

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

Date: (Filing No. H- )

**JUDICIARY**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 210, L.D. 336, “An Act Regarding State Recognition of Native American Tribes”

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

**'Sec. 1. 5 MRSA §11053, sub-§3**, as enacted by PL 2021, c. 681, Pt. A, §1, is amended to read:

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

- A. Assist with developing and ensuring the implementation of the policy required by subsection 1;
- B. Serve as a contact person responsible for facilitating effective communication between the agency and the Indian tribes; ~~and~~
- C. Coordinate the training of agency employees as provided in section 11054-; and
- D. Provide technical assistance to state-recognized Indian tribes in accordance with section 26002, subsection 5, paragraph F.

**Sec. 2. 5 MRSA §12004-J, sub-§21** is enacted to read:

**21.**

<u>Native</u>	<u>Maine Commission on Native American</u>	<u>Legislative Per</u>	<u>5 MRSA</u>
<u>American</u>	<u>Indian Affairs</u>	<u>Diem and</u>	<u>§26002</u>
<u>Indian Affairs</u>		<u>Expenses</u>	

**Sec. 3. 5 MRSA c. 633** is enacted to read:

**CHAPTER 633**

**STATE RECOGNITION OF INDIAN TRIBES**

**COMMITTEE AMENDMENT**

1 **§26001. Definitions**

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

4 **1. Applicant.** "Applicant" means a group seeking formal state recognition as a Native  
5 American Indian tribe.

6 **2. Commission.** "Commission" means the Maine Commission on Native American  
7 Indian Affairs established by section 12004-J, subsection 21.

8 **3. Legislative committee.** "Legislative committee" means the joint standing  
9 committee of the Legislature having jurisdiction over judiciary matters.

10 **4. Native American Indian tribe.** "Native American Indian tribe" means a group of  
11 Native American Indian people who are related to each other by kinship and who trace their  
12 ancestry to a kinship group that has historically maintained an organizational structure that  
13 exerts influence and authority over its members.

14 **5. Recognized or recognition.** "Recognized" or "recognition" means recognized by  
15 the State as a Native American Indian tribe pursuant to section 26003, subsection 4.

16 **6. Recognized tribe.** "Recognized tribe" means a Native American Indian tribe  
17 recognized in accordance with this chapter.

18 **7. Review panel.** "Review panel" means the group appointed pursuant to section  
19 26003, subsection 3, paragraph E to review the sufficiency, accuracy and relevance of an  
20 application for recognition and any supporting documentation.

21 **§26002. Maine Commission on Native American Indian Affairs**

22 **1. Legislative intent.** The purpose of this chapter is to establish a process for state  
23 recognition of Native American Indian tribes that:

24 A. Recognizes the historical and cultural contributions of Native Americans to the  
25 State;

26 B. Protects and supports the heritage of Native Americans in the State; and

27 C. Helps to address the needs of recognized tribes and their members by providing  
28 support from state agencies and benefits from relevant state policies, programs and  
29 activities.

30 **2. Commission established; membership.** The Maine Commission on Native  
31 American Indian Affairs, established by section 12004-J, subsection 21, consists of 5  
32 members, each of whom must have been a resident of the State for a minimum of 5 years.  
33 The Governor shall appoint commission members from a list of candidates prepared by the  
34 Chancellor of the University of Maine System pursuant to subsection 3. To the extent  
35 possible, the Governor shall appoint members who have different areas of expertise and  
36 professional affiliations and who live in different geographic locations in the State.

37 **3. Candidate list.** The Chancellor of the University of Maine System, in consultation  
38 with the presidents of Colby College, Bates College and Bowdoin College, shall prepare a  
39 list of candidates for membership on the commission who have been residents of the State  
40 for a minimum of 5 years and each of whom must be:

1 A. A professional or academic scholar with expertise in cultural or physical  
2 anthropology, Indian law, archaeology, Native American Indian genealogy or Native  
3 American Indian history or a related subject area; or

4 B. A member of a Native American Indian tribe who presents evidence to the  
5 Chancellor of the University of Maine System of that person's Native American Indian  
6 affiliation.

7 **4. Terms; reappointment.** Members of the commission are appointed for 2-year  
8 terms. A member may not serve more than 2 consecutive terms, unless there is an  
9 insufficient number of eligible candidates to replace a member who has served 2  
10 consecutive terms.

11 **5. Duties.** The commission shall:

12 A. Elect a chair from among its members annually;

13 B. Provide information and guidance, including an explanation of the application  
14 process, to applicants for state recognition;

15 C. Develop and maintain a list of professionals and academic scholars with expertise  
16 in cultural or physical anthropology, Indian law, archaeology, Native American Indian  
17 genealogy or history or a related subject area who are able and willing to participate on  
18 review panels;

19 D. Appoint a review panel pursuant to section 26003, subsection 3, paragraph E, to  
20 review each application and any associated documentation submitted for state  
21 recognition;

22 E. Review each application and any supplemental documentation as well as the  
23 findings of the review panel related to that application and make a recommendation to  
24 the legislative committee for or against state recognition of the applicant pursuant to  
25 section 26003, subsection 3, paragraph F; and

26 F. Facilitate communication between each recognized tribe and the tribal liaison  
27 appointed by agencies under section 11053, subsection 3 to enable the recognized tribe  
28 to obtain technical assistance from those agencies with:

29 (1) Securing state and federal grant funding and accessing other state and federal  
30 resources related to improving tribal social services, education, employment  
31 opportunities, health care and housing; and

32 (2) Developing and marketing the Native American Indian tribe's fine arts and  
33 performing arts, crafts and cultural events.

34 **6. Meetings; expenses.** The commission meets at the call of the chair. Members  
35 receive a legislative per diem and expenses for each meeting, except that members may not  
36 receive a legislative per diem for more than 6 meetings in a single calendar year. For  
37 purposes of this subsection, "expenses" and "legislative per diem" have the same meanings  
38 as in section 12002, subsections 2 and 3, respectively.

39 **7. Administrative support.** The University of Maine System shall provide  
40 administrative support to the commission, including assisting the commission as needed  
41 with each of its duties under subsection 5 and with the evaluation of applications for state  
42 recognition.

1           **8. Funding.** The commission may accept funds from the Federal Government, from  
2 a political subdivision of the State or from any individual, foundation or corporation and  
3 may expend funds for purposes that are consistent with this chapter. Funds received under  
4 this subsection must be deposited in a nonlapsing account maintained by the commission  
5 to support the work of the commission.

6           **§26003. State recognition of Native American Indian tribes**

7           **1. Application; required materials.** To be considered for state recognition, an  
8 applicant must submit an application to the commission in a form or format approved by  
9 the commission demonstrating that:

10           A. A majority of the applicant's members currently reside in a specific geographic  
11 location within the State;

12           B. A substantial number of the applicant's members are related by kinship and trace  
13 their ancestry to a kinship group through genealogy or other methods. Genealogical  
14 documents submitted in support of this criteria may include only those documents that  
15 show descentance from identified Maine or regional indigenous people;

16           C. The applicant's Native American Indian tribe has a historical connection with other  
17 Native American Indian tribes, bands or nations that currently inhabit or have in the  
18 past inhabited the State;

19           D. The applicant has an enduring community presence within the boundaries of the  
20 State that is documented by archaeology, ethnography, cultural or physical  
21 anthropology, history, folklore or other reliable research or data;

22           E. The applicant is organized, at least in part:

23                   (1) To preserve, document and promote its Native American Indian culture and  
24 history and this purpose is reflected in bylaws or other documents of the applicant;  
25 and

26                   (2) To address the social, economic, political or cultural needs of its members with  
27 ongoing educational programs and activities;

28           F. The applicant's documented traditions, customs, oral stories and histories signify the  
29 applicant's Native American Indian heritage and connection to the applicant's historical  
30 homeland; and

31           G. The applicant has not been recognized as an Indian tribe by any other state, province  
32 or nation.

33           **2. Application; supplemental documentation.** An applicant may supplement its  
34 application under subsection 1 with letters, statements and other written materials from:

35           A. Municipal, state or federal authorities documenting the applicant's history of Native  
36 American Indian tribe-related business and activities; and

37           B. Tribes within and outside of the State attesting to the applicant's Native American  
38 Indian heritage.

39           **3. Application review procedures.** The commission shall establish policies and  
40 procedures for the review of each application that include, but are not limited to:

41           A. Public notice of the receipt of the application and any supplemental documentation;

1 B. Written notice to the applicant when each step in the review process has been  
2 completed;

3 C. A policy that any member of the commission who is a member of or affiliated with  
4 the applicant is ineligible to participate in any action by the commission on the  
5 applicant's application;

6 D. At least one public hearing on each application;

7 E. Appointment, in coordination with the applicant, of a 3-member review panel to  
8 determine the sufficiency, accuracy and relevance of the application materials and any  
9 supplemental documentation and to submit a detailed written report of its findings and  
10 conclusions to the commission, the applicant and the legislative committee. The  
11 members appointed must be professional or academic specialists with expertise in  
12 cultural or physical anthropology, Indian law, archaeology, Native American Indian  
13 genealogy or history or a related subject area. Members of the review panel may not  
14 be commission members, members of the applicant or affiliated with the applicant;

15 F. Review by the commission of the application and any supporting documentation,  
16 the report of the review panel and any other relevant information to determine  
17 compliance with subsection 1 and to recommend whether the Legislature should grant  
18 or deny state recognition of the applicant. A recommendation in favor of state  
19 recognition of the applicant may be made only by a majority vote of eligible  
20 commission members. If the commission recommends that the Legislature deny state  
21 recognition of the applicant, it must provide the applicant and the legislative committee  
22 with a written notice of the reasons for the denial, including specific information  
23 regarding the criteria in subsection 1 that were not satisfied;

24 G. Deadlines for the review panel to submit its written report to the commission and  
25 for the commission to notify the applicant and the legislative committee of its  
26 recommendation. The deadline for the commission to notify the applicant and the  
27 legislative committee of its recommendation may not be later than one year after the  
28 date that the application and any supporting documentation were filed, unless the  
29 commission provides a written explanation to the applicant and the legislative  
30 committee of the reasons for the delay that identifies the expected date for the  
31 commission's issuance of its recommendation;

32 H. A process for the applicant to file, within one year of receiving notice of the denial,  
33 a request for reconsideration supported by additional documentation. An applicant that  
34 fails to file a request for reconsideration within the time required by this paragraph may  
35 not file a new application for 2 years following the date the applicant received the  
36 notice of denial;

37 I. Procedures for the applicant to withdraw its application at any time before the  
38 commission issues a recommendation under paragraph F, which must prohibit the  
39 applicant from filing a new application for 2 years following the date that the  
40 application is withdrawn; and

41 J. A requirement that a new application filed by an applicant more than 2 years after  
42 receiving a notice of denial or more than 2 years following the withdrawal of its earlier  
43 application must be considered without reference to the denied or withdrawn

1 application and any supporting documentation that was submitted with the denied or  
2 withdrawn application.

3 **4. State recognition.** An applicant may be recognized only:

4 A. By approval of the Legislature; or

5 B. By the failure of the Legislature to take action on a recommendation from the  
6 commission in favor of state recognition within 2 years after receipt of the  
7 recommendation by the legislative committee. For purposes of this paragraph, the  
8 Legislature fails to act if the Legislature fails to enact legislation recognizing the  
9 applicant or denying recognition to the applicant.

10 **5. Effect of state recognition.** Recognized tribes and their members are subject to all  
11 laws of the State. Recognition confers only those rights specifically described in this  
12 chapter and may not be construed to grant the recognized tribe or its members any right or  
13 claim to land or real estate in the State or right to conduct any gambling activities except  
14 as otherwise allowed by the laws of the State.

15 **6. Confidentiality.** Records of genealogy submitted as part of an application or in  
16 support of an application for state recognition under this section are confidential and may  
17 be disclosed by the commission only to members of the review panel.

18 **Sec. 4. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 5,  
19 section 26002, subsection 4, for the original appointments of members of the Maine  
20 Commission on Native American Indian Affairs, the Governor shall designate the terms of  
21 2 of the members as one-year terms. An initial term of one year under this section may not  
22 be considered a full term for purposes of limiting the number of terms for which a member  
23 of the commission may serve.

24 **Sec. 5. Meetings.** Notwithstanding the Maine Revised Statutes, Title 5, section  
25 26002, subsection 6, the Maine Commission on Native American Indian Affairs shall meet  
26 at least 3 times during the first 12 months following the effective date of this legislation.'

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

## 29 SUMMARY

30 This amendment, which is the minority report of the committee, replaces the bill, which  
31 is a concept draft. It establishes a process for state recognition of Native American Indian  
32 tribes, which is designed to recognize the historical and cultural contributions of Native  
33 Americans to the State, to protect and strengthen the heritage of Native Americans in the  
34 State and to provide technical assistance to state-recognized Native American Indian tribes  
35 and their members related to state and federal programs and activities. It establishes the  
36 Maine Commission on Native American Indian Affairs, a 5-member panel of experts  
37 appointed by the Governor to review and to make recommendations on applications for  
38 state recognition of Native American Indian tribes in the State and to provide specific  
39 assistance to state-recognized Native American Indian tribes and their members. The  
40 ultimate decision whether to confer state recognition lies with the Legislature.

41 State-recognized Native American Indian tribes and their members remain subject to  
42 all of the laws of the State and recognition may not be construed to grant the state-

1 recognized Native American Indian tribe or its members any right or claim to land or real  
2 estate in the State or the right to conduct any gambling activities otherwise prohibited by  
3 law.

4 **FISCAL NOTE REQUIRED**

5 **(See attached)**