



130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1626

H.P. 1210

House of Representatives, April 27, 2021

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

Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

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

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

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

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

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

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

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

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

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

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

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

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

36 The Legislature finds and declares the following.

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

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

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

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

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

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

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

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

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

43 **§6203. Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **§6205. Indian territory**

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

32 A. The Passamaquoddy Indian Reservation;

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

38 ~~The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.~~
39 ~~(Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.;~~
40 ~~the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,~~
41 ~~B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,~~
42 ~~B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;~~

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

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

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

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

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

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

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

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

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

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

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

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

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

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

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

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

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

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

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

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

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

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

20 A. The Penobscot Indian Reservation; and

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

26 ~~The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P.~~
27 ~~(Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.;~~
28 ~~the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5,~~
29 ~~B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5,~~
30 ~~B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.;~~
31 ~~any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle~~
32 ~~Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram~~
33 ~~C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion~~
34 ~~of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of~~
35 ~~Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and~~
36 ~~T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any~~
37 ~~portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion~~
38 ~~of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International~~
39 ~~Corporation, International Paper Company and Lincoln Pulp and Paper Company~~
40 ~~located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.; any 300 acres~~
41 ~~in Old Town mutually agreed upon by the City of Old Town and the Penobscot Nation~~
42 ~~Tribal Government, provided that the mutual agreement must be finalized prior to~~
43 ~~August 31, 1991; any lands in Lakeville acquired by the Penobscot Nation before~~
44 ~~January 1, 1991; and all the property acquired by the Penobscot Indian Nation from~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ~~B. Nontribal citizens.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **§6208. Taxation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 conduct on the Indian reservation of the Penobscot Nation by a member of either the
2 Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation;
3 D. Indian child custody proceedings to the extent authorized by applicable federal law;
4 and
5 E. Other domestic relations matters, including marriage, divorce and support, between
6 members of either the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or
7 the Penobscot Nation, both of whom reside on the Indian reservation of the Penobscot
8 Nation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **§6209-D. Full faith and credit**

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

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

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

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

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

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

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

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

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

1 jurisdiction under section 6209-A, ~~subsection 1 and~~ subsections 1-A and 1-B, section
2 6209-B, ~~subsection 1,~~ respectively subsections 1-A and 1-B and section 6209-C,
3 subsections 1-C and 1-D.

4 **3. Agreements for cooperation and mutual aid.** This section does not prevent the
5 Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation and
6 any state, county or local law enforcement agency from entering into agreements for
7 cooperation and mutual aid.

8 **4. Powers and training requirements.** ~~Law~~ When enforcing applicable state law,
9 law enforcement officers appointed by the Houlton Band of Maliseet Indians, the
10 Passamaquoddy Tribe and the Penobscot Nation possess the same powers and are subject
11 to the same duties, limitations and training requirements as other corresponding law
12 enforcement officers under the laws of the State.

13 **4-A. Reports to the State Bureau of Identification by Passamaquoddy Tribe.**
14 Passamaquoddy Tribe law enforcement agencies shall submit to the Department of Public
15 Safety, State Bureau of Identification uniform crime reports and other information required
16 by Title 25, section 1544.

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

21 **6. Reports to the State Bureau of Identification by Houlton Band of Maliseet**
22 **Indians.** Houlton Band of Maliseet Indians law enforcement agencies shall submit to the
23 Department of Public Safety, State Bureau of Identification uniform crime reports and other
24 information required by Title 25, section 1544.

25 **Sec. 19. 30 MRSA §6211, sub-§1,** as amended by PL 2009, c. 384, Pt. A, §3 and
26 affected by §4, is further amended to read:

27 **1. Eligibility generally.** The Passamaquoddy Tribe, the Penobscot Nation and the
28 Houlton Band of Maliseet Indians are eligible for participation and entitled to receive
29 benefits from the State under any state program that provides financial assistance to all
30 municipalities as a matter of right. Such entitlement must be determined using statutory
31 criteria and formulas generally applicable to municipalities in the State. To the extent that
32 any such program requires municipal financial participation as a condition of state funding,
33 the share for the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of
34 Maliseet Indians may be raised through any source of revenue available to the respective
35 tribe, nation or band, including ~~but~~ without limitation taxation to the extent authorized
36 within its respective Indian territory or trust land. In the event that any applicable formula
37 regarding distribution of money employs a factor for the municipal real property tax rate,
38 and in the absence of such tax within the Indian territory or trust land, the formula
39 applicable to such Indian territory or trust land must be computed using the most current
40 average equalized real property tax rate of all municipalities in the State as determined by
41 the State Tax Assessor. In the event any such formula regarding distribution of money
42 employs a factor representing municipal valuation, the valuation applicable to such Indian
43 territory or trust land must be determined by the State Tax Assessor in the manner generally
44 provided by the laws of the State as long as property owned by or held in trust for a tribe,

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

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

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

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

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

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

19 **§6214. Tribal school committees**

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

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

30 **§6215. Civil jurisdiction**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 C. Promote culturally competent practices;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **§6219. Assemblies**

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

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

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

37 **§6220. Bicentennial Accord**

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

- 1 A. A framework for respect for the sovereignty of the Passamaquoddy Tribe, the
2 Penobscot Nation, the Houlton Band of Maliseet Indians and the State;
- 3 B. A framework for the government-to-government relationship between the State,
4 through the Governor and the State's departments and agencies, and the
5 Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet
6 Indians;
- 7 C. Delineation of the commitment by the Passamaquoddy Tribe, the Penobscot Nation,
8 the Houlton Band of Maliseet Indians and the Governor to implement government-to-
9 government relationships to enhance and improve communication and consultation and
10 to facilitate the resolution of issues;
- 11 D. An outline of a process for implementation of the Bicentennial Accord;
- 12 E. A commitment to specific tasks to improve the government-to-government
13 relationship to make it more efficient and mutually beneficial;
- 14 F. A commitment to strengthen the Maine Native American studies provisions of Title
15 20-A, section 4706;
- 16 G. Development of a comprehensive public education initiative to inform the citizens
17 of the State about tribal history, tribal culture, contemporary tribal and state
18 government institutions and relations and the contribution of the Wabanaki
19 Confederacy to the State;
- 20 H. A commitment to work in collaboration to engender mutual understanding and
21 respect and to recognize and address discrimination and racial prejudice;
- 22 I. A framework for coordination and cooperation to enhance economic and
23 infrastructure opportunities, protect natural resources and provide educational
24 opportunities and community social services that meet the needs of all citizens; and
- 25 J. Provisions for a review and update of the Bicentennial Accord at an annual assembly
26 convened pursuant to section 6219.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **SUMMARY**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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