards in consultation with the tribe or nation or the commission. If such efforts~~
22 ~~fail, he may call a public hearing to investigate the matter further. Any such hearing shall~~
23 ~~be conducted in a manner consistent with the laws of the State applicable to adjudicative~~
24 ~~hearings. If, after hearing, the commissioner determines that any such ordinance, rule or~~
25 ~~regulation, or the absence of an ordinance, rule or regulation, is causing, or there is a~~
26 ~~reasonable likelihood that it will cause, a significant depletion of fish or wildlife stocks on~~
27 ~~lands or waters outside the boundaries of lands or waters subject to regulation by the~~
28 ~~Passamaquoddy Tribe, the Penobscot Nation or the commission, he may adopt appropriate~~
29 ~~remedial measures including rescission of any such ordinance, rule or regulation and, in~~
30 ~~lieu thereof, order the enforcement of the generally applicable laws or regulations of the~~
31 ~~State. In adopting any remedial measures the commission shall utilize the least restrictive~~
32 ~~means possible to prevent a substantial diminution of the stocks in question and shall take~~
33 ~~into consideration the effect that non-Indian practices on non-Indian lands or waters are~~
34 ~~having on such stocks. In no event shall such remedial measure be more restrictive than~~
35 ~~those which the commissioner could impose if the area in question was not within Indian~~
36 ~~territory or waters subject to commission regulation.~~

37 ~~In any administrative proceeding under this section the burden of proof shall be on the~~
38 ~~commissioner. The decision of the commissioner may be appealed in the manner provided~~
39 ~~by the laws of the State for judicial review of administrative action and shall be sustained~~
40 ~~only if supported by substantial evidence.~~

41 **7. Transportation of game.** Fish lawfully taken within Indian territory or trust land
42 or in waters subject to commission regulation and wildlife lawfully taken within on Indian
43 territory or trust land and registered pursuant to ordinances adopted by the Passamaquoddy
44 Tribe ~~and, the Penobscot Nation; and the Houlton Band of Maliseet Indians~~ may be
45 transported within the State.

1 **8. Fish and wildlife on ~~non-Indian lands~~ Indian territory or trust land.** The
2 commission shall undertake appropriate studies, consult with the Passamaquoddy Tribe
3 ~~and, the Penobscot Nation and the Houlton Band of Maliseet Indians~~ and landowners and
4 state officials, and make recommendations to the ~~commissioner~~ Commissioner of Inland
5 Fisheries and Wildlife and the Legislature with respect to implementation of fish and
6 wildlife management policies on ~~non-Indian~~ nontribal lands in order to protect fish and
7 wildlife stocks on lands and water subject to regulation by the Passamaquoddy Tribe, the
8 Penobscot Nation, the Houlton Band of Maliseet Indians or the commission.

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

13 **Sec. 11. 30 MRSA §6207-A** is enacted to read:

14 **§6207-A. Land use and natural resources**

15 The State, the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of
16 Maliseet Indians agree and intend pursuant to United States Public Law 96-420 and hereby
17 recognize that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of
18 Maliseet Indians have the authority to regulate natural resources and land use within the
19 boundaries of their respective Indian territory or trust land to the extent provided in federal
20 Indian law.

21 **Sec. 12. 30 MRSA §6208**, as amended by PL 2009, c. 384, Pt. A, §2 and affected
22 by §4, is further amended to read:

23 **§6208. Taxation**

24 **1. Settlement Fund income.** The Settlement Fund and any portion of such funds or
25 income therefrom distributed to the Passamaquoddy Tribe or the Penobscot Nation or the
26 members thereof ~~shall be~~ are exempt from taxation under the laws of the State.

27 **2. Property taxes.** ~~The Passamaquoddy Tribe and the Penobscot Nation shall make~~
28 ~~payments in lieu of taxes on all real and personal property within their respective Indian~~
29 ~~territory in an amount equal to that which would otherwise be imposed by a county, a~~
30 ~~district, the State, or other taxing authority on such real and personal property provided,~~
31 ~~however, that any real or personal property within Indian territory used by either tribe or~~
32 ~~nation predominantly for governmental purposes shall be exempt from taxation to the same~~
33 ~~extent that such real or personal property owned by a municipality is exempt under the laws~~
34 ~~of the State. The Houlton Band of Maliseet Indians shall make payments in lieu of taxes~~
35 ~~on Houlton Band Trust Land in an amount equal to that which would otherwise be imposed~~
36 ~~by a municipality, county, district, the State or other taxing authority on that land or natural~~
37 ~~resource. Any other real or personal property owned by or held in trust for any Indian,~~
38 ~~Indian Nation or tribe or band of Indians and not within Indian territory, shall be subject to~~
39 ~~levy and collection of real and personal property taxes by any and all taxing authorities,~~
40 ~~including but without limitation municipalities, except that such real and personal property~~
41 ~~owned by or held for the benefit of and used by the Passamaquoddy Tribe or the Penobscot~~
42 ~~Nation predominantly for governmental purposes shall be exempt from property taxation~~
43 ~~to the same extent that such real and personal property owned by a municipality is exempt~~
44 ~~under the laws of the State.~~

1 **2-A. Payments in lieu of taxes; authority.** Any municipality in which Houlton Band
2 Trust Land is located has the authority, at its sole discretion, to enter into agreements with
3 the Houlton Band of Maliseet Indians to accept other funds or other things of value that are
4 obtained by or for the Houlton Band of Maliseet Indians by reason of the trust status of the
5 trust land as replacement for payments in lieu of taxes.

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

12 **3. Other taxes.** The Passamaquoddy Tribe, the Penobscot Nation, the members
13 thereof, and any other Indian, Indian Nation, or tribe or band of Indians shall be liable for
14 payment of all other taxes and fees to the same extent as any other person or entity in the
15 State. For purposes of this section either tribe or nation, when acting in its business capacity
16 as distinguished from its governmental capacity, shall be deemed to be a business
17 corporation organized under the laws of the State and shall be taxed as such.

18 **4. Exclusive jurisdiction; tribal members, tribal entities.** The State, the
19 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians
20 agree and intend pursuant to United States Public Law 96-420 and hereby recognize and
21 adopt the application of federal Indian law with regard to the authority of the
22 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to
23 exercise exclusive jurisdiction to tax tribal members and tribal entities on their respective
24 Indian territory and trust land, including entities owned by a tribe or tribal member.

25 **5. Not subject to state and local sales taxation.** The State, the Passamaquoddy Tribe,
26 the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant
27 to United States Public Law 96-420 and hereby recognize and adopt the application of
28 federal Indian law with regard to the right of the Passamaquoddy Tribe, the Penobscot
29 Nation and the Houlton Band of Maliseet Indians and their tribal members and tribal
30 entities to not be subject to state or local sales taxation on Indian territory and trust land.

31 **6. Not subject to state income tax.** The State, the Passamaquoddy Tribe, the
32 Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend pursuant to
33 United States Public Law 96-420 and hereby recognize and adopt the application of federal
34 Indian law with regard to the right of the members of the Passamaquoddy Tribe, the
35 Penobscot Nation and the Houlton Band of Maliseet Indians who live on Indian territory
36 or trust land of their respective tribe, nation or band to not be subject to state tax for income
37 earned on their respective Indian territory and trust land.

38 **7. Not subject to state and local real property tax.** The State, the Passamaquoddy
39 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend
40 pursuant to United States Public Law 96-420 and hereby recognize and adopt the
41 application of federal Indian law with regard to the right of the Passamaquoddy Tribe, the
42 Penobscot Nation and the Houlton Band of Maliseet Indians to not have their respective
43 Indian territory or trust land be subject to state or local real property tax.

44 **8. Concurrent jurisdiction to tax nontribal citizens.** The State, the Passamaquoddy
45 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and intend

1 pursuant to United States Public Law 96-420 and hereby recognize and adopt the
2 application of federal Indian law with regard to the authority of:

3 A. The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
4 Indians to exercise concurrent jurisdiction to tax nontribal citizens on their respective
5 Indian territory or trust land; and

6 B. State and local governments to exercise concurrent jurisdiction to tax nontribal
7 citizens on Indian territory or trust land unless the State's or local government's
8 jurisdiction is preempted.

9 **9. Sales tax; income tax rule-making authority.** This subsection applies to sales tax
10 and income tax based on sales on, in, into, from or otherwise sourced to or income earned
11 on or from activities on or otherwise sourced to Indian territory or trust land owned by the
12 tribe, nation or band.

13 A. Notwithstanding any other provision of this Act, the Passamaquoddy Tribe, the
14 Penobscot Nation and the Houlton Band of Maliseet Indians and their respective tribal
15 members and tribal entities:

16 (1) Are exempt from sales tax for sales on, in, into, from or otherwise sourced to
17 their respective Indian territory or trust land; and

18 (2) Are exempt from income tax on income earned on or from activities on or
19 otherwise sourced to their respective Indian territory or trust land, as long as the
20 tribal member or tribal entity resides on Indian territory or trust land.

21 B. The State shall make payments to the Passamaquoddy Tribe, the Penobscot Nation
22 and the Houlton Band of Maliseet Indians of the amounts of revenue attributable to the
23 sales tax collected on, in, into, from or otherwise sourced to their respective Indian
24 territory or trust land, reduced by the transfer to the Local Government Fund provided
25 for by Title 30-A, section 5681.

26 C. The Department of Administrative and Financial Services, Maine Revenue Services
27 may enter into sales tax revenue-sharing agreements with the Passamaquoddy Tribe,
28 the Penobscot Nation and the Houlton Band of Maliseet Indians with respect to tax
29 collected on sales on, in, into, from or otherwise sourced to Indian territory or trust land
30 owned by the tribe, nation or band.

31 D. The Department of Administrative and Financial Services, Maine Revenue Services
32 may adopt rules to implement this section and shall confer with the Passamaquoddy
33 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians regarding any
34 proposed rules. Rules adopted pursuant to this paragraph are routine technical rules as
35 defined in Title 5, chapter 375, subchapter 2-A.

36 **Sec. 13. 30 MRSA §6208-A**, as enacted by PL 1981, c. 675, §§7 and 8, is repealed.

37 **Sec. 14. 30 MRSA §6209-A**, as amended by PL 2019, c. 621, Pt. D, §§1 to 4 and
38 affected by §5, is further amended to read:

39 **§6209-A. Jurisdiction of the Passamaquoddy Tribal Court**

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

1 A. ~~Criminal offenses for which the maximum potential term of imprisonment is less~~
2 ~~than one year and the maximum potential fine does not exceed \$5,000 and that are~~
3 ~~Class C, D and E crimes committed on the Indian reservation of the within~~
4 ~~Passamaquoddy Tribe Indian territory~~ by a member of any federally recognized Indian
5 tribe, nation, band or other group, except when committed against a person who is not
6 a member of any federally recognized Indian tribe, nation, band or other group or
7 against the property of a person who is not a member of any federally recognized Indian
8 tribe, nation, band or other group. The Passamaquoddy Tribe may not deny to any
9 criminal defendant prosecuted under this paragraph for a Class C crime the rights and
10 protections enumerated in 25 United States Code, Section 1302(c);

11 B. Juvenile crimes against a person or property involving conduct that, if committed
12 by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe
13 under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection
14 1, paragraphs B and C, committed by a juvenile member of the Passamaquoddy Tribe,
15 the Houlton Band of Maliseet Indians or the Penobscot Nation ~~on the reservation of the~~
16 within Passamaquoddy Tribe Indian territory;

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

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

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

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

38 **1-A. Concurrent jurisdiction over certain criminal offenses.** The Passamaquoddy
39 Tribe has the right to exercise jurisdiction, concurrently with the State, over the following
40 ~~Class D crimes committed by a person on the Passamaquoddy Indian Reservation or on~~
41 ~~lands taken into trust by the secretary for the benefit of the Passamaquoddy Tribe, now or~~
42 ~~in the future, for which the potential maximum term of imprisonment does not exceed one~~
43 ~~year and the potential fine does not exceed \$2,000: Title 17-A, sections 207-A, 209-A,~~
44 ~~210-B, 210-C and 211-A and Title 19-A, section 4011. The concurrent jurisdiction~~
45 ~~authorized by this subsection does not include an offense committed by a juvenile or a~~

1 ~~criminal offense committed by a person who is not a member of any federally recognized~~
2 ~~Indian tribe, nation, band or other group against the person or property of a person who is~~
3 ~~not a member of any federally recognized Indian tribe, nation, band or other group.;~~

4 A. Class D crimes set out under Title 17-A, sections 207 A, 209 A, 210 B, 210 C and
5 211 A and Title 19 A, section 4011 committed by a person who is not a member of any
6 federally recognized Indian tribe, nation, band or other group on the Passamaquoddy
7 Indian territory against a person or property of a person who is a member of a federally
8 recognized Indian tribe, nation, band or other group. The concurrent jurisdiction
9 authorized by this paragraph does not include offenses committed by a juvenile; and

10 B. Class C, D and E crimes committed within Passamaquoddy Indian territory by a
11 member of a federally recognized Indian tribe, nation, band or other group committed
12 against a person who is not a member of any federally recognized Indian tribe, nation,
13 band or other group or against the property of a person who is not a member of any
14 federally recognized Indian tribe, nation, band or other group. The Passamaquoddy
15 Tribe may not deny to any criminal defendant prosecuted under this paragraph for a
16 Class C crime the rights and protections enumerated in 25 United States Code, Section
17 1302(c).

18 The governing body of the Passamaquoddy Tribe shall decide whether to exercise or
19 terminate the exercise of jurisdiction authorized by this subsection. Notwithstanding
20 subsection 2, the Passamaquoddy Tribe may not deny to any criminal defendant prosecuted
21 under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the
22 rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c),
23 1303 and 1304(d) and all other rights whose protection is necessary under the United States
24 Constitution in order for the State to authorize concurrent jurisdiction under this subsection.
25 If a criminal defendant prosecuted under this subsection moves to suppress statements on
26 the ground that they were made involuntarily, the prosecution has the burden to prove
27 beyond a reasonable doubt that the statements were made voluntarily.

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

34 **1-B. Exclusive jurisdiction of the State.** Except as provided in subsection 1,
35 paragraphs A and B and subsection 1-A, all laws of the State relating to crimes and juvenile
36 crimes apply within Passamaquoddy Indian territory and the State has exclusive
37 jurisdiction over those offenses and crimes. Nothing in subsection 1 or 1-A affects, alters
38 or preempts the ability or authority of the Attorney General to investigate or prosecute any
39 conduct occurring in the State, including on Passamaquoddy Indian territory.

40 **2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
41 under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be
42 enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and juvenile
43 crimes and the punishments applicable to those criminal offenses and juvenile crimes over
44 which the Passamaquoddy Tribe has exclusive jurisdiction under this section are governed
45 by the laws of the State. Issuance and execution of criminal process are also governed by

1 the laws of the State. The procedures for the establishment and operation of tribal forums
2 created to effectuate the purposes of this section are governed by federal statute, including,
3 without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and
4 rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian
5 tribes on federal Indian reservations.

6 **2-A. Criminal records, juvenile records and fingerprinting.** At the arraignment of
7 a criminal defendant, the Passamaquoddy Tribal Court shall inquire whether fingerprints
8 have been taken or whether arrangements have been made for fingerprinting. If neither has
9 occurred, the Passamaquoddy Tribal Court shall instruct both the responsible law
10 enforcement agency and the person charged as to their respective obligations in this regard,
11 consistent with Title 25, section 1542-A.

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

21 **3. Lesser included criminal offenses in state courts.** In any criminal proceeding in
22 the courts of the State in which a ~~criminal-offense crime~~ or juvenile crime under the
23 exclusive jurisdiction of the Passamaquoddy Tribe constitutes a lesser included criminal
24 offense of the ~~criminal-offense crime~~ or juvenile crime charged, the defendant may be
25 convicted or the juvenile adjudicated in the courts of the State of the lesser included
26 criminal offense. A lesser included criminal offense is as defined under the laws of the
27 State.

28 **4. Double jeopardy; collateral estoppel.** A prosecution for a ~~criminal-offense crime~~
29 or juvenile crime over which the Passamaquoddy Tribe has exclusive jurisdiction under
30 this section does not bar a prosecution for a ~~criminal-offense crime~~ or juvenile crime, arising
31 out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for
32 a ~~criminal-offense crime~~ over which the Passamaquoddy Tribe has concurrent jurisdiction
33 under this section does not bar a prosecution for a ~~criminal-offense crime~~, arising out of the
34 same conduct, over which the State has exclusive jurisdiction. A prosecution for a ~~criminal~~
35 ~~offense crime~~ over which the State has concurrent jurisdiction under this section does not
36 bar a prosecution for a ~~criminal-offense crime~~, arising out of the same conduct, over which
37 the Passamaquoddy Tribe has exclusive jurisdiction. A prosecution for a ~~criminal-offense~~
38 crime or juvenile crime over which the State has exclusive jurisdiction does not bar a
39 prosecution for a ~~criminal-offense crime~~ or juvenile crime, arising out of the same conduct,
40 over which the Passamaquoddy Tribe has exclusive jurisdiction under this section. The
41 determination of an issue of fact in a criminal or juvenile proceeding conducted in a
42 Passamaquoddy tribal forum does not constitute collateral estoppel in a criminal or juvenile
43 proceeding conducted in a state court. The determination of an issue of fact in a criminal
44 or juvenile proceeding conducted in a state court does not constitute collateral estoppel in
45 a criminal or juvenile proceeding conducted in a Passamaquoddy tribal forum.

1 **4-A. Civil adjudicatory jurisdiction over matters arising on Passamaquoddy**
2 **Indian territory.** The State and the Passamaquoddy Tribe agree and intend pursuant to
3 United States Public Law 96-420 and hereby recognize and adopt the application of federal
4 Indian law with regard to the authority of the Passamaquoddy Tribe to exercise
5 adjudicatory jurisdiction over civil actions arising on Passamaquoddy Indian territory. The
6 courts of the State have adjudicatory jurisdiction over civil actions arising on
7 Passamaquoddy Indian territory to the extent provided by federal Indian law or as otherwise
8 provided in this Act.

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

19 **Sec. 15. 30 MRSA §6209-B**, as amended by PL 2019, c. 621, Pt. C, §§1 to 3 and
20 affected by §4, is further amended to read:

21 **§6209-B. Jurisdiction of the Penobscot Nation Tribal Court**

22 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections 3
23 and 4, the Penobscot Nation has the right to exercise exclusive jurisdiction, separate and
24 distinct from the State, over:

25 A. ~~Criminal offenses for which the maximum potential term of imprisonment does not~~
26 ~~exceed one year and the maximum potential fine does not exceed \$5,000 and that are~~
27 Class C, D and E crimes committed on the Indian reservation of the within Penobscot
28 Nation Indian territory by a member of any federally recognized Indian tribe, nation,
29 band or other group, except when committed against a person who is not a member of
30 any federally recognized Indian tribe, nation, band or other group or against the
31 property of a person who is not a member of any federally recognized Indian tribe,
32 nation, band or other group. The Penobscot Nation may not deny to any criminal
33 defendant prosecuted under this paragraph for a Class C crime the rights and
34 protections enumerated in 25 United States Code, Section 1302(c);

35 B. Juvenile crimes against a person or property involving conduct that, if committed
36 by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation under
37 paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1,
38 paragraphs B and C, committed by a juvenile member of ~~either~~ the Passamaquoddy
39 Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation ~~on the Indian~~
40 ~~reservation of the within Penobscot Nation Indian territory;~~

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

1 conduct on the Indian reservation of the Penobscot Nation by a member of either the
2 Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation;

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

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

9 The governing body of the Penobscot Nation shall decide whether to exercise or terminate
10 the exercise of the exclusive jurisdiction authorized by this subsection. If the Penobscot
11 Nation chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the
12 criminal, juvenile, or civil and domestic matters described in this subsection, the State has
13 exclusive jurisdiction over those matters. ~~Except as provided in paragraphs A and B, all~~
14 ~~laws of the State relating to criminal offenses and juvenile crimes apply within the~~
15 ~~Penobscot Indian reservation and the State has exclusive jurisdiction over those offenses~~
16 ~~and crimes.~~

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

28 A. Class D crimes set out under Title 17-A, sections 207-A, 209-A, 210-B, 210-C and
29 211-A and Title 19-A, section 4011 committed by a person who is not a member of
30 any federally recognized Indian tribe, nation, band or other group on the Penobscot
31 Indian territory against a person or property of a person who is a member of a federally
32 recognized Indian tribe, nation, band or other group. The concurrent jurisdiction
33 authorized by this paragraph does not include offenses committed by a juvenile; and

34 B. Class C, D and E crimes committed within Penobscot Indian territory by a member
35 of a federally recognized Indian tribe, nation, band or other group committed against a
36 person who is not a member of any federally recognized Indian tribe, nation, band or
37 other group or against the property of a person who is not a member of any federally
38 recognized Indian tribe, nation, band or other group. The Penobscot Nation may not
39 deny to any criminal defendant prosecuted under this paragraph for a Class C crime the
40 rights and protections enumerated in 25 United States Code, Section 1302(c).

41 The governing body of the Penobscot Nation shall decide whether to exercise or terminate
42 the exercise of jurisdiction authorized by this subsection. Notwithstanding subsection 2,
43 the Penobscot Nation may not deny to any criminal defendant prosecuted under this
44 subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and
45 protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and

1 1304(d) and all other rights whose protection is necessary under the United States
2 Constitution in order for the State to authorize concurrent jurisdiction under this subsection.
3 If a criminal defendant prosecuted under this subsection moves to suppress statements on
4 the ground that they were made involuntarily, the prosecution has the burden to prove
5 beyond a reasonable doubt that the statements were made voluntarily.

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

12 **1-B. Exclusive jurisdiction of the State.** Except as provided in subsection 1,
13 paragraphs A and B and subsection 1-A, all laws of the State relating to crimes and juvenile
14 crimes apply within Penobscot Indian territory and the State has exclusive jurisdiction over
15 those offenses and crimes. Nothing in subsection 1 or 1-A affects, alters or preempts the
16 ability or authority of the Attorney General to investigate or prosecute any conduct
17 occurring in the State, including on Penobscot Indian territory.

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

29 **2-A. Criminal records, juvenile records and fingerprinting.** At the arraignment of
30 a criminal defendant, the Penobscot Nation Tribal Court shall inquire whether fingerprints
31 have been taken or whether arrangements have been made for fingerprinting. If neither has
32 occurred, the Penobscot Nation Tribal Court shall instruct both the responsible law
33 enforcement agency and the person charged as to their respective obligations in this regard,
34 consistent with Title 25, section 1542-A.

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

44 **3. Lesser included criminal offenses in state courts.** In any criminal proceeding in
45 the courts of the State in which a ~~criminal offense~~ crime or juvenile crime under the

1 exclusive jurisdiction of the Penobscot Nation constitutes a lesser included criminal offense
2 of the criminal offense crime or juvenile crime charged, the defendant may be convicted or
3 the juvenile adjudicated in the courts of the State of the lesser included criminal offense. A
4 lesser included criminal offense is as defined under the laws of the State.

5 **4. Double jeopardy; collateral estoppel.** A prosecution for a criminal offense crime
6 or juvenile crime over which the Penobscot Nation has exclusive jurisdiction under this
7 section does not bar a prosecution for a criminal offense crime or juvenile crime, arising
8 out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for
9 a criminal offense crime over which the Penobscot Nation has concurrent jurisdiction under
10 this section does not bar a prosecution for a criminal offense crime, arising out of the same
11 conduct, over which the State has exclusive jurisdiction. A prosecution for a criminal
12 offense crime over which the State has concurrent jurisdiction under this section does not
13 bar a prosecution for a criminal offense crime, arising out of the same conduct, over which
14 the Penobscot Nation has exclusive jurisdiction. A prosecution for a criminal offense crime
15 or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution
16 for a criminal offense crime or juvenile crime, arising out of the same conduct, over which
17 the Penobscot Nation has exclusive jurisdiction under this section. The determination of
18 an issue of fact in a criminal or juvenile proceeding conducted in a tribal forum does not
19 constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court.
20 The determination of an issue of fact in a criminal or juvenile proceeding conducted in a
21 state court does not constitute collateral estoppel in a criminal or juvenile proceeding
22 conducted in a tribal forum.

23 **4-A. Civil adjudicatory jurisdiction over matters arising on Penobscot Indian**
24 **territory.** The State and the Penobscot Nation agree and intend pursuant to United States
25 Public Law 96-420 and hereby recognize and adopt the application of federal Indian law
26 with regard to the authority of the Penobscot Nation to exercise adjudicatory jurisdiction
27 over civil actions arising on Penobscot Indian territory. The courts of the State have
28 adjudicatory jurisdiction over civil actions arising on Penobscot Indian territory to the
29 extent provided by federal Indian law or as otherwise provided in this Act.

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

39 **Sec. 16. 30 MRSA §6209-C**, as corrected by RR 2011, c. 1, §45, is amended to
40 read:

41 **§6209-C. Jurisdiction of the Houlton Band of Maliseet Indians Tribal Court**

42 **1. Exclusive jurisdiction over certain matters.** Except as provided in subsections 3
43 and 4, the Houlton Band of Maliseet Indians has the right to exercise exclusive jurisdiction,
44 separate and distinct from the State, over:

1 A. Criminal offenses for which the maximum potential term of imprisonment does not
2 exceed one year and the maximum potential fine does not exceed \$5,000 and that are
3 Class C, D and E crimes committed on the Houlton Band Jurisdiction Trust Land by a
4 member of the Houlton Band of Maliseet Indians a federally recognized Indian tribe,
5 nation, band or other group, except when committed against a person who is not a
6 member of the Houlton Band of Maliseet Indians any federally recognized Indian tribe,
7 nation, band or other group or against the property of a person who is not a member of
8 the Houlton Band of Maliseet Indians any federally recognized Indian tribe, nation,
9 band or other group. The Houlton Band of Maliseet Indians may not deny to any
10 criminal defendant prosecuted under this paragraph for a Class C crime the rights and
11 protections enumerated in 25 United States Code, Section 1302(c);

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

18 C. Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of
19 Maliseet Indians or the Penobscot Nation arising on the Houlton Band Jurisdiction
20 Trust Land and cognizable as small claims under the laws of the State and civil actions
21 against a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians
22 or the Penobscot Nation under Title 22, section 2383 involving conduct on the Houlton
23 Band Jurisdiction Trust Land by a member of the Passamaquoddy Tribe, the Houlton
24 Band of Maliseet Indians or the Penobscot Nation;

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

27 E. Other domestic relations matters, including marriage, divorce and support, between
28 members of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the
29 Penobscot Nation, both of whom reside within the Houlton Band Jurisdiction Trust
30 Land.

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

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

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

13 B. Juvenile crimes against a person or property involving conduct that, if committed
14 by an adult, would fall within the exclusive jurisdiction of the Houlton Band of
15 Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section
16 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the
17 Penobscot Nation on the Houlton Band Jurisdiction Land;

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

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

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

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

33 **~~1-B. Exclusive jurisdiction over Passamaquoddy Tribe members.~~** The Houlton
34 Band of Maliseet Indians has the right to exercise exclusive jurisdiction, separate and
35 distinct from the State, over:

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

1 B. Juvenile crimes against a person or property involving conduct that, if committed
2 by an adult, would fall within the exclusive jurisdiction of the Houlton Band of
3 Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section
4 3103, subsection 1, paragraphs B and C, committed by a juvenile member of the
5 Passamaquoddy Tribe on the Houlton Band Jurisdiction Land;

6 C. Civil actions between a member of those federally recognized Indian tribes
7 otherwise subject to the exclusive jurisdiction of the Houlton Band of Maliseet Indians
8 under this subsection and members of the Passamaquoddy Tribe arising on the Houlton
9 Band Jurisdiction Land and cognizable as small claims under the laws of the State and
10 civil actions against a member of the Passamaquoddy Tribe under Title 22, section
11 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the
12 Passamaquoddy Tribe;

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

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

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

21 **1-C. Concurrent jurisdiction over certain criminal offenses.** The Houlton Band of
22 Maliseet Indians has the right to exercise jurisdiction, concurrently with the State, over the
23 following crimes:

24 A. Class D crimes set out under Title 17-A, sections 207-A, 209-A, 210-B, 210-C and
25 211-A and Title 19-A, section 4011 committed by a person who is not a member of
26 any federally recognized Indian tribe, nation, band or other group on the Houlton Band
27 Trust Land against a person or property of a person who is a member of a federally
28 recognized Indian tribe, nation, band or other group. The concurrent jurisdiction
29 authorized by this paragraph does not include offenses committed by a juvenile; and

30 B. Class C, D and E crimes committed within Houlton Band Trust Land by a member
31 of a federally recognized Indian tribe, nation, band or other group committed against a
32 person who is not a member of any federally recognized Indian tribe, nation, band or
33 other group or against the property of a person who is not a member of any federally
34 recognized Indian tribe, nation, band or other group. The Houlton Band of Maliseet
35 Indians may not deny to any criminal defendant prosecuted under this paragraph for a
36 Class C crime the rights and protections enumerated in 25 United States Code, Section
37 1302(c).

38 The governing body of the Houlton Band of Maliseet Indians shall decide whether to
39 exercise or terminate the exercise of jurisdiction authorized by this subsection.
40 Notwithstanding subsection 2, the Houlton Band of Maliseet Indians may not deny to any
41 criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a
42 unanimous jury verdict, the rights and protections enumerated in 25 United States Code,
43 Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is
44 necessary under the United States Constitution in order for the State to authorize concurrent

1 jurisdiction under this subsection. If a criminal defendant prosecuted under this subsection
2 moves to suppress statements on the ground that they were made involuntarily, the
3 prosecution has the burden to prove beyond a reasonable doubt that the statements were
4 made voluntarily.

5 In exercising the concurrent jurisdiction authorized by this subsection, the Houlton Band
6 of Maliseet Indians is deemed to be enforcing Houlton Band tribal law. The definitions of
7 the criminal offenses and the punishments applicable to those criminal offenses over which
8 the Houlton Band of Maliseet Indians has concurrent jurisdiction under this subsection are
9 governed by the laws of the State. Issuance and execution of criminal process also are
10 governed by the laws of the State.

11 **1-D. Exclusive jurisdiction of the State.** Except as provided in subsection 1,
12 paragraphs A and B and subsection 1-C, all laws of the State relating to crimes and juvenile
13 crimes apply within Houlton Band Trust Land and the State has exclusive jurisdiction over
14 those offenses and crimes. Nothing in subsection 1 or 1-C affects, alters or preempts the
15 ability or authority of the Attorney General to investigate or prosecute any conduct
16 occurring in the State, including on Houlton Band Trust Land.

17 **2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction
18 under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed
19 to be enforcing tribal law of the Houlton Band of Maliseet Indians. The definitions of the
20 ~~criminal offenses~~ crimes and juvenile crimes and the punishments applicable to those
21 ~~criminal offenses~~ crimes and juvenile crimes over which the Houlton Band of Maliseet
22 Indians has exclusive jurisdiction under this section are governed by the laws of the State.
23 Issuance and execution of criminal process are also governed by the laws of the State. The
24 procedures for the establishment and operation of tribal forums created to effectuate the
25 purposes of this section are governed by federal statute, including, without limitation, the
26 provisions of 25 United States Code, Sections 1301 to 1303 and rules and regulations
27 generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal
28 Indian reservations.

29 **2-A. Criminal records, juvenile records and fingerprinting.** At the arraignment of
30 a criminal defendant, the Houlton Band of Maliseet Indians Tribal Court shall inquire
31 whether fingerprints have been taken or whether arrangements have been made for
32 fingerprinting. If neither has occurred, the Houlton Band of Maliseet Indians Tribal Court
33 shall instruct both the responsible law enforcement agency and the person charged as to
34 their respective obligations in this regard, consistent with Title 25, section 1542-A.

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

44 **3. Lesser included criminal offenses in state courts.** In any criminal proceeding in
45 the courts of the State in which a ~~criminal offense~~ crime or juvenile crime under the

1 exclusive jurisdiction of the Houlton Band of Maliseet Indians constitutes a lesser included
2 criminal offense of the ~~criminal offense~~ crime or juvenile crime charged, the defendant
3 may be convicted or the juvenile adjudicated in the courts of the State of the lesser included
4 criminal offense. A lesser included criminal offense is as defined under the laws of the
5 State.

6 **4. Double jeopardy; collateral estoppel.** A prosecution for a ~~criminal offense~~ crime
7 or juvenile crime over which the Houlton Band of Maliseet Indians has exclusive
8 jurisdiction under this section does not bar a prosecution for a ~~criminal offense~~ crime or
9 juvenile crime arising out of the same conduct over which the State has exclusive
10 jurisdiction. A prosecution for a crime over which the Houlton Band of Maliseet Indians
11 has concurrent jurisdiction under this section does not bar a prosecution for a crime, arising
12 out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for
13 a crime over which the State has concurrent jurisdiction under this section does not bar a
14 prosecution for a crime, arising out of the same conduct, over which the Houlton Band of
15 Maliseet Indians has exclusive jurisdiction. A prosecution for a ~~criminal offense~~ crime or
16 juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution
17 for a ~~criminal offense~~ crime or juvenile crime arising out of the same conduct over which
18 the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section. The
19 determination of an issue of fact in a criminal or juvenile proceeding conducted in a tribal
20 forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted
21 in a state court. The determination of an issue of fact in a criminal or juvenile proceeding
22 conducted in a state court does not constitute collateral estoppel in a criminal or juvenile
23 proceeding conducted in a tribal forum.

24 **5. Houlton Band Jurisdiction Land.** For the purposes of this section, “Houlton Band
25 Jurisdiction Land” means only the Houlton Band Trust Land described as follows:

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

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

34 ~~The designation of Houlton Band Jurisdiction Land in this subsection in no way affects the~~
35 ~~acquisition of additional Houlton Band Trust Land pursuant to applicable federal and state~~
36 ~~law, nor limits the Houlton Band of Maliseet Indians from making additional requests that~~
37 ~~portions of the trust land be included in this subsection.~~

38 **5-A. Civil adjudicatory jurisdiction over matters arising on Houlton Band Trust**
39 **Land.** The State and the Houlton Band of Maliseet Indians agree and intend pursuant to
40 United States Public Law 96-420 and hereby recognize and adopt the application of federal
41 Indian law with regard to the authority of the Houlton Band of Maliseet Indians to exercise
42 adjudicatory jurisdiction over civil actions arising on Houlton Band Trust Land. The courts
43 of the State have adjudicatory jurisdiction over civil actions arising on Houlton Band Trust
44 Land to the extent provided by federal Indian law or as otherwise provided in this Act.

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

6 **Sec. 17. 30 MRSA §6209-D**, as enacted by PL 2009, c. 384, Pt. C, §1 and affected
7 by §2, is amended to read:

8 **§6209-D. Full faith and credit**

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

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

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

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

18 **Sec. 18. 30 MRSA §6210**, as amended by PL 2019, c. 621, Pt. A, §2 and affected
19 by §3 and amended by Pt. B, §2 and affected by §3, is further amended to read:

20 **§6210. Law enforcement on ~~Indian reservations and within~~ Houlton Band Trust**
21 **Land, Passamaquoddy Indian territory and Penobscot Indian territory**

22 **1. Exclusive authority of tribal law enforcement officers.** Law enforcement officers
23 appointed by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the
24 Penobscot Nation have exclusive authority to enforce, within their respective Indian
25 territories, ordinances adopted under section 6206 and section 6207, subsection 1, and to
26 enforce, on their respective Indian reservations, territory or trust land the criminal, juvenile,
27 civil and domestic relations laws over which the Houlton Band of Maliseet Indians, the
28 Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section 6209-A,
29 subsection 1 and, section 6209-B, subsection 1, respectively and section 6209-C,
30 subsection 1.

31 **1-A. Appointment of tribal law enforcement officers.** The Houlton Band of
32 Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation may appoint law
33 enforcement officers who have the authority to enforce the laws of the State that are
34 applicable within Indian territory or trust land. This subsection does not limit the
35 appointment or authority of tribal officers under tribal law or affect the performance of
36 federal duties by tribal officers.

37 **2. Joint authority of tribal and state law enforcement officers.** Law enforcement
38 officers appointed by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or
39 the Penobscot Nation have the authority within their respective Indian territories or trust
40 land and state and county law enforcement officers have the authority within both Indian
41 territories and trust land to enforce rules or regulations adopted by the commission under
42 section 6207, subsection 3 and to enforce all laws of the State other than those over which
43 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. 19. 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,

1 nation or band and used for governmental purposes is treated for purposes of valuation as
2 like property owned by a municipality.

3 **Sec. 20. 30 MRSA §6213**, as enacted by PL 1979, c. 732, §§1 and 31, is amended
4 to read:

5 **§6213. Approval of prior transfers**

6 **1. Approval of tribal transfers.** Any transfer of land or other natural resources
7 located anywhere within the State, from, by, or on behalf of any Indian nation, or tribe or
8 band of Indians, including ~~but~~ without limitation any transfer pursuant to any treaty,
9 compact or statute of any state, ~~which transfer that occurred prior to the effective date of~~
10 ~~this Act~~ October 10, 1980, ~~shall be~~ is deemed to have been made in accordance with the
11 laws of the State.

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

17 **Sec. 21. 30 MRSA §6214**, as enacted by PL 1979, c. 732, §§1 and 31, is amended
18 to read:

19 **§6214. Tribal school committees**

20 The Passamaquoddy Tribe ~~and~~, the Penobscot Nation and the Houlton Band of
21 Maliseet Indians are authorized to create respective tribal school committees, in
22 substitution for the committees heretofore provided for under the laws of the State. Such
23 tribal school committees shall operate under the laws of the State applicable to school
24 administrative units. ~~The presently constituted tribal school committee of the respective~~
25 ~~tribe or nation shall continue~~ Passamaquoddy Tribe or Penobscot Nation constituted on
26 October 10, 1980 continues in existence and shall exercise all the authority heretofore
27 vested by law in it until such time as the respective tribe or nation creates the tribal school
28 committee authorized by this section.

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

30 **§6215. Civil jurisdiction**

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

38 **2. Members and entities not subject to state laws on tribal land.** The State, the
39 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians
40 agree and intend pursuant to United States Public Law 96-420 and hereby recognize that,
41 except as otherwise provided in this Act or by federal Indian law, the Passamaquoddy
42 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their respective

1 tribal members and tribal entities are not subject to the laws of the State, including state
2 and local civil regulatory jurisdiction, on their respective Indian territory or trust land.

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

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

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

19 **§6216. Federal laws apply; do not affect or preempt the laws of this State**

20 Acting pursuant to United States Public Law 96-420, the State, the Passamaquoddy
21 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians agree and recognize
22 that laws of the State do not apply to the Passamaquoddy Tribe, the Penobscot Nation and
23 the Houlton Band of Maliseet Indians and their members and lands, except as otherwise
24 provided by this Act or federal Indian law. Except for laws that conflict with the
25 jurisdiction over crimes and juvenile crimes described in this Act, the State, the
26 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians,
27 acting pursuant to United States Public Law 96-420, further agree and recognize:

28 **1. Federal laws; special status or right.** Because state law does not apply, for the
29 purposes of United States Public Law 96-420, Section 6(h), that any law or regulation of
30 the United States that accords a special status or right to or relates to a special status or
31 right of any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian
32 reservations, Indian country, Indian territory or land held in trust for Indians does not affect
33 or preempt, and may not be construed to affect or preempt, the civil, criminal or regulatory
34 jurisdiction of this State, including, without limitation, laws of this State relating to land
35 use or environmental matters, and any such law or regulation of the United States applies
36 to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
37 Indians and their members and lands; and

38 **2. Federal laws enacted after October 10, 1980.** Because state law does not apply,
39 for the purposes of United States Public Law 96-420, Section 16(b), that the application of
40 the provisions of any federal law enacted after October 10, 1980 for the benefit of Indians,
41 Indian nations or tribes or bands of Indians does not affect or preempt, and may not be
42 deemed or construed to affect or preempt, the application of the laws of this State, including
43 application of the laws of this State to lands owned by or held in trust for Indians or Indian
44 nations, tribes or bands of Indians, and any such federal law applies to the Passamaquoddy
45 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their members

1 and lands regardless of whether such federal law is specifically made applicable within this
2 State other than through this Act.

3 Notwithstanding any provision of this Act to the contrary, the Passamaquoddy Tribe, the
4 Penobscot Nation and the Houlton Band of Maliseet Indians may not conduct gaming
5 activities under the authority of the federal Indian Gaming Regulatory Act or under any
6 regulations thereunder promulgated by the chair of the National Indian Gaming
7 Commission or its successor organization.

8 **Sec. 24. 30 MRSA §6217** is enacted to read:

9 **§6217. Consultation with tribes prior to state agency action**

10 **1. Consultation required.** A state agency shall consult with the Passamaquoddy
11 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, referred to
12 collectively in this section as "the tribes" and individually as "tribe," in connection with a
13 proposed action. For the purposes of this section, "proposed action" means a proposal by a
14 state agency to develop rules or legislation and other policy statements or actions by a state
15 agency, including but not limited to guidance documents and directives, that may directly
16 and substantially affect one or more of the tribes, including tribal rights in land or other
17 natural resources, the relationship between the State and the tribes and the jurisdiction and
18 responsibilities of the State and the tribes with respect to one another.

19 **2. Request for consultation.** To promote effective communication and positive
20 government-to-government relationships, a state agency shall request a government-to-
21 government consultation with each tribe that may be affected by a proposed action.

22 **A.** A request for consultation must be sent by certified mail and e-mail to the chief of
23 each tribe and to a person designated by each tribe to receive consultation requests.
24 The request must provide no less than 30 days from the date of the actual receipt or 25
25 days after the date of mailing, whichever is earlier, for the tribe to either elect to engage
26 in or decline consultation. The request must provide clear information about the
27 proposed action, clearly state the deadline and preferred method for response and
28 provide contact information for the tribal liaison under subsection 5.

29 **B.** If a statute of limitations, court rule or other law or rule requires a proposed action
30 to be resolved in less than 30 days, the request for consultation must clearly state the
31 deadline and identify the source of the deadline. The state agency shall make every
32 reasonable effort to consult with the tribe within the time available.

33 **C.** If a tribe does not respond by the deadline established in the request for consultation,
34 the state agency may conclude that the tribe has declined consultation on the relevant
35 proposed action.

36 **3. Consultation procedures.** If a tribe elects to engage in consultation with a state
37 agency in accordance with subsection 2, paragraph A, the state agency shall use its best
38 efforts to complete consultation prior to taking a proposed action. Consultation must
39 include, at a minimum, the following:

40 **A.** The state agency shall provide the tribe with a preliminary draft or explanation of
41 the proposed action as soon as possible following receipt of the tribe's acceptance to
42 engage in consultation;

1 B. The state agency and the tribe or tribes determine an appropriate mechanism for the
2 consultation, such as in person, telephonic or by video. When practicable, the
3 consultation must be held in person, either on the tribe's Indian territory or trust land
4 or at a mutually agreeable location;

5 C. A meaningful and timely discourse and involve employees of the state agency who
6 have a direct role in the proposed action and decision-making process; and

7 D. A process that ensures the ability of the tribe to provide detailed feedback on the
8 proposed action.

9 An agency and a tribe or tribes may agree to different or other procedures than those listed
10 in paragraphs A to E if they believe the other procedures will enhance the effectiveness of
11 the consultation process.

12 After consultation, the state agency shall carefully consider the input of the tribe and, upon
13 reaching a decision regarding the proposed action, shall notify the tribe in writing of its
14 decision and the rationale in support of its decision.

15 The consultation must be separate from public comment and public hearing processes.

16 **4. Consultation rules.** By October 15, 2021 and thereafter as necessary, each state
17 agency shall adopt or amend rules or policies that:

18 A. Promote effective communication, collaboration and consultation between the state
19 agency and the tribes;

20 B. Promote robust government-to-government relationships between the State and the
21 tribes;

22 C. Promote culturally competent practices;

23 D. Establish methods for notifying state agency employees of their responsibilities
24 under this section; and

25 E. Require that all relevant state agency employees be provided with a copy of any
26 rule or policy that the state agency adopts pursuant to this subsection.

27 State agencies shall consult with the chief of each tribe or the chief's designee throughout
28 the process of developing the tribal consultation rules or policies.

29 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
30 chapter 375, subchapter 2-A.

31 **5. Tribal liaisons.** Beginning November 1, 2021, each state agency shall designate a
32 tribal liaison, who reports directly to the head of the state agency, to assist the head of the
33 state agency with developing procedures for and ensuring the implementation of a
34 consultation required by subsection 1 and to serve as a contact person. The tribal liaison
35 shall maintain ongoing communication between the state agency and the tribes and shall
36 ensure that the training required under subsection 6 is provided to the relevant state agency
37 employees.

38 **6. Training required.** A state agency shall ensure that all state agency employees
39 responsible for tribal consultation or communication receive training regarding employee
40 responsibilities under this section. The training must, at a minimum, include instruction in
41 effective communication, the development of positive tribal-state government-to-
42 government relations and cultural competency.

1 **7. Tribal contact information.** The Office of the Governor and the commission shall
2 maintain and update a list of names and contact information, including telephone numbers,
3 mailing addresses and e-mail addresses, of the chief of each tribe and the chief's designee,
4 as well as of the tribal liaisons under subsection 5.

5 **8. Report required.** Beginning in 2022, each state agency shall provide annually by
6 February 1st a report on tribal consultation under this section to the Governor, the chief of
7 each tribe and the commission. The report must include the following information:

8 A. The number of times the state agency requested consultation with each tribe,
9 including information regarding the subject of each requested consultation;

10 B. The number of times each tribe accepted or declined consultation, including
11 information regarding the subject of each accepted or declined request; and

12 C. A description of the outcome of each accepted request for consultation, including a
13 description of the state agency decision regarding tribal input on a proposed action.

14 **Sec. 25. 30 MRSA §6218** is enacted to read:

15 **§6218. Tribal-state cooperative agreements**

16 The State and its officers, departments, agencies and political subdivisions are
17 authorized to enter into cooperative agreements with federally recognized Indian tribes
18 within the State to facilitate cross-jurisdictional cooperation and the delivery of government
19 services and to avoid disputes on issues of mutual interest, including but not limited to
20 criminal jurisdiction and law enforcement, taxation, environmental regulation and natural
21 resources. A tribal liaison designated under section 6217, subsection 5 may negotiate and
22 enter into cooperative agreements with federally recognized Indian tribes within the State.

23 **Sec. 26. 30 MRSA §6219** is enacted to read:

24 **§6219. Assemblies**

25 By December 15, 2021, and annually thereafter, the Governor shall convene an
26 assembly of the Governor and chiefs of the Passamaquoddy Tribe, the Penobscot Nation
27 and the Houlton Band of Maliseet Indians to discuss issues relating to the relationship
28 between the State and the Passamaquoddy Tribe, the Penobscot Nation and the Houlton
29 Band of Maliseet Indians.

30 On a biennial basis, during each first regular session of the Legislature, the commission
31 shall organize a legislative assembly to discuss the relationship between the State and the
32 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians. In
33 consultation with the chiefs of the Passamaquoddy Tribe, the Penobscot Nation and the
34 Houlton Band of Maliseet Indians, the commission shall invite state Legislators and tribal
35 council members from each tribal government in the State to participate in the assembly.

36 **Sec. 27. 30 MRSA §6220** is enacted to read:

37 **§6220. Bicentennial Accord**

38 **1. Bicentennial Accord.** The Governor shall collaborate with the chiefs of the
39 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians in
40 establishing an agreement, to be known as the Bicentennial Accord, in order to
41 institutionalize general principles governing tribal-state relations, including:

1 A. A framework for respect for the sovereignty of the Passamaquoddy Tribe, the
2 Penobscot Nation, the Houlton Band of Maliseet Indians and the State;

3 B. A framework for the government-to-government relationship between the State,
4 through the Governor and the State's departments and agencies, and the
5 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
6 Indians;

7 C. Delineation of the commitment by the Passamaquoddy Tribe, the Penobscot Nation,
8 the Houlton Band of Maliseet Indians and the Governor to implement government-to-
9 government relationships to enhance and improve communication and consultation and
10 to facilitate the resolution of issues;

11 D. An outline of a process for implementation of the Bicentennial Accord;

12 E. A commitment to specific tasks to improve the government-to-government
13 relationship to make it more efficient and mutually beneficial;

14 F. A commitment to strengthen the Maine Native American studies provisions of Title
15 20-A, section 4706;

16 G. Development of a comprehensive public education initiative to inform the citizens
17 of the State about tribal history, tribal culture, contemporary tribal and state
18 government institutions and relations and the contribution of the Wabanaki
19 Confederacy to the State;

20 H. A commitment to work in collaboration to engender mutual understanding and
21 respect and to recognize and address discrimination and racial prejudice;

22 I. A framework for coordination and cooperation to enhance economic and
23 infrastructure opportunities, protect natural resources and provide educational
24 opportunities and community social services that meet the needs of all citizens; and

25 J. Provisions for a review and update of the Bicentennial Accord at an annual assembly
26 convened pursuant to section 6219.

27 **2. Support by the Maine Indian Tribal-State Commission.** The commission shall
28 provide logistical support and technical assistance in developing, implementing and
29 updating the Bicentennial Accord at the annual assembly of the Governor and chiefs of the
30 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and
31 at the biennial legislative assembly, pursuant to section 6219.

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

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

42 **Sec. 29. 36 MRSA §111, sub-§1-D** is enacted to read:

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

3 **Sec. 30. 36 MRSA §111, sub-§1-E** is enacted to read:

4 **1-E. Houlton Band Trust Land.** "Houlton Band Trust Land" has the same meaning
5 as in Title 30, section 6203, subsection 2-A.

6 **Sec. 31. 36 MRSA §111, sub-§2-A** is enacted to read:

7 **2-A. Passamaquoddy Indian Reservation.** "Passamaquoddy Indian Reservation"
8 has the same meaning as in Title 30, section 6203, subsection 5.

9 **Sec. 32. 36 MRSA §111, sub-§2-B** is enacted to read:

10 **2-B. Passamaquoddy Indian territory.** "Passamaquoddy Indian territory" has the
11 same meaning as in Title 30, section 6203, subsection 6.

12 **Sec. 33. 36 MRSA §111, sub-§2-C** is enacted to read:

13 **2-C. Passamaquoddy Tribe.** "Passamaquoddy Tribe" has the same meaning as in
14 Title 30, section 6203, subsection 7.

15 **Sec. 34. 36 MRSA §111, sub-§2-D** is enacted to read:

16 **2-D. Penobscot Indian Reservation.** "Penobscot Indian Reservation" has the same
17 meaning as in Title 30, section 6203, subsection 8.

18 **Sec. 35. 36 MRSA §111, sub-§2-E** is enacted to read:

19 **2-E. Penobscot Indian territory.** "Penobscot Indian territory" has the same meaning
20 as in Title 30, section 6203, subsection 9.

21 **Sec. 36. 36 MRSA §111, sub-§2-F** is enacted to read:

22 **2-F. Penobscot Nation.** "Penobscot Nation" has the same meaning as in Title 30,
23 section 6203, subsection 10.

24 **Sec. 37. 36 MRSA §111, sub-§8** is enacted to read:

25 **8. Tribal entity.** "Tribal entity" has the same meaning as in Title 30, section 6203,
26 subsection 14.

27 **Sec. 38. 36 MRSA §111, sub-§9** is enacted to read:

28 **9. Tribal member.** "Tribal member" means a member of the Houlton Band of
29 Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation.

30 **Sec. 39. 36 MRSA §1760, sub-§107** is enacted to read:

31 **107. Certain sales to the Passamaquoddy Tribe, the Penobscot Nation and the**
32 **Houlton Band of Maliseet Indians and their tribal members.** Sales in, into, on, from or
33 otherwise sourced to:

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

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

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

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

15 **Sec. 40. 36 MRSA §1815**, as enacted by PL 1999, c. 477, §1, is amended to read:

16 **§1815. Tax from sales occurring on Passamaquoddy reservation Indian territory or**
17 **trust land**

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

22 **1-A. Penobscot Sales Tax Fund.** The Penobscot Sales Tax Fund, referred to in this
23 section as "the Penobscot fund," is established as a dedicated account to be administered
24 by the Treasurer of State for the purpose of returning sales tax revenue to the Penobscot
25 Nation pursuant to subsections 2 and 3.

26 **1-B. Maliseet Sales Tax Fund.** The Maliseet Sales Tax Fund, referred to in this
27 section as "the Maliseet fund," is established as a dedicated account to be administered by
28 the Treasurer of State for the purpose of returning sales tax revenue to the Houlton Band
29 of Maliseet Indians pursuant to subsections 2 and 3.

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

39 **3. Monthly payment.** By the end of each month, the Treasurer of State shall make
40 payments to the Passamaquoddy Tribe from the ~~Passamaquoddy Sales Tax Fund fund,~~ the
41 Penobscot Nation from the Penobscot fund and the Houlton Band of Maliseet Indians from
42 the Maliseet fund equal to the amounts transferred into the fund respective fund.

43 **4. Quarterly reconciliation.** The monthly payments due under this section must be
44 adjusted by any credit or debit necessary for a quarterly reconciliation of payments and

1 transfers made under this section for any erroneous payment or transfers, any erroneous
2 collection and corresponding refund and by any subsequent assessment, remittance or
3 refund of sales or use tax to or by the State.

4 **Sec. 41. 36 MRSA §5122, sub-§2, ¶UU** is enacted to read:

5 UU. For taxable years beginning on or after January 1, 2022, income earned on or
6 from activities occurring on or otherwise sourced to Indian territory or trust land by the
7 Penobscot Nation, the Passamaquoddy Tribe or the Houlton Band of Maliseet Indians,
8 as long as the tribal member or tribal entity resides on Indian territory or trust land.

9 **Sec. 42. Dispute resolution.** The Governor, the Attorney General and the
10 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians,
11 through their respective designees, will collaborate on an alternative dispute resolution
12 process to resolve tribal-state disputes, to be known as "the ADR work group." The Maine
13 Indian Tribal-State Commission shall provide assistance to the ADR work group by
14 providing input and answering questions regarding alternative dispute resolution options
15 appropriate to tribal-state disputes, including identifying best practices, developing mutual
16 respect, working on a government-to-government basis, and respecting the sovereignty of
17 the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and
18 the State, and any existing culturally appropriate models. No later than November 15,
19 2021, the ADR work group shall provide a report to the Joint Standing Committee on
20 Judiciary that includes its findings and recommendations, including suggested legislation,
21 regarding a tribal-state alternative dispute resolution process. The joint standing committee
22 may report out legislation to the Second Regular Session of the 130th Legislature based on
23 the recommendations of the ADR work group.

24 **Sec. 43. Contingent effective date.** This Act takes effect 120 days after
25 adjournment of the First Special Session of the 130th Legislature only if, within 90 days
26 after adjournment of the First Special Session of the 130th Legislature, the Secretary of
27 State receives written certification from the Joint Tribal Council of the Passamaquoddy
28 Tribe that the tribe has agreed to the provisions of this Act; the Governor and the Council
29 of the Penobscot Nation that the nation has agreed to the provisions of this Act; and the
30 Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to
31 the provisions of this Act, copies of which must be submitted by the Secretary of State to
32 the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

33 SUMMARY

34 This bill implements the consensus recommendations of the Task Force on Changes to
35 the Maine Indian Claims Settlement Implementing Act, referred to in this summary as "the
36 task force." The report was released on January 14, 2020 and is available online at
37 <http://legislature.maine.gov/maine-indian-claims-tf>. This bill does not address the
38 relationship between the State and the Aroostook Band of Micmacs because that issue was
39 specifically set aside by the task force. In this summary, the Maine Revised Statutes, Title
40 30, chapter 601, which is titled AN ACT to Implement the Maine Indian Claims Settlement,
41 enacted by Public Law 1979, chapter 732, is referred to as "the Maine Implementing Act"
42 and the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, formerly
43 codified at 25 United States Code, Sections 1721 to 1735, is referred to as "the federal

1 Settlement Act." The federal Settlement Act ratified the Maine Implementing Act, and
2 both have an effective date of October 10, 1980.

3 The purpose of the reconsideration and rewriting of the Maine Implementing Act is to
4 establish that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of
5 Maliseet Indians enjoy the rights, privileges, powers, duties and immunities similar to those
6 of other federally recognized Indian tribes within the United States. This is a significant
7 change from the current law, which provides the State with significant authority over Indian
8 affairs. To carry out this significant change, many provisions of Title 30, chapter 601 are
9 repealed or amended to recognize that federal Indian law governs the rights, privileges,
10 powers, duties and immunities of the tribe, nation and band.

11 Under the bill, except as otherwise specified in the Maine Implementing Act, federal
12 Indian law applies with regard to the rights, privileges, powers, duties and immunities of
13 the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.
14 "Federal Indian law" is defined in this bill as the United States Constitution and all
15 generally applicable federal statutes, regulations and case law and subsequent amendments
16 thereto or judicial interpretations thereof, relating to the rights, privileges, powers, duties
17 and immunities of federally recognized Indian tribes within the United States. This
18 definition explicitly recognizes that federal Indian law is not static, but evolves as federal
19 laws are passed and amended and as federal courts interpret the relevant statutes and
20 regulations and their application to federally recognized Indian tribes, nations, bands and
21 other groups.

22 This bill restructures the procedures for addition of new land to tribal territories and
23 eliminates time limits for the acquisition of land. The procedures required depend upon the
24 location of the land and the time of acquisition. For the Passamaquoddy Tribe and
25 Penobscot Nation, newly acquired land located within the borders of a city, town, village
26 or plantation requires the tribe or nation to enter into an agreement under which the tribe
27 or nation agrees to make a payment in lieu of taxes to the relevant local taxing authority,
28 to enter into an agreement for establishing law enforcement authority and to establish that
29 land use is not contrary to existing zoning ordinances.

30 This bill eliminates the language in the Maine Implementing Act regarding takings of
31 tribal land for public use under state law.

32 The Maine Implementing Act currently limits the criminal jurisdiction of the
33 Passamaquoddy Tribal Court and the Penobscot Nation Tribal Court as well as the potential
34 criminal jurisdiction of the Houlton Band of Maliseet Indians Tribal Court. Federal Indian
35 law provides broader jurisdiction for tribal courts. This bill repeals most of the state
36 limitations and recognizes and adopts most of federal Indian law, including the Indian Civil
37 Rights Act of 1968, the Tribal Law and Order Act of 2010 and other federal laws addressing
38 tribal court jurisdiction and the obligations of the tribal courts. This bill amends the Maine
39 Implementing Act to make equal the exclusive criminal jurisdiction of the Passamaquoddy
40 Tribal Court and the Houlton Band of Maliseet Indians Tribal Court with the exclusive
41 criminal jurisdiction of the Penobscot Nation Tribal Court over offenses committed by
42 Indian defendants against Indian victims or for which there is no victim. This bill further
43 amends the Maine Implementing Act to recognize the criminal jurisdiction of the
44 Passamaquoddy Tribal Court, the Penobscot Nation Tribal Court and the Houlton Band of
45 Maliseet Indians Tribal Court to impose the maximum penalties other tribal courts are

1 authorized to impose under the federal Tribal Law and Order Act of 2010, as long as the
2 due process protections required by that Act are observed.

3 This bill amends state law to recognize tribal court jurisdiction, concurrent with the
4 state courts, over offenses committed on tribal lands by Indian defendants against non-
5 Indian victims, subject to the maximum penalty provisions and due process requirements
6 of the federal Tribal Law and Order Act of 2010.

7 This bill retains current law providing that the exclusive authority of the
8 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to
9 exercise criminal jurisdiction over Indians on tribal lands remains at the discretion of the
10 tribe, nation and band. To the extent that the tribe, nation or band does not exercise, or
11 terminates its exercise of, exclusive criminal jurisdiction, the State has exclusive
12 jurisdiction over those matters.

13 Unlike current law, this bill recognizes each tribal government's authority to define all
14 crimes and juvenile offenses committed on its tribal lands over which the tribal court has
15 exclusive or concurrent criminal jurisdiction. This bill, however, retains the authority of
16 the State to define all crimes and juvenile offenses committed on tribal lands over which
17 state courts have exclusive or concurrent jurisdiction.

18 This bill recognizes federal Indian law regarding the exclusive jurisdiction of tribes to
19 regulate fishing and hunting by tribal citizens of all federally recognized Indian tribes on
20 tribal lands. This bill amends the Maine Implementing Act to restore and affirm the
21 exclusive jurisdiction of tribes to regulate fishing and hunting by nontribal citizens on tribal
22 lands, but does not cede to the State any authority of the Maine Indian Tribal-State
23 Commission to regulate fishing on boundary waters under current law.

24 This bill relinquishes the State's jurisdiction with respect to the regulation of fishing
25 and hunting by both tribal and nontribal citizens on tribal lands. The State, solely for
26 conservation purposes, may regulate tribal members engaged in such activities off tribal
27 lands to the extent permitted under general principles of federal Indian law and in a manner
28 consistent with reserved tribal treaty rights.

29 This bill amends state law to recognize and adopt federal Indian law providing that:
30 tribes have exclusive jurisdiction to tax tribal members and tribal entities on their respective
31 tribal lands, including entities owned by a tribe or tribal member; tribes, tribal members
32 and tribal entities are not subject to state and local sales taxation on tribal lands; tribal
33 members who live on their respective tribal lands are not subject to state income tax for
34 income earned on their respective tribal lands; tribal lands are not subject to state and local
35 real property tax; tribes have concurrent jurisdiction to tax nonmembers on tribal lands;
36 and the State and local governments have concurrent jurisdiction to tax nonmembers on
37 tribal lands. It exempts tribal members and entities from sales tax for sales on, in, into, from
38 or otherwise sourced to tribal territory or trust land. It requires the State to make payments
39 to the Penobscot Nation, Passamaquoddy Tribe and Houlton Band of Maliseet Indians of
40 the amounts of revenue attributable to the sale tax collected on, in, into, from or otherwise
41 sourced to their respective Indian territory or trust land, reduced by the transfer to the Local
42 Government Fund.

43 This bill amends state law to restore to the Passamaquoddy Tribe, the Penobscot Nation
44 and the Houlton Band of Maliseet Indians the exclusive authority to exercise civil
45 legislative jurisdiction over Indians and non-Indians on tribal lands. To the extent that the

1 tribe, nation or band does not exercise, or terminates its exercise of, exclusive civil
2 legislative jurisdiction, the State has exclusive jurisdiction over those matters. This bill
3 amends state law to restore to the Passamaquoddy Tribe, the Penobscot Nation and the
4 Houlton Band of Maliseet Indians the exclusive authority to exercise civil adjudicatory
5 jurisdiction over Indians and non-Indians on tribal lands. To the extent that the tribe, nation
6 or band does not exercise, or terminates its exercise of, exclusive civil adjudicatory
7 jurisdiction, the State has exclusive jurisdiction over those matters. This bill amends state
8 law to explicitly provide that, for the purposes of the federal Settlement Act, Section 6(h),
9 any law or regulation of the United States that accords a special status or right to, or relates
10 to a special status or right of, any Indian, Indian nation, tribe or band of Indians, Indian
11 lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians
12 applies to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of
13 Maliseet Indians and their members and is deemed not to affect or preempt the civil,
14 criminal or regulatory jurisdiction of this State, including, without limitation, laws of this
15 State relating to land use or environmental matters.

16 This bill amends state law to explicitly provide that for the purposes of the federal
17 Settlement Act, Section 16(b), the provisions of any federal law enacted after October 10,
18 1980, for the benefit of Indians, Indian nations or tribes or bands of Indians, apply to the
19 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians
20 and their members and is deemed not to affect or preempt the application of the laws of
21 this State, including application of the laws of this State to lands owned by or held in trust
22 for Indians or Indian nations, tribes or bands of Indians, regardless of whether such federal
23 law is specifically made applicable within this State.

24 Finally, the bill establishes a process for consultation between tribes and state agencies,
25 provides that the State may enter into cooperative agreements with tribes, provides for an
26 annual assembly of the Governor and the tribes, provides for the development of a dispute
27 resolution process to facilitative resolution of disputes between the State and tribes and
28 provides for the development of an agreement to be known as "the Bicentennial Accord"
29 to establish principles for State-tribal relations.

30 The bill takes effect 120 days after adjournment of the First Special Session of the
31 130th Legislature only if, within 90 days after adjournment of the First Special Session of
32 the 130th Legislature, the Secretary of State receives written certification from the Joint
33 Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to its provisions; the
34 Governor and the Council of the Penobscot Nation that the nation has agreed to its
35 provisions; and the Houlton Band Council of the Houlton Band of Maliseet Indians that the
36 band has agreed to its provisions.

City of Portland | City Council

Kate Snyder, *Mayor*



To: Joint Standing Committee on Judiciary
From: Portland City Council's Legislative Committee
Date: 2/21/2022
Re: LD 1626

Testimony In Support of LD 1626 An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act

Senator Carney, Representative Harnett, and distinguished members of the Joint Standing Committee on Judiciary:

The Portland City Council's Legislative Committee writes to support of LD 1626, An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act.

Maine is the only state in the nation that does not recognize the sovereignty of its Indigenous tribes. For over forty years, the State of Maine has used language in the Maine Indian Claims Settlement Act to deny the Wabanaki benefits from more than 150 federal laws representing missed opportunities for economic development, increased access to health care, expanded environmental protections, enhanced K-12 education, and legislation that fostered job creation, ensured safe drinking water, and strengthened laws regarding prevention and prosecution of sexual assault and domestic violence.

We must do better as a state. The tribes in Maine deserve the full recognition and treatment of a sovereign tribal nation as other federally recognized tribes do and Maine should no longer stand in the way of these rights.

Thank you for your consideration; please support LD 1626.

389 Congress Street, Portland, Maine 04101 | 207-874-8300 | info@portlandmaine.gov

Heyman, M. & Dill, J. & Douglass, R. (2018). Mental Health and Suicide of First Responders [White Paper]. Ruderman Family Foundation. https://www.scribd.com/document/376280678/First-Responder-White-Paper-Final#download&from_embed



130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1971

H.P. 1466

House of Representatives, February 10, 2022

An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Remote Participation

Reported by Representative HARNETT of Gardiner for the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 1 MRSA §403-B, sub-§2, ¶A,** as enacted by PL 2021, c. 290, §1, is
3 amended to read:

4 A. After notice and hearing the body has adopted a written policy governing the
5 conditions upon which members of the body and the public may participate in a public
6 proceeding of that body by remote methods;

7 (1) If a public body has not adopted a policy authorizing remote methods of
8 participation under this section and if the chair of the body determines that an
9 emergency or urgent issue exists that prevents the public body from meeting in
10 person to adopt a policy, the chair may call a meeting of the body in which the
11 members may participate by remote methods. Notice of the meeting must include
12 information about how the public can participate in the meeting. Once the meeting
13 is convened, the members shall vote on whether to support the chair's
14 determination that an emergency or urgent issue exists that prevents the public
15 body from meeting in person.

16 (2) If the members vote in support of the chair's determination under subparagraph
17 (1), after an opportunity for hearing, the members may vote on whether to adopt a
18 policy authorizing remote methods of participation in public proceedings of the
19 body under this section;

20 SUMMARY

21 This bill implements the recommendations of the Right To Know Advisory Committee
22 concerning remote participation by members of a public body subject to the Freedom of
23 Access Act.

24 Current law does not authorize members of a public body to participate in a public
25 proceeding when not physically present unless the public body has properly adopted a
26 remote participation policy that meets the requirement of the Maine Revised Statutes, Title
27 1, section 403-B.

28 This bill authorizes a public body to adopt the required remote participation policy
29 through remote participation. The bill provides a 2-step process.

30 1. If the chair of the public body determines that an emergency or urgent issue exists
31 that prevents the public body from meeting in person, the chair may call a meeting of the
32 public body in which the members may participate by remote methods. Public notice of
33 the meeting must be provided and must include information about how the public can
34 participate in the meeting. Once the meeting is convened, the members must vote on
35 whether to support the chair's determination that an emergency or urgent issue exists that
36 prevents the public body from meeting in person.

37 2. If the members vote in support of the chair's determination, after an opportunity for
38 hearing, the members may vote on adopting a policy authorizing remote participation.



130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1772

H.P. 1323

House of Representatives, December 2, 2021

An Act To Amend the Remote Meeting Law in Maine's Freedom of Access Act

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on November 30, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HARNETT of Gardiner.
Cosponsored by Senator BAILEY of York and
Representatives: CUDDY of Winterport, DODGE of Belfast, GRAMLICH of Old Orchard
Beach, MORIARTY of Cumberland, WHITE of Waterville.

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

Sec. 1. 1 MRSA §403-B, sub-§2, ¶B, as enacted by PL 2021, c. 290, §1, is repealed.

Sec. 2. 1 MRSA §403-B, sub-§2, ¶E, as enacted by PL 2021, c. 290, §1, is amended to read:

E. Notice of the proceeding must be provided in accordance with section 406. When the public may attend by remote methods pursuant to paragraphs C and D, the notice must include the means by which members of the public may access the proceeding using remote methods. The notice must also identify a location for members of the public to attend in person. The body may ~~not determine that~~ limit public attendance at a proceeding ~~will be limited solely to remote methods except under the conditions in paragraph B, subparagraph (1) if there is an emergency or urgent situation that requires the body to meet only by remote methods;~~

Sec. 3. 1 MRSA §403-B, sub-§4, as enacted by PL 2021, c. 290, §1, is amended to read:

4. Application. This section applies to a board or committee under the jurisdiction of a public body that has adopted a written policy pursuant to subsection 2, paragraph A. This section does not apply to:

- A. The Legislature; or
- B. A public body to which specific statutory provisions for remote participation apply.

SUMMARY

This bill amends the law governing remote participation in public meetings in the Freedom of Access Act to remove the requirement that a remote meeting policy adopted by a public body must include an expectation that members of the public body be physically present. It allows the public body to limit public attendance at a proceeding solely to remote methods if there is an emergency or urgent situation that requires the public body to meet only by remote methods. It also provides that the law governing remote participation in public meetings applies to a board or committee within the jurisdiction of a public body adopting a written remote meeting policy.

City of Portland | City Council

Kate Snyder, Mayor



To: Joint Standing Committee on Judiciary
From: Portland City Council's Legislative Committee
Date: 2/25/2022
Re: LD 1971

Testimony Neither for Nor Against LD 1971 An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Remote Participation

Senator Carney, Representative Harnett, and distinguished members of the Joint Standing Committee on Judiciary:

The Portland City Council's Legislative Committee writes to you neither for nor against LD 1971, An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Remote Participation.

As you consider LD 1971 and work to refine the current remote meeting laws, the Portland City Council's Legislative Committee asks that important aspects of *LD 1772 An Act To Amend the Remote Meeting Law in Maine's Freedom of Access Act* be considered for inclusion in LD 1971.

Under current law, after providing notice and conducting a public hearing, municipal boards and councils have the authority to adopt a policy regulating the use of remote meetings. The statute further clarifies that remote participation by a board or council members is authorized only when a physical presence is not practical, which may include an emergency, illness or other physical condition or temporary absence from jurisdiction making it significantly difficult for a member to travel to attend in person or when geographic characteristics impede or slow travel.

Among other things, LD 1772 allows a public body to limit public attendance at a proceeding solely to remote methods if there is an emergency or urgent situation that requires the public body to meet only by remote methods. We believe this would allow municipalities to strike a valuable balance between conducting official business effectively and safely, as well as allowing for the safe participation of the public.

For these reasons, the Portland City Council's Legislative Committee asks that the committee incorporate the important aspects of LD 1772 into any legislation that seeks to refine the remote meeting laws.

Thank you for your consideration.

389 Congress Street, Portland, Maine 04101 | 207-874-8300 | info@portlandmaine.gov

LD 1337
LR 103\TAX
jsj
2-3-22

PROPOSED COMMITTEE AMENDMENT
Re. Kessler

Committee amendment “ “ to LD 1337, An Act To Increase Affordable Housing and Reduce Property Taxes through an Impact Fee on Vacant Residences

NEW TITLE: An Act To Increase Housing Availability and Improve Affordability through a Vacancy Impact Fee

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

Sec. 1. 30-A MRSA §4354-A, is enacted to read:

§4354-A. Residential Vacancy Impact Fee

A municipality may enact an ordinance imposing a fee on vacant residential property as those terms are defined below.

1. Residential property. “Residential property” means a structure or portion of a structure located in the municipality that is designed for year-round habitation;

2. Permanent resident. "Permanent resident" has the same meaning as in [36 MRSA, section 681, subsection 4](#).

3. Vacant. “Vacant” means the residential property is not occupied by a permanent resident.

The fees collected by a municipality pursuant to this section must be used to increase the availability or improve the affordability of year-round residential property within the municipality.

Summary

This amendment replaces the bill and authorizes municipalities to adopt ordinances imposing a fee on vacant residential property and requires a municipality enacting such an ordinance to use the fees collected to increase the availability or improve the affordability of year-round residential property within the municipality.

City of Portland | City Council

Kate Snyder, *Mayor*



To: Joint Standing Committee on Taxation

From: Portland City Council's Legislative Committee

Date: 2/21/2022

Re: LD 1337

**Testimony In Support of LD 1337 An Act To Increase Affordable Housing and Reduce Property Taxes
through an Impact Fee on Vacant Residences**

Senator Chipman, Representative Terry, and distinguished members of the Joint Standing Committee on Taxation:

The Portland City Council's Legislative Committee writes in support of the amended LD 1337, An Act To Increase Affordable Housing and Reduce Property Taxes through an Impact Fee on Vacant Residences.

Maine is in the midst of deepening housing crisis with many residents finding themselves unable to stay in or even find affordable housing. For that reason, we urge you to support the sponsor's amendment to LD 1337. If passed, this bill would allow, but not require, communities to create ordinances to impose impact fees on short-term rentals and use that money to support affordable housing, either through subsidizing development of new affordable housing or by providing financial assistance to people struggling to afford their homes.

Thank you for your consideration.

389 Congress Street, Portland, Maine 04101 | 207-874-8300 | info@portlandmaine.gov

¹Heyman, M. & Dill, J. & Douglass, R. (2018). Mental Health and Suicide of First Responders [White Paper]. Ruderman Family Foundation.
https://www.scribd.com/document/376280678/First-Responder-White-Paper-Final#download&from_embed



130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1673

H.P. 1244

House of Representatives, May 5, 2021

An Act To Create a Comprehensive Permit Process for the Construction of Affordable Housing

Received by the Clerk of the House on May 3, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.
Cosponsored by Senator MIRAMANT of Knox and
Representatives: CUDDY of Winterport, GERE of Kennebunkport, MORALES of South
Portland, SUPICA of Bangor, SYLVESTER of Portland, Senator: BALDACCI of Penobscot.

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

2 Sec. 1. 30-A MRSA c. 201, sub-c. 14 is enacted to read:

3 **SUBCHAPTER 14**

4 **MAINE COMPREHENSIVE PERMIT LAW**

5 **§4994-A. Maine comprehensive permit process established; definitions**

6 The Maine State Housing Authority and the municipal boards of appeals established
7 pursuant to section 2691 shall administer the Maine comprehensive permit process as
8 provided in this subchapter. As used in this subchapter, unless the context otherwise
9 indicates, the following terms have the following meanings.

10 **1. Affordable housing.** "Affordable housing" means a decent, safe and sanitary
11 dwelling, apartment or other living accommodation where the cost of housing and utilities
12 is no more than 30% of gross household income for a household whose income does not
13 exceed 120% of the median income for the area as defined by the United States Department
14 of Housing and Urban Development under the United States Housing Act of 1937, Public
15 Law 75-412, 50 Stat. 888, Section 8, as amended.

16 **2. Authority.** "Authority" means the Maine State Housing Authority.

17 **3. Board of appeals.** "Board of appeals" means a board of appeals established
18 pursuant to section 2691.

19 **4. Committee.** "Committee" means the Affordable Housing Appeals Committee
20 established under section 4994-C.

21 **5. Consistent with local needs.** "Consistent with local needs" means giving due
22 consideration to the regional need for low-income or moderate-income housing as well as
23 the need to protect the health or safety of the occupants of the proposed housing project or
24 of the residents of the city or town, to promote better site and building design in relation to
25 the surroundings or to preserve open space and applying that consideration equitably to
26 both subsidized and unsubsidized housing.

27 **6. Fair housing goal.** "Fair housing goal" means, for a municipality with 500 or fewer
28 households that would be eligible for low-income or moderate-income housing, at least
29 10% of its housing stock is affordable housing. For a municipality with 501 to 1,000
30 households that would be eligible for low-income or moderate-income housing, "fair
31 housing goal" means at least 13% of its housing stock is affordable housing. For a
32 municipality with more than 1,000 households that would be eligible for low-income or
33 moderate-income housing, "fair housing goal" means at least 16% of its housing stock is
34 affordable housing. Any municipality where 1.5% or more of the total land area zoned for
35 residential, commercial or industrial use is in use as low-income or moderate-income
36 housing is also in compliance with its fair housing goal.

37 **7. Limited dividend organization.** "Limited dividend organization" means an entity
38 that seeks to apply for a comprehensive permit and is not a public agency or a nonprofit
39 organization and is eligible to receive a subsidy from a subsidizing agency after a
40 comprehensive permit has been issued and that, unless otherwise governed by a federal act

1 or regulation, agrees to accept no more than a reasonable profit for building and operating
2 the housing project.

3 **8. Local board.** "Local board" means a municipal entity with a role in approving or
4 supervising the construction of residential buildings or the power of enforcing municipal
5 building laws.

6 **9. Low-income or moderate-income housing.** "Low-income or moderate-income
7 housing" means housing subsidized by the Federal Government or State Government under
8 a program to assist in the construction of low-income or moderate-income housing as
9 defined in the applicable federal or state law and built or operated by a public agency or a
10 nonprofit or limited dividend organization.

11 **10. Reasonable profit.** "Reasonable profit" means a maximum of 20% profit in for-
12 sale developments or 10% profit per year for rental housing developments unless indicated
13 otherwise in the subsidy program or the comprehensive permit.

14 **11. Uneconomic.** "Uneconomic" means any condition brought about by a single factor
15 or combination of factors to the extent that it makes it impossible for a public agency or
16 nonprofit organization to proceed in building or operating low-income or moderate-income
17 housing without financial loss or for a limited dividend organization to realize a reasonable
18 profit in building or operating such housing within the limitations set by the subsidizing
19 agency without substantially changing the rent levels, unit sizes or density proposed by the
20 public agency or the nonprofit or limited dividend organization.

21 **§4994-B. Comprehensive permits**

22 In order to facilitate timely and efficient decision making on proposed housing projects,
23 a public agency or a nonprofit or limited dividend organization proposing to build low-
24 income or moderate-income housing may submit to a board of appeals a single
25 comprehensive permit application to build that housing in lieu of separate applications to
26 the applicable local boards pursuant to this section.

27 **1. Procedures.** The following procedures govern applications for a comprehensive
28 permit under this section.

29 A. Upon receipt of a comprehensive permit application, a board of appeals shall notify
30 each local board whose jurisdiction is affected by the permit of the filing of the
31 application by sending a copy of the application to each local board for its
32 recommendations.

33 B. The board of appeals shall, within 30 days of the receipt of a comprehensive permit
34 application under paragraph A, hold a public hearing and shall request the appearance
35 of such representatives of local boards as are determined necessary or helpful. The
36 board of appeals shall take into consideration the recommendations of local boards and
37 has the authority to use the testimony of consultants.

38 C. The board of appeals in issuing a comprehensive permit has the same power to issue
39 permits or approvals as any local board that would otherwise act with respect to an
40 application, including but not limited to the power to attach conditions and
41 requirements with respect to the site plan and the height, size or shape and building
42 materials of the housing consistent with this section.

1 D. The board of appeals shall render a decision, based upon a majority vote, within 40
2 days after the conclusion of the public hearing under paragraph B and, if favorable to
3 the applicant, shall issue a comprehensive permit.

4 E. If a public hearing under paragraph B is not convened or a decision under paragraph
5 D is not rendered within the time allowed, unless the time has been extended by mutual
6 agreement between the board of appeals and the applicant, the application is deemed
7 to have been approved and the comprehensive permit must be immediately issued.

8 F. An applicant aggrieved by the decision on a comprehensive permit application may
9 appeal to the Affordable Housing Appeals Committee under section 4994-C.

10 G. A board of appeals shall adopt rules, not inconsistent with the purposes of this
11 subchapter, for the conduct of its business pursuant to this subchapter and shall provide
12 those rules to the municipal clerk.

13 **2. Waivers.** A board of appeals has authority to waive local laws or regulations in
14 whole or in part, including but not limited to local density limitations, if that waiver results
15 in a comprehensive permit application decision that is consistent with local needs.

16 **3. For-profit developers.** An applicant seeking a comprehensive permit for a housing
17 project must enter a binding, verifiable obligation with the board of appeals that it agrees
18 to accept no more than a reasonable profit on that project.

19 **4. Other state law.** Nothing in this subchapter may be interpreted to limit the
20 application of state laws to an application for a comprehensive permit, including but not
21 limited to laws governing land use and environmental protection.

22 **§4994-C. Affordable Housing Appeals Committee**

23 The authority shall establish and operate the Affordable Housing Appeals Committee,
24 referred to in this section as "the committee," pursuant to this section.

25 **1. Committee members.** The committee consists of 5 members. The authority shall
26 appoint to the committee 3 members with substantive experience in affordable housing or
27 housing finance, including one member who is an employee of the authority. The Governor
28 shall appoint as the remaining members of the committee 2 members with experience in
29 municipal government. Terms of appointment are for one year and may be renewed by the
30 appointing authority. The members serve without compensation.

31 **2. Powers and duties.** The committee is authorized to hold hearings and to consider
32 and decide upon appeals from a board of appeals' denial under section 4994-B of a
33 comprehensive permit or grant of a comprehensive permit with conditions rendering the
34 housing project uneconomic, as follows.

35 A. The committee may not consider or decide upon any appeal of a comprehensive
36 permit application for a housing project proposed to be located in a municipality that
37 appears on the list of municipalities in good standing for low-income or moderate-
38 income housing established by section 4994-D.

39 B. The committee may not overturn or modify the decision of a board of appeals if the
40 board of appeals establishes that its decision is consistent with local needs.

41 C. In the case of the denial of an application, a hearing by the committee must be
42 limited to the issue of whether the decision of the board of appeals was reasonable and

1 consistent with local needs. If the committee finds, in the case of a denial, that the
2 decision of the board of appeals was unreasonable and not consistent with local needs,
3 it shall vacate that decision and shall direct the board of appeals to issue a
4 comprehensive permit to the applicant.

5 D. In the case of an approval of an application with conditions and requirements
6 imposed, the hearing must be limited to the issues of whether those conditions and
7 requirements make the construction or operation of that housing uneconomic and
8 whether they are consistent with local needs. If the committee finds, in the case of an
9 approval with conditions and requirements imposed, that the decision of the board of
10 appeals makes the building or operation of that housing uneconomic and is not
11 consistent with local needs, the committee shall order that board of appeals to modify
12 or remove any condition or requirement so as to make the proposal no longer
13 uneconomic and to issue the comprehensive permit.

14 E. The committee may not issue any order that would permit the building or operation
15 of housing in accordance with standards less safe than requirements of state laws or
16 rules or federal laws or regulations applicable to the proposal.

17 F. Decisions or conditions and requirements imposed by a board of appeals that are
18 consistent with local needs may not be vacated, modified or removed by the committee,
19 notwithstanding that those decisions or conditions and requirements have the effect of
20 making the applicant's proposal for a comprehensive permit uneconomic.

21 G. The committee or the applicant for a comprehensive permit has the power to enforce
22 the orders of the committee at law or in equity in Superior Court.

23 H. The board of appeals shall carry out the order of the committee within 30 days of
24 the committee's decision and, upon failure to do so, the order of the committee is
25 deemed to be the action of the board of appeals, unless the applicant consents to a
26 different decision or order by the board of appeals.

27 **3. Procedure.** An applicant contesting a board of appeals' denial under section 4994-B
28 of a comprehensive permit or grant of a comprehensive permit with conditions attached
29 must initiate an appeal with the committee within 20 days of receiving notice of the
30 decision of the board of appeals. The committee shall hold a hearing and shall render a
31 written decision, based upon a majority vote, stating its findings of fact, its conclusions and
32 the reasons for its conclusions within 30 days after the conclusion of the hearing, unless
33 the committee and the applicant have mutually agreed upon a time extension. A decision
34 under this subsection may be reviewed in Superior Court in accordance with the provisions
35 of the Maine Rules of Civil Procedure, Rule 80B.

36 **§4994-D. Register of municipalities in good standing for low-income or moderate-**
37 **income housing**

38 The authority shall maintain a register of municipalities indicating whether each
39 municipality is in good standing for low-income or moderate-income housing as set forth
40 in this subchapter. The authority shall establish the methodology and frequency for such
41 determinations, which must be no less frequent than annually.

42 **1. Municipalities in compliance with fair housing goal.** The register must include
43 any municipality that the authority determines to be in compliance with its fair housing
44 goal.

2. Municipalities making substantial progress. The register must include any municipality that the authority determines to be making substantial recent progress toward meeting its fair housing goal and that has a substantial probability of meeting that goal within 3 years. When determining substantial recent progress, the authority may consider whether a municipality has instituted a density bonus to developers in proportion to the number of affordable housing units planned for housing projects and whether the municipality has adopted a local plan by which the municipality incentivizes the development of affordable housing and is in compliance with that plan.

3. Discount for devalued siting. When determining a municipality's compliance with its fair housing goal, the authority shall disregard 1/2 of the housing units created after January 1, 2022 that are located in close proximity to major transportation infrastructure or industrial facilities or that result in excessive clustering of low-income or moderate-income housing. The authority may adopt rules under section 4994-E to implement this subsection.

§4994-E. Rules

The authority may adopt rules necessary to carry out the duties imposed by this subchapter and to ensure compliance with its provisions. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill establishes a comprehensive permit process to streamline the building construction permitting system and promote the creation of additional affordable housing by public agencies, nonprofit organizations and limited dividend organizations.

City of Portland | Executive Department

Dena Libner, *Chief of Staff*



To: Legislative & Nominating Committee

From: Dena Libner, Chief of Staff

Date: February 18, 2022

Re: LD 1673 (An Act To Create a Comprehensive Permit Process for the Construction of Affordable Housing)

While staff strongly support the intent of this proposal – facilitation of the development of affordable housing statewide – we have concerns about its practical implementation at the local level.

As we understand it, LD 1673 would require a unique intake and approval process for permit applications for the construction of affordable housing:

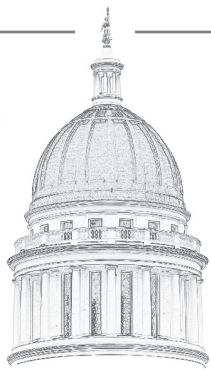
- 1) The application is submitted to the Zoning Board of Appeals (ZBA);
- 2) ZBA must notify and seek a recommendation from the Planning Board, and hold a public hearing within 30 days;
- 3) Issue a permit or deny the application within 40 days after the public hearing is held.

Our primary concern is that this proposal would give City of Portland staff an insufficient amount of time – 30 days – to review plans of varying complexity and scope. Today, the review and approval of an affordable housing project proposal takes about 3+ months, and includes analysis by staff across multiple City departments; potential State reviews; and public meeting notice requirements. It is important to note that staff currently make every effort to expedite this process for affordable housing proposals, prioritizing their review by staff and the Planning Board ahead of other applications.

Another concern is the suitability of the ZBA as the review board. The Planning Board currently has jurisdiction over such projects, and it is not clear what the purpose or benefits of such a change would be.

Our recommendation is that municipalities in good standing¹ be exempt from the expedited review process, similar to how this bill would exempt them from an appeal process at the State level. Alternatively, to accommodate the complexity and scope of the projects regularly reviewed in Portland, we would recommend that the review period be extended to 90 days, and that jurisdiction over this matter remain with the Planning Board.

¹ Per LD 1673, municipalities are considered “in good standing” when they have reached a “fair housing goal.” LD 1673 would define Portland’s goal as at least 16% of all housing stock is affordable, which Portland is likely to meet.



LEGISLATIVE BULLETIN



Vol. XLIV No. 6 FEBRUARY 18, 2022

Housing Appeals Board Is local control in danger?

The pace with which Maine is growing its affordable housing stock was the topic of discussion at a public hearing conducted by the Labor and Housing Committee this week.

Sponsored by Rep. Rachel Talbot Ross of Portland, LD 1673, *An Act To Create a Comprehensive Permit Process for the Construction of Affordable Housing*, emulates a process used in Massachusetts that expedites the approval of affordable housing projects.

LD 1673 achieves that outcome by short-changing local level review of developments, but only in certain communities. In a nutshell, unless deemed by the Maine State Housing Authority (MSHA) as a “municipality in good standing,” LD 1673 allows developers of affordable housing projects to skip the planning board process and advance immediately to review by the local board of appeals (BOA), if one exists, and MSHA.

The bill further establishes the standard for achieving gold star status as the percentage of a municipality’s total housing stock that is affordable. For communities with less than 500 households the affordable housing goal is 10% and in municipalities with more than 1,000 households the goal is 16%. For communities falling between the lower and higher household thresholds the goal is set at 13%. As defined in LD 1673, affordable means “a decent, safe, and sanitary dwelling, apartment or other living accommodation where the cost of housing and utilities is no more than 30% of gross household income for a household whose income does not exceed 120% of the median income for the area as defined by U.S. Department of Housing and Urban Development.”

Although proponents of the bill suggest the comprehensive permitting process provides residents and planning boards opportunities to engage in the discussions, the language of the bill suggests otherwise.

First, the BOA and MSHA are required to accept planning board input, only if deemed necessary or helpful. Second, the legislation

contains a failsafe clause. Failure to convene the “required” hearing within 30 days of the receipt of the application or render a decision within 40 days of the public hearing, if scheduled, yields an automatic approval of the housing project.

If circumventing review by residents who are most familiar with municipal ordinances, comprehensive plans, and goals is not concerning enough, some members of the committee expressed interest in the concept of preempting local decision-making authority in this arena.

In oppositional testimony, MMA instead advocated for the creation of state/municipal partnerships focused on the development of measurable affordable housing goals, assessment of which level of government is better suited to implement mutually beneficial strategies and investment in financial and technical resources necessary to develop affordable housing statewide.

Whether home rule or preemption wins the day will remain unknown until the committee schedules its work session on LD 1673.

Floating Homes Need Clarity and Review

Some of the best Maine childhood memories involve nights spent floating under the stars in a canoe or sailboat with friends realizing your miniscule place in the infinite universe and telling stories of imaginary creatures lurking beneath the dark surface, eager to bite the unsuspecting toes that dangle from the edge. While not all of us grew up to find permanent homes in those cherished locations, the draw of the water and desire for those joys never fades.

Increasingly, Maine communities are finding themselves wrestling with a new notion of floating homes, a desire to sleep on the water, and a multijurisdictional regulatory and enforcement authority to address the number of complex issues these buildings cause public officials to confront. LD 626, *An Act To Clarify Temporary Mooring Privileges for Moorings on Inland Waters*, sponsored by Rep. Paul Stearns of Guilford, attempted to find a clear path forward for the use of this shared space. While the original bill would have mandated inland harbor masters to regulate mooring privileges, the sponsor recognized the hardship a requirement would place on municipalities and instead asked stakeholders to review options and report back findings.

Over the summer, MMA staff worked with the Submerged Lands Program, and the Department of Inland Fisheries and Wildlife to review the complexity of state and local authority over inland waterways to see if there was an easy path forward. Unsurprisingly, the issue is as complex as the vast waterbodies these homes occupy. The key questions explored were: Are floating camps legal in Maine? Do floating camps meet the definition of a motorboat or watercraft? Are floating camps only a mooring placement problem? If regulated, should it happen at the state or municipal level? Does existing law address problems associated with floating camps/structures?

Because there is no definition of a floating home in statute, there is a great deal of ambiguity around what can be regulated and by whom. Some floating homes have been registered by the state as homemade boats, and thus municipalities have no authority to regulate their use beyond existing watercraft law. While enforcement actions on inland waters are the authority of the Warden’s Service, other certified law enforcement entities can also enforce violations.

For lakes with several communities making up the boundaries, municipal policing

(continued on page 3)

MAINE IN FOCUS



BY [NICK MURRAY](#) FEBRUARY 14, 2022  [NEWS](#)

Testimony to Oppose LD 1673

0
COMMENTS

Testimony in Opposition to LD 1673, “[An Act To Create a Comprehensive Permit Process for the Construction of Affordable Housing](#)”

Senator Daughtry, Representative Sylvester, and the distinguished members of the Committee on Labor and Housing, my name is Nick Murray, I am a resident of Cornish, and I serve as policy analyst for Maine Policy Institute, a nonpartisan, non-profit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to testify on LD 1673.

We are in agreement with the sponsors in regards to our state’s widespread, persistent problem of limited housing. Speaker Fecteau and many others in this legislature have rightly pointed to housing as a must-solve issue for this session. We could not agree more, but establishing the sort of strict structure on municipalities that LD 1673 offers would be an unreasonable overreach.

Our problems start with a lack of supply, and that is precisely why this bill is not the answer. It would impose a heavy-handed, top-down scheme, set up to overrule municipal governance in favor of only some kinds of housing. Despite good intentions, the result would be an overall slower rate of growth in the housing stock, no doubt making the issue much worse.

This bill is a blunt instrument to fix a predominantly local problem. While the principle of local control is not absolute, the question becomes: where are its most appropriate bounds?



By leveraging a new “comprehensive permit” process, this bill would enable the Maine Housing Authority to clear the runway for only certain developers’ projects by overruling local-level processes if that municipality has not met the arbitrary standards of meeting or pursuing its “affordable housing” criteria. We believe this bill reaches well beyond convention and sets a nonsensical double-standard on local control.

Previous legislatures have chosen not to advance limits on municipal control when it came to matters of protecting private property rights, such as prohibiting local rental registries and preventing short-term rentals. But today, this committee is hearing a bill that would allow a state board to override entire municipal processes so that certain developers get their projects done anyway.

This scheme would be more accurately described as cronyism or crony capitalism.

According to LD 1673, in order to be in “good standing,” and thus not subject to the “comprehensive permit” override, municipalities must meet their “fair housing goal” set by the state. If affordable housing is under 1.5% of a city or town’s “total land area zoned for residential, commercial or industrial use,” this bill outlines three relatively arbitrary thresholds based on overall number of households.

Suppose in a town with 500 households, only 25 (5%) are considered affordable, before this becomes law. The municipality is already below their “fair housing goal” so a developer looking to build 50 units would alone need to account for the 13% threshold in the bill, since the project would bump the number of households over 500. That developer would then be required to dedicate nearly all of their 50-unit proposal as “affordable housing,” so the town would have 72 (13%) of the 550 total and be able to avoid state-level meddling. Can we really say that this proposal would move forward under this environment?

This new scheme could act as a perverse incentive for town planners as well as developers. For the towns currently at their “fair housing goal,” they end up squashing all types of development just to stay within that goal and avoid unneeded scrutiny from Maine Housing.

To get real housing reform, we need localities to voluntarily open up their regulations on density, set backs, Accessory Dwelling Units, etc. Many of these were rightly identified in the recent zoning and housing commission’s report. Rather than sharpening the state’s array of sticks, lawmakers should consider carrots to attract municipal reform and private investment.

In sum, it is not worth instituting policy that would ultimately stifle the overall market for housing. We need supply, which means we need more options. This bill would limit the options available to developers, localities, and ultimately Maine people as well.

Stacking the deck in favor of one certain type of option unnecessarily limits those who invest their time, money, and sweat into building housing projects, the folks we need to work with in order to solve this problem. To promote more housing options for present and future Mainers, please deem LD 1673 “Ought Not to Pass.” Thank you for your time and consideration.

Maine Policy's testimony to the Commission to Increase Housing Opportunities in Maine
August 11, 2021

Local deregulation is the path to relieving Maine's housing crunch
December 8, 2021

Testimony in Opposition to LD 555: “An Act To Expand the Rights of Public Sector Employees”
January 18, 2022

[← PREVIOUS](#)

[NEXT →](#)



Testimony of the Maine Municipal Association

In Opposition to
LD 1673, *An Act To Create a Comprehensive Permit Process for the Construction of Affordable Housing*

February 14, 2022

Senator Daughtry, Representative Sylvester and members of the Labor and Housing Committee, my name is Kate Dufour, and I am providing testimony in opposition to LD 1673 on behalf of the Maine Municipal Association (MMA).

Municipal officials oppose LD 1673 because it shifts decision-making authority for housing developments away from residents, either appointed by boards and councils or elected by their peers, who are most familiar with our communities' ordinances, comprehensive plans, and goals.

As proposed, decisions over affordable housing developments are left to the local board of appeals, rather than being first reviewed by the planning board. More troubling, however, is that in communities without appointed appeals boards, the decision over housing developments would be left to the Maine State Housing Authority (MSHA). This important decision, which can have financial and infrastructure related impacts, is shifted to an entity that may or may not understand or have any familiarity with a community's goals.

While the bill provides the procedures by which the local appeals board, or MSHA, must consider a denial, our reading of the language suggests that following the procedure is at the discretion of the local board or MSHA. As drafted, the failure to convene a public hearing within 30 days of the receipt of the application or to render a decision within 40 days of the public hearing, if scheduled, results in the automatic approval of the housing project. Furthermore, these entities are authorized to adopt rules for the conduct of their business and provide those rules to the municipality, seemingly without community input.

To the extent a local appeals board or MSHA deny an application, a five-member Affordable Housing Appeals Committee, which includes a member of MSHA, would be available to review that outcome, further removing local decision-making from the community. It is unfathomable to think that a group of five individuals would have the time, resources, and

information necessary to carefully evaluate decisions for adherence to the planning goals and infrastructure needs of the hundreds of communities in Maine.

Rather than moving forward with this approach, municipal leaders urge you to implement a process that is based on partnerships with your constituents and our residents. A successful plan, reflecting some of the recommendations of the Housing Commission, is one that is focused on the development of measurable goals, assessment of which level of government is better suited to implement mutually beneficial strategies and investment in financial and technical resources necessary to deliver statewide goals.

Working together, rather than at odds, will yield intended outcomes without stripping the voices of municipal residents who will be left to address all unintended consequences associated with eroding local control.

Compromise and investment in our communities is the path forward.

Thank you for considering the municipal perspective on this issue.



130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1909

H.P. 1415

House of Representatives, January 5, 2022

An Act To Remove Restrictions on Syringe Service Programs

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative McDONALD of Stonington.
Cosponsored by Senator MOORE of Washington and
Representatives: MEYER of Eliot, PERRY of Calais, STOVER of Boothbay, TUELL of East
Machias, ZAGER of Portland.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the number of deaths due to drug overdose continues to rise; and

4 **Whereas,** access to clean syringes reduces instances of life-threatening infections;
5 and

6 **Whereas,** hospital resources are strained due to the COVID-19 pandemic; and

7 **Whereas,** this legislation is necessary to save lives and protect public health; and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

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

13 **Sec. 1. 22 MRSA §1341, sub-§1-A** is enacted to read:

14 **1-A. Hypodermic apparatus distribution.** A hypodermic apparatus exchange
15 program may not limit the number of hypodermic apparatuses given to participants of the
16 program at any time or require the return of a used hypodermic apparatus as a condition for
17 receiving a hypodermic apparatus.

18 **Sec. 2. 22 MRSA §1341, sub-§2, ¶A-1** is enacted to read:

19 **A-1. Procedures for hypodermic apparatus distribution that are consistent with**
20 **subsection 1-A;**

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

23 SUMMARY

24 This bill prohibits a hypodermic apparatus exchange program from limiting
25 distribution of hypodermic apparatuses to program participants or requiring the exchange
26 of used hypodermic apparatuses.

Drafted by Genevieve McDonald, Sponsor

Joint Standing Committee on Health and Human Services

Feb. 1, 2022

Proposed Committee Amendment to L.D. 1909, An Act to Remove Restrictions on Syringe Service Programs

Retain emergency preamble

Amend the bill by striking everything after the enacting clause and inserting the following:

22 MRSA section 1341 (1-A) The Maine Center for Disease Control and Prevention may not limit the number of hypodermic apparatuses provided by certified syringe exchange programs to participants.

SUMMARY

This amendment replaces the bill. The amendment removes the proposed language allowing for a needs-based exchange and proposes language that allows the Maine CDC to limit the number of hypodermic apparatuses provided by a certified exchange through routine technical rule-making.

Memorandum

Date: February 18, 2022

Re: New Legislative Bills Report

Bernstein, Shur,

Sawyer & Nelson, P.A.

146 Capitol Street

PO Box 5057

Augusta, ME 04332-5057

T (207) 623 - 1596

F (207) 626 - 0200

To: Portland, City of

From: Bernstein Shur

Please find below the new legislative documents (LD) printed this week that we have flagged to be of possible interest to your organization. Please indicate to us which bills you would like included on your tracking report.

Thank you.

LD 1986 (HP1472)

An Act To Exempt Permanently Disabled Veterans from Payment of
Property Tax

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
1866	2507	An Act To Ensure Low-income Families and Children with Special Needs Can Access After-school Services	Gramlich	HHS	Bill Text		1/25/22 1:00 PM Rm 209 COB			After school services	Provides new reimbursement to schools for after school programs	
1386	923	Resolve, To Improve Access to Bariatric Care (Emergency)	Perry	HHS	Bill Text	Monitor	4/14/21 2:00 PM Rm 209 COB	4/26/21 10:00 AM Rm 209 COB	Carry over approved 7/19/21	Bariatric care	This will not directly affect City operations, but staff is supportive from a policy perspective.	
1945	2477	An Act To Regulate the Use of Biometric Identifiers	O'Neil	JUD	Bill Text	Monitor/ Support	2/22/22 9:00 AM Rm 438 SH			Biometric Identifiers		
49	271	An Act To Authorize a General Fund Bond Issue To Invest in Infrastructure To Address Sea Level Rise (Bond)	Brennan	AFA	Bill Text		4/26/21 10:00 AM Rm 228 SH		Carry over approved 7/13/21	Bond		
50	272	An Act To Authorize a General Fund Bond Issue To Invest in Housing for Persons Who Are Homeless (Bond)	Brennan	AFA	Bill Text		4/21/21 1:00 PM Rm 228 SH	2/22/22 10:00 AM Rm 228 SH	Carry over approved 7/13/21	Bond		
133	930	An Act To Authorize a General Fund Bond Issue To Invest in Fire Stations (Bond)	Crockett	AFA	Bill Text	Support	4/27/21 10:00 AM Rm 228 SH		Carry over approved 7/13/21	Bond		High
150	140	An Act To Authorize a General Fund Bond Issue To Fund Hazardous Substance Site Cleanups (Bond)	Fay	AFA	Bill Text	Staff to review	4/26/21 10:00 AM Rm 228 SH		Carry over approved 7/13/21	Bond	This is in line with the City's own regulations. No issues.	
175	1096	An Act To Authorize a General Fund Bond Issue To Create and Enhance Regional Homeless Shelters (Bond)	Cloutier	AFA	Bill Text	Support/ Testify	4/21/21 1:00 PM Rm 228 SH	2/22/22 10:00 AM Rm 228 SH	Carry over approved 7/13/21	Bond	Provided testimony.	
181	955	An Act To Authorize a General Fund Bond Issue To Complete the Renovation of a Wharf and Bulkhead in Portland for Marine Research (Bond)	Sylvester	AFA	Bill Text	Staff to review	4/20/21 1:00 PM Rm 228 SH	2/22/22 10:00 AM Rm 228 SH	Carry over approved 7/13/21	Bond		

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
969	1496	An Act To Authorize a General Fund Bond Issue for the Construction of a Convention Center in Portland, Improvements to the Augusta Civic Center and a Competitive Grant Program for Capital Improvements to Public Venues across the State (Bond)	Bailey	AFA	Bill Text		4/27/21 10:00 AM Rm 228 SH	2/22/22 10:00 AM Rm 228 SH		Bond	Staff to provide a memo.	
987	1638	An Act To Authorize a General Fund Bond Issue for the Portland Harbor Commercial Revitalization Project's Confined Aquatic Disposal Cell and Dredging Projects (Bond)	Chipman	AFA	Bill Text	Support/ Testify	4/29/21 10:00 AM Rm 228 SH		Carry over approved 7/13/21	Bond	Staff strongly support and recommend direct lobbying, close monitoring and testimony.	
1086	1440	An Act To Authorize a General Fund Bond Issue To Upgrade Customs Facilities at the Portland International Jetport and the Bangor International Airport To Promote International Tourism and Commerce (Bond)	Bailey	AFA	Bill Text	Support/ Testify	4/29/21 10:00 AM Rm 228 SH	2/22/22 10:00 AM Rm 228 SH		Bond	Paul Bradbury to testify, watch for ICE detention facility integration	
1094	1816	An Act To Authorize a General Fund Bond Issue To Reduce Homeowner and Municipal Energy Bills through Increased Efficiency and Weatherization Projects (Bond)	Pouliot	AFA	Bill Text	Support	4/21/21 1:00 PM Rm 228 SH	2/22/22 10:00 AM Rm 228 SH	Carry over approved 7/13/21	Bond		
1475	1621	An Act To Authorize a General Fund Bond Issue for Targeted Food Processing Infrastructure (Bond)	Talbot Ross	AFA	Bill Text	Monitor	4/20/21 1:00 PM Rm 228 SH		Carry over approved 7/13/21	Bond	Staff support	
1555	1863	An Act To Fund Broadband Internet Infrastructure for Marginalized Groups in the State	Talbot Ross	EUT	Bill Text		4/27/21 9:00 AM Rm 211 COB	Work session held 5/27/21	Carry over approved 7/19/21	Broadband	Will not impact City operations.	

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
1894	2293	An Act To Support Municipal Broadband Infrastructure through Incentives and Competition	Vitelli	EUT	Bill Text		2/3/22 9:00 AM Rm 211 COB			Broadband		
1940	2394	An Act To Ensure That Building Codes Allow the Installation and Use of Products and Equipment That Use Certain Federally Regulated Refrigerants	Timberlake	CJPS	Bill Text	Monitor	2/7/22 9:00 AM Rm 216 COB	2/7/22 9:15 AM Rm 216 COB	OTP-AM Reported out 2/16/22	Building codes	From staff - This bill may prohibit municipalities from adopting certain energy codes that are stricter than the base code, potentially undermining local energy efficiency initiatives. Staff recommend that this bill be monitored as they look into it further	
	1847	An Act To Allow the Bureau of Motor Vehicles To Assist in the Critical Incident Contact Chain	Sanborn			Need language				Contact chain		High
1874	2397	An Act To Clarify COVID-19 Paid Leave for School Employees (Emergency)	White	LH	Bill Text		1/31/22 9:00 AM Rm 202 COB	2/7/22 10:00 AM Rm 202 COB	Voted 2/7/22 OTP-AM Not rpt out	COVID-19		
1845	2310	An Act To Amend the Education Statutes	Brennan	ECA	Bill Text	Monitor	1/13/22 9:30 AM Rm 208 COB	1/27/22 9:30 AM Rm 208 COB	Voted 1/27/22 OTP-AM Not rpt out	Education		
1935	2602	Resolve, Regarding Legislative Review of Portions of Chapter 60: New School Siting Approval, Portions of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects and Portions of Chapter 125: Basic School Approval Standards: Public Schools and School Administrative Units, Major Substantive Rules of the Department of Education, State Board of Education (Emergency)	Brennan	ECA	Bill Text		2/8/22 9:30 AM Rm 208 COB	2/15/22 9:30 AM Rm 208 COB	Voted 2/15/22 Anticipated Divided Rpt Not rpt out	Education		

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
1830	2351	An Act To Amend the Election Laws	Luchini	VLA	Bill Text	Monitor	1/12/22 9:00 AM Rm 437 SH	2/7/22 1:00 PM Rm 437 SH	Voted 2/7/22 Anticipated Divided Rpt Not rpt out	Elections	Kathy testified for MTTCA.	
555	906	An Act To Expand the Rights of Public Sector Employees	Sylvester	LH	Bill Text	Oppose/ Monitor	1/19/22 9:00 AM Rm 202 COB	Work session held	DEAD	Employment		
1898	2313	An Act To Address the Economic Impact of Federal Closures on Maine's Fixed Gear Fishing Industry (Emergency)	Stover	MR	Bill Text		2/1/22 9:00 AM Rm 206 COB	2/15/22 9:00 AM Rm 206 COB	Voted 2/15/22 Anticipated Divided Rpt Not rpt out	Fishing Industry		
1772	2382	An Act To Amend the Remote Meeting Law in Maine's Freedom of Access Act	Harnett	JUD	Bill Text	Monitor	2/1/22 1:00 PM Rm 438 SH			FOIA	Staff is supporting	
910	284	An Act To Amend the General Assistance Laws Governing Reimbursement	Brennan	HHS	Bill Text	Support/ Testify	4/1/21 12:00 PM Rm 209 COB	4/22/21 10:00 AM Rm 209 COB	Carry over approved 7/19/21	General Assistance	Written testimony submitted	High
343	1804	An Act To Set Aside Funds from Federal Block Grants for Certain Communities	Talbot Ross	HHS	Bill Text	Monitor	3/24/21 10:00 AM Rm 209 COB	Work session held 5/20/21	Carry over approved 6/3/21	Grants	Concerns Ask for language from Rep. Talbot Ross	
1939	2510	An Act To Protect School Administration Officials from Harassment and Abuse	Breen	CJPS	Bill Text		2/18/22 10:00 AM Rm 436 SH	2/25/22 1:00 PM Rm 436 SH		Harassment		
1523	1388	An Act To Establish the Trust for a Healthy Maine	Millett	HHS	Bill Text	Monitor	2/9/22 10:00 AM Rm 209 COB	2/18/22 10:00 AM Rm 209 COB		Health		
1693	1927	An Act To Advance Health Equity, Improve the Well-being of All Maine People and Create a Health Trust	Talbot Ross	HHS	Bill Text	Monitor	2/9/22 10:00 AM Rm 209 COB	2/18/22 10:00 AM Rm 209 COB		Health		

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
1968	2352	An Act To Expand Access to Mental Health and Crisis Care for Individuals in Jails and Individuals Experiencing Homelessness	Talbot Ross	HHS	Bill Text					Health		
1899	2386	An Act To Ensure Safe Entry and Access for People Seeking Health Care and Other Constitutional Rights	McCreight	JUD	Bill Text		3/1/22 9:00 AM Rm 438 SH			Health Care	Support. Would like more information. Adds municipal requirements to patrolling health care provider sites	
1909	2384	An Act To Remove Restrictions on Syringe Service Programs (Emergency)	McDonald	HHS	Bill Text	Monitor	2/1/22 1:00 PM Rm 209 COB	2/8/22 1:00 PM Rm 209 COB	Voted 2/8/22 Anticipated Divided Rpt Not rpt out	Health Care	Staff recommends tracking.	
1966	2596	An Act To Facilitate Access to Heating Assistance	Curry	LH	Bill Text					Heating assistance		
1448	1597	An Act To Increase the Homestead Property Tax Exemption (Title change)	Talbot Ross	TAX	Bill Text		5/4/21 11:00 AM Rm 127 SH	5/10/21 9:00 AM Rm 127 SH	Carry over approved 7/19/21	Homestead Exemption		High
1246	1616	Resolve, To Study Best Practices and Different Area Needs for Development of Affordable Homes and Expanding Home Ownership in Maine Communities	Gere	LH	Bill Text	Monitor	4/16/21 9:00 AM Rm 202 COB	4/30/21 12:30 PM Rm 202 COB	Carry over approved 7/19/21	Housing	Staff support. Similar goal to LD 48.	
1300	684	An Act To Require County Governments To Coordinate with Municipalities To Create Plans To Address Homelessness	Supica	SLG	Bill Text		4/16/21 9:00 AM Rm 214 COB	4/26/21 10:30 AM Rm 214 COB	Carry over approved 7/19/21	Housing		
1337	103	An Act To Increase Affordable Housing and Reduce Property Taxes through an Impact Fee on Vacant Residences	Kessler	TAX	Bill Text	Support w/changes	4/14/21 9:00 AM Rm 127 SH	2/3/22 9:00 AM Rm 127 SH	Voted 2/3/22 Anticipated Divided Rpt Not rpt out	Housing	Bernstein to contact sponsor to discuss. Staff strongly support vacancy fees, but believe program should be local with revenue staying in the municipality to further affordable housing goals and/or reducing the tax burden	

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
1961	2339	An Act To Help Alleviate Maine's Housing Shortage and Change the Membership of the Maine State Housing Authority (Emergency)	Hickman	LH	Bill Text					Housing		
17	373	Resolve, To Provide Rural Nonmedical Transportation Services to the Elderly and Adults with Disabilities Receiving Home and Community Benefits under the MaineCare Program (Emergency)	Maxmin	HHS	Bill Text	High Priority	2/10/21 10:00 AM Rm 209 COB	5/13/21 1:00 PM Rm 209 COB	Carry over approved 7/19/21	MaineCare		High
684	953	Resolve, To Amend MaineCare Reimbursement Provisions Governing Supplemental Payments to Nursing Facilities with High MaineCare Use (Emergency)	Timberlake	HHS	Bill Text		3/17/21 1:00 PM Rm 209 COB	4/6/21 2:00 PM Rm 209 COB	Carry over approved 7/19/21	MaineCare	Staff to check	
1195	800	An Act To Increase Funding to Qualifying Municipalities by Sharing Adult Use Marijuana Sales and Excise Tax Revenue	Roberts	TAX	Bill Text	Strong support/ Testify	4/7/21 9:00 AM Rm 127 SH	2/24/22 9:00 AM Rm 127 SH		Marijuana	Staff will submit written testimony	
1930	2582	Resolve, Regarding Legislative Review of Portions of Chapter 1: Adult Use Marijuana Program Rule, a Major Substantive Rule of the Department of Administrative and Financial Services, Office of Marijuana Policy (Emergency)	Caiazzo	VLA	Bill Text		1/31/22 11:00 AM Rm 437 SH	2/25/22 1:00 PM Rm 437 SH		Marijuana		
1428	1626	An Act To Increase the Availability of Nasal Naloxone in Community Settings	Dodge	HHS	Bill Text	Monitor	4/23/21 9:00 AM Rm 209 COB	2/22/22 10:00 AM Rm 209 COB		Naloxone	Staff support	
250	1098	An Act To Assist Nursing Homes in the Management of Facility Beds	Perry	HHS	Bill Text	City staff to check	3/17/21 1:00 PM Rm 209 COB	4/6/21 2:00 PM Rm 209 COB	Carry over approved 7/19/21	Nursing homes	No issue (will not affect BC unless we reduced bed size and then increased bed size).	

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
1482	1310	An Act To Improve Access to Property Tax Exemptions for New Homeowners	Grohoski	TAX	Bill Text		5/4/21 11:00 AM Rm 127 SH	5/10/21 9:00 AM Rm 127 SH	Carry over approved 7/19/21	Property tax		High
1879	2421	An Act To Support Law Enforcement Officers, Corrections Officers, E-9-1-1 Dispatchers, Firefighters and Emergency Medical Services Persons Diagnosed with Post-traumatic Stress Disorder	Sylvester	LH	Bill Text		1/31/22 9:00 AM Rm 202 COB	2/7/22 10:00 AM Rm 202 COB	Voted 2/7/22 OTP-AM Not rpt out	PTSD	Support. FD & PD may testify.	
202	758	RESOLUTION, Proposing an Amendment to the Constitution of Maine To Implement Ranked-choice Voting	Miramant	VLA	Bill Text	Monitor	2/10/21 10:00 AM Rm 437 SH	3/26/21 11:30 AM Rm 437 SH	Carry over approved 7/19/21	Ranked choice		
328	711	An Act To Fully Fund and Restore State-Municipal Revenue Sharing (Emergency)	Harnett	TAX	Bill Text	Support/ Testify	3/9/21 9:30 AM Rm 127 SH	3/18/21 9:30 AM Rm 127 SH	Carry over approved 7/19/21	Revenue sharing	Mayor will testify	
1971	2594	An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Remote Participation	Harnett	JUD	Bill Text		2/25/22 10:00 AM Rm 438 SH			Right to know		
1440	1401	An Act To Provide Safe Gear for Female Firefighters	Roeder	CJPS	Bill Text	Support	4/21/21 2:00 PM Rm 436 SH	4/30/21 1:00 PM Rm 436 SH	Carry over approved 7/19/21	Safety	Staff support, City of Portland already does this.	
111	474	An Act To Allow Career Educators To Retire without Penalty	Tuell	LH	Bill Text		2/3/21 10:00 AM Rm 202 COB	2/22/21 1:00 PM Rm 202 COB	Carry over approved 7/19/21	School		
270	352	An Act To Amend the Regional Adjustment Index To Ensure School Districts Do Not Receive Less than the State Average for Teacher Salaries	Stewart	ECA	Bill Text	Monitor	3/8/21 10:00 AM Rm 208 COB	5/21/21 9:00 AM Rm 208 COB	Carry over approved 6/3/21	School	Check with Superintendent Xavier Botana_defer to Rep. Brennan	
773	295	An Act To Assist Public School Students and Families Who Are Homeless	Brennan	LH	Bill Text		4/2/21 10:00 AM Rm 202 COB	4/21/21 12:00 PM Rm 202 COB	Carry over approved 7/19/21	School	Review further	

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
211	1094	An Act To Support Emergency Shelter Access for Persons Experiencing Homelessness	Cloutier	LH	Bill Text	Monitor	2/17/21 10:00 AM Rm 202 COB	3/17/21 10:00 AM Rm 202 COB	Carry over approved 7/19/21	Shelter	Monitor/most likely support. Staff to look into GA/shelter bills; Staff supports (carryover from 129th - LD 1909)	
654	1665	An Act To Create a 24-hour Shelter Capital Project Funding Program	Arford	LH	Bill Text	Monitor	3/22/21 10:00 AM Rm 202 COB	4/21/21 12:00 PM Rm 202 COB	Carry over approved 7/19/21	Shelter	Concerned as meant to only cover hotel purchases.	
259	886	An Act To Improve Solid Waste Management	McDonald	ENR	Bill Text	Monitor		5/24/21 10:00 AM Rm 216 COB	Carry over approved 6/3/21	Solid waste		
1963	2573	An Act To Create the General Purpose Aid Stabilization Fund	LaRochelle	ECA	Bill Text		2/22/22 10:30 AM Rm 208 COB			Stabilization Fund		
197	666	Resolve, To Ensure That Community Mental Health Service Providers Can Access Pandemic Stimulus Funds	Breen	HHS	Bill Text	Support	4/15/21 1:00 PM Rm 209 COB	5/13/21 10:30 AM Rm 209 COB	Carry over approved 7/19/21	Stimulus	City staff to review Staff supports	

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
290	346	An Act To Stabilize Property Taxes for Individuals 65 Years of Age or Older Who Own a Homestead for at Least 10 Years	Stewart	TAX	Bill Text	Oppose	5/12/21 9:30 AM Rm 127 SH	5/25/21 9:00 AM Rm 127 SH	Carry over approved 7/19/21	Tax	The property tax amount is not a number that can just be frozen in our internal systems. The property tax for each individual parcel is a computation derived of two parts - the assessed value of the property multiplied by the tax rate for the corresponding fiscal year. In order to keep a tax amount "stabilized" there would need to be an adjustment made to one of these parts or at the very least, an abatement done to subtract the overall difference to arrive at the same "stabilized" tax amount each year. I object to the provision that someone eligible for a "stabilized" tax could move it with them to another municipality. Imagine someone living in Machias in a 1500 sq. ft., 3 bed, 1.5 bath home assessed at \$200,000 and paying \$4,000 in taxes downsizes and moves to a condo in Portland where the taxes may be \$6,000 otherwise. Let's say instead of downsizing, the eligible individual upsizes to create a larger home for extended family. Who wouldn't want to move their grandmother to an Eastern or Western Promenade property to take advantage of her "stabilized" eligibility to pay only \$4,000 in	
647	517	An Act To Expand Eligibility for the Veterans' Property Tax Exemption	Keim	TAX	Bill Text	Monitor	4/7/21 9:00 AM Rm 127 SH	4/20/21 9:00 AM Rm 127 SH	Carry over approved 7/19/21	Tax	Staff to get additional information	

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
1771	2437	Resolve, To Establish the Advisory Panel To Better Understand and Make Recommendations Regarding the Implications of Genome-editing Technology for the Citizens of the State	Zager	HHS	Bill Text		1/12/22 10:00 AM Rm 209 COB	1/20/22 11:00 AM Rm 209 COB	OTP-AM Reported out 2/18/22	Technology	Support. Mayor testified.	
1447	1867	An Act To Require Training in Racial Issues, Racial Justice and Social Issues at the Maine Criminal Justice Academy and To Establish Additional Requirements for Law Enforcement Officers and Candidates	Gramlich	CJPS	Bill Text	Support	5/7/21 9:00 AM Rm 436 SH	2/17/22 10:15 AM Rm 436 SH	Voted 2/17/22 Anticipated Divided Rpt Not rpt out	Training	Staff support	
	1630	An Act To Increase Access To Transportation for Workforce and Other Essential Transportation Needs								Transportation		High
148	354	An Act To Establish Ongoing Absentee Voting	Fecteau	VLA	Bill Text	Monitor	2/8/21 9:00 AM Rm 437 SH	4/30/21 1:00 PM Rm 437 SH	Carry over approved 7/19/21	Voting		
	1849	An Act To Assist Maine's Working Waterfront	Sanborn			Need language				Waterfront		High
1889	2274	An Act To Amend the Whistleblowers' Protection Act To Ensure Coverage in Unionized Workplaces	Harnett	LH	Bill Text		2/2/22 9:00 AM Rm 202 COB	2/14/22 1:00 PM Rm 202 COB	Voted 2/15/22 Anticipated Divided Rpt Not rpt out	Whistleblower Protection		
1338	810	An Act To Prohibit Employers from Retaliating against the Use of Earned Paid Leave (Title change)	Millett	LH	Bill Text	Monitor	4/23/21 9:00 AM Rm 202 COB	4/26/21 12:00 PM Rm 202 COB	Carry over approved 7/19/21	Workplace rights	No testimony	

LD #	LR #	Title	Sponsor	Cmte	Bill Information	COP Position	Public Hearing	Work Session	Status	Category	Notes	Priority
552	857	Resolve, To Improve the Individualized Education Program Process (Title change)	Millett	ECA	Bill Text	Oppose	3/22/21 1:00 PM Rm 208 COB	4/5/21 10:00 AM Rm 208 COB	Carry over approved 7/19/21		From Xavier Botana: It is a special ed bill that has significant potential costs associated with it. MSMA is strongly opposed and has prepared a fact sheet. I have personally spoken to Rep. Millett about the bill and it's better than it started, but still fundamentally problematic. Anything the team can do to help get it stopped would be appreciated.	
1383	1758	Resolve, Directing the Department of Education To Study the Use of Homework in Public Schools (Title change)	Collings	ECA	Bill Text	Oppose	4/22/21 10:00 AM Rm 208 COB	5/4/21 1:00 PM Rm 208 COB	Carry over approved 7/19/21		From Xavier Botana: We oppose the portion of the bill that prohibits homework be assigned to students in PK-5. While it allows a school Board to adopt a policy to allow homework, it is overly broad to say that homework is not allowed at all unless that specific action is taken. School districts should retain the ability to empower administrators and teachers to assign homework. We support the aspect of the bill that calls for a study of homework, but would like to see it extended throughout all grades and focus in particular on ways in which homework can be used to support what students are learning but not be used as a punishment or negatively impact a student's performance.	
1929	2316	An Act To Provide Assistance to Areas Severely Infested with Browntail Moths	Hepler	ACF	Bill Text		2/1/22 11:00 AM Rm 214 COB	2/8/22 1:00 PM Rm 214 COB	OTP-AM Reported out 2/18/22			



The 2022 federal priorities of City of Portland staff are included below for the review of the Legislative & Nominating Committee.

POLICY PRIORITIES

Support Rep. Pingree's Asylum Seeker Work Authorization Act (HR 6693)

Asylum seekers are currently required to wait 365 days to apply for Work Authorization after submitting their Asylum application. This waiting period delays self-sufficiency and, in many cases, represents an additional six months of General Assistance. A wait time reduction benefits Maine's economy, helps address our workforce shortage, and enables new Mainers to be self-sufficient. This bill, introduced by Rep. Pingree in February 2022, would reduce the wait to 30 days.

Continue 100% FEMA reimbursement for the COVID-19 Major Disaster Declaration beyond April 1, 2022 and extension of Maine's non-congregate sheltering waiver

The City of Portland has been sheltering record numbers of individuals and families, and City homeless shelters are far beyond capacity. Since April 2020, the City has been using non-congregate sheltering in area hotels for individuals and families seeking shelter when the City shelters are at capacity to reduce the risk of COVID-19 transmission. People seeking shelter are referred to the City's General Assistance (GA) program and given a voucher for a hotel room at a nearby hotel.

Portland currently receives a 70% reimbursement for GA from Maine DHHS and is responsible for the remaining 30%. Under the current major disaster declaration, Maine has been approved for FEMA Public Assistance reimbursement for non-congregate sheltering (for the remaining 30%) through a waiver. Prior to this, Governor Mills provided CARES Act funding to ensure municipality Public Assistance eligible expenses such as these were reimbursed at 100%.

The number of families that Portland has been sheltering has, however, been rapidly increasing - with many families seeking asylum arriving to Portland from the southern border in the past several months. The City's Finance Director estimates that if Portland is not able to be reimbursed for 100% of non-congregate sheltering expenses and the current demand for sheltering stays flat, it could add \$20M - \$40M

of expenses to the City's operating budget, which would result in substantial tax increase (4.8%).

Mandate universal background checks

With larger-city crime and violence having found its way to Maine, the importance of addressing firearm violence and safety has never been greater. There is a clear nexus between firearms, the drug trade, crime and violence. The Supreme Court once noted that "Guns and drugs go hand in hand." Universal background checks would be a valuable tool for reducing gun-related violence and deaths, by reducing avenues and options for access by prohibited persons. Criminals, severely mentally ill people, and domestic abusers remain able to exploit the private sale loophole every day, putting all of our communities at risk.

Funding Support for Adequate Emergency Shelter Space

Portland is housing approximately 1,040 clients nightly at locations throughout Portland. The majority of clients come from other towns, states, and countries. Portland has a site ready for the development of a new emergency shelter, which would provide a safe and clean space to provide shelter and resources; however, financial support is needed for its construction. The current cost estimate is \$20M.

Funding Support to Dredge Portland Harbor Berthing Resources

The City of Portland, in partnership with the City of South Portland, the Portland Harbor Commission and the State of Maine Department of Transportation, was unsuccessful in a second application for \$24 M in federal funding through the RAISE (formerly BUILD) Grant Program to dredge public and private berthing resources in Portland Harbor. While virtually all urban harbors require dredging to mitigate sedimentation caused by natural drainage and stormwater runoff, Portland Harbor's berthing resources are challenged by legacy contaminants and have not been dredged in decades. Recent economic studies emphasize that berthing resources underpin a harbor-wide economy with a \$1B annual impact. Dredging will stabilize losses and expand the potential of the harbor for fisheries, tourism, aquaculture, and emerging opportunities in the "Blue Economy". Active Congressional support for the Portland Dredge Project will be critical for its success.

Funding Support for Police Headquarters Relocation

Portland's 50-year-old headquarters no longer provides the capacity needed to effectively provide the type and level of law enforcement and requests for service seen today. The current building faces maintenance issues, and houses both a regional crime lab and a regional communications center. In addition, it provides space for a federal "safe streets" task force. Federal support is needed to help the department keep pace with growth and challenges in our region.

Funding Support for Fire Stations

In 2017, a consultant determined that at least five of Portland's fire stations need to be completely replaced due to cramped quarters, small lot, age, and required environmental upgrades. As a result of these challenges, we are unable to add additional or larger apparatuses; increase staffing; conduct onsite training; meet ADA requirements; meet living quarters best practices; address potential plumbing and heating systems hazards.

PROGRAMMATIC FUNDING PRIORITIES

- **[The HOME Investment Partnerships Program](#)**: This is a vital resource to ensure the continued creation and maintenance of affordable housing. When construction is completed on recent HOME-funded projects, 275 new units of affordable rental housing will be added to the Portland market.
- **[The Community Development Block Grant \(CDBG\) Program](#)**: This is often the only resource available to fund public infrastructure in lower-income neighborhoods and provide social services to the most vulnerable residents in our community. Recent CDBG projects include road and lighting improvements in the Bayside neighborhood, community policing, and the provision of homeless case workers and housing specialists.
- **[Certified Local Government Funding](#)**: The City relies on this funding to support staffing levels in its Historic Preservation Program; we also anticipate applying for a CLG grant to help fund the restoration of historic Lincoln Park's cast iron fence and granite piers. Local private nonprofit organizations, such as the Tate House and Mechanics Hall, also rely on this vital funding source.
- **[Byrne Justice Assistance Grant](#), [COPS](#) and [Project Safe Neighborhoods](#) (all via Department of Justice)**: These programs are critical to enhancing the safety and quality of life in our communities, as well as the safety and wellness of the officers protecting them.