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Date: (Filing No. H- )

**VETERANS AND LEGAL AFFAIRS**

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

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 399, L.D. 554, “An Act To Create Gaming Equity and Fairness for the Native American Tribes in Maine”

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

**PART A**

**Sec. A-1. 30 MRSA §6206, sub-§4** is enacted to read:

**4. Passamaquoddy Tribe authority to conduct gaming.** Any law of this State that is contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be affected or preempted by the Act, does not apply to the conduct of class I gaming, class II gaming and class III gaming activities by the Passamaquoddy Tribe within the Passamaquoddy Indian territory. Pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(1), the State and the Passamaquoddy Tribe agree and establish that the Passamaquoddy Tribe has exclusive jurisdiction and governmental responsibility, subject to the requirements of the federal Indian Gaming Regulatory Act and this subsection, with respect to the conduct of class I gaming, class II gaming and class III gaming activities within the Passamaquoddy Indian territory.

A. Upon the request of the Passamaquoddy Tribe, the Governor or the Governor's designee shall negotiate in good faith with the Passamaquoddy Tribe in accordance with 25 United States Code, Section 2710(d)(3)(A) and execute on behalf of the State a tribal-state compact, and any amendments or modifications to the compact, governing class III gaming activities within the Passamaquoddy Indian territory. The federal Indian Gaming Regulatory Act governs the process by which a tribal-state compact is negotiated and executed pursuant to this paragraph and the process by which a negotiated tribal-state compact takes effect.

B. Notwithstanding any provision of law to the contrary, the Passamaquoddy Tribe has the power to enact laws and ordinances governing the tribe's gaming operations. The laws of the State do not apply to the tribe's gaming operations, except as otherwise provided in this paragraph; as otherwise provided in a tribal-state compact negotiated

**COMMITTEE AMENDMENT**

1 under paragraph A; or as otherwise provided in a written agreement between the  
2 Passamaquoddy Tribe and the State or any political subdivision of the State.

3 (1) The tribe's laws or ordinances relating to a health and safety matter, including  
4 but not limited to laws or ordinances regarding food safety, sanitation, building  
5 construction standards and inspections, fire safety and environmental protection,  
6 apply to the tribe's gaming operations, as long as the tribe has laws or ordinances  
7 with respect to that health and safety matter that are no less stringent than the  
8 corresponding laws of the State. If the tribe does not have a law or ordinance  
9 relating to a health and safety matter or if the tribe's laws or ordinances relating to  
10 a health and safety matter are less stringent than the corresponding laws of the  
11 State, then the corresponding laws of the State with respect to that health and safety  
12 matter apply to the tribe's gaming operations. For the purposes of this  
13 subparagraph, "corresponding laws of the State" means laws of the State that apply  
14 to similar gaming operations conducted by an entity other than the tribe outside of  
15 Passamaquoddy Indian territory.

16 (2) The laws of the State regarding the sale, distribution and taxation of liquor  
17 apply to the tribe's gaming operations, except as described in this subparagraph.  
18 Neither a local option election nor a county commissioner determination under  
19 Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor  
20 for on-premises consumption as part of the tribe's gaming operations. An  
21 application for a license to sell liquor for on-premises consumption submitted by  
22 an establishment that is part of the tribe's gaming operations must be granted  
23 without undue delay if the applicant meets all of the applicable requirements of  
24 Title 28-A. For purposes of the issuance or renewal of any license or permit to sell  
25 liquor for on-premises consumption as part of the tribe's gaming operations,  
26 approval by the governing body of the Passamaquoddy Tribe constitutes any  
27 municipal or county commissioner approval required under Title 28-A.

28 C. Notwithstanding any provision of law to the contrary and except as provided in  
29 paragraph B, subparagraph (2), the State and its political subdivisions may not impose  
30 any tax on the Passamaquoddy Tribe, its tribal members or tribal entities in connection  
31 with the tribe's gaming operations. A tribal-state compact negotiated under paragraph  
32 A may include a provision whereby the Passamaquoddy Tribe shares a portion of the  
33 revenue generated from the tribe's class III gaming activities with the State in exchange  
34 for quantifiable economic benefits in accordance with the federal Indian Gaming  
35 Regulatory Act.

36 D. For purposes of this subsection, the following terms have the following meanings.

37 (1) "Class I gaming," "class II gaming" and "class III gaming" have the same  
38 meanings as in 25 United States Code, Section 2703, as amended.

39 (2) "Federal Indian Gaming Regulatory Act" means the federal Indian Gaming  
40 Regulatory Act, 25 United States Code, Sections 2701 to 2721, as amended, and  
41 its implementing regulations, as amended.

42 (3) "Gaming facility" means a facility in which class I gaming, class II gaming or  
43 class III gaming activity is conducted within the Passamaquoddy Indian territory  
44 and the contiguous areas where related and complementary services, businesses  
45 and amenities are provided within the Passamaquoddy Indian territory.

1 (4) "Gaming operations" means the conduct of class I gaming, class II gaming and  
2 class III gaming activities, the provision of related and complementary services,  
3 businesses and amenities to gaming facility patrons and the siting, planning,  
4 construction and operation of a gaming facility within the Passamaquoddy Indian  
5 territory.

6 (5) "Tribal entity" means a business entity, including but not limited to a  
7 corporation, partnership or limited liability company, owned by the  
8 Passamaquoddy Tribe or of which more than 50% of the ownership interests are  
9 held in aggregate by the tribe, tribal members or both. For the purposes of this  
10 subparagraph, "tribal member" includes a married couple, at least one of whom is  
11 a tribal member.

12 (6) "Tribal member" means a member of the Passamaquoddy Tribe.

13 **Sec. A-2. 30 MRSA c. 605** is enacted to read:

14 **CHAPTER 605**

15 **GAMING BY THE PASSAMAQUODDY TRIBE**

16 **§8101. Definitions**

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

19 **1. Class I gaming, class II gaming and class III gaming.** "Class I gaming," "class  
20 II gaming" and "class III gaming" have the same meanings as in 25 United States Code,  
21 Section 2703, as amended.

22 **2. Federal Indian Gaming Regulatory Act.** "Federal Indian Gaming Regulatory  
23 Act" means the federal Indian Gaming Regulatory Act, 25 United States Code, Sections  
24 2701 to 2721, as amended, and its implementing regulations, as amended.

25 **3. Gaming facility.** "Gaming facility" means a facility in which class I gaming, class  
26 II gaming or class III gaming activity is conducted within the Passamaquoddy Indian  
27 territory and the contiguous areas where related and complementary services, businesses  
28 and amenities are provided within the Passamaquoddy Indian territory.

29 **4. Gaming operations.** "Gaming operations" means the conduct of class I gaming,  
30 class II gaming and class III gaming activities, the provision of related and complementary  
31 services, businesses and amenities to gaming facility patrons and the siting, planning,  
32 construction and operation of a gaming facility within the Passamaquoddy Indian territory.

33 **5. Laws of the State.** "Laws of the State" has the same meaning as in section 6203,  
34 subsection 4.

35 **6. Passamaquoddy Indian territory.** "Passamaquoddy Indian territory" has the same  
36 meaning as in section 6203, subsection 6.

37 **7. Tribal entity.** "Tribal entity" means a business entity, including but not limited to  
38 a corporation, partnership or limited liability company, owned by the Passamaquoddy Tribe  
39 or of which more than 50% of the ownership interests are held in aggregate by the tribe.

1 tribal members or both. For the purposes of this subsection, "tribal member" includes a  
2 married couple, at least one of whom is a tribal member.

3 **8. Tribal member.** "Tribal member" means a member of the Passamaquoddy Tribe.

4 **§8102. Gaming activities within Passamaquoddy Indian territory**

5 **1. Federal Indian Gaming Regulatory Act applies.** Any law of this State that is  
6 contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be  
7 affected or preempted by the Act, does not apply to the conduct of class I gaming, class II  
8 gaming and class III gaming activities by the Passamaquoddy Tribe within the  
9 Passamaquoddy Indian territory. The Passamaquoddy Tribe has exclusive jurisdiction and  
10 government authority, subject to the requirements of the federal Indian Gaming Regulatory  
11 Act and this section, with respect to the conduct of class I gaming, class II gaming and class  
12 III gaming activities within the Passamaquoddy Indian territory.

13 **2. Tribal-state compact.** Upon the request of the Passamaquoddy Tribe, the Governor  
14 or the Governor's designee shall negotiate in good faith with the Passamaquoddy Tribe in  
15 accordance with 25 United States Code, Section 2710(d)(3)(A) and execute on behalf of  
16 the State a tribal-state compact, and any amendments or modifications to the compact,  
17 governing class III gaming activities within the Passamaquoddy Indian territory. The  
18 federal Indian Gaming Regulatory Act governs the process by which a tribal-state compact  
19 is negotiated and executed pursuant to this subsection and the process by which a negotiated  
20 tribal-state compact takes effect.

21 **3. Application of tribal and state law.** Notwithstanding any provision of law to the  
22 contrary, the Passamaquoddy Tribe has the power to enact laws and ordinances governing  
23 the tribe's gaming operations. The laws of the State do not apply to the tribe's gaming  
24 operations, except as otherwise provided in this subsection; as otherwise provided in a  
25 tribal-state compact negotiated under subsection 2; or as otherwise provided in a written  
26 agreement between the Passamaquoddy Tribe and the State or any political subdivision of  
27 the State.

28 A. The tribe's laws or ordinances relating to a health and safety matter, including but  
29 not limited to laws or ordinances regarding food safety, sanitation, building  
30 construction standards and inspections, fire safety and environmental protection, apply  
31 to the tribe's gaming operations, as long as the tribe has laws or ordinances with respect  
32 to that health and safety matter that are no less stringent than the corresponding laws  
33 of the State. If the tribe does not have a law or ordinance relating to a health and safety  
34 matter or if the tribe's laws or ordinances relating to a health and safety matter are less  
35 stringent than the corresponding laws of the State, then the corresponding laws of the  
36 State with respect to that health and safety matter apply to the tribe's gaming operations.  
37 For purposes of this paragraph, "corresponding laws of the State" means laws of the  
38 State that apply to similar gaming operations conducted by an entity other than the tribe  
39 outside of Passamaquoddy Indian territory.

40 B. The laws of the State regarding the sale, distribution and taxation of liquor apply to  
41 the tribe's gaming operations, except as described in this paragraph. Neither a local  
42 option election nor a county commissioner determination under Title 28-A, chapter 5  
43 is a condition precedent to or may prohibit the sale of liquor for on-premises  
44 consumption as part of the tribe's gaming operations. An application for a license to  
45 sell liquor for on-premises consumption submitted by an establishment that is part of

1 the tribe's gaming operations must be granted without undue delay if the applicant  
2 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or  
3 renewal of any license or permit to sell liquor for on-premises consumption as part of  
4 the tribe's gaming operations, approval by the governing body of the Passamaquoddy  
5 Tribe constitutes any municipal or county commissioner approval required under Title  
6 28-A.

7 C. Notwithstanding any provision of law to the contrary and except as provided in  
8 paragraph B, the State and its political subdivisions may not impose any tax on the  
9 Passamaquoddy Tribe, its tribal members or tribal entities in connection with the tribe's  
10 gaming operations. A tribal-state compact negotiated under subsection 2 may include  
11 a provision whereby the Passamaquoddy Tribe shares a portion of the revenue  
12 generated from the tribe's class III gaming activities with the State in exchange for  
13 quantifiable economic benefits in accordance with the federal Indian Gaming  
14 Regulatory Act.

15 **Sec. A-3. Contingent effective date; certification.** This Part does not take effect  
16 unless, within 90 days of the adjournment of the First Special Session of the 130th  
17 Legislature, the Secretary of State receives written certification from the Joint Tribal  
18 Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Part,  
19 copies of which must be submitted by the Secretary of State to the Secretary of the Senate,  
20 the Clerk of the House of Representatives and the Revisor of Statutes; except that in no  
21 event may this Part become effective until 120 days after the adjournment of the First  
22 Special Session of the 130th Legislature.

23 **Sec. A-4. Contingent repeal.** Notwithstanding the Maine Revised Statutes, Title  
24 1, section 71, subsection 8, this Part is repealed in its entirety if a court of competent  
25 jurisdiction enters a final judgment concluding that no part of this Part is effective in  
26 causing the Passamaquoddy Tribe to be subject to the requirements of the federal Indian  
27 Gaming Regulatory Act with respect to the conduct of class I gaming, class II gaming and  
28 class III gaming activities within the Passamaquoddy Indian territory. For purposes of this  
29 section, a "final judgment" does not include a judgment that is the subject of a pending  
30 appeal or for which the time period for taking an appeal has not yet expired. If this  
31 contingency is met, the Attorney General or the Joint Tribal Council of the Passamaquoddy  
32 Tribe shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House  
33 of Representatives and the Revisor of Statutes.

34 **PART B**

35 **Sec. B-1. 30 MRSA c. 607** is enacted to read:

36 **CHAPTER 607**

37 **GAMING BY THE PASSAMAQUODDY TRIBE**

38 **§8201. Definitions**

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

1 1. Class I gaming and class II gaming. "Class I gaming" and "class II gaming" have  
2 the same meanings as in 25 United States Code, Section 2703, as amended.

3 2. Gaming facility. "Gaming facility" means a facility in which class I gaming or class  
4 II gaming activity is conducted within the Passamaquoddy Indian territory and the  
5 contiguous areas where related and complementary services, businesses and amenities are  
6 provided within the Passamaquoddy Indian territory.

7 3. Gaming operations. "Gaming operations" means the conduct of class I gaming  
8 and class II gaming activities, the provision of related and complementary services,  
9 businesses and amenities to gaming facility patrons and the siting, planning, construction  
10 and operation of a gaming facility within the Passamaquoddy Indian territory.

11 4. Laws of the State. "Laws of the State" has the same meaning as in section 6203,  
12 subsection 4.

13 5. Passamaquoddy Indian territory. "Passamaquoddy Indian territory" has the same  
14 meaning as in section 6203, subsection 6.

15 6. Tribal entity. "Tribal entity" means a business entity, including but not limited to  
16 a corporation, partnership or limited liability company, owned by the Passamaquoddy Tribe  
17 or of which more than 50% of the ownership interests are held in aggregate by the tribe,  
18 tribal members or both. For the purposes of this subsection, "tribal member" includes a  
19 married couple, at least one of whom is a tribal member.

20 7. Tribal member. "Tribal member" means a member of the Passamaquoddy Tribe.

21 **§8202. Gaming activities within Passamaquoddy Indian territory**

22 1. Class I gaming. Notwithstanding any provision of law to the contrary and except  
23 as provided in this section, the Passamaquoddy Tribe has exclusive jurisdiction and  
24 government authority with respect to and may authorize class I gaming within the  
25 Passamaquoddy Indian territory.

26 2. Class II gaming. Notwithstanding any other provision of law to the contrary and  
27 except as provided in this section, the Passamaquoddy Tribe has exclusive jurisdiction and  
28 government authority with respect to and may authorize class II gaming within the  
29 Passamaquoddy Indian territory as long as the following conditions are met:

30 A. A separate license issued by the Passamaquoddy Tribe is required for each facility  
31 at which class II gaming is conducted within the Passamaquoddy Indian territory;

32 B. The Passamaquoddy Tribe adopts a law or ordinance that meets the requirements  
33 of 25 United States Code, Section 2710(b)(2) and Section 2710(b)(4)(A), except for  
34 any required notification to, approval of or audit or other activity by the National Indian  
35 Gaming Commission or the Chair of the National Indian Gaming Commission;

36 C. The Passamaquoddy Tribe establishes a tribal gaming regulatory body that:

37 (1) Monitors gaming activities to ensure compliance with applicable federal, state  
38 and tribal laws and rules;

39 (2) Monitors the gaming revenues accounting system and routinely receives and  
40 reviews gaming revenue accounting information from class II gaming activities;

- 1           (3) Performs routine operational or other audits of class II gaming activities and  
2           has access to, and may inspect, examine, photocopy and audit all papers, books  
3           and records of class II gaming activities;
- 4           (4) Monitors compliance with minimum internal control standards for class II  
5           gaming activities;
- 6           (5) Adopts and implements a system for investigating, licensing and monitoring  
7           of all employees of class II gaming activities;
- 8           (6) Maintains records on class II gaming licensees and persons denied class II  
9           gaming licenses, including persons otherwise prohibited from engaging in gaming  
10           activities within the tribe's jurisdiction;
- 11           (7) Establishes standards for and issues vendor licenses or permits to  
12           manufacturers and suppliers of class II gaming services, equipment and supplies;
- 13           (8) Establishes or approves the rules governing the operation of class II gaming,  
14           and requires their posting;
- 15           (9) Adopts and implements a system for investigating possible violations of and  
16           for enforcing tribal gaming laws, ordinances and regulations; and
- 17           (10) Takes testimony and conducts hearings on the revocation of licenses,  
18           including primary management official, key employee and vendor licenses; and
- 19           D. The Passamaquoddy Tribe's conduct of class II gaming meets or exceeds the  
20           requirements of 25 Code of Federal Regulations, Parts 531, 542, 543, 547 and 556, as  
21           amended, except for any required notification to, approval of or audit or other activity  
22           by the National Indian Gaming Commission or the Chair of the National Indian  
23           Gaming Commission.
- 24           **3. Application of tribal and state law.** Notwithstanding any provision of law to the  
25           contrary, the Passamaquoddy Tribe has the power to enact laws and ordinances governing  
26           the tribe's gaming operations. The laws of the State do not apply to the tribe's gaming  
27           operations, except as otherwise provided in this subsection or as otherwise provided in a  
28           written agreement between the Passamaquoddy Tribe and the State or any political  
29           subdivision of the State.
- 30           A. The tribe's laws or ordinances relating to a health and safety matter, including but  
31           not limited to laws or ordinances regarding food safety, sanitation, building  
32           construction standards and inspections, fire safety and environmental protection, apply  
33           to the tribe's gaming operations, as long as the tribe has laws or ordinances with respect  
34           to that health and safety matter that are no less stringent than the corresponding laws  
35           of the State. If the tribe does not have a law or ordinance relating to a health and safety  
36           matter or if the tribe's laws or ordinances relating to a health and safety matter are less  
37           stringent than the corresponding laws of the State, then the corresponding laws of the  
38           State with respect to that health and safety matter apply to the tribe's gaming operations.  
39           For purposes of this paragraph, "corresponding laws of the State" means laws of the  
40           State that apply to similar gaming operations conducted by an entity other than the tribe  
41           outside of Passamaquoddy Indian territory.
- 42           B. The laws of the State regarding the sale, distribution and taxation of liquor apply to  
43           the tribe's gaming operations, except as described in this paragraph. Neither a local

1 option election nor a county commissioner determination under Title 28-A, chapter 5  
2 is a condition precedent to or may prohibit the sale of liquor for on-premises  
3 consumption as part of the tribe's gaming operations. An application for a license to  
4 sell liquor for on-premises consumption submitted by an establishment that is part of  
5 the tribe's gaming operations must be granted without undue delay if the applicant  
6 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or  
7 renewal of any license or permit to sell liquor for on-premises consumption as part of  
8 the tribe's gaming operations, approval by the governing body of the Passamaquoddy  
9 Tribe constitutes any municipal or county commissioner approval required under Title  
10 28-A.

11 C. Notwithstanding any provision of law to the contrary and except as provided in  
12 paragraph B, the State and its political subdivisions may not impose any tax on the  
13 Passamaquoddy Tribe, its tribal members or tribal entities in connection with the tribe's  
14 gaming operations.

15 **Sec. B-2. Contingent effective date.** This Part does not take effect unless Part A  
16 of this Act takes effect pursuant to Part A, section 3 of this Act and is subsequently repealed  
17 pursuant to Part A, section 4 of this Act. If the requirements of this section are met, the  
18 Attorney General or the Joint Tribal Council of the Passamaquoddy Tribe shall notify the  
19 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives  
20 and the Revisor of Statutes.

## 21 PART C

22 **Sec. C-1. 30 MRSA §6206, sub-§5** is enacted to read:

23 **5. Penobscot Nation authority to conduct gaming.** Any law of this State that is  
24 contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be  
25 affected or preempted by the Act, does not apply to the conduct of class I gaming, class II  
26 gaming and class III gaming activities by the Penobscot Nation within the Penobscot Indian  
27 territory. Pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law  
28 96-420, Section 6(e)(1), the State and the Penobscot Nation agree and establish that the  
29 Penobscot Nation has exclusive jurisdiction and governmental responsibility, subject to the  
30 requirements of the federal Indian Gaming Regulatory Act and this subsection, with respect  
31 to the conduct of class I gaming, class II gaming and class III gaming activities within the  
32 Penobscot Indian territory.

33 A. Upon the request of the Penobscot Nation, the Governor or the Governor's designee  
34 shall negotiate in good faith with the Penobscot Nation in accordance with 25 United  
35 States Code, Section 2710(d)(3)(A) and execute on behalf of the State a tribal-state  
36 compact, and any amendments or modifications to the compact, governing class III  
37 gaming activities within the Penobscot Indian territory. The federal Indian Gaming  
38 Regulatory Act governs the process by which a tribal-state compact is negotiated and  
39 executed pursuant to this paragraph and the process by which a negotiated tribal-state  
40 compact takes effect.

41 B. Notwithstanding any provision of law to the contrary, the Penobscot Nation has the  
42 power to enact laws and ordinances governing the nation's gaming operations. The laws  
43 of the State do not apply to the nation's gaming operations, except as otherwise  
44 provided in this paragraph; as otherwise provided in a tribal-state compact negotiated



1 under paragraph A; or as otherwise provided in a written agreement between the  
2 Penobscot Nation and the State or any political subdivision of the State.

3 (1) The nation's laws or ordinances relating to a health and safety matter, including  
4 but not limited to laws or ordinances regarding food safety, sanitation, building  
5 construction standards and inspections, fire safety and environmental protection,  
6 apply to the nation's gaming operations, as long as the nation has laws or  
7 ordinances with respect to that health and safety matter that are no less stringent  
8 than the corresponding laws of the State. If the nation does not have a law or  
9 ordinance relating to a health and safety matter or if the nation's laws or ordinances  
10 relating to a health and safety matter are less stringent than the corresponding laws  
11 of the State, then the corresponding laws of the State with respect to that health and  
12 safety matter apply to the nation's gaming operations. For purposes of this  
13 subparagraph, "corresponding laws of the State" means laws of the State that apply  
14 to similar gaming operations conducted by an entity other than the nation outside  
15 of Penobscot Indian territory.

16 (2) The laws of the State regarding the sale, distribution and taxation of liquor  
17 apply to the nation's gaming operations, except as described in this subparagraph.  
18 Neither a local option election nor a county commissioner determination under  
19 Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor  
20 for on-premises consumption as part of the nation's gaming operations. An  
21 application for a license to sell liquor for on-premises consumption submitted by  
22 an establishment that is part of the nation's gaming operations must be granted  
23 without undue delay if the applicant meets all of the applicable requirements of  
24 Title 28-A. For purposes of the issuance or renewal of any license or permit to sell  
25 liquor for on-premises consumption as part of the nation's gaming operations,  
26 approval by the governing body of the Penobscot Nation constitutes any municipal  
27 or county commissioner approval required under Title 28-A.

28 C. Notwithstanding any provision of law to the contrary and except as provided in  
29 paragraph B, subparagraph (2), the State and its political subdivisions may not impose  
30 any tax on the Penobscot Nation, its tribal members or tribal entities in connection with  
31 the nation's gaming operations. A tribal-state compact negotiated under paragraph A  
32 may include a provision whereby the Penobscot Nation shares a portion of the revenue  
33 generated from the nation's class III gaming activities with the State in exchange for  
34 quantifiable economic benefits in accordance with the federal Indian Gaming  
35 Regulatory Act.

36 D. For purposes of this subsection, the following terms have the following meanings.

37 (1) "Class I gaming," "class II gaming" and "class III gaming" have the same  
38 meanings as in 25 United States Code, Section 2703, as amended.

39 (2) "Federal Indian Gaming Regulatory Act" means the federal Indian Gaming  
40 Regulatory Act, 25 United States Code, Sections 2701 to 2721, as amended, and  
41 its implementing regulations, as amended.

42 (3) "Gaming facility" means a facility in which class I gaming, class II gaming or  
43 class III gaming activity is conducted within the Penobscot Indian territory and the  
44 contiguous areas where related and complementary services, businesses and  
45 amenities are provided within the Penobscot Indian territory.



1           **8. Tribal member.** "Tribal member" means a member of the Penobscot Nation.

2           **§9102. Gaming activities within Penobscot Indian territory**

3           **1. Federal Indian Gaming Regulatory Act applies.** Any law of this State that is  
4 contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be  
5 affected or preempted by the Act, does not apply to the conduct of class I gaming, class II  
6 gaming and class III gaming activities by the Penobscot Nation within the Penobscot Indian  
7 territory. The Penobscot Nation has exclusive jurisdiction and government authority,  
8 subject to the requirements of the federal Indian Gaming Regulatory Act and this section,  
9 with respect to the conduct of class I gaming, class II gaming and class III gaming activities  
10 within the Penobscot Indian territory.

11           **2. Tribal-state compact.** Upon the request of the Penobscot Nation, the Governor or  
12 the Governor's designee shall negotiate in good faith with the Penobscot Nation in  
13 accordance with 25 United States Code, Section 2710(d)(3)(A) and execute on behalf of  
14 the State a tribal-state compact, and any amendments or modifications to the compact,  
15 governing class III gaming activities within the Penobscot Indian territory. The federal  
16 Indian Gaming Regulatory Act governs the process by which a tribal-state compact is  
17 negotiated and executed pursuant to this subsection and the process by which a negotiated  
18 tribal-state compact takes effect.

19           **3. Application of tribal and state law.** Notwithstanding any provision of law to the  
20 contrary, the Penobscot Nation has the power to enact laws and ordinances governing the  
21 nation's gaming operations. The laws of the State do not apply to the nation's gaming  
22 operations, except as otherwise provided in this subsection; as otherwise provided in a  
23 tribal-state compact negotiated under subsection 2; or as otherwise provided in a written  
24 agreement between the Penobscot Nation and the State or any political subdivision of the  
25 State.

26           A. The nation's laws or ordinances relating to a health and safety matter, including but  
27 not limited to laws or ordinances regarding food safety, sanitation, building  
28 construction standards and inspections, fire safety and environmental protection, apply  
29 to the nation's gaming operations, as long as the nation has laws or ordinances with  
30 respect to that health and safety matter that are no less stringent than the corresponding  
31 laws of the State. If the nation does not have a law or ordinance relating to a health  
32 and safety matter or if the nation's laws or ordinances relating to a health and safety  
33 matter are less stringent than the corresponding laws of the State, then the  
34 corresponding laws of the State with respect to that health and safety matter apply to  
35 the nation's gaming operations. For purposes of this paragraph, "corresponding laws  
36 of the State" means laws of the State that apply to similar gaming operations conducted  
37 by an entity other than the nation outside of Penobscot Indian territory.

38           B. The laws of the State regarding the sale, distribution and taxation of liquor apply to  
39 the nation's gaming operations, except as described in this paragraph. Neither a local  
40 option election nor a county commissioner determination under Title 28-A, chapter 5  
41 is a condition precedent to or may prohibit the sale of liquor for on-premises  
42 consumption as part of the nation's gaming operations. An application for a license to  
43 sell liquor for on-premises consumption submitted by an establishment that is part of  
44 the nation's gaming operations must be granted without undue delay if the applicant  
45 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or

1 renewal of any license or permit to sell liquor for on-premises consumption as part of  
2 the nation's gaming operations, approval by the governing body of the Penobscot  
3 Nation constitutes any municipal or county commissioner approval required under  
4 Title 28-A.

5 C. Notwithstanding any provision of law to the contrary and except as provided in  
6 paragraph B, the State and its political subdivisions may not impose any tax on the  
7 Penobscot Nation, its tribal members or tribal entities in connection with the nation's  
8 gaming operations. A tribal-state compact negotiated under subsection 2 may include  
9 a provision whereby the Penobscot Nation shares a portion of the revenue generated  
10 from the nation's class III gaming activities with the State in exchange for quantifiable  
11 economic benefits in accordance with the federal Indian Gaming Regulatory Act.

12 **Sec. C-3. Contingent effective date; certification.** This Part does not take effect  
13 unless, within 90 days of the adjournment of the First Special Session of the 130th  
14 Legislature, the Secretary of State receives written certification from the Chief and Tribal  
15 Council of the Penobscot Nation that the nation has agreed to the provisions of this Part,  
16 copies of which must be submitted by the Secretary of State to the Secretary of the Senate,  
17 the Clerk of the House of Representatives and the Revisor of Statutes; except that in no  
18 event may this Part become effective until 120 days after the adjournment of the First  
19 Special Session of the 130th Legislature.

20 **Sec. C-4. Contingent repeal.** Notwithstanding the Maine Revised Statutes, Title  
21 1, section 71, subsection 8, this Part is repealed in its entirety if a court of competent  
22 jurisdiction enters a final judgment concluding that no part of this Part is effective in  
23 causing the Penobscot Nation to be subject to the requirements of the federal Indian  
24 Gaming Regulatory Act with respect to the conduct of class I gaming, class II gaming and  
25 class III gaming activities within the Penobscot Indian territory. For purposes of this  
26 section, a "final judgment" does not include a judgment that is the subject of a pending  
27 appeal or for which the time period for taking an appeal has not yet expired. If this  
28 contingency is met, the Attorney General or the Chief or Tribal Council of the Penobscot  
29 Nation shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the  
30 House of Representatives and the Revisor of Statutes.

31 **PART D**

32 **Sec. D-1. 30 MRSA c. 611** is enacted to read:

33 **CHAPTER 611**

34 **GAMING BY THE PENOBSCOT NATION**

35 **§9201. Definitions**

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

38 **1. Class I gaming and class II gaming.** "Class I gaming" and "class II gaming" have  
39 the same meanings as in 25 United States Code, Section 2703, as amended.

1           **2. Gaming facility.** "Gaming facility" means a facility in which class I gaming or  
2 class II gaming activity is conducted within the Penobscot Indian territory and the  
3 contiguous areas where related and complementary services, businesses and amenities are  
4 provided within the Penobscot Indian territory.

5           **3. Gaming operations.** "Gaming operations" means the conduct of class I gaming  
6 and class II gaming activities, the provision of related and complementary services,  
7 businesses and amenities to gaming facility patrons and the siting, planning, construction  
8 and operation of a gaming facility within the Penobscot Indian territory.

9           **4. Laws of the State.** "Laws of the State" has the same meaning as in section 6203,  
10 subsection 4.

11           **5. Penobscot Indian territory.** "Penobscot Indian territory" has the same meaning as  
12 in section 6203, subsection 9.

13           **6. Tribal entity.** "Tribal entity" means a business entity, including but not limited to  
14 a corporation, partnership or limited liability company, owned by the Penobscot Nation or  
15 of which more than 50% of the ownership interests are held in aggregate by the nation,  
16 tribal members or both. For the purposes of this subsection, "tribal member" includes a  
17 married couple, at least one of whom is a tribal member.

18           **7. Tribal member.** "Tribal member" means a member of the Penobscot Nation.

19 **§9202. Gaming activities within Penobscot Indian territory**

20           **1. Class I gaming.** Notwithstanding any provision of law to the contrary and except  
21 as provided in this section, the Penobscot Nation has exclusive jurisdiction and government  
22 authority with respect to and may authorize class I gaming within the Penobscot Indian  
23 territory.

24           **2. Class II gaming.** Notwithstanding any provision of law to the contrary and except  
25 as provided in this section, the Penobscot Nation has exclusive jurisdiction and government  
26 authority with respect to and may authorize class II gaming within the Penobscot Indian  
27 territory as long as the following conditions are met:

28           A. A separate license issued by the Penobscot Nation is required for each facility at  
29 which class II gaming is conducted within the Penobscot Indian territory;

30           B. The Penobscot Nation adopts a law or ordinance that meets the requirements of 25  
31 United States Code, Section 2710(b)(2) and Section 2710(b)(4)(A), except for any  
32 required notification to, approval of or audit or other activity by the National Indian  
33 Gaming Commission or the Chair of the National Indian Gaming Commission;

34           C. The Penobscot Nation establishes a tribal gaming regulatory body that:

35           (1) Monitors gaming activities to ensure compliance with applicable federal, state  
36 and tribal laws and rules;

37           (2) Monitors the gaming revenues accounting system and routinely receives and  
38 reviews gaming revenue accounting information from class II gaming activities;

39           (3) Performs routine operational or other audits of class II gaming activities and  
40 has access to, and may inspect, examine, photocopy and audit all papers, books  
41 and records of class II gaming activities;

- 1                   (4) Monitors compliance with minimum internal control standards for class II  
2                   gaming activities;
- 3                   (5) Adopts and implements a system for investigating, licensing, and monitoring  
4                   of all employees of class II gaming activities;
- 5                   (6) Maintains records on class II gaming licensees and persons denied class II  
6                   gaming licenses, including persons otherwise prohibited from engaging in gaming  
7                   activities within the nation's jurisdiction;
- 8                   (7) Establishes standards for and issues vendor licenses or permits to  
9                   manufacturers and suppliers of class II gaming services, equipment and supplies;
- 10                  (8) Establishes or approves the rules governing the operation of class II gaming,  
11                  and requires their posting;
- 12                  (9) Adopts and implements a system for investigating possible violations of and  
13                  for enforcing tribal gaming laws, ordinances and regulations; and
- 14                  (10) Takes testimony and conducts hearings on the revocation of licenses,  
15                  including primary management official, key employee and vendor licenses; and
- 16                  D. The Penobscot Nation's conduct of class II gaming meets or exceeds the  
17                  requirements of 25 Code of Federal Regulations, Parts 531, 542, 543, 547 and 556, as  
18                  amended, except for any required notification to, approval of or audit or other activity  
19                  by the National Indian Gaming Commission or the Chair of the National Indian  
20                  Gaming Commission.
- 21                  **3. Application of tribal and state law.** Notwithstanding any provision of law to the  
22                  contrary, the Penobscot Nation has the power to enact laws and ordinances governing the  
23                  nation's gaming operations. The laws of the State do not apply to the nation's gaming  
24                  operations, except as otherwise provided in this subsection or as otherwise provided in a  
25                  written agreement between the Penobscot Nation and the State or any political subdivision  
26                  of the State.
- 27                  A. The nation's laws or ordinances relating to a health and safety matter, including but  
28                  not limited to laws or ordinances regarding food safety, sanitation, building  
29                  construction standards and inspections, fire safety and environmental protection, apply  
30                  to the nation's gaming operations, as long as the nation has laws or ordinances with  
31                  respect to that health and safety matter that are no less stringent than the corresponding  
32                  laws of the State. If the nation does not have a law or ordinance relating to a health  
33                  and safety matter or if the nation's laws or ordinances relating to a health and safety  
34                  matter are less stringent than the corresponding laws of the State, then the  
35                  corresponding laws of the State with respect to that health and safety matter apply to  
36                  the nation's gaming operations. For purposes of this paragraph, "corresponding laws  
37                  of the State" means laws of the State that apply to similar gaming operations conducted  
38                  by an entity other than the nation outside of Penobscot Indian territory.
- 39                  B. The laws of the State regarding the sale, distribution and taxation of liquor apply to  
40                  the nation's gaming operations, except as described in this paragraph. Neither a local  
41                  option election nor a county commissioner determination under Title 28-A, chapter 5  
42                  is a condition precedent to or may prohibit the sale of liquor for on-premises  
43                  consumption as part of the nation's gaming operations. An application for a license to  
44                  sell liquor for on-premises consumption submitted by an establishment that is part of

1 the nation's gaming operations must be granted without undue delay if the applicant  
2 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or  
3 renewal of any license or permit to sell liquor for on-premises consumption as part of  
4 the nation's gaming operations, approval by the governing body of the Penobscot  
5 Nation constitutes any municipal or county commissioner approval required under  
6 Title 28-A.

7 C. Notwithstanding any provision of law to the contrary and except as provided in  
8 paragraph B, the State and its political subdivisions may not impose any tax on the  
9 Penobscot Nation, its tribal members or tribal entities in connection with the nation's  
10 gaming operations.

11 **Sec. D-2. Contingent effective date.** This Part does not take effect unless Part C  
12 of this Act takes effect pursuant to Part C, section 3 of this Act and is subsequently repealed  
13 pursuant to Part C, section 4 of this Act. If the requirements of this section are met, the  
14 Attorney General or the Chief or Tribal Council of the Penobscot Nation shall notify the  
15 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives  
16 and the Revisor of Statutes.

17 **PART E**

18 **Sec. E-1. 30 MRSA §6206, sub-§6** is enacted to read:

19 **6. Houlton Band of Maliseet Indians authority to conduct gaming.** Any law of  
20 this State that is contrary to any provision of the federal Indian Gaming Regulatory Act, or  
21 that would be affected or preempted by the Act, does not apply to the conduct of class I  
22 gaming, class II gaming and class III gaming activities by the Houlton Band of Maliseet  
23 Indians within the Houlton Band Trust Land. Pursuant to the Maine Indian Claims  
24 Settlement Act of 1980, Public Law 96-420, Section 6(e)(2), the State and the Houlton  
25 Band of Maliseet Indians agree and establish that, except as provided in this section, the  
26 State does not have jurisdiction over the conduct of class I gaming, class II gaming and  
27 class III gaming activities within the Houlton Band Trust Land and the Houlton Band of  
28 Maliseet Indians has exclusive jurisdiction and governmental responsibility, subject to the  
29 requirements of the federal Indian Gaming Regulatory Act and this subsection, with respect  
30 to the conduct of class I gaming, class II gaming and class III gaming activities within the  
31 Houlton Band Trust Land.

32 A. Upon the request of the Houlton Band of Maliseet Indians, the Governor or the  
33 Governor's designee shall negotiate in good faith with the Houlton Band of Maliseet  
34 Indians in accordance with 25 United States Code, Section 2710(d)(3)(A) and execute  
35 on behalf of the State a tribal-state compact, and any amendments or modifications to  
36 the compact, governing class III gaming activities within the Houlton Band Trust Land.  
37 The federal Indian Gaming Regulatory Act governs the process by which a tribal-state  
38 compact is negotiated and executed pursuant to this paragraph and the process by which  
39 a negotiated tribal-state compact takes effect.

40 B. Notwithstanding any provision of law to the contrary, the Houlton Band of Maliseet  
41 Indians has the power to enact laws and ordinances governing the band's gaming  
42 operations. The laws of the State do not apply to the band's gaming operations, except  
43 as otherwise provided in this paragraph; as otherwise provided in a tribal-state compact  
44 negotiated under paragraph A; or as otherwise provided in a written agreement between

1 the Houlton Band of Maliseet Indians and the State or any political subdivision of the  
2 State.

3 (1) The band's laws or ordinances relating to a health and safety matter, including  
4 but not limited to laws or ordinances regarding food safety, sanitation, building  
5 construction standards and inspections, fire safety and environmental protection,  
6 apply to the band's gaming operations, as long as the band has laws or ordinances  
7 with respect to that health and safety matter that are no less stringent than the  
8 corresponding laws of the State. If the band does not have a law or ordinance  
9 relating to a health and safety matter or if the band's laws or ordinances relating to  
10 a health and safety matter are less stringent than the corresponding laws of the  
11 State, then the corresponding laws of the State with respect to that health and safety  
12 matter apply to the band's gaming operations. For purposes of this subparagraph,  
13 "corresponding laws of the State" mean laws of the State that apply to similar  
14 gaming operations conducted by an entity other than the band outside of Houlton  
15 Band Trust Land.

16 (2) The laws of the State regarding the sale, distribution and taxation of liquor  
17 apply to the band's gaming operations, except as described in this subparagraph.  
18 Neither a local option election nor a county commissioner determination under  
19 Title 28-A, chapter 5 is a condition precedent to or may prohibit the sale of liquor  
20 for on-premises consumption as part of the band's gaming operations. An  
21 application for a license to sell liquor for on-premises consumption submitted by  
22 an establishment that is part of the band's gaming operations must be granted  
23 without undue delay if the applicant meets all of the applicable requirements of  
24 Title 28-A. For purposes of the issuance or renewal of any license or permit to sell  
25 liquor for on-premises consumption as part of the band's gaming operations,  
26 approval by the governing body of the Houlton Band of Maliseet Indians  
27 constitutes any municipal or county commissioner approval required under Title  
28 28-A.

29 C. Notwithstanding any provision of law to the contrary and except as provided in  
30 paragraph B, subparagraph (2), the State and its political subdivisions may not impose  
31 any tax on the Houlton Band of Maliseet Indians, its tribal members or tribal entities  
32 in connection with the band's gaming operations. A tribal-state compact negotiated  
33 under paragraph A may include a provision whereby the Houlton Band of Maliseet  
34 Indians shares a portion of the revenue generated from the band's class III gaming  
35 activities with the State in exchange for quantifiable economic benefits in accordance  
36 with the federal Indian Gaming Regulatory Act.

37 D. For purposes of this subsection, the following terms have the following meanings.

38 (1) "Class I gaming," "class II gaming" and "class III gaming" have the same  
39 meanings as in 25 United States Code, Section 2703, as amended.

40 (2) "Federal Indian Gaming Regulatory Act" means the federal Indian Gaming  
41 Regulatory Act, 25 United States Code, Sections 2701 to 2721, as amended, and  
42 its implementing regulations, as amended.

43 (3) "Gaming facility" means a facility in which class I gaming, class II gaming or  
44 class III gaming activity is conducted within the Houlton Band Trust Land and the



1 contiguous areas where related and complementary services, businesses and  
2 amenities are provided within the Houlton Band Trust Land.

3 (4) "Gaming operations" means the conduct of class I gaming, class II gaming and  
4 class III gaming activities, the provision of related and complementary services,  
5 businesses and amenities to gaming facility patrons and the siting, planning,  
6 construction and operation of a gaming facility within the Houlton Band Trust  
7 Land.

8 (5) "Tribal entity" means a business entity, including but not limited to a  
9 corporation, partnership or limited liability company, owned by the Houlton Band  
10 of Maliseet Indians or of which more than 50% of the ownership interests are held  
11 in aggregate by the band, tribal members or both. For the purposes of this  
12 subparagraph, "tribal member" includes a married couple, at least one of whom is  
13 a tribal member.

14 (6) "Tribal member" means a member of the Houlton Band of Maliseet Indians.

15 **Sec. E-2. 30 MRSA c. 613** is enacted to read:

16 **CHAPTER 613**

17 **GAMING BY THE HOULTON BAND OF MALISEET INDIANS**

18 **§10101. Definitions**

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

21 **1. Class I gaming, class II gaming and class III gaming.** "Class I gaming," "class  
22 II gaming" and "class III gaming" have the same meanings as in 25 United States Code,  
23 Section 2703, as amended.

24 **2. Federal Indian Gaming Regulatory Act.** "Federal Indian Gaming Regulatory  
25 Act" means the federal Indian Gaming Regulatory Act, 25 United States Code, Sections  
26 2701 to 2721, as amended, and its implementing regulations, as amended.

27 **3. Gaming facility.** "Gaming facility" means a facility in which class I gaming, class  
28 II gaming or class III gaming activity is conducted within the Houlton Band Trust Land  
29 and the contiguous areas where related and complementary services, businesses and  
30 amenities are provided within the Houlton Band Trust Land.

31 **4. Gaming operations.** "Gaming operations" means the conduct of class I, class II  
32 and class III gaming activities, the provision of related and complementary services,  
33 businesses and amenities to gaming facility patrons and the siting, planning, construction  
34 and operation of a gaming facility within the Houlton Band Trust Land.

35 **5. Laws of the State.** "Laws of the State" has the same meaning as in section 6203,  
36 subsection 4.

37 **6. Tribal entity.** "Tribal entity" means a business entity, including but not limited to  
38 a corporation, partnership or limited liability company, owned by the Houlton Band of  
39 Maliseet Indians or of which more than 50% of the ownership interests are held in

1 aggregate by the band, tribal members or both. For the purposes of this subsection, "tribal  
2 member" includes a married couple, at least one of whom is a tribal member.

3 **7. Tribal member.** "Tribal member" means a member of the Houlton Band of  
4 Maliseet Indians.

5 **§10102. Gaming activities within Houlton Band Trust Land**

6 **1. Federal Indian Gaming Regulatory Act applies.** Any law of this State that is  
7 contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be  
8 affected or preempted by the Act, does not apply to the conduct of class I gaming, class II  
9 gaming and class III gaming activities by the Houlton Band of Maliseet Indians within the  
10 Houlton Band Trust Land. The Houlton Band of Maliseet Indians has exclusive jurisdiction  
11 and government authority, subject to the requirements of the federal Indian Gaming  
12 Regulatory Act and this section, with respect to the conduct of class I gaming, class II  
13 gaming and class III gaming activities within the Houlton Band Trust Land.

14 **2. Tribal-state compact.** Upon the request of the Houlton Band of Maliseet Indians,  
15 the Governor or the Governor's designee shall negotiate in good faith with the Houlton  
16 Band of Maliseet Indians in accordance with 25 United States Code, Section 2710(d)(3)(A)  
17 and execute on behalf of the State a tribal-state compact, and any amendments or  
18 modifications to the compact, governing class III gaming activities within the Houlton  
19 Band Trust Land. The federal Indian Gaming Regulatory Act governs the process by which  
20 a tribal-state compact is negotiated and executed pursuant to this subsection and the process  
21 by which a negotiated tribal-state compact takes effect.

22 **3. Application of tribal and state law.** Notwithstanding any provision of law to the  
23 contrary, the Houlton Band of Maliseet Indians has the power to enact laws and ordinances  
24 governing the band's gaming operations. The laws of the State do not apply to the band's  
25 gaming operations, except as otherwise provided in this subsection; as otherwise provided  
26 in a tribal-state compact negotiated under subsection 2; or as otherwise provided in a  
27 written agreement between the Houlton Band of Maliseet Indians and the State or any  
28 political subdivision of the State.

29 A. The band's laws or ordinances relating to a health and safety matter, including but  
30 not limited to laws or ordinances regarding food safety, sanitation, building  
31 construction standards and inspections, fire safety and environmental protection, apply  
32 to the band's gaming operations, as long as the band has laws or ordinances with respect  
33 to that health and safety matter that are no less stringent than the corresponding laws  
34 of the State. If the band does not have a law or ordinance relating to a health and safety  
35 matter or if the band's laws or ordinances relating to a health and safety matter are less  
36 stringent than the corresponding laws of the State, then the corresponding laws of the  
37 State with respect to that health and safety matter apply to the band's gaming  
38 operations. For purposes of this paragraph, "corresponding laws of the State" means  
39 laws of the State that apply to similar gaming operations conducted by an entity other  
40 than the band outside of Houlton Band Trust Land.

41 B. The laws of the State regarding the sale, distribution and taxation of liquor apply to  
42 the band's gaming operations, except as described in this paragraph. Neither a local  
43 option election nor a county commissioner determination under Title 28-A, chapter 5  
44 is a condition precedent to or may prohibit the sale of liquor for on-premises  
45 consumption as part of the band's gaming operations. An application for a license to

1 sell liquor for on-premises consumption submitted by an establishment that is part of  
2 the band's gaming operations must be granted without undue delay if the applicant  
3 meets all of the applicable requirements of Title 28-A. For purposes of the issuance or  
4 renewal of any license or permit to sell liquor for on-premises consumption as part of  
5 the band's gaming operations, approval by the governing body of the Houlton Band of  
6 Maliseet Indians constitutes any municipal or county commissioner approval required  
7 under Title 28-A.

8 C. Notwithstanding any provision of law to the contrary and except as provided in  
9 paragraph B, the State and its political subdivisions may not impose any tax on the  
10 Houlton Band of Maliseet Indians, its tribal members or tribal entities in connection  
11 with the band's gaming operations. A tribal-state compact negotiated under subsection  
12 2 may include a provision whereby the Houlton Band of Maliseet Indians shares a  
13 portion of the revenue generated from the band's class III gaming activities with the  
14 State in exchange for quantifiable economic benefits in accordance with the federal  
15 Indian Gaming Regulatory Act.

16 **Sec. E-3. Contingent effective date; certification.** This Part does not take effect  
17 unless, within 90 days of the adjournment of the First Special Session of the 130th  
18 Legislature, the Secretary of State receives written certification from the Houlton Band  
19 Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions  
20 of this Part, copies of which must be submitted by the Secretary of State to the Secretary  
21 of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; except  
22 that in no event may this part become effective until 120 days after the adjournment of the  
23 First Special Session of the 130th Legislature. Upon such written certification by the  
24 Houlton Band Council of the Houlton Band of Maliseet Indians, this Act constitutes a  
25 jurisdictional agreement for purposes of the federal Maine Indian Claims Settlement Act  
26 of 1980, Public Law 96-420, Section 6(e)(2).

27 **Sec. E-4. Contingent repeal.** Notwithstanding the Maine Revised Statutes, Title  
28 1, section 71, subsection 8, this Part is repealed in its entirety if a court of competent  
29 jurisdiction enters a final judgment concluding that no part of this Part is effective in  
30 causing the Houlton Band of Maliseet Indians to be subject to the requirements of the  
31 federal Indian Gaming Regulatory Act with respect to the conduct of class I gaming, class  
32 II gaming and class III gaming activities within the Houlton Band Trust Land. For purposes  
33 of this section, a "final judgment" does not include a judgment that is the subject of a  
34 pending appeal or for which the time period for taking an appeal has not yet expired. If this  
35 contingency is met, the Attorney General or the Houlton Band Council of the Houlton Band  
36 of Maliseet Indians shall notify the Secretary of State, the Secretary of the Senate, the Clerk  
37 of the House of Representatives and the Revisor of Statutes.

38 **PART F**

39 **Sec. F-1. 30 MRSA c. 615** is enacted to read:

40 **CHAPTER 615**

41 **GAMING BY THE HOULTON BAND OF MALISEET INDIANS**

42 **§10201. Definitions**

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

3 **1. Class I gaming and class II gaming.** "Class I gaming" and "class II gaming" have  
4 the same meanings as in 25 United States Code, Section 2703, as amended.

5 **2. Gaming facility.** "Gaming facility" means a facility in which class I gaming or  
6 class II gaming activity is conducted within the Houlton Band Trust Land and the  
7 contiguous areas where related and complementary services, businesses and amenities are  
8 provided within the Houlton Band Trust Land.

9 **3. Gaming operations.** "Gaming operations" means the conduct of class I gaming  
10 and class II gaming activities, the provision of related and complementary services,  
11 businesses and amenities to gaming facility patrons and the siting, planning, construction  
12 and operation of a gaming facility within the Houlton Band Trust Land.

13 **4. Laws of the State.** "Laws of the State" has the same meaning as in section 6203,  
14 subsection 4.

15 **5. Tribal entity.** "Tribal entity" means a business entity, including but not limited to  
16 a corporation, partnership or limited liability company, owned by the Houlton Band of  
17 Maliseet Indians or of which more than 50% of the ownership interests are held in  
18 aggregate by the band, tribal members or both. For the purposes of this subsection, "tribal  
19 member" includes a married couple, at least one of whom is a tribal member.

20 **6. Tribal member.** "Tribal member" means a member of the Houlton Band of  
21 Maliseet Indians.

22 **§10202. Gaming activities within Houlton Band Trust Land**

23 **1. Class I gaming.** Notwithstanding any provision of law to the contrary and except  
24 as provided in this section, the Houlton Band of Maliseet Indians has exclusive jurisdiction  
25 and government authority with respect to and may authorize class I gaming within the  
26 Houlton Band Trust Land.

27 **2. Class II gaming.** Notwithstanding any provision of law to the contrary and except  
28 as provided in this section, the Houlton Band of Maliseet Indians has exclusive jurisdiction  
29 and government authority with respect to and may authorize class II gaming within the  
30 Houlton Band Trust Land as long as the following conditions are met:

31 A. A separate license issued by the Houlton Band of Maliseet Indians is required for  
32 each facility at which class II gaming is conducted within the Houlton Band Trust  
33 Land;

34 B. The Houlton Band of Maliseet Indians adopts a law or ordinance that meets the  
35 requirements of 25 United States Code, Section 2710(b)(2) and Section 2710(b)(4)(A),  
36 except for any required notification to, approval of or audit or other activity by the  
37 National Indian Gaming Commission or the Chair of the National Indian Gaming  
38 Commission;

39 C. The Houlton Band of Maliseet Indians establishes a tribal gaming regulatory body  
40 that:

41 (1) Monitors gaming activities to ensure compliance with applicable federal, state  
42 and tribal laws and rules;

- 1           (2) Monitors the gaming revenues accounting system and routinely receives and  
2           reviews gaming revenue accounting information from class II gaming activities;
- 3           (3) Performs routine operational or other audits of class II gaming activities and  
4           has access to, and may inspect, examine, photocopy and audit all papers, books  
5           and records of class II gaming activities;
- 6           (4) Monitors compliance with minimum internal control standards for class II  
7           gaming activities;
- 8           (5) Adopts and implements a system for investigating, licensing and monitoring  
9           of all employees of class II gaming activities;
- 10          (6) Maintains records on class II gaming licensees and persons denied class II  
11          gaming licenses, including persons otherwise prohibited from engaging in gaming  
12          activities within the band's jurisdiction;
- 13          (7) Establishes standards for and issues vendor licenses or permits to  
14          manufacturers and suppliers of class II gaming services, equipment and supplies;
- 15          (8) Establishes or approves the rules governing the operation of class II gaming,  
16          and requires their posting;
- 17          (9) Adopts and implements a system for investigating possible violations of and  
18          for enforcing tribal gaming laws, ordinances and regulations; and
- 19          (10) Takes testimony and conducts hearings on the revocation of licenses,  
20          including primary management official, key employee and vendor licenses; and

21          D. The Houlton Band of Maliseet Indians' conduct of class II gaming meets or exceeds  
22          the requirements of 25 Code of Federal Regulations, Parts 531, 542, 543, 547 and 556,  
23          as amended, except for any required notification to, approval of or audit or other  
24          activity by the National Indian Gaming Commission or the Chair of the National Indian  
25          Gaming Commission.

26          **3. Application of tribal and state law.** Notwithstanding any provision of law to the  
27          contrary, the Houlton Band of Maliseet Indians has the power to enact laws and ordinances  
28          governing the band's gaming operations. The laws of the State do not apply to the band's  
29          gaming operations, except as otherwise provided in this subsection or as otherwise  
30          provided in a written agreement between the Houlton Band of Maliseet Indians and the  
31          State or any political subdivision of the State.

32          A. The band's laws or ordinances relating to a health and safety matter, including but  
33          not limited to laws or ordinances regarding food safety, sanitation, building  
34          construction standards and inspections, fire safety and environmental protection, apply  
35          to the band's gaming operations, as long as the band has laws or ordinances with respect  
36          to that health and safety matter that are no less stringent than the corresponding laws  
37          of the State. If the band does not have a law or ordinance relating to a health and safety  
38          matter or if the band's laws or ordinances relating to a health and safety matter are less  
39          stringent than the corresponding laws of the State, then the corresponding laws of the  
40          State with respect to that health and safety matter apply to the band's gaming  
41          operations. For purposes of this paragraph, "corresponding laws of the State" means  
42          laws of the State that apply to similar gaming operations conducted by an entity other  
43          than the band outside of Houlton Band Trust Land.



1           **3. Federal Indian Gaming Regulatory Act.** "Federal Indian Gaming Regulatory  
2 Act" means the federal Indian Gaming Regulatory Act, 25 United States Code, Sections  
3 2701 to 2721, as amended, and its implementing regulations, as amended.

4           **4. Gaming facility.** "Gaming facility" means a facility in which class I gaming, class  
5 II gaming or class III gaming activity is conducted within the Aroostook Band Trust Land  
6 and the contiguous areas where related and complementary services, businesses and  
7 amenities are provided within the Aroostook Band Trust Land.

8           **5. Gaming operations.** "Gaming operations" means the conduct of class I gaming,  
9 class II, gaming and class III gaming activities, the provision of related and complementary  
10 services, businesses and amenities to gaming facility patrons and the siting, planning,  
11 construction and operation of a gaming facility within the Aroostook Band Trust Land.

12           **6. Laws of the State.** "Laws of the State" has the same meaning as in section 6203,  
13 subsection 4.

14           **7. Tribal entity.** "Tribal entity" means a business entity, including but not limited to  
15 a corporation, partnership or limited liability company, owned by the Aroostook Band of  
16 Micmacs or of which more than 50% of the ownership interests are held in aggregate by  
17 the band, tribal members or both. For the purposes of this subsection, "tribal member"  
18 includes a married couple, at least one of whom is a tribal member.

19           **8. Tribal member.** "Tribal member" means a member of the Aroostook Band of  
20 Micmacs.

21           **§11102. Gaming activities within Aroostook Band Trust Land**

22           **1. Federal Indian Gaming Regulatory Act applies.** Any law of this State that is  
23 contrary to any provision of the federal Indian Gaming Regulatory Act, or that would be  
24 affected or preempted by the Act, does not apply to the conduct of class I gaming, class II  
25 gaming and class III gaming activities by the Aroostook Band of Micmacs within the  
26 Aroostook Band Trust Land. The Aroostook Band of Micmacs has exclusive jurisdiction  
27 and government authority, subject to the requirements of the federal Indian Gaming  
28 Regulatory Act and this section, with respect to the conduct of class I gaming, class II  
29 gaming and class III gaming activities within the Aroostook Band Trust Land.

30           **2. Tribal-state compact.** Upon the request of the Aroostook Band of Micmacs, the  
31 Governor or the Governor's designee shall negotiate in good faith with the Aroostook Band  
32 of Micmacs in accordance with 25 United States Code, Section 2710(d)(3)(A) and execute  
33 on behalf of the State a tribal-state compact, and any amendments or modifications to the  
34 compact, governing class III gaming activities within the Aroostook Band Trust Land. The  
35 federal Indian Gaming Regulatory Act governs the process by which a tribal-state compact  
36 is negotiated and executed pursuant to this subsection and the process by which a negotiated  
37 tribal-state compact takes effect.

38           **3. Application of tribal and state law.** Notwithstanding any provision of law to the  
39 contrary, the Aroostook Band of Micmacs has the power to enact laws and ordinances  
40 governing the band's gaming operations. The laws of the State do not apply to the band's  
41 gaming operations, except as otherwise provided in this subsection; as otherwise provided  
42 in a tribal-state compact negotiated under subsection 2; or as otherwise provided in a  
43 written agreement between the Aroostook Band of Micmacs and the State or any political  
44 subdivision of the State.

1           A. The band's laws or ordinances relating to a health and safety matter, including but  
2           not limited to laws or ordinances regarding food safety, sanitation, building  
3           construction standards and inspections, fire safety and environmental protection, apply  
4           to the band's gaming operations, as long as the band has laws or ordinances with respect  
5           to that health and safety matter that are no less stringent than the corresponding laws  
6           of the State. If the band does not have a law or ordinance relating to a health and safety  
7           matter or if the band's laws or ordinances relating to a health and safety matter are less  
8           stringent than the corresponding laws of the State, then the corresponding laws of the  
9           State with respect to that health and safety matter apply to the band's gaming  
10           operations. For purposes of this paragraph, "corresponding laws of the State" means  
11           laws of the State that apply to similar gaming operations conducted by an entity other  
12           than the band outside of Aroostook Band Trust Land.

13           B. The laws of the State regarding the sale, distribution and taxation of liquor apply to  
14           the band's gaming operations, except as described in this paragraph. Neither a local  
15           option election nor a county commissioner determination under Title 28-A, chapter 5  
16           is a condition precedent to or may prohibit the sale of liquor for on-premises  
17           consumption as part of the band's gaming operations. An application for a license to  
18           sell liquor for on-premises consumption submitted by an establishment that is part of  
19           the band's gaming operations must be granted without undue delay if the applicant  
20           meets all of the applicable requirements of Title 28-A. For purposes of the issuance or  
21           renewal of any license or permit to sell liquor for on-premises consumption as part of  
22           the band's gaming operations, approval by the governing body of the Aroostook Band  
23           of Micmacs constitutes any municipal or county commissioner approval required under  
24           Title 28-A.

25           C. Notwithstanding any provision of law to the contrary and except as provided in  
26           paragraph B, the State and its political subdivisions may not impose any tax on the  
27           Aroostook Band of Micmacs, its tribal members or tribal entities in connection with  
28           the band's gaming operations. A tribal-state compact negotiated under subsection 2  
29           may include a provision whereby the Aroostook Band of Micmacs shares a portion of  
30           the revenue generated from the band's class III gaming activities with the State in  
31           exchange for quantifiable economic benefits in accordance with the federal Indian  
32           Gaming Regulatory Act.

33           **Sec. G-2. Contingent effective date; certification.** This Part does not take effect  
34 unless, within 90 days of the adjournment of the First Special Session of the 130th  
35 Legislature, the Secretary of State receives written certification from the Tribal Council of  
36 the Aroostook Band of Micmacs that the band has agreed to the provisions of this Part,  
37 copies of which must be submitted by the Secretary of State to the Secretary of the Senate,  
38 the Clerk of the House of Representatives and the Revisor of Statutes; except that in no  
39 event may this Part become effective until 120 days after the adjournment of the First  
40 Special Session of the 130th Legislature. Upon such written certification by the Tribal  
41 Council of the Aroostook Band of Micmacs, this Part constitutes an agreement pursuant to  
42 the federal Aroostook Band of Micmacs Settlement Act of 1991, Public Law 102-171,  
43 Section 6(d) between the State and the Aroostook Band of Micmacs regarding the  
44 jurisdiction of the State over gaming activities on lands held in trust for the benefit of the  
45 band.





1           **6. Tribal entity.** "Tribal entity" means a business entity, including but not limited to  
2 a corporation, partnership or limited liability company, owned by the Aroostook Band of  
3 Micmacs or of which more than 50% of the ownership interests are held in aggregate by  
4 the band, tribal members or both. For the purposes of this subsection, "tribal member"  
5 includes a married couple, at least one of whom is a tribal member.

6           **7. Tribal member.** "Tribal member" means a member of the Aroostook Band of  
7 Micmacs.

8           **§11202. Gaming activities within Aroostook Band Trust Land**

9           **1. Class I gaming.** Notwithstanding any provision of law to the contrary and except  
10 as provided in this section, the Aroostook Band of Micmacs has exclusive jurisdiction and  
11 government authority with respect to and may authorize class I gaming within the  
12 Aroostook Band Trust Land.

13           **2. Class II gaming.** Notwithstanding any provision of law to the contrary and except  
14 as provided in this section, the Aroostook Band of Micmacs has exclusive jurisdiction and  
15 government authority with respect to and may authorize class II gaming within the  
16 Aroostook Band Trust Land as long as the following conditions are met:

17           A. A separate license issued by the Aroostook Band of Micmacs is required for each  
18 facility at which class II gaming is conducted within the Aroostook Band Trust Land;

19           B. The Aroostook Band of Micmacs adopts a law or ordinance that meets the  
20 requirements of 25 United States Code, section 2710(b)(2) and section 2710(b)(4)(A),  
21 except for any required notification to, approval of or audit or other activity by the  
22 National Indian Gaming Commission or the Chair of the National Indian Gaming  
23 Commission;

24           C. The Aroostook Band of Micmacs establishes a tribal gaming regulatory body that:

25           (1) Monitors gaming activities to ensure compliance with applicable federal, state  
26 and tribal laws and rules;

27           (2) Monitors the gaming revenues accounting system and routinely receives and  
28 reviews gaming revenue accounting information from class II gaming activities;

29           (3) Performs routine operational or other audits of class II gaming activities and  
30 has access to, and may inspect, examine, photocopy and audit all papers, books  
31 and records of class II gaming activities;

32           (4) Monitors compliance with minimum internal control standards for class II  
33 gaming activities;

34           (5) Adopts and implements a system for investigating, licensing and monitoring  
35 of all employees of class II gaming activities;

36           (6) Maintains records on class II gaming licensees and persons denied class II  
37 gaming licenses, including persons otherwise prohibited from engaging in gaming  
38 activities within the band's jurisdiction;

39           (7) Establishes standards for and issues vendor licenses or permits to  
40 manufacturers and suppliers of class II gaming services, equipment and supplies;

41           (8) Establishes or approves the rules governing the operation of class II gaming,  
42 and requires their posting;

1           (9) Adopts and implements a system for investigating possible violations of and  
2           for enforcing tribal gaming laws, ordinances and regulations; and

3           (10) Takes testimony and conducts hearings on the revocation of licenses,  
4           including primary management official, key employee and vendor licenses; and

5           D. The Aroostook Band of Micmacs' conduct of class II gaming meets or exceeds the  
6           requirements of 25 Code of Federal Regulations, Parts 531, 542, 543, 547 and 556, as  
7           amended, except for any required notification to, approval of or audit or other activity  
8           by the National Indian Gaming Commission or the Chair of the National Indian  
9           Gaming Commission.

10           **3. Application of tribal and state law.** Notwithstanding any provision of law to the  
11           contrary, the Aroostook Band of Micmacs has the power to enact laws and ordinances  
12           governing the band's gaming operations. The laws of the State do not apply to the band's  
13           gaming operations, except as otherwise provided in this subsection or as otherwise  
14           provided in a written agreement between the Aroostook Band of Micmacs and the State or  
15           any political subdivision of the State.

16           A. The band's laws or ordinances relating to a health and safety matter, including but  
17           not limited to laws or ordinances regarding food safety, sanitation, building  
18           construction standards and inspections, fire safety and environmental protection, apply  
19           to the band's gaming operations, as long as the band has laws or ordinances with respect  
20           to that health and safety matter that are no less stringent than the corresponding laws  
21           of the State. If the band does not have a law or ordinance relating to a health and safety  
22           matter or if the band's laws or ordinances relating to a health and safety matter are less  
23           stringent than the corresponding laws of the State, then the corresponding laws of the  
24           State with respect to that health and safety matter apply to the band's gaming  
25           operations. For purposes of this paragraph, "corresponding laws of the State" means  
26           laws of the State that apply to similar gaming operations conducted by an entity other  
27           than the band outside of Aroostook Band Trust Land.

28           B. The laws of the State regarding the sale, distribution and taxation of liquor apply to  
29           the band's gaming operations, except as described in this paragraph. Neither a local  
30           option election nor a county commissioner determination under Title 28-A, chapter 5  
31           is a condition precedent to or may prohibit the sale of liquor for on-premises  
32           consumption as part of the band's gaming operations. An application for a license to  
33           sell liquor for on-premises consumption submitted by an establishment that is part of  
34           the band's gaming operations must be granted without undue delay if the applicant  
35           meets all of the applicable requirements of Title 28-A. For purposes of the issuance or  
36           renewal of any license or permit to sell liquor for on-premises consumption as part of  
37           the band's gaming operations, approval by the governing body of the Aroostook Band  
38           of Micmacs constitutes any municipal or county commissioner approval required under  
39           Title 28-A.

40           C. Notwithstanding any provision of law to the contrary and except as provided in  
41           paragraph B, the State and its political subdivisions may not impose any tax on the  
42           Aroostook Band of Micmacs, its tribal members or tribal entities in connection with  
43           the band's gaming operations.

44           **Sec. H-2. Contingent effective date.** This Part does not take effect unless Part G  
45           of this Act takes effect pursuant to Part G, section 2 of this Act and is subsequently repealed

1 pursuant to Part G, section 3 of this Act. If the requirements of this section are met, the  
2 Attorney General or the Tribal Council of the Aroostook Band of Micmacs shall notify the  
3 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives  
4 and the Revisor of Statutes.'

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

## 7 SUMMARY

8 This amendment, which is the majority report of the committee, strikes and replaces  
9 the bill. Parts A, C, E and G of the amendment provide that each of the 4 federally  
10 recognized Indian tribes in the State may conduct gaming on their respective Indian  
11 territories or trust lands under the framework established by the federal Indian Gaming  
12 Regulatory Act.

13 In *Passamaquoddy v. Maine*, 75 F.3d 784 (1st Cir. 1996), the United States Court of  
14 Appeals for the First Circuit held that, because the federal Indian Gaming Regulatory Act  
15 affects or preempts the application of the gaming laws of the State, it does not apply within  
16 the State under Section 16(b) of the federal Maine Indian Claims Settlement Act of 1980.  
17 Parts A, C, E and G of the amendment eliminate the basis for that court decision by  
18 providing that any state law that is contrary to the terms of the federal Indian Gaming  
19 Regulatory Act or that would be affected or preempted by the Act does not apply to the  
20 conduct of gaming by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band  
21 of Maliseet Indians or the Aroostook Band of Micmacs within their respective Indian  
22 territory or trust land.

23 In addition, through Parts A, C, E and G of the amendment, each of which will not take  
24 effect unless it has been approved by the appropriate tribal governmental authority of the  
25 Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or the  
26 Aroostook Band of Micmacs, respectively, the State and each tribe, nation or band agree  
27 and establish that the tribe, nation or band has exclusive jurisdiction and governmental  
28 responsibility, subject to the requirements of the federal Indian Gaming Regulatory Act  
29 and the terms of the amendment, with respect to the conduct of gaming on the tribe's,  
30 nation's or band's respective Indian territory or trust land. Parts A, C and E of the  
31 amendment codify the agreement between the State and the Passamaquoddy Tribe, the  
32 Penobscot Nation and the Houlton Band of Maliseet Indians both in amendments to the Act  
33 to Implement the Maine Indian Claims Settlement, commonly referred to as the "Maine  
34 Implementing Act," as contemplated and authorized in Section 6(e) of the federal Maine  
35 Indian Claims Settlement Act of 1980, and in separate chapters within the Maine Revised  
36 Statutes, Title 30. In Part G of the amendment, the agreement between the State and the  
37 Aroostook Band of Micmacs, which is contemplated and authorized in Section 6(d) of the  
38 federal Aroostook Band of Micmacs Settlement Act, is codified in a chapter of Title 30 that  
39 is not part of the Maine Implementing Act.

40 Accordingly, under Parts A, C, E and G of the amendment, the Passamaquoddy Tribe,  
41 the Penobscot Nation, the Houlton Band of Maliseet Indians and the Aroostook Band of  
42 Micmacs may conduct gaming under the federal Indian Gaming Regulatory Act and the  
43 terms of the amendment. Each tribe, nation or band may conduct class I gaming on its  
44 Indian territory or trust land as a matter of tribal sovereignty. Each tribe, nation or band  
45 may also conduct class II gaming under the regulations adopted by and the oversight of the

1 National Indian Gaming Commission after adopting a tribal ordinance governing class II  
2 gaming operations that is approved by the National Indian Gaming Commission. To  
3 conduct class III gaming, which includes the operation of slot machines and casino-style  
4 table games, each tribe, nation or band must adopt a tribal ordinance governing class III  
5 gaming operations that is approved by the National Indian Gaming Commission. In  
6 addition, before it may commence class III gaming activities under the regulations adopted  
7 by and the oversight of the National Indian Gaming Commission, the Governor must  
8 negotiate in good faith a tribal-state compact with the tribe, nation or band that governs the  
9 application of and enforcement of criminal and civil laws and regulations of the tribe and  
10 the State over class III gaming; assessments imposed by the State to defray the costs of  
11 regulating class III gaming; taxation by the tribe, nation or band of class III gaming in  
12 amounts comparable to amounts assessed by the State for comparable activities; licensing  
13 standards for the class III gaming facility; and any other subjects directly related to the  
14 operation of class III gaming activities.

15 Parts A, C, E and G also provide that, except as otherwise negotiated in a tribal-state  
16 compact with respect to class III gaming, state laws governing the sale, distribution and  
17 taxation of liquor apply to each tribe's, nation's or band's gaming operations and state laws  
18 relating to health and safety matters govern each tribe's, nation's or band's gaming  
19 operations unless the tribe, nation or band has adopted a law or ordinance that is no less  
20 stringent than the corresponding state law. The State and its political subdivisions may not  
21 impose any tax on the tribe, nation or band, tribal members or tribal entities in connection  
22 with the tribe's, nation's or band's gaming operations, except that the tribal-state compact  
23 may provide that the State will receive a portion of class III gaming revenues in exchange  
24 for providing quantifiable economic benefits that the State is not otherwise required to  
25 provide under the federal Indian Gaming Regulatory Act. Under the amendment, "gaming  
26 operations" means the conduct of gaming activities, the provision of related and  
27 complementary services, businesses and amenities to gaming facility patrons and the siting,  
28 planning, construction and operation of a gaming facility.

29 If, in the future, a court of competent jurisdiction enters a final judgment concluding  
30 that Part A, C, E or G of the amendment is legally insufficient to render the federal Indian  
31 Gaming Regulatory Act applicable to the conduct of gaming by the Passamaquoddy Tribe,  
32 the Penobscot Nation, the Houlton Band of Maliseet Indians or the Aroostook Band of  
33 Micmacs, the relevant Part will be repealed in its entirety and replaced, respectively, by  
34 Part B, D, F or H of the amendment.

35 Under Part B, D, F or H, the affected tribe, nation or band will be authorized to conduct  
36 class I and class II gaming, but not class III gaming, within that tribe's, nation's or band's  
37 respective Indian territory or trust land as a matter of state law. For purposes of class II  
38 gaming, the state law established in Parts B, D, F and H of the amendment incorporates  
39 specific requirements applicable to class II gaming under the federal Indian Gaming  
40 Regulatory Act, including that the tribe, nation or band must have the sole proprietary  
41 interest in and responsibility for the conduct of class II gaming; that class II gaming  
42 revenues may be used only for purposes that benefit the tribe, nation or band and tribal  
43 members, charitable organizations or local government agencies; that a class II gaming  
44 facility must be constructed and operated in a manner that protects the environment and  
45 public health and safety; that the tribe, nation or band must establish a tribal gaming  
46 regulatory body to administer and oversee class II gaming; that background investigations

1 must be conducted for primary management officials and key employees of class II gaming  
2 facilities; and that the minimum internal control standards and minimal technical standards  
3 of the federal Indian Gaming Regulatory Act must be satisfied for class II gaming systems  
4 and equipment. In addition, under Parts B, D, F and H, state laws governing the sale,  
5 distribution and taxation of liquor apply to each tribe's, nation's or band's gaming  
6 operations; state laws relating to health and safety matters govern each tribe's, nation's or  
7 band's gaming operations unless the tribe, nation or band has a law or ordinance that is no  
8 less stringent than the corresponding state law; but the State and its political subdivisions  
9 may not impose any tax on the tribe, nation or band, tribal members or tribal entities in  
10 connection with the tribe's, nation's or band's class I and class II gaming operations.

11 **FISCAL NOTE REQUIRED**

12 **(See attached)**