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Date: (Filing No. H-)

JUDICIARY

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

COMMITTEE AMENDMENT “ ” to H.P. 428, L.D. 585, “An Act To Restore to the Penobscot Nation and Passamaquoddy Tribe the Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010”

Amend the bill by striking out the title and substituting the following:

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

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

'PART A

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

CHAPTER 376

TRIBAL-STATE COLLABORATION

§11051. Short title

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

§11052. Definitions

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

1. Agency. "Agency" means the following:

A. The Department of Agriculture, Conservation and Forestry;

B. The Department of Corrections;

COMMITTEE AMENDMENT

- 1 C. The Department of Economic and Community Development;
- 2 D. The Department of Education;
- 3 E. The Department of Environmental Protection;
- 4 F. The Department of Health and Human Services;
- 5 G. The Department of Inland Fisheries and Wildlife;
- 6 H. The Department of Labor;
- 7 I. The Department of Public Safety;
- 8 J. The Department of Administrative and Financial Services;
- 9 K. The Department of Professional and Financial Regulation;
- 10 L. The Department of Defense, Veterans and Emergency Management;
- 11 M. The Department of Marine Resources;
- 12 N. The Department of Transportation;
- 13 O. The Office of the Public Advocate; and
- 14 P. The Public Utilities Commission.

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

17 **§11053. Collaboration between agencies and Indian tribes**

18 **1. Required policies.** An agency shall develop and implement a policy that:

19 A. Promotes effective communication and collaboration between the agency and the
20 Indian tribes;

21 B. Promotes positive government-to-government relations between the State and the
22 Indian tribes;

23 C. Promotes cultural competency in the agency's interactions with the Indian tribes
24 and tribal members;

25 D. Establishes a process for collaboration between the agency and the Indian tribes
26 regarding the agency's programs, rules and services that substantially and uniquely
27 affect the Indian tribes or tribal members. In the context of emergency rulemaking
28 pursuant to section 8054, the policy must require notice and collaboration to the extent
29 practicable. Collaboration under this paragraph must be in addition to any process
30 available to members of the general public and must include:

31 (1) Providing the Indian tribes reasonable written notice of the contemplated
32 program, rule or service;

33 (2) Allowing the Indian tribes a reasonable opportunity to provide information,
34 advice and opinions on the contemplated program, rule or service;

35 (3) Requiring the agency to consider the information, advice and opinions it
36 receives from the Indian tribes under subparagraph (2); and

37 (4) Requiring the agency to make reasonable efforts to complete the collaboration
38 process before taking final action on the contemplated program or service or, in

1 the case of a rule, before publication of the proposed rule pursuant to section 8053,
2 subsection 5; and

3 E. Establishes a method for informing employees of the agency of the provisions of
4 this Act and the policy that the agency adopts pursuant to this section.

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

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

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

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

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

15 **§11054. Mandatory training**

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

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

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

24 **3. Cultural competency.** Cultural competency in tribal issues.

25 **§11055. Tribal-State Summit; reports by agencies and Indian tribes**

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

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

31 B. Implementation of the provisions of this Act; and

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

33 **2. Biennial agency reports.** Beginning January 10, 2023 and biennially by January
34 10th thereafter, an agency shall file a report with the joint standing committee or
35 committees of the Legislature having jurisdiction over the agency and with the Maine
36 Indian Tribal-State Commission on the activities of the agency pursuant to this Act. The
37 report must include:

38 A. A copy of the current policy adopted under section 11053, subsection 1 and a
39 description of any changes that have been made to that policy since the filing of the
40 previous report. If the agency has not yet adopted a policy under section 11053,

1 subsection 1, the agency must describe the steps the agency has taken to adopt such a
2 policy;

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

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

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

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

13 **3. Reports by Indian tribes.** Beginning January 10, 2023 and biennially by January
14 10th thereafter, an Indian tribe may file a report with the joint standing committee of the
15 Legislature having jurisdiction over judiciary matters and the Maine Indian Tribal-State
16 Commission that includes a summary of the collaboration between the Indian tribe and
17 agencies under this Act during the prior biennium and any recommendations for improving
18 the effectiveness of this Act, including recommendations regarding other agency actions
19 for which it may be appropriate to require collaboration under this Act.

20 **§11056. Cause of action and right of review not conferred; savings clause**

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

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

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

25 C. Constitute grounds for a court to reverse or modify an agency action under section
26 11007, subsection 4, paragraph C or to direct an agency to engage in any further action
27 under section 11007, subsection 4, paragraph B.

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

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

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

35 A. The Passamaquoddy Tribe; and

36 B. The Penobscot Nation; and

37 C. The Houlton Band of Maliseet Indians.

38 **PART B**

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

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

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

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

12 **PART C**

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

14 **1-D. Houlton Band of Maliseet Indians.** "Houlton Band of Maliseet Indians" has
15 the same meaning as in Title 30, section 6203, subsection 2.

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

17 **1-E. Houlton Band Trust Land.** "Houlton Band Trust Land" has the same meaning
18 as in the federal Houlton Band of Maliseet Indians Supplementary Claims Settlement Act
19 of 1986, Public Law 99-566, Section 2(2).

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

21 **2-A. Passamaquoddy Indian territory.** "Passamaquoddy Indian territory" has the
22 same meaning as in Title 30, section 6203, subsection 6.

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

24 **2-B. Passamaquoddy Tribe.** "Passamaquoddy Tribe" has the same meaning as in
25 Title 30, section 6203, subsection 7.

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

27 **2-C. Penobscot Indian territory.** "Penobscot Indian territory" has the same meaning
28 as in Title 30, section 6203, subsection 9.

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

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

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

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

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

1 B. Where 75% of the ownership interests are held in aggregate by the Houlton Band
2 of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation and the entity
3 is controlled and managed by the Houlton Band of Maliseet Indians, the
4 Passamaquoddy Tribe or the Penobscot Nation, consistent with the requirements of 13
5 Code of Federal Regulations, Section 124.109(c)(4); as determined by the federal
6 Small Business Administration or the assessor as consistent with 13 Code of Federal
7 Regulations, Section 124.109(c)(4)(i)(A); or as determined by the federal Small
8 Business Administration as consistent with 13 Code of Federal Regulations, Section
9 124.109(c)(4)(i)(B).

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

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

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

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

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

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

19 **§194-E. Tribes deemed as acting in a governmental capacity**

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

25 PART D

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

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

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

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

35 For purposes of this subsection:

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

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

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

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

6 B. The tangible personal property or taxable service is received by the purchaser also
7 on Passamaquoddy Indian territory, Penobscot Indian territory or Houlton Band Trust
8 Land, respectively. For purposes of this paragraph, "received" has the same meaning
9 as in section 1819.

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

14 **4. Quarterly reconciliation.** The monthly payments due under this section must be
15 adjusted by any credit or debit necessary for a quarterly reconciliation of payments and
16 transfers made under this section for any erroneous payment or transfers and any erroneous
17 collection and corresponding refund and by any subsequent assessment, remittance or
18 refund of sales tax to or by the State.

19 **Sec. E-3. Application.** This Part applies to sales occurring on or after January 1,
20 2023.

21 PART F

22 **Sec. F-1. 36 MRSA §2724, sub-§2,** as amended by PL 1993, c. 452, §15, is further
23 amended to read:

24 **2. Commercial forest land.** "Commercial forest land" means land that is classified
25 or that is eligible for classification as forest land pursuant to the Maine Tree Growth Tax
26 Law, chapter 105, subchapter H-A ~~2-A~~, except that "commercial forest land" does not
27 include land described in section 573, subsection 3, paragraph B or C when all commercial
28 harvesting of forest products is prohibited. In determining whether land not classified
29 under the Maine Tree Growth Tax Law is eligible for classification under that law, all facts
30 and circumstances must be considered, including whether the landowner is engaged in the
31 forest products business and the land is being used in that business or there is a forest
32 management plan for commercial use of the land or a particular parcel of land has been
33 harvested for commercial purposes within the preceding 5 years. "Commercial forest land"
34 does not include tribal land.

35 **Sec. F-2. 36 MRSA §4303, first ¶,** as amended by PL 2019, c. 222, §1 and affected
36 by §7, is further amended to read:

37 ~~There~~ Except as provided in section 4303-B, there is levied and imposed a tax at the
38 rate of 1 1/2¢ per pound on all wild blueberries processed in the State and on all
39 unprocessed wild blueberries shipped to a destination outside the State. All wild
40 blueberries harvested in the State that are to be shipped outside the State for processing
41 must be weighed on a state-certified scale in the State prior to being shipped outside the
42 State. The tax is computed on the gross weight of the wild blueberries as delivered prior
43 to any processing or shipping. The processor that first receives unprocessed wild

1 blueberries in the State, or the shipper that transports unprocessed wild blueberries to a
2 destination outside the State, is responsible for reporting and paying the tax.

3 **Sec. F-3. 36 MRSA §4303-B** is enacted to read:

4 **§4303-B. Exemption for wild blueberries grown on tribal land**

5 The tax imposed by section 4303 does not apply to wild blueberries grown on tribal
6 land.

7 **Sec. F-4. 36 MRSA §4605, sub-§1**, as amended by PL 2011, c. 7, §4, is further
8 amended to read:

9 **1. Rate.** A Except as provided in subsection 1-A, a tax is levied and imposed at the
10 rate of \$.06 per hundredweight, effective September 1, 2011, on all potatoes grown in this
11 State, except that no tax may be imposed on any potatoes that are retained by the grower
12 to be used by the grower for seed purposes or for home consumption and no tax may be
13 imposed on any potatoes received by a processor that are certified as unmerchutable by a
14 federal state inspector.

15 **Sec. F-5. 36 MRSA §4605, sub-§1-A** is enacted to read:

16 **1-A. Exemptions.** The tax imposed by this section does not apply to:

17 A. Any potatoes that are retained by the grower to be used by the grower for seed
18 purposes or for home consumption;

19 B. Any potatoes received by a processor that are certified as unmerchutable by a
20 federal state inspector; or

21 C. Any potatoes grown on tribal land.

22 **Sec. F-6. Application.** That section of this Part that amends the Maine Revised
23 Statutes, Title 36, section 2724, subsection 2 applies to commercial forestry excise tax due
24 on or after January 1, 2023. Those sections of this Part that amend Title 36, section 4303,
25 first paragraph and enact Title 36, section 4303-B apply to unprocessed wild blueberries
26 received in this State for processing, or transported to a destination outside the State, on or
27 after January 1, 2023. That portion of this Part that enacts Title 36, section 4605, subsection
28 1-A, paragraph C applies to potatoes received, sold or shipped by a shipper in this State on
29 or after January 1, 2023.

30 **PART G**

31 **Sec. G-1. 36 MRSA §5102, sub-§5-A** is enacted to read:

32 **5-A. Tribal member residing on tribal land.** "Tribal member residing on tribal land"
33 means an individual who is a tribal member and:

34 A. Who is domiciled on tribal land, unless:

35 (1) The tribal member does not maintain a permanent place of abode on tribal land,
36 maintains a permanent place of abode off of tribal land and spends in the aggregate
37 not more than 30 days of the taxable year on tribal land; or

38 (2) Within any period of 548 consecutive days, the tribal member:

39 (a) Is present in a foreign country or countries for at least 450 days;

- 1 (b) Is not present on tribal land for more than 90 days;
- 2 (c) Does not maintain a permanent place of abode on tribal land at which a
- 3 minor child of the tribal member or the tribal member's spouse is present for
- 4 more than 90 days, unless the tribal member and the tribal member's spouse
- 5 are legally separated; and
- 6 (d) During the nonresident portion of the taxable year with which, or within
- 7 which, such period of 548 consecutive days begins and the nonresident portion
- 8 of the taxable year with which, or within which, such period ends, is present
- 9 on tribal land for a number of days that does not exceed an amount that bears
- 10 the same ratio to 90 as the number of days contained in such portion of the
- 11 taxable year bears to 548; or

12 B. Who is not domiciled on tribal land, but maintains a permanent place of abode on
13 tribal land and spends in the aggregate more than 183 days of the taxable year on tribal
14 land, unless the tribal member is in the Armed Forces of the United States.

15 The geographic location of a political organization or political candidate that receives one
16 or more contributions from the tribal member is not in and of itself determinative on the
17 question of whether the tribal member is domiciled on tribal land. The geographic location
18 of a professional advisor retained by a tribal member or the geographic location of a
19 financial institution with an active account or loan of a tribal member may not be used to
20 determine whether or not a tribal member is domiciled on tribal land. For purposes of this
21 subsection, "professional advisor" includes, but is not limited to, a person that renders
22 medical, financial, legal, accounting, insurance, fiduciary or investment services.
23 Charitable contributions may not be used to determine whether or not a tribal member is
24 domiciled on tribal land.

25 **Sec. G-2. 36 MRSA §5102, sub-§6**, as amended by PL 2007, c. 240, Pt. KKKK,
26 §6 and affected by §7, is further amended by enacting a new last blocked paragraph to read:
27 "Corporation" does not include the Passamaquoddy Tribe, the Penobscot Nation, the
28 Houlton Band of Maliseet Indians or a corporation organized by the Passamaquoddy Tribe,
29 the Penobscot Nation or the Houlton Band of Maliseet Indians under Section 17 of the
30 federal Indian Reorganization Act, 25 United States Code, Section 5124.

31 **Sec. G-3. 36 MRSA §5122, sub-§1, ¶PP** is enacted to read:
32 PP. For a tribal member residing on tribal land and for an estate of a decedent who at
33 the time of death was a tribal member residing on tribal land, the absolute value of the
34 Maine adjusted gross income derived from or connected with sources on tribal land as
35 determined under section 5132 if the net amount is less than zero.

36 **Sec. G-4. 36 MRSA §5122, sub-§2, ¶XX** is enacted to read:
37 XX. For a tribal member residing on tribal land and for an estate of a decedent who at
38 the time of death was a tribal member residing on tribal land, the Maine adjusted gross
39 income derived from or connected with sources on tribal land as determined under
40 section 5132 if the net amount is greater than zero.

41 **Sec. G-5. 36 MRSA §5132** is enacted to read:
42 **§5132. Income or loss from sources on tribal land**

1 **1. General.** The Maine adjusted gross income of a tribal member derived from or
2 connected with sources on tribal land is the sum of the following amounts:

3 A. The net amount of items of income, gain, loss and deduction entering into the tribal
4 member's federal adjusted gross income that are derived from or connected with
5 sources on tribal land including:

6 (1) The tribal member's distributive share of partnership or limited liability
7 company income and deductions derived from or connected with sources on tribal
8 land determined following the methods for sourcing income to this State under
9 section 5192, except that subsections 2 to 6 of this section and not section 5142
10 apply under section 5192, subsection 1;

11 (2) The tribal member's share of estate or trust income and deductions derived from
12 or connected with sources on tribal land determined following the methods for
13 sourcing income to this State under section 5176, except that subsections 2 to 6 of
14 this section and not section 5142 apply under section 5176, subsection 1; and

15 (3) The tribal member's pro rata share of the income of an S corporation derived
16 from or connected with sources on tribal land; and

17 B. The portion of the modifications described in section 5122, subsections 1 and 2 that
18 relates to income derived from or connected with sources on tribal land, including any
19 modifications attributable to the tribal member as a partner of a partnership,
20 shareholder of an S corporation, member of a limited liability company or beneficiary
21 of an estate or trust.

22 **2. Attribution.** Items of income, gain, loss and deduction derived from or connected
23 with sources within tribal land are those items attributable to:

24 A. The ownership or disposition of any interest in real or tangible personal property
25 on tribal land;

26 B. A business, trade, profession or occupation carried on within tribal land; and

27 C. Proceeds from any gambling activity conducted on tribal land or lottery tickets
28 purchased on tribal land, including payments received from a 3rd party for the transfer
29 of the rights to future proceeds related to any such gambling activity or lottery tickets,
30 except that proceeds from Maine State Lottery tickets, including payments received
31 from a 3rd party for the transfer of the rights to future proceeds related to the lottery
32 tickets, are not derived from or connected with sources on tribal land.

33 **3. Intangibles.** Income from intangible personal property including annuities,
34 dividends, interest and gains from the disposition of intangible personal property
35 constitutes income derived from sources within tribal land only to the extent that such
36 income is from property employed in a business, trade, profession or occupation carried on
37 within tribal land.

38 **4. Gain or loss on sale of partnership interest.** Notwithstanding subsection 3, the
39 gain or loss on the sale of a partnership interest is sourced to tribal land in an amount equal
40 to the gain or loss multiplied by the ratio obtained by dividing the original cost of
41 partnership tangible property located on tribal land by the original cost of partnership
42 tangible property everywhere, determined at the time of the sale. Tangible property
43 includes property owned or rented and is valued in accordance with section 5211,

1 subsection 10. If more than 50% of the value of the partnership's assets consists of
2 intangible property, gain or loss from the sale of the partnership interest is sourced to tribal
3 land in accordance with the property and payroll factors of the partnership for its first full
4 tax period immediately preceding the tax period of the partnership during which the
5 partnership interest was sold. For purposes of this subsection, the property and payroll
6 factors of a partnership are determined in accordance with chapter 821. This subsection
7 does not apply to the sale of a limited partner's interest in an investment partnership where
8 more than 80% of the value of the partnership's total assets consists of intangible personal
9 property held for investment, except that such property cannot include an interest in a
10 partnership unless that partnership is itself an investment partnership.

11 If the apportionment provisions of this subsection do not fairly represent the extent of the
12 partnership's business activity on tribal land, the taxpayer may petition for, or the State Tax
13 Assessor may require, in respect to all or any part of the partnership's business activity the
14 employment of any other method to effectuate an equitable apportionment to tribal land of
15 the partner's income from the sale of the partnership interest.

16 **5. Deductions for losses.** Deductions with respect to capital losses, net long-term
17 capital gains and net operating losses must be based solely on income, gains, losses and
18 deductions derived from or connected with sources on tribal land, under regulations to be
19 prescribed by the assessor, but otherwise must be determined in the same manner as the
20 corresponding federal deductions.

21 **6. Apportionment.** If a business, trade, profession or occupation is carried on partly
22 within and partly without tribal land, the items of income and deduction derived from or
23 connected with sources within tribal land must be determined as apportioned to tribal land
24 according to the following methods:

25 A. Except as provided in paragraph B, according to the methods for apportioning
26 income to this State under chapter 821, except that instead of apportioning income to
27 tribal land using the sales factor pursuant to section 5211, subsection 8, income is
28 apportioned to tribal land by multiplying the income by a fraction, the numerator of
29 which is the property factor plus the payroll factor and the denominator of which is 2;
30 or

31 B. In the case of the rendering of purely personal services by a tribal member,
32 according to the methods established in regulations to be prescribed by the assessor.

33 **Sec. G-6. Application.** This Part applies to tax years beginning on or after January
34 1, 2023.

PART H

36 **Sec. H-1. Rulemaking.** The Department of Administrative and Financial Services,
37 Bureau of Revenue Services may adopt rules to implement Parts C, D, E, F and G of this
38 Act. Rules adopted under this section may include, but are not limited to, rules specifying
39 reporting requirements and the maintenance by the Passamaquoddy Tribe, the Penobscot
40 Nation and the Houlton Band of Maliseet Indians and provision to the bureau of lists of
41 each tribe's respective tribal land, tribal members, tribal entities and corporations organized
42 under Section 17 of the federal Indian Reorganization Act, 25 United States Code, Section
43 5124. Rules adopted pursuant to this section are routine technical rules as defined in the
44 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

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PART I

Sec. I-1. Legislative findings and purpose. The Legislature finds and declares, with respect to the regulatory structure established for sports wagering in Part J of this Act, that:

1. If conducted by federally recognized Indian tribes in the State, mobile sports wagering will serve as an effective economic development tool for tribal governments and tribal members and provide economic stimulus to rural areas of the State;

2. Authorizing the federally recognized Indian tribes in the State to conduct mobile sports wagering is fair and equitable because those Indian tribes previously have been excluded from conducting most forms of gaming in the State;

3. If conducted by licensed off-track betting facilities, commercial tracks and casinos, facility-based sports wagering will support the harness racing industry and agricultural interests that support the harness racing industry; and

4. Off-track betting facilities, commercial tracks and casinos are well suited to conduct facility-based sports wagering because of their infrastructure and experience with the conduct of wagering in the State.

PART J

Sec. J-1. 7 MRSA §86, sub-§8, as enacted by PL 2005, c. 563, §3, is amended to read:

8. Maximum allowed distribution from Stipend Fund. A licensee may not receive a stipend from the Stipend Fund greater than the amount actually raised and spent by the licensee on premiums and gratuities in the classes provided in subsection 5. A licensee may not receive a stipend from the Stipend Fund in excess of \$10,000, except that this limitation does not apply to any additional stipend provided for by Title 8, section 287 or to funds distributed from the Fair Fund ~~or in accordance with section 85,~~ the Agricultural Fair Support Fund in accordance with section 91 or the Agricultural Fair Promotion Fund in accordance with section 103.

Sec. J-2. 7 MRSA §103 is enacted to read:

§103. Agricultural Fair Promotion Fund

1. Eligible nonprofit organization defined. As used in this section, "eligible nonprofit organization" means a nonprofit organization that is exempt from federal income taxation under Section 501(a) of the United States Internal Revenue Code of 1986 as an organization described by Section 501(c) and that has had, for at least the preceding 25 years, a sole or primary purpose of promoting agricultural fairs in the State.

2. Identification of eligible nonprofit organizations. On January 1st and July 1st of each year, the commissioner shall send a list of all eligible nonprofit organizations to the Treasurer of State.

3. Fund created. The Treasurer of State shall establish an account to be known as "the Agricultural Fair Promotion Fund" and shall credit to it all money received under Title 8, section 1218, subsection 1, paragraph E. The fund is a dedicated, nonlapsing fund. All revenues deposited in the fund must be disbursed in accordance with this section.

1 A person or entity may not engage in any activities in this State that require a license
2 under this chapter unless all necessary licenses have been obtained in accordance with this
3 chapter and rules adopted under this chapter.

4 **§1202. Definitions**

5 As used in this chapter, unless the context otherwise indicates, the following terms
6 have the following meanings.

7 **1. Adjusted gross sports wagering receipts.** "Adjusted gross sports wagering
8 receipts" means an operator's gross receipts from sports wagering less the total of all
9 winnings paid to patrons, which includes the cash equivalent of any merchandise or thing
10 of value awarded as a prize, and less excise tax payments remitted to the Federal
11 Government.

12 **2. Collegiate sports or athletic event.** "Collegiate sports or athletic event" means a
13 sports or athletic event offered or sponsored by, or played in connection with, a public or
14 private institution that offers postsecondary educational services.

15 **3. Commissioner.** "Commissioner" means the Commissioner of Public Safety.

16 **4. Department.** "Department" means the Department of Public Safety.

17 **5. Director.** "Director" means the director of the Gambling Control Unit within the
18 department.

19 **6. Facility operator.** "Facility operator" means a facility sports wagering licensee
20 under subsection 7, paragraph A.

21 **7. License.** "License" means any license applied for or issued by the director under
22 this chapter, including, but not limited to:

23 A. A facility sports wagering license under section 1206 to conduct sports wagering
24 in which wagers are placed within a physical location in this State;

25 B. A mobile sports wagering license under section 1207 to permit a mobile operator
26 to operate sports wagering through an approved mobile application or other digital
27 platform that involves, at least in part, the use of the Internet;

28 C. A supplier license under section 1208 to sell goods and services to be used in
29 connection with sports wagering, but not to directly accept wagers;

30 D. A management services license under section 1209 to manage sports wagering on
31 behalf of a facility sports wagering licensee or a mobile sports wagering licensee; and

32 E. An occupational license under section 1210 to be employed by a facility sports
33 wagering licensee or a mobile sports wagering licensee to operate sports wagering
34 when the employee performs duties in furtherance of or associated with the operation
35 of sports wagering.

36 **8. Mobile operator.** "Mobile operator" means a mobile sports wagering licensee
37 under subsection 7, paragraph B.

38 **9. Operator.** "Operator" includes a facility operator and a mobile operator.

39 **10. Professional sports or athletic event.** "Professional sports or athletic event"
40 means an event at which 2 or more persons participate in sports or athletic contests and
41 receive compensation in excess of actual expenses for their participation in the event.

1 **11. Prohibited sports event.** "Prohibited sports event" means a high school sports or
2 athletic event, any other event in which a majority of the participants are under 18 years of
3 age or a collegiate sports or athletic event in which any Maine collegiate sports team
4 participates, regardless of where the event takes place. "Prohibited sports event" does not
5 include any game or match that is part of a tournament in which a Maine collegiate sports
6 team participates, as long as a Maine collegiate sports team does not participate in that
7 particular game or match.

8 **12. Sports event.** "Sports event" means any professional sports or athletic event,
9 collegiate sports or athletic event or amateur sports or athletic event, including but not
10 limited to an Olympic or international sports or athletic event, a motor vehicle race or an
11 electronic sports event, commonly referred to as "e-sports."

12 **13. Sports governing body.** "Sports governing body" means an organization that is
13 headquartered in the United States and prescribes final rules and enforces codes of conduct
14 with respect to a sports event and participants in the sports event.

15 **14. Sports wagering.** "Sports wagering" means the business of accepting wagers on
16 sports events or portions of sports events, the individual performance statistics of athletes
17 in a sports event or a combination of any of the same by any system or method of wagering
18 approved by the director, including, but not limited to, in person on the property of a facility
19 operator or via a mobile operator's mobile applications and digital platforms that use
20 communications technology to accept wagers. "Sports wagering" does not include the sale
21 of pari-mutuel pools authorized under chapter 11 or the operation of fantasy contests as
22 defined in section 1101, subsection 4.

23 **15. Wager.** "Wager" means a sum of money or thing of value risked on an uncertain
24 occurrence.

25 **§1203. Powers and duties of director**

26 **1. Powers and duties.** In administering and enforcing this chapter, the director:

27 A. Has the power to regulate the conduct of sports wagering;

28 B. Shall determine the eligibility of a person to hold or continue to hold a license, shall
29 issue all licenses and shall maintain a record of all licenses issued under this chapter;

30 C. Shall levy and collect all fees, civil penalties and tax on adjusted gross sports
31 wagering receipts imposed by this chapter, except as otherwise provided under this
32 chapter;

33 D. May sue to enforce any provision of this chapter or any rule of the director by civil
34 action or petition for injunctive relief;

35 E. May hold hearings, administer oaths and issue subpoenas or subpoenas duces tecum
36 in the manner provided by applicable law; and

37 F. May exercise any other powers necessary to effectuate the provisions of this chapter
38 and the rules of the director.

39 **2. Rules.** The director shall adopt rules governing the conduct of sports wagering in
40 the State, which must, at a minimum, include the following:

41 A. Additional qualifications and procedures for obtaining a facility sports wagering
42 license, supplier license, management services license, mobile sports wagering license

1 or occupational license, including the job classifications subject to the occupational
2 license requirement;

3 B. Additional qualifications and procedures for obtaining a temporary facility sports
4 wagering license, temporary supplier license, temporary management services license
5 and temporary mobile sports wagering license;

6 C. The methods of operation of sports wagering, including but not limited to the
7 permitted systems and methods of wagers; the use of credit and checks by persons
8 making wagers; the types of wagering receipts that may be used; the method of issuing
9 receipts; the prevention of sports wagering on prohibited sports events; the protection
10 of patrons placing wagers; and the promotion of social responsibility and responsible
11 gaming and display of information on resources for problem gambling at a facility
12 operator's premises or on any mobile application or digital platform used to place
13 wagers;

14 D. If the director determines that establishment of a maximum wager is necessary for
15 the protection of public safety, the maximum wager that may be accepted from any one
16 person on a single sports event;

17 E. Standards for the adoption of comprehensive house rules governing sports wagering
18 by operators and the approval of house rules by the director as required under section
19 1211;

20 F. Minimum design and security requirements for the physical premises of facility
21 operators in which sports wagering is conducted, including but not limited to minimum
22 requirements for the acceptance of wagers at a self-serve kiosk located on the premises
23 and minimum required methods for verifying the identity and age of a person who
24 places a wager with a facility operator, for verifying that the person making a wager is
25 not prohibited from making a wager under section 1213 and for requiring the refund of
26 any wager determined to have been placed by a person prohibited from making a wager
27 under section 1213;

28 G. Minimum design and security requirements for mobile applications and digital
29 platforms for the acceptance of wagers by mobile operators, including required
30 methods for verifying the age and identity of a person who places a wager with a mobile
31 operator, for verifying that the person making the wager is physically located in the
32 State and is not prohibited from making a wager under section 1213 and for requiring
33 the refund of any wager determined to have been placed by a person prohibited from
34 making a wager under section 1213;

35 H. The types of interested parties, including sports team or league employees or
36 owners, from whom operators are prohibited from accepting wagers under section
37 1213, subsection 4;

38 I. Minimum design, security, testing and approval requirements for sports wagering
39 equipment, systems or services sold by suppliers licensed under section 1208;

40 J. Minimum requirements for a contract between a management services licensee
41 under section 1209 and an operator on whose behalf the management services licensee
42 conducts sports wagering, including but not limited to requirements that the person
43 providing management services be licensed prior to entering a contract; that the
44 contract be approved by the director prior to the conduct of sports wagering; that, if the

1 management services licensee contracts with more than one operator, the contract
2 include a condition requiring the management services licensee to employ a method
3 approved by the director for separately accounting for each operator's gross receipts
4 from sports wagering and adjusted gross sports wagering receipts; and that the contract
5 not authorize the person providing management services to receive more than 30% of
6 the operator's adjusted gross sports wagering receipts, except that the director may
7 approve a contract authorizing the management services licensee to receive up to 40%
8 of the operator's adjusted gross sports wagering receipts if the director determines that
9 the management services licensee has demonstrated that the fee is commercially
10 reasonable given the management services licensee's capital investments and the
11 operator's projected adjusted gross sports wagering receipts;

12 K. Establishment of a list of persons who are not authorized to place a wager on a
13 sports event, including but not limited to those persons who voluntarily request that
14 their names be included on the list of unauthorized persons. The rules adopted under
15 this paragraph must define the standards for involuntary placement on the list and for
16 removal from the list;

17 L. Minimum internal control standards for operators and management services
18 licensees, including but not limited to procedures for safeguarding assets and revenues;
19 the recording of cash and evidence of indebtedness; the maintenance of reliable
20 records, accounts and reports of transactions, operations and events; required audits;
21 and the content and frequency of reports of sports wagering activities and revenues that
22 must be made to the director; and

23 M. Restrictions on the advertisement and marketing of sports wagering, including but
24 not limited to prohibiting misleading, deceptive or false advertisements; requiring an
25 operator to disclose its status as a commercial track, casino or off-track betting facility
26 licensed in the State or a federally recognized Indian tribe or a business entity wholly
27 owned by a federally recognized Indian tribe in the State; and restricting, to the extent
28 permissible, advertising that has a high probability of reaching persons under 21 years
29 of age or that is specifically designed to appeal particularly to persons under 21 years
30 of age.

31 **3. Rulemaking.** Rules adopted by the director pursuant to this chapter are routine
32 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

33 **§1204. Application; criminal history background check**

34 **1. Application.** An application for a license or for renewal of a license required under
35 this chapter must be submitted on a form or in a format approved by the director. An
36 application submitted to the director must, at a minimum, include the following:

37 A. The full name, current address and contact information of the applicant;

38 B. Disclosure of each person that has control of the applicant as described in subsection
39 2;

40 C. Consent to permit the director to conduct a criminal history record check in
41 accordance with subsection 3 of the applicant and each person disclosed under
42 paragraph B in accordance with procedures established by the director;

43 D. For the applicant and each person disclosed under paragraph B, a record of previous
44 issuances and denials of or any adverse action taken against a gambling-related license

1 or application under this Title or in any other jurisdiction. For purposes of this
2 paragraph, "adverse action" includes, but is not limited to, a condition resulting from
3 an administrative, civil or criminal violation, a suspension or revocation of a license or
4 a voluntary surrender of a license to avoid or resolve a civil, criminal or disciplinary
5 action; and

6 E. Any additional information required by the director by rule.

7 **2. Persons that have control.** The following persons are considered to have control
8 of an applicant or a licensee:

9 A. Each corporate holding company, parent company or subsidiary company of a
10 corporate applicant or licensee and each person that owns 10% or more of the corporate
11 applicant or licensee and that has the ability to control the activities of the corporate
12 applicant or licensee or elect a majority of the board of directors of that corporate
13 applicant or licensee, except for a bank or other licensed lending institution that holds
14 a mortgage or other lien acquired in the ordinary course of business;

15 B. Each person associated with a noncorporate applicant or licensee that directly or
16 indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or
17 licensee's business operation or that the director otherwise determines has the ability to
18 control the noncorporate applicant or licensee; and

19 C. Key personnel of an applicant or licensee, including any executive, employee or
20 agent, having the power to exercise significant influence over decisions concerning any
21 part of the applicant's or licensee's relevant business operation.

22 **3. Criminal history record check.** The director shall request a criminal history record
23 check in accordance with this subsection for each applicant for initial licensure and each
24 person required to be disclosed by the applicant for initial licensure under subsection 1,
25 paragraph B. The director may require a criminal history record check in accordance with
26 this subsection from a licensee seeking to renew a license, from any person the licensee is
27 required to disclose under subsection 1, paragraph B as part of the license renewal
28 application and from any person identified by the licensee under subsection 4. A criminal
29 history record check conducted pursuant to this subsection must include criminal history
30 record information obtained from the Maine Criminal Justice Information System
31 established in Title 16, section 631 and the Federal Bureau of Investigation.

32 A. Criminal history record information obtained from the Maine Criminal Justice
33 Information System pursuant to this subsection must include a record of public criminal
34 history record information as defined in Title 16, section 703, subsection 8.

35 B. Criminal history record information obtained from the Federal Bureau of
36 Investigation pursuant to this subsection must include other state and national criminal
37 history record information.

38 C. An individual required to submit to a criminal history record check under this
39 subsection shall submit to having the individual's fingerprints taken. The State Police,
40 upon payment by the individual of the fee required under paragraph E, shall take or
41 cause to be taken the individual's fingerprints and shall immediately forward the
42 fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau
43 of Identification. Any person who fails to transmit criminal fingerprint records to the

1 State Bureau of Identification pursuant to this paragraph is subject to the provisions of
2 Title 25, section 1550.

3 D. The Department of Public Safety, Bureau of State Police, State Bureau of
4 Identification shall conduct the state and national criminal history record checks
5 required under this subsection. Except for the portion of a payment, if any, that
6 constitutes the processing fee for a criminal history record check charged by the Federal
7 Bureau of Investigation, all money received by the State Police under this subsection
8 must be paid to the Treasurer of State, who shall apply the money to the expenses
9 incurred by the Department of Public Safety in the administration of this subsection.

10 E. The director shall by rule set the amount of the fee to be paid for each criminal
11 history record check required to be performed under this subsection.

12 F. The subject of a Federal Bureau of Investigation criminal history record check may
13 obtain a copy of the criminal history record check by following the procedures outlined
14 in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state
15 criminal history record check may inspect and review the criminal history record
16 information pursuant to Title 16, section 709.

17 G. State and national criminal history record information obtained by the director
18 under this subsection may be used only for the purpose of screening an applicant for a
19 license or a license renewal under this chapter.

20 H. All criminal history record information obtained by the director pursuant to this
21 subsection is confidential, is for the official use of the director only and may not be
22 disseminated by the director or disclosed to any other person or entity except as
23 provided in paragraph F.

24 I. The director, after consultation with the Department of Public Safety, Bureau of
25 State Police, State Bureau of Identification, shall adopt rules to implement this
26 subsection.

27 **4. Material change to application.** A person licensed under this chapter shall give
28 the director written notice within 30 days of any material change to any information
29 provided in the licensee's application for a license or renewal, including any change in the
30 identity of persons considered to have control of the licensee as described in subsection 2.

31 **5. Gambling Control Unit employees prohibited.** An employee of the Gambling
32 Control Unit within the department may not be an applicant for a license issued under this
33 chapter.

34 **§1205. Denial of license; administrative sanctions**

35 **1. Grounds for denial of license or imposition of administrative sanctions.** The
36 following are grounds for the director to deny a license or license renewal or for the
37 imposition of administrative sanctions, in accordance with this section, on a person licensed
38 under this chapter:

39 A. If the applicant or licensee has knowingly made a false statement of material fact
40 to the director;

41 B. If the applicant or licensee has not disclosed the existence or identity of other
42 persons that have control of the applicant or licensee as required by section 1204,
43 subsections 1 and 4;

1 C. If the applicant or licensee has had a license revoked by any government authority
2 responsible for regulation of gaming activities;

3 D. If the applicant, the licensee or a person having control of the applicant or licensee
4 under section 1204, subsection 2 is not of good moral character. In determining
5 whether the applicant, licensee or person is of good moral character, the director shall
6 consider qualities that include but are not limited to honesty, candor, trustworthiness,
7 diligence, reliability, observance of fiduciary and financial responsibility and respect
8 for the rights of others;

9 E. If the applicant, the licensee or a person having control of the applicant or licensee
10 under section 1204, subsection 2:

11 (1) Has, in any jurisdiction, been convicted of or pled guilty or nolo contendere to
12 a crime punishable by one year or more of imprisonment;

13 (2) Has, in any jurisdiction, been adjudicated of committing a civil violation or
14 been convicted of a criminal violation involving dishonesty, deception,
15 misappropriation or fraud;

16 (3) Has engaged in conduct in this State or any other jurisdiction that would
17 constitute a violation of this chapter; chapter 11 involving gambling; chapter 31;
18 chapter 33; Title 17, chapter 13-A or 62; Title 17-A, chapter 39; or substantially
19 similar offenses in other jurisdictions;

20 (4) Is a fugitive from justice, a drug user, a person with substance use disorder, an
21 illegal alien or a person who was dishonorably discharged from the Armed Forces
22 of the United States; or

23 (5) Is not current in filing all applicable tax returns and in the payment of all taxes,
24 penalties and interest owed to this State, any other state or the United States
25 Internal Revenue Service, excluding items under formal appeal;

26 F. If the applicant or licensee has not demonstrated to the satisfaction of the director
27 sufficient financial assets to meet the requirements of the licensed business or proposed
28 business and to meet any financial obligations imposed by this chapter;

29 G. If the applicant, the licensee or a person having control of the applicant or licensee
30 under section 1204, subsection 2 has not demonstrated financial responsibility. For the
31 purposes of this paragraph, "financial responsibility" means a demonstration of a
32 current and expected future condition of financial solvency sufficient to satisfy the
33 director that the applicant, the licensee or the person can successfully engage in
34 business without jeopardy to the public health, safety and welfare. Financial
35 responsibility may be determined by an evaluation of the total history concerning the
36 applicant, the licensee or the person, including past, present and expected condition
37 and record of financial solvency, business record and accounting and managerial
38 practices;

39 H. If the applicant or licensee has not met the requirements of this chapter; or

40 I. If the applicant or licensee has violated any provision of this chapter or of the rules
41 adopted under this chapter.

42 **2. Denial of initial license or renewed license; notice; hearing.** The director may
43 deny an application for a license or for renewal of a license for the reasons set forth in

1 subsection 1. The director shall notify the applicant or the licensee in writing of the
2 decision and of the opportunity to request a hearing conducted by the commissioner.

3 If the applicant or licensee fails to request a hearing within 30 days of the date that the
4 notice was mailed under this subsection, the director may issue a final decision denying the
5 application for a license or for renewal of a license. If the applicant or licensee makes a
6 timely request for a hearing, the commissioner shall conduct an adjudicatory hearing in
7 accordance with Title 5, chapter 375, subchapter 4. The director's decision to deny the
8 license or license renewal stands until the commissioner issues a decision to uphold, modify
9 or overrule the director's decision.

10 After hearing, if the commissioner finds grounds for denying a license or license renewal
11 under subsection 1, the commissioner may deny the application for a license or for renewal
12 of a license.

13 **3. Investigation of complaints; notice; hearing.** The director or the director's
14 designee shall investigate a complaint on the director's own motion or upon receipt of a
15 written complaint regarding noncompliance with or violation of this chapter or of any rules
16 adopted under this chapter. Following the investigation, the director may mail the licensee
17 a notice of violation informing the licensee of the administrative sanction under subsection
18 4 the director proposes to impose and of the licensee's opportunity to request a hearing.

19 If the licensee fails to request a hearing within 30 days of the date that a notice was mailed
20 under this subsection, the director may issue a final decision imposing the sanction
21 proposed in the notice. If the licensee makes a timely request for a hearing, the
22 commissioner shall conduct an adjudicatory hearing in accordance with Title 5, chapter
23 375, subchapter 4. If, after the hearing, the commissioner finds that the factual basis of the
24 complaint is true and is of sufficient gravity to warrant further action, the commissioner
25 may impose an administrative sanction under subsection 4.

26 **4. Administrative sanctions.** The director or the commissioner may, pursuant to
27 subsection 3, impose the following administrative sanctions on a licensee:

28 A. A written reprimand;

29 B. Conditions of probation of a license;

30 C. A license suspension;

31 D. A license revocation; or

32 E. A civil penalty of up to \$25,000 per violation of any provision of this chapter or
33 rule adopted pursuant to this chapter.

34 **5. Appeals.** A person aggrieved by the final decision of the commissioner under
35 subsection 2 or 3 may appeal the commissioner's decision to the Superior Court in
36 accordance with Title 5, chapter 375, subchapter 7.

37 **§1206. Facility sports wagering license**

38 **1. Issuance of license.** The director shall issue a facility sports wagering license upon
39 finding that the applicant meets all requirements of this section, sections 1204 and 1205
40 and rules adopted under this chapter. The director may issue no more than 10 facility sports
41 wagering licenses under this section.

1 **2. Eligibility; transfer prohibited.** To be eligible to receive a facility sports wagering
2 license, an applicant must be:

3 A. A commercial track as defined in section 275-A, subsection 1;

4 B. A casino in Oxford County licensed under section 1011, subsection 2-A, paragraph
5 A; or

6 C. An off-track betting facility licensed under section 275-D or Public Law 2019,
7 chapter 626, section 16.

8 Each off-track betting facility may receive only one facility sports wagering license under
9 this section. A facility sports wagering license may not be transferred or assigned.

10 **3. Authority to conduct sports wagering; management services permitted.** A
11 facility sports wagering license granted by the director pursuant to this section grants a
12 licensee lawful authority to conduct sports wagering in which wagers are placed within a
13 physical location controlled by the licensee in the State within the terms and conditions of
14 the license and any rules adopted under this chapter. A facility sports wagering licensee
15 may contract with a management services licensee under section 1209.

16 **4. Fees.** The fee for an initial or renewed facility sports wagering license is \$4,000
17 and must be retained by the director for the costs of administering this chapter. In addition
18 to the license fee, the director may charge a processing fee for an initial or renewed license
19 in an amount equal to the projected cost of processing the application and performing any
20 background investigations. If the actual cost exceeds the projected cost, an additional fee
21 may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the
22 difference may be refunded to the applicant or licensee.

23 **5. Term of license.** Except as provided in subsection 6, a license granted or renewed
24 under this section is valid for 4 years unless sooner revoked by the director or the
25 commissioner under section 1205. The failure of a facility sports wagering licensee to
26 maintain its underlying off-track betting license voids the facility sports wagering license.

27 **6. Temporary license.** An applicant for a facility sports wagering license may submit
28 with the application a request for a temporary license. A request for a temporary license
29 must include the initial license fee of \$4,000. If the director determines that the applicant
30 is qualified under subsection 2, meets the requirements established by rule for a temporary
31 license and has paid the initial license fee and the director is not aware of any reason the
32 applicant is ineligible for a license under this section, the director may issue a temporary
33 facility sports wagering license. A temporary license issued under this subsection is valid
34 for one year or until a final determination on the facility sports wagering license application
35 is made, whichever is sooner. If after investigation the director determines that the
36 applicant is eligible for a facility sports wagering license under this chapter, the director
37 shall issue the initial facility sports wagering license, at which time the temporary license
38 terminates. The initial facility sports wagering license is valid for 4 years from the date
39 that the temporary license was issued by the director. Sports wagering conducted under
40 authority of a temporary license must comply with the facility operator's house rules
41 adopted under section 1211.

42 **7. Occupational license required.** A facility sports wagering licensee, including a
43 temporary licensee under subsection 6, may conduct sports wagering only through persons
44 holding a valid occupational license under section 1210.

1 **8. Municipal control.** Nothing in this chapter may be construed to restrict the
2 authority of municipalities under municipal home rule provisions of the Constitution of
3 Maine, including zoning and public safety authority.

4 **§1207. Mobile sports wagering license**

5 **1. Issuance of license.** The director shall issue a mobile sports wagering license upon
6 finding that the applicant meets all requirements of this section, sections 1204 and 1205
7 and rules adopted under this chapter.

8 **2. Eligibility; transfer to wholly owned entity.** To be eligible to receive a mobile
9 sports wagering license, an applicant must be a federally recognized Indian tribe in this
10 State. Each federally recognized Indian tribe may receive only one mobile sports wagering
11 license under this section. A mobile sports wagering license may not be transferred or
12 assigned, except that a federally recognized Indian tribe may transfer its mobile sports
13 wagering license to a business entity with a principal place of business in the State that is
14 wholly owned by that federally recognized Indian tribe.

15 **3. Authority to conduct sports wagering; management services permitted.** A
16 mobile sports wagering license granted by the director pursuant to this section grants a
17 licensee lawful authority to conduct sports wagering in which wagers are placed by persons
18 who are physically located in the State through any mobile applications or digital platforms
19 approved by the director within the terms and conditions of the license and any rules
20 adopted under this chapter. A mobile sports wagering licensee may contract with no more
21 than one management services licensee under section 1209.

22 **4. Fees.** The fee for an initial or renewed mobile sports wagering license is \$200,000
23 and must be retained by the director for the costs of administering this chapter. In addition
24 to the license fee, the director may charge a processing fee for an initial or renewed license
25 in an amount equal to the projected cost of processing the application and performing any
26 background investigations. If the actual cost exceeds the projected cost, an additional fee
27 may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the
28 difference may be refunded to the applicant or licensee.

29 **5. Term of license.** Except as provided in subsection 6, a license granted or renewed
30 under this section is valid for 4 years unless sooner revoked by the director or the
31 commissioner under section 1205.

32 **6. Temporary license.** An applicant for a mobile sports wagering license may submit
33 with the application a request for a temporary license. A request for a temporary license
34 must include the initial license fee of \$200,000. If the director determines that the applicant
35 is qualified under subsection 2, meets the requirements established by rule for a temporary
36 license and has paid the initial license fee and the director is not aware of any reason the
37 applicant is ineligible for a license under this section, the director may issue a temporary
38 mobile sports wagering license. A temporary license issued under this subsection is valid
39 for one year or until a final determination on the mobile sports wagering license application
40 is made, whichever is sooner. If after investigation the director determines that the
41 applicant is eligible for a mobile sports wagering license under this chapter, the director
42 shall issue the initial mobile sports wagering license, at which time the temporary license
43 terminates. The initial mobile sports wagering license is valid for 4 years from the date
44 that the temporary license was issued by the director. Sports wagering conducted under

1 authority of a temporary license must comply with the mobile operator's house rules
2 adopted under section 1211.

3 **7. Occupational license required.** A mobile sports wagering licensee, including a
4 temporary licensee under subsection 6, may conduct sports wagering only through persons
5 holding a valid occupational license under section 1210.

6 **§1208. Supplier license**

7 **1. Issuance of license; eligibility.** The director shall issue a supplier license upon
8 finding that the applicant meets all requirements of this section, sections 1204 and 1205
9 and rules adopted under this chapter.

10 **2. Equipment.** An applicant for a supplier license shall demonstrate that the
11 equipment, systems or services that the applicant plans to offer to an operator conform to
12 standards established by rule by the director. The director may accept approval by another
13 jurisdiction that is specifically determined by the director to have similar equipment
14 standards as evidence the applicant meets the standards established by the director by rule.

15 **3. Authority to supply operators.** A supplier license granted by the director pursuant
16 to this section grants a licensee lawful authority to sell or to lease sports wagering
17 equipment, systems or services to operators in the State within the terms and conditions of
18 the license and any rules adopted under this chapter.

19 **4. Fees.** The fee for an initial or renewed supplier license is \$40,000 and must be
20 retained by the director for the costs of administering this chapter. In addition to the license
21 fee, the director may charge a processing fee for an initial or renewed license in an amount
22 equal to the projected cost of processing the application and performing any background
23 investigations. If the actual cost exceeds the projected cost, an additional fee may be
24 charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference
25 may be refunded to the applicant or licensee.

26 **5. Term of license.** Except as provided in subsection 6, a license granted or renewed
27 under this section is valid for 4 years unless sooner revoked by the director or the
28 commissioner under section 1205.

29 **6. Temporary license.** An applicant for a supplier license may submit with the
30 application a request for a temporary license. A request for a temporary license must
31 include the initial license fee of \$40,000. If the director determines that the applicant is
32 qualified under subsection 2, meets the requirements established by rule for a temporary
33 license and has paid the initial license fee and the director is not aware of any reason the
34 applicant is ineligible for a license under this section, the director may issue a temporary
35 supplier license. A temporary license issued under this subsection is valid for one year or
36 until a final determination on the supplier license application is made, whichever is sooner.
37 If after investigation the director determines that the applicant is eligible for a supplier
38 license under this chapter, the director shall issue the initial supplier license, at which time
39 the temporary license terminates. The initial supplier license is valid for 4 years from the
40 date that the temporary license was issued by the director.

41 **7. Inventory.** A supplier licensee shall submit to the director a list of all sports
42 wagering equipment, systems and services sold or leased to, delivered to or offered to an
43 operator in this State as required by the director, all of which must be tested and approved
44 by an independent testing laboratory approved by the director. An operator may continue

1 to use supplies acquired from a licensed supplier if the supplier's license subsequently
2 expires or is otherwise revoked, unless the director finds a defect in the supplies.

3 **§1209. Management services license**

4 **1. Issuance of license; eligibility.** The director shall issue a management services
5 license upon finding that the applicant meets all requirements of this section, sections 1204
6 and 1205 and rules adopted under this chapter and that the applicant has sufficient
7 knowledge and experience in the business of operating sports wagering to effectively
8 conduct sports wagering in accordance with this chapter and the rules adopted under this
9 chapter.

10 **2. Authority to enter contract with operator.** A management services licensee may
11 contract with an operator to manage sports wagering operations on behalf of the operator
12 in accordance with rules adopted under this chapter.

13 **3. Contract approval; material change in written contract.** A person may not
14 contract with an operator to conduct sports wagering on behalf of the operator unless the
15 person is licensed under this section and the director approves the written contract. A
16 management services licensee shall submit to the director any proposed material change to
17 the written contract that has been approved by the director under this subsection. A
18 management services licensee may not transfer, assign, delegate or subcontract any portion
19 of the management services licensee's responsibilities under the contract or any portion of
20 the management services licensee's right to compensation under the contract to any other
21 person who does not hold a management services license.

22 **4. Fees.** The fee for an initial or renewed management services license is \$40,000 and
23 must be retained by the director for the costs of administering this chapter. In addition to
24 the license fee, the director may charge a processing fee for an initial or renewed license in
25 an amount equal to the projected cost of processing the application and performing any
26 background investigations. If the actual cost exceeds the projected cost, an additional fee
27 may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the
28 difference may be refunded to the applicant or licensee.

29 **5. Term of license.** Except as provided in subsection 6, a license granted or renewed
30 under this section is valid for 4 years unless sooner revoked by the director or the
31 commissioner under section 1205.

32 **6. Temporary license.** An applicant for a management services license may submit
33 with the application a request for a temporary license. A request for a temporary license
34 must include the initial license fee of \$40,000. If the director determines that the applicant
35 is qualified under subsection 1, meets the requirements established by rule for a temporary
36 license and has paid the initial license fee and the director is not aware of any reason the
37 applicant is ineligible for a license under this section, the director may issue a temporary
38 management services license. A temporary license issued under this subsection is valid for
39 one year or until a final determination on the management services license application is
40 made, whichever is sooner. If after investigation the director determines that the applicant
41 is eligible for a management services license under this chapter, the director shall issue the
42 initial management services license, at which time the temporary license terminates. The
43 initial management services license is valid for 4 years from the date that the temporary
44 license was issued by the director.

1 **§1210. Occupational license**

2 **1. License required.** A person may not be employed by an operator to be engaged
3 directly in sports wagering-related activities or otherwise to conduct or operate sports
4 wagering without a valid occupational license issued by the director under this section. The
5 director shall issue an occupational license to a person who meets the requirements of this
6 section, section 1204 and section 1205. The director shall by rule establish a process for
7 issuance of occupational licenses that is, as far as possible, identical to the process for
8 licensing employees of a casino under section 1015.

9 **2. Authority to be employed in sports wagering.** An occupational license authorizes
10 the licensee to be employed by an operator in the capacity designated by the director while
11 the license is active. The director may establish, by rule, job classifications with different
12 requirements to recognize the extent to which a particular job has the ability to affect the
13 proper operation of sports wagering.

14 **3. Application and fee.** Except as provided in subsection 5, an applicant shall submit
15 any required application forms established by the director and pay a nonrefundable
16 application fee of \$250. The fee may be paid on behalf of an applicant by the operator. Fees
17 paid under this subsection must be retained by the director for the costs of administering
18 this chapter.

19 **4. Renewal fee and form.** An occupational licensee must pay a fee of \$25 to renew
20 the license for a one-year term or a fee of \$50 to renew the license for a 3-year term. The
21 fee may be paid on behalf of the occupational licensee by the operator. In addition to a
22 renewal fee, an occupational licensee must annually submit a renewal application on a form
23 or in a format approved by the director. Fees paid under this subsection must be retained
24 by the director for the costs of administering this chapter.

25 **5. Exception.** An individual who is actively licensed under section 1015 as an
26 employee of a casino that has a facility sports wagering license may obtain or renew a
27 license under this section without paying an initial license fee or a renewal license fee under
28 this section.

29 **§1211. Sports wagering house rules**

30 **1. Adoption of house rules.** An operator shall adopt comprehensive house rules for
31 game play governing sports wagering transactions with its patrons. House rules must be
32 approved by the director prior to implementation and meet the minimum standards
33 established by the director by rule, including, but not limited to, requiring that the house
34 rules specify the amounts to be paid on winning wagers and the effect of sports event
35 schedule changes, the circumstances under which the operator will void a wager and
36 treatment of errors, late wagers and related contingencies.

37 **2. Advertisement of house rules.** The house rules, together with any other
38 information the director determines to be appropriate, must be advertised as required by
39 the director by rule and must be made readily available to patrons.

40 **§1212. Access to premises and equipment**

41 A licensee under this chapter shall permit the director, the department or a designee of
42 the director unrestricted access, during regular business hours, including access to locked
43 or secured areas, to inspect any facility and any equipment, prizes, records or other items
44 to be used in the operation of sports wagering.

1 **§1213. Persons prohibited from making wagers on sports events**

2 An operator and a management services licensee conducting sports wagering on behalf
3 of an operator may not accept a wager on a sports event from the following persons:

4 **1. Persons under 21 years of age.** A person who has not attained 21 years of age;

5 **2. Sports event participants.** An athlete or individual who participates or officiates
6 in the sports event that is the subject of the wager;

7 **3. Operators and employees.** An operator or management services licensee;
8 directors, officers and employees of an operator or management services licensee; or a
9 relative living in the same household as any of these persons. This subsection does not
10 prohibit a relative living in the same household as a director, officer or employee of an
11 operator or management services licensee from making a sports wager with an unaffiliated
12 operator or management services licensee;

13 **4. Interested parties.** A person with an interest in the outcome of the sports event
14 identified by the director by rule. The interested parties identified by the director by rule
15 under this subsection may include, but are not limited to, legal or beneficial owners of or
16 employees of a sports team participating in the event or another sports team in the same
17 league as a sports team participating in the event as well as directors, owners or employees
18 of the sports league conducting the event;

19 **5. Unauthorized persons.** A person on a list established by rule by the director under
20 section 1203, subsection 2, paragraph K of persons who are not authorized to make wagers
21 on sports events;

22 **6. Third parties.** A person making a wager on behalf of or as the agent or custodian
23 of another person; and

24 **7. Regulatory staff.** An employee of the Gambling Control Unit within the
25 department.

26 **§1214. Certain sports wagers prohibited**

27 **1. Prohibited wagers.** An operator may not, with respect to a sports event of a sport
28 governing body headquartered in the United States, offer or accept wagers on the
29 occurrence of injuries or penalties, the outcome of player disciplinary rulings or replay
30 reviews.

31 **2. Request from sports governing body.** A sports governing body may submit to the
32 director in writing a request to restrict, limit or exclude a certain type, form or category of
33 sports wagering with respect to sports events of that sports governing body if the sports
34 governing body believes that that type, form or category of sports wagering with respect to
35 sports events of that sports governing body may undermine the integrity or perceived
36 integrity of that sports governing body or sports events of that sports governing body. The
37 director shall request comment from operators on all requests under this subsection. After
38 giving due consideration to all comments received, the director shall, upon a demonstration
39 of good cause from the sports governing body that the type, form or category of sports
40 wagering is likely to undermine the integrity or perceived integrity of that sports governing
41 body or sports events of that sports governing body, grant the request. The director shall
42 respond to a request concerning a particular event before the start of the event or, if it is not
43 feasible to respond before the start of the event, no later than 7 days after the request is

1 made. If the director determines that the sports governing body is more likely than not to
2 prevail in successfully demonstrating good cause for its request, the director may
3 provisionally grant the request of the sports governing body until the director makes a final
4 determination as to whether the sports governing body has demonstrated good cause.
5 Absent such a provisional grant by the director, an operator may continue to offer sports
6 wagering on sports events that are the subject of that request during the pendency of the
7 director's consideration of the request.

8 **§1215. Abnormal wagering activity**

9 **1. Duty to report.** An operator shall, as soon as practicable, report to the director any
10 information relating to abnormal wagering activity or patterns that may indicate a concern
11 with the integrity of a sports event or any other conduct that corrupts a wagering outcome
12 of a sports event for purposes of financial gain, including match fixing. An operator shall
13 concurrently report that information to the relevant sports governing body.

14 **2. Cooperation efforts.** An operator shall use commercially reasonable efforts to
15 cooperate with investigations conducted by sports governing bodies or law enforcement
16 agencies, including but not limited to using commercially reasonable efforts to provide or
17 facilitate the provision of wagering information.

18 **3. Information confidentiality.** The director and operators shall maintain the
19 confidentiality of information provided by a sports governing body for purposes of
20 investigating or preventing the conduct described in this section, unless disclosure is
21 otherwise required by the director or by law or unless the sports governing body consents
22 to disclosure.

23 **4. Information use and disclosure.** With respect to any information provided by an
24 operator to a sports governing body relating to conduct described in this section, a sports
25 governing body:

26 A. May use such information only for integrity-monitoring purposes and may not use
27 the information for any commercial or other purpose; and

28 B. Shall maintain the confidentiality of the information, unless disclosure is otherwise
29 required by the director or by law or unless the operator consents to disclosure, except
30 that the sports governing body may make disclosures necessary to conduct and resolve
31 integrity-related investigations and may publicly disclose such information if required
32 by the sports governing body's integrity policies or if determined by the sports
33 governing body in its reasonable judgment to be necessary to maintain the actual or
34 perceived integrity of its sports events. Prior to any public disclosure that would
35 identify the operator by name, the sports governing body shall provide that operator
36 with notice of the disclosure and an opportunity to object to the disclosure.

37 **§1216. Security, maintenance and sharing of wagering records**

38 **1. Records maintenance.** An operator shall maintain for 3 years after a sports event
39 occurs at least the following records of all wagers placed with respect to that sports event:

40 A. Personally identifiable information of each person placing a wager;

41 B. The amount and type of each wager;

42 C. The time each wager was placed;

- 1 D. The location of each wager, including the Internet protocol address if applicable;
- 2 E. The outcome of each wager; and
- 3 F. Instances of abnormal wagering activity.

4 In addition, an operator shall maintain video recordings in the case of in-person wagers for
5 at least one year after the sports event occurs. An operator shall make the records required
6 to be maintained under this subsection available for inspection upon request of the director
7 or as required by court order.

8 **2. Anonymized information.** An operator shall use commercially reasonable efforts
9 to maintain, in real time and at the account level, anonymized information regarding a
10 person who places a wager and the amount and type of the wager, the time the wager was
11 placed, the location of the wager, including the Internet protocol address if applicable, the
12 outcome of the wager and records of abnormal wagering activity. The director may request
13 that information in the form and manner required by rule. Nothing in this subsection
14 requires an operator to provide any information that is prohibited by federal or state law,
15 including without limitation laws and rules relating to privacy and personally identifiable
16 information.

17 **3. Records monitoring.** If a sports governing body has notified the director that
18 access to the information described in subsection 2 for wagers placed on sports events of
19 that sports governing body is necessary to monitor the integrity of that sports governing
20 body's sports events, and the sports governing body represents to the director that it
21 specifically uses that data for the purpose of monitoring the integrity of sports events of
22 that sports governing body, then an operator shall share, in a commercially reasonable
23 frequency, form and manner, with the sports governing body or its designee the same
24 information the operator is required to maintain under subsection 2 with respect to sports
25 wagers on sports events of that sports governing body. A sports governing body and its
26 designee may use information received under this subsection only for integrity-monitoring
27 purposes and may not use information received under this subsection for any commercial
28 or other purpose. Nothing in this subsection requires an operator to provide any
29 information if prohibited by federal or state law, including without limitation laws and rules
30 relating to privacy and personally identifiable information.

31 **4. Security.** An operator shall use commercially reasonable methods to maintain the
32 security of wagering data, customer data and other confidential information from
33 unauthorized access and dissemination. Nothing in this chapter precludes the use of
34 Internet-based or so-called cloud-based hosting of that data and information or disclosure
35 as required by law.

36 **§1217. Interception of sports wagering winnings to pay child support debt**

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

- 39 A. "Child support debt" means child support debt that has been liquidated by judicial
40 or administrative action.
- 41 B. "Department" means the Department of Health and Human Services.
- 42 C. "Licensee" means a facility operator, a mobile operator or a management services
43 licensee under section 1209.

1 D. "Registry operator" means the department or an entity with which the department
2 enters into a contract to maintain the registry pursuant to subsection 3.

3 E. "Winner" means a sports wagering patron to whom cash is returned as winnings for
4 placement of a sports wager.

5 **2. Interception.** A licensee shall intercept sports wagering winnings to pay child
6 support debt in accordance with this section.

7 **3. Registry.** The department shall create and maintain, or shall contract with a private
8 entity to create and maintain, a secure, electronically accessible registry containing
9 information regarding individuals with outstanding child support debt. The department
10 shall regularly enter into the registry information including:

11 A. The name and social security number of each individual with outstanding child
12 support debt;

13 B. The account number or identifier assigned by the department to the outstanding
14 child support debt;

15 C. The amount of the outstanding child support debt; and

16 D. Any other information necessary to effectuate the purposes of this section.

17 **4. Electronic access to information; procedures.** A licensee shall electronically
18 access the registry in accordance with this subsection.

19 A. Before making a payout of winnings of an amount equal to or greater than the
20 amount for which the licensee is required to file a Form W-2G or substantially
21 equivalent form with the United States Internal Revenue Service, the licensee shall
22 obtain the name, address, date of birth and social security number of the winner and
23 shall electronically submit this information to the registry operator.

24 B. Upon receipt of information pursuant to paragraph A, the registry operator shall
25 electronically inform the licensee whether the winner is listed in the registry. If the
26 winner is listed in the registry, the registry operator shall inform the licensee of the
27 amount of the winner's outstanding child support debt and the account number or
28 identifier assigned to the outstanding child support debt and shall provide the licensee
29 with a notice of withholding that informs the winner of the right to an administrative
30 hearing.

31 C. If the registry operator informs the licensee that the winner is not listed in the
32 registry or if the licensee is unable to obtain information from the registry operator on
33 a real-time basis after attempting in good faith to do so, the licensee may make payment
34 to the winner.

35 D. If the registry operator informs the licensee that the winner is listed in the registry,
36 the licensee may not make payment to the winner unless the amount of the payout
37 exceeds the amount of outstanding child support debt, in which case the licensee may
38 make payment to the winner of the amount of winnings that is in excess of the amount
39 of the winner's outstanding child support debt.

40 **5. Lien against winnings.** If the registry operator informs a licensee pursuant to this
41 section that a winner is listed in the registry, the department has a valid lien upon and claim
42 of lien against the winnings in the amount of the winner's outstanding child support debt.

1 **6. Withholding of winnings.** The licensee shall withhold from any winnings an
2 amount equal to the amount of the lien created under subsection 5 and shall provide a notice
3 of withholding to the winner. Within 7 days after withholding an amount pursuant to this
4 subsection, the licensee shall transmit the amount withheld to the department together with
5 a report of the name, address and social security number of the winner, the account number
6 or identifier assigned to the debt, the amount withheld, the date of withholding and the
7 name and location of the licensee.

8 **7. Licensee costs.** Notwithstanding subsection 6, the licensee may retain \$10 from an
9 amount withheld pursuant to this section to cover the cost of the licensee's compliance with
10 this section.

11 **8. Administrative hearing.** A winner from whom an amount was withheld pursuant
12 to this section has the right, within 15 days of receipt of the notice of withholding, to request
13 from the department an administrative hearing. The hearing is limited to questions of
14 whether the debt is liquidated and whether any post-liquidation events have affected the
15 winner's liability. The administrative hearing decision constitutes final agency action.

16 **9. Authorization to provide information.** Notwithstanding any provision of law to
17 the contrary, the licensee may provide to the department or registry operator any
18 information necessary to effectuate the intent of this section. The department or registry
19 operator may provide to the licensee any information necessary to effectuate the intent of
20 this section.

21 **10. Confidentiality of information.** The information obtained by the department or
22 registry operator from a licensee pursuant to this section and the information obtained by
23 the licensee from the department or registry operator pursuant to this section are
24 confidential and may be used only for the purposes set forth in this section. An employee
25 or prior employee of the department, the registry operator or a licensee who knowingly or
26 intentionally discloses any such information commits a civil violation for which a fine not
27 to exceed \$1,000 may be adjudged.

28 **11. Effect of compliance; noncompliance.** A licensee, the department and the
29 registry operator are not liable for any action taken in good faith to comply with this section.
30 A licensee who fails to make a good faith effort to obtain information from the registry
31 operator or who fails to withhold and transmit the amount of the lien created under
32 subsection 5 is liable to the department for the greater of \$500 and the amount the person
33 was required to withhold and transmit to the department under this section, together with
34 costs, interest and reasonable attorney's fees.

35 **12. Biennial review.** The department shall include in its report to the Legislature
36 under section 1066 the following information:

37 **A. The number of names of winners submitted by licensees to the registry operator**
38 **pursuant to this section in each of the preceding 2 calendar years;**

39 **B. The number of winners who were found to be listed in the registry in each of the**
40 **preceding 2 calendar years;**

41 **C. The amount of winnings withheld by licensees pursuant to this section in each of**
42 **the preceding 2 calendar years; and**

1 D. The amount of withheld winnings refunded to winners as the result of
2 administrative hearings requested pursuant to this section in each of the preceding 2
3 calendar years.

4 **§1218. Allocation of funds**

5 **1. Tax imposed; allocation of funds.** An operator shall collect and distribute 28.5%
6 of adjusted gross sports wagering receipts to the director to be forwarded by the director to
7 the Treasurer of State for distribution as follows:

8 A. One percent of the adjusted gross sports wagering receipts must be deposited in the
9 General Fund for the administrative expenses of the Gambling Control Unit within the
10 department;

11 B. One percent of the adjusted gross sports wagering receipts must be deposited in the
12 Gambling Addiction Prevention and Treatment Fund established by Title 5, section
13 20006-B;

14 C. Fifty-five hundredths of 1% of the adjusted gross sports wagering receipts must be
15 paid to the State Harness Racing Commission for distribution as described in section
16 290, subsection 2;

17 D. Fifty-five hundredths of 1% of the adjusted gross sports wagering receipts must be
18 deposited in the Sire Stakes Fund established in section 281;

19 E. Four-tenths of 1% of the adjusted gross sports wagering receipts must be deposited
20 in the Agricultural Fair Promotion Fund established pursuant to Title 7, section 103;
21 and

22 F. Twenty-five percent of the adjusted gross sports wagering receipts must be
23 deposited in the General Fund.

24 **2. Due dates; late payments.** The director may adopt rules establishing the dates on
25 which payments required by this section are due. All payments not remitted when due must
26 be paid together with interest on the unpaid balance at a rate of 1.5% per month.

27 **§1219. Applicability of other laws**

28 **1. Authorized conduct.** The provisions of Title 17, chapter 62 and Title 17-A, chapter
29 39 do not apply to sports wagering conducted in accordance with this chapter and the rules
30 adopted under this chapter.

31 **2. Unlicensed conduct.** A person who engages in an activity for which a license is
32 required under this chapter and who does not possess the required license to engage in that
33 activity is subject to any criminal or civil penalties that may be imposed pursuant to Title
34 17-A, chapter 39.

35 **3. Unauthorized conduct by licensees.** In addition to any penalties that may be
36 imposed pursuant to section 1205, a licensee who conducts sports wagering in violation of
37 this chapter or the rules adopted under this chapter is subject to any criminal or civil
38 penalties that may be imposed pursuant to Title 17-A, chapter 39.

39 **Sec. J-7. 17-A MRSA §951**, as amended by PL 2017, c. 284, Pt. KKKKK, §32, is
40 further amended to read:

41 **§951. Inapplicability of chapter**

1 Any person licensed or registered by the Gambling Control Unit as provided in Title
2 17, chapter 13-A or chapter 62, or authorized to operate or conduct a raffle pursuant to Title
3 17, section 1837-A; or licensed to operate sports wagering pursuant to Title 8, chapter 35
4 is exempt from the application of the provisions of this chapter insofar as that person's
5 conduct is within the scope of the license or registration.

6 **Sec. J-8. 25 MRSA §1542-A, sub-§1, ¶Z** is enacted to read:

7 Z. Who is required to have a criminal history record check under Title 8, section 1204.

8 **Sec. J-9. 25 MRSA §1542-A, sub-§3, ¶Y** is enacted to read:

9 Y. The State Police shall take or cause to be taken the fingerprints of the person named
10 in subsection 1, paragraph Z at the request of that person or the director of the Gambling
11 Control Unit within the Department of Public Safety and upon payment of the fee
12 established by the director of the Gambling Control Unit pursuant to Title 8, section
13 1204, subsection 3.

14 **Sec. J-10. 30 MRSA Pt. 5** is enacted to read:

15 **PART 5**

16 **FEDERALLY RECOGNIZED INDIAN TRIBES**

17 **CHAPTER 701**

18 **RIGHTS OF FEDERALLY RECOGNIZED INDIAN TRIBES**

19 **§8001. Mobile gaming**

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

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

28 A. "Gambling" has the same meaning as in Title 17-A, section 952, subsection 4.

29 B. "Lawful gambling activity" means any type of gambling authorized under the laws
30 of this State, including, but not limited to, the gambling activities described in Title 8,
31 section 1001, subsection 15.

32 C. "Mobile gaming" means lawful gambling activity conducted through mobile
33 applications or other digital platforms that involve, at least in part, the use of the
34 Internet.

35 **3. Authority to conduct mobile gaming.** Notwithstanding any provision of law to
36 the contrary, a federally recognized Indian tribe in this State has the same right as any other
37 person or entity to obtain any license, permit or registration to conduct mobile gaming

1 under a law of this State enacted on or after the effective date of this section as long as the
 2 federally recognized Indian tribe meets all of the qualifications for the license, permit or
 3 registration, except that the federally recognized Indian tribe is not required to meet any
 4 requirement:

5 A. That the federally recognized Indian tribe is unable to meet due to its status as a
 6 federally recognized Indian tribe; or

7 B. That an applicant possess another type of gambling or wagering license, registration
 8 or permit.

9 **Sec. J-11. Emergency rules.** The director of the Gambling Control Unit within the
 10 Department of Public Safety may adopt emergency rules under the Maine Revised Statutes,
 11 Title 5, section 8054 as necessary to implement this Part without the necessity of
 12 demonstrating that immediate adoption is necessary to avoid a threat to public health, safety
 13 or general welfare.

14 **PART K**

15 **Sec. K-1. Appropriations and allocations.** The following appropriations and
 16 allocations are made.

17 **PUBLIC SAFETY, DEPARTMENT OF**

18 **Gambling Control Board Z002**

19 Initiative: Provides funding for one Public Safety Manager II position, one Public Safety
 20 Inspector I position and associated All Other costs.

21 GENERAL FUND	2021-22	2022-23
22 POSITIONS - LEGISLATIVE COUNT	0.000	2.000
23 Personal Services	\$0	\$194,445
24 All Other	\$0	\$12,578
25		
26 GENERAL FUND TOTAL	\$0	\$207,023

27

28 **PUBLIC SAFETY, DEPARTMENT OF**
 29 **DEPARTMENT TOTALS**

30	2021-22	2022-23
31 GENERAL FUND	\$0	\$207,023
32		
33 DEPARTMENT TOTAL - ALL FUNDS	\$0	\$207,023

34 **TREASURER OF STATE, OFFICE OF**

35 **Maliseet Sales Tax Fund N952**

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

38 OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
39 All Other	\$0	\$500
40		
41 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

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Penobscot Sales Tax Fund N951

Initiative: Establishes the Penobscot Sales Tax Fund to collect and remit sales tax collected on Penobscot Indian territory.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$0	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

TREASURER OF STATE, OFFICE OF DEPARTMENT TOTALS	2021-22	2022-23
OTHER SPECIAL REVENUE FUNDS	\$0	\$1,000
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$1,000

SECTION TOTALS	2021-22	2022-23
GENERAL FUND	\$0	\$207,023
OTHER SPECIAL REVENUE FUNDS	\$0	\$1,000
SECTION TOTAL - ALL FUNDS	\$0	\$208,023

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

SUMMARY

This amendment, which is a minority report of the committee, replaces the bill.

Part A of the amendment enacts the Tribal-State Collaboration Act, which requires the Department of Agriculture, Conservation and Forestry, the Department of Corrections, the Department of Economic and Community Development, the Department of Education, the Department of Environmental Protection, the Department of Health and Human Services, the Department of Inland Fisheries and Wildlife, the Department of Labor, the Department of Public Safety, the Department of Administrative and Financial Services, the Department of Professional and Financial Regulation, the Department of Defense, Veterans and Emergency Management, the Department of Marine Resources, the Department of Transportation, the Office of the Public Advocate and the Public Utilities Commission each to designate a tribal liaison and to develop and implement a policy that promotes positive government-to-government relations between the State and federally recognized Indian tribes within the State, promotes cultural competency in the agency's interactions with Indian tribes and tribal members and establishes a process for collaboration between the agency and Indian tribes regarding the agency's programs, rules and services that substantially and uniquely affect the Indian tribes or tribal members. The Act also directs the Governor to meet at least annually with the leaders of the Indian tribes in a Tribal-State Summit to address issues of mutual concern, including implementation of the Tribal-State

1 Collaboration Act, improving communication between the State and the Indian tribes and
2 implementation of the requirement to include Maine Native American studies in the
3 Department of Education's system of learning results.

4 Part A of the amendment also includes the Houlton Band of Maliseet Indians within
5 the list of parties that may join an interlocal cooperation agreement under the Maine
6 Revised Statutes, Title 30-A, chapter 115.

7 Part B of the amendment establishes that the legislative purposes of Parts C to H of this
8 amendment, which amend the State's tax laws, are to improve the economic opportunities
9 available to and welfare of the Penobscot Nation, the Passamaquoddy Tribe and the
10 Houlton Band of Maliseet Indians and their tribal members; to encourage economic
11 development within the tribal lands of the Penobscot Nation, the Passamaquoddy Tribe and
12 the Houlton Band of Maliseet Indians, the benefits of which will accrue not only to the
13 tribes and their tribal members but also to surrounding communities and the State; and to
14 clarify and simplify the application of the State's tax laws to the Penobscot Nation, the
15 Passamaquoddy Tribe and the Houlton Band of Maliseet Indians as well as to their tribal
16 lands and tribal members, in order to reduce the costs of tax compliance to the tribes and
17 their members and to reduce the cost to the State of administering its tax laws.

18 Part C of the amendment defines several terms, including "Houlton Band Trust Land,"
19 "Passamaquoddy Indian territory," "Penobscot Indian territory," "tribal entity," "tribal
20 land" and "tribal member," for purposes of implementing the amendments to the State's tax
21 laws set forth in Parts D to H of the amendment. It also provides that the Passamaquoddy
22 Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians are deemed to act
23 in a governmental capacity and not in a business capacity for purposes of applying the
24 State's sales tax and income tax laws and are therefore exempt from these taxes.

25 Part D of the amendment:

26 1. Creates an exemption to the State's sales tax for sales to the Houlton Band of Maliseet
27 Indians, the Passamaquoddy Tribe or the Penobscot Nation for sales occurring on or after
28 January 1, 2023; and

29 2. Creates an exemption to the State's sales tax for sales to tribal members or tribal
30 entities that are sourced to tribal lands for sales occurring on or after January 1, 2023, but
31 provides that the use tax applies to such sales if the exempt property or service is used
32 primarily outside of tribal land during the first year after purchase.

33 Under current law, the amount of sales tax revenue collected by the State attributable
34 to sales occurring on the Passamaquoddy reservations at Pleasant Point and Indian
35 Township is returned by the Treasurer of State to the Passamaquoddy Tribe on a monthly
36 basis. Part E expands this provision to provide for the return to the Passamaquoddy Tribe
37 of sales tax revenue collected by the State attributable to sales occurring on all of the
38 Passamaquoddy Indian territory and provides for a similar return to the Houlton Band of
39 Maliseet Indians and to the Penobscot Nation of sales tax revenue collected by the State
40 attributable to sales occurring on Houlton Band Trust Land or Penobscot Indian territory,
41 respectively.

42 Part F of the amendment exempts tribal land from the commercial forestry excise tax;
43 exempts wild blueberries grown on tribal land from the wild blueberry tax; and exempts
44 potatoes grown on tribal land from the potato tax, all effective January 1, 2023.

1 Part G of the amendment provides that the Passamaquoddy Tribe, the Penobscot
2 Nation, the Houlton Band of Maliseet Indians and a tribal corporation organized by the
3 Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians
4 under Section 17 of the federal Indian Reorganization Act are not subject to the Maine
5 corporate income tax. It also creates income tax modifications for tribal members residing
6 on tribal land and for the estates of a decedent who was a tribal member residing on tribal
7 land for the amount of income or loss derived from or connected with sources on tribal
8 land. The provisions of Part G apply to tax years beginning on or after January 1, 2023.

9 Part H of the amendment authorizes the Department of Administrative and Financial
10 Services, Bureau of Revenue Services to adopt routine technical rules to implement the
11 provisions of Parts C to G of the amendment.

12 Part I of the amendment sets forth the legislative findings and purposes underlying Part
13 J of the amendment, which legalizes and establishes a regulatory framework for sports
14 wagering in the State. With respect to mobile sports wagering, the Legislature finds that,
15 if conducted by federally recognized Indian tribes in the State, mobile sports wagering will
16 serve as an effective economic development tool for tribal governments and tribal members
17 and will provide economic stimulus to rural areas of the State; that authorizing the federally
18 recognized Indian tribes in the State to conduct mobile sports wagering is fair and equitable
19 because those Indian tribes previously have been excluded from conducting most forms of
20 gaming in the State; that the conduct of facility-based sports wagering by licensed
21 commercial tracks, the Oxford Casino and off-track betting facilities will support the
22 harness racing industry and agricultural interests that support the harness racing industry;
23 and that off-track betting facilities are well suited to conduct facility-based sports wagering
24 because of their infrastructure and experience with similar forms of wagering in the State.

25 Part J of the amendment allows a licensed fantasy contest operator to offer a fantasy
26 contest based on the performances of participants in collegiate athletic events and
27 authorizes the Department of Public Safety, Gambling Control Unit to regulate sports
28 wagering in the State.

29 Up to 10 total facility sports wagering licenses to conduct in-person sports wagering in
30 the State may be awarded to licensed off-track betting facilities, commercial tracks,
31 including the Bangor Raceway, and the Oxford Casino, each of which may apply for a
32 single facility license. Each of the State's 4 federally recognized Indian tribes is eligible to
33 apply for a single mobile sports wagering license to conduct sports wagering through which
34 individuals physically located within the State make wagers using mobile applications or
35 digital platforms. Facility sports wagering licenses and mobile sports wagering licenses are
36 nontransferable, except that a federally recognized Indian tribe may transfer its mobile
37 sports wagering license to a business entity that is wholly owned by that federally
38 recognized Indian tribe. The 4-year initial and renewal fee for a facility sports wagering
39 license is \$4,000 and the 4-year initial and renewal fee for a mobile sports wagering license
40 is \$200,000.

41 Facility sports wagering licensees and mobile sports wagering licensees, referred to in
42 the amendment as operators, may purchase or lease equipment, systems or services for
43 sports wagering from entities with a supplier license, whose equipment, systems or services
44 must meet standards established by rule. Operators may also enter into written contracts,
45 approved by the director of the Gambling Control Unit within the Department of Public
46 Safety, with management services licensees that have sufficient knowledge and experience

1 in the business of operating sports wagering to effectively conduct sports wagering on
2 behalf of operators. Each mobile operator may enter into a contract with no more than one
3 management services licensee. If a management services licensee enters into a contract
4 with more than one operator, its method for separately accounting for each operator's gross
5 receipts and adjusted gross sports wagering receipts from each operator must be approved
6 by the director. The fee paid by an operator to a management services licensee may not
7 exceed 30% of the operator's adjusted gross sports wagering receipts, except that the
8 director may approve a contract authorizing the management services licensee to receive
9 up to 40% of the operator's adjusted gross sports wagering receipts if the director
10 determines that the management services licensee has demonstrated that the fee is
11 commercially reasonable given the management services licensee's capital investments and
12 the operator's projected revenues. A person employed by an operator to be engaged directly
13 in sports wagering-related activities must be licensed by the Gambling Control Unit.

14 Operators may accept wagers on professional, collegiate and amateur sports events,
15 including international events, as well as on the individual performances of athletes, on
16 motor vehicle races and on electronic sports. Sports wagers are prohibited on high school
17 events, other events where a majority of participants are under 18 years of age and events
18 involving Maine-based colleges and universities, except that a wager may be placed on a
19 game or match that is part of a tournament in which a Maine collegiate sports team
20 participates, as long as a Maine collegiate sports team does not participate in that particular
21 game or match. Operators also may not accept wagers on the occurrence of injuries or
22 penalties, the outcome of player disciplinary rulings or replay reviews and additional
23 categories of sports wagers that, upon the request of the relevant sports governing body,
24 the director determines will undermine the integrity or perceived integrity of the sports
25 governing body or its sports events.

26 Operators may not accept sports wagers from individuals under 21 years of age;
27 participants in the sports event, including athletes and officials; persons with an interest in
28 the outcome of the sports event identified by the director by rule; the operator's own
29 directors or employees or persons living in their households; persons voluntarily or
30 involuntarily placed on a list maintained by the Gambling Control Unit of persons not
31 authorized to make sports wagers; persons making wagers on behalf of another person; and
32 Gambling Control Unit employees. Mobile sports wagering licensees are also prohibited
33 from accepting sports wagers from persons who are not physically located within the State.

34 The amendment also requires that the director adopt rules governing the marketing or
35 advertising of sports wagering requiring that an operator disclose that it is a licensed
36 commercial track, licensed casino, licensed off-track betting facility, federally recognized
37 Indian tribe in the State or business entity wholly owned by a federally recognized Indian
38 tribe in the State; prohibiting the use of misleading, deceptive or false sports wagering
39 advertising; and restricting, to the extent permissible, the marketing or advertising of sports
40 wagering that is designed to reach or to appeal to persons under 21 years of age. Operators
41 are also required to report abnormal wagering activity to the director and to the relevant
42 sports governing body.

43 Operators must remit 28.5% of their adjusted gross sports wagering receipts to the
44 State. One percent of adjusted gross sports wagering receipts must be deposited in the
45 General Fund for the administrative expenses of the Gambling Control Unit; 1% of the
46 adjusted gross sports wagering receipts must be deposited in the Gambling Addiction

1 Prevention and Treatment Fund; 0.55% of the adjusted gross sports wagering receipts must
2 be distributed by the State Harness Racing Commission to entities that conduct live harness
3 racing in the State; 0.55% of the adjusted gross sports wagering receipts must be deposited
4 in the Sire Stakes Fund; and 0.4% of the adjusted gross sports wagering receipts must be
5 deposited in the Agricultural Fair Promotion Fund, which is established in the amendment
6 to provide monetary support to eligible nonprofit organizations that have had, for at least
7 the preceding 25 years, a sole or primary purpose of promoting agricultural fairs in the
8 State. The remaining 25% of adjusted gross sports wagering receipts remitted to the State
9 must be deposited in the General Fund.

10 The amendment establishes that each federally recognized Indian tribe in this State has
11 the right to conduct mobile gaming under any law of the State authorizing such mobile
12 gaming that is enacted on or after the effective date of this legislation.

13 Part K adds an appropriations and allocations section.

14 **FISCAL NOTE REQUIRED**

15 **(See attached)**