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Date: (Filing No. H-)

TAXATION

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

COMMITTEE AMENDMENT “ ” to H.P. 1260, L.D. 1958, “An Act to Provide the Mi'kmaq Nation with Sales Tax Revenue for Sales Occurring on Mi'kmaq Nation Territory”

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

'An Act to Revise the Tax Laws Regarding the Mi'kmaq Nation'

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

'PART A

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

- 1. Improve the economic opportunities available to and the welfare of the Mi'kmaq Nation and its members;
- 2. Encourage economic development within the lands of the Mi'kmaq Nation, the benefits of which will accrue not only to the nation and its members but also to surrounding communities and the State; and
- 3. Clarify and simplify the application of the State's tax laws to the Mi'kmaq Nation as well as to its lands and members, in order to reduce the costs of tax compliance to the nation and its members and to reduce the cost to the State of administering its tax laws.

PART B

Sec. B-1. 36 MRSA §111, sub-§1-F is enacted to read:

1-F. Mi'kmaq Nation. "Mi'kmaq Nation" means the sole successor to the Mi'kmaq Nation as constituted in aboriginal times in what is now the State, and all its predecessors and successors in interest. The Mi'kmaq Nation is represented, as of the date of enactment of this subsection, as to lands within the United States by the Mi'kmaq Tribal Council. This definition has the same meaning as under Section 3(1) of the federal Aroostook Band of Micmacs Settlement Act (1991).

COMMITTEE AMENDMENT

1 **Sec. B-2. 36 MRSA §111, sub-§1-G** is enacted to read:

2 **1-G. Mi'kmaq Nation Trust Land.** "Mi'kmaq Nation Trust Land" means land or
3 natural resources acquired by the United States Secretary of the Interior in trust for the
4 Mi'kmaq Nation pursuant to federal legislation concerning the Mi'kmaq Nation and has the
5 same meaning as under Section 3(3) of the federal Aroostook Band of Micmacs Settlement
6 Act (1991).

7 **Sec. B-3. 36 MRSA §111, sub-§8**, as enacted by PL 2021, c. 681, Pt. C, §7, is
8 amended to read:

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

10 A. Wholly owned by the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the
11 Passamaquoddy Tribe, the Penobscot Nation, a tribal member or tribal members or
12 some combination thereof. For purposes of determining ownership of an entity, a
13 married couple including at least one tribal member is treated as one tribal member,
14 regardless of which spouse owns the entity; or

15 B. ~~Where~~ When 75% of the ownership interests are held in aggregate by the Houlton
16 Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the
17 Penobscot Nation and the entity is controlled and managed by the Houlton Band of
18 Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot
19 Nation, consistent with the requirements of 13 Code of Federal Regulations, Section
20 124.109(c)(4); as determined by the federal Small Business Administration or the
21 assessor as consistent with 13 Code of Federal Regulations, Section
22 124.109(c)(4)(i)(A); or as determined by the federal Small Business Administration as
23 consistent with 13 Code of Federal Regulations, Section 124.109(c)(4)(i)(B).

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

26 **Sec. B-4. 36 MRSA §111, sub-§9**, as enacted by PL 2021, c. 681, Pt. C, §8, is
27 amended to read:

28 **9. Tribal land.** "Tribal land" means land within the Houlton Band Trust Land, the
29 Mi'kmaq Nation Trust Land, the Passamaquoddy Indian territory or the Penobscot Indian
30 territory.

31 **Sec. B-5. 36 MRSA §111, sub-§10**, as enacted by PL 2021, c. 681, Pt. C, §9, is
32 amended to read:

33 **10. Tribal member.** "Tribal member" means an enrolled member of the Houlton
34 Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot
35 Nation.

36 **Sec. B-6. 36 MRSA §194-E**, as enacted by PL 2021, c. 681, Pt. C, §10, is amended
37 to read:

38 **§194-E. Tribes deemed as acting in a governmental capacity**

39 For purposes of Parts 3 and 8 of this Title, the Passamaquoddy Tribe and the Penobscot
40 Nation are deemed to act in a governmental capacity as described in Title 30, section 6208,
41 subsection 3 and not in a business capacity. For purposes of Parts 3 and 8 of this Title, the

1 Houlton Band of Maliseet Indians ~~is~~ and the Mi'kmaq Nation are deemed to act in a
2 governmental capacity and not in a business capacity.

3 **Sec. B-7. Application.** For the purposes of the Maine Revised Statutes, Title 36,
4 Part 3, this Part applies to sales occurring on or after January 1, 2024. For purposes of Title
5 36, Part 8, this Part applies to tax years beginning on or after January 1, 2024.

6 **PART C**

7 **Sec. C-1. 36 MRSA §1760, sub-§112,** as enacted by PL 2021, c. 681, Pt. D, §1, is
8 amended to read:

9 **112. Tribes.** Sales to the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the
10 Passamaquoddy Tribe or the Penobscot Nation. For purposes of section 1760-C, sales to
11 the tribes identified in this subsection for any purpose are exempt.

12 **Sec. C-2. Application.** This Part applies to sales occurring on or after January 1,
13 2024.

14 **PART D**

15 **Sec. D-1. 36 MRSA §191, sub-§2, ¶QQQ,** as enacted by PL 2021, c. 681, Pt. E,
16 §1, is amended to read:

17 QQQ. The disclosure of information to the Houlton Band of Maliseet Indians, the
18 Mi'kmaq Nation, the Passamaquoddy Tribe or the Penobscot Nation necessary for the
19 administration of sales tax revenue transfers under section 1815.

20 **Sec. D-2. 36 MRSA §1815, sub-§1-C** is enacted to read:

21 **1-C. Mi'kmaq Sales Tax Fund.** The Mi'kmaq Sales Tax Fund, referred to in this
22 section as "the Mi'kmaq fund," is established as a dedicated account to be administered by
23 the Treasurer of the State for the purpose of returning sales tax revenue to the Mi'kmaq
24 Nation pursuant to subsections 2 and 3.

25 **Sec. D-3. 36 MRSA §1815, sub-§2,** as amended by PL 2021, c. 681, Pt. E, §2, is
26 further amended to read:

27 **2. Monthly transfer.** By the 20th day of each month, the assessor shall notify the
28 State Controller and the Treasurer of State of the amount of revenue attributable to the tax
29 collected under this chapter in the previous month on sales occurring on the
30 Passamaquoddy Indian territory, the Penobscot Indian territory ~~and~~, the Houlton Band
31 Trust Land ~~and the Mi'kmaq Nation Trust Land~~, respectively, reduced by the transfer to the
32 Local Government Fund required by Title 30-A, section 5681. When notified by the
33 assessor, the State Controller shall transfer those amounts to the Passamaquoddy fund, the
34 Penobscot fund ~~and~~, the Maliseet fund and the Mi'kmaq fund, respectively.

35 For purposes of this subsection, a sale occurs on the Passamaquoddy Indian territory, the
36 Penobscot Indian territory ~~or~~, the Houlton Band Trust Land or the Mi'kmaq Nation Trust
37 Land if:

38 A. The business location of the seller from which the purchase is made is on
39 Passamaquoddy Indian territory, Penobscot Indian territory ~~or~~, Houlton Band Trust
40 Land or Mi'kmaq Nation Trust Land, respectively; and

1 B. The tangible personal property or taxable service is received by the purchaser also
2 on Passamaquoddy Indian territory, Penobscot Indian territory ~~or~~ Houlton Band Trust
3 Land or Mi'kmaq Nation Trust Land, respectively. For purposes of this paragraph,
4 "received" has the same meaning as in section 1819.

5 **Sec. D-4. 36 MRSA §1815, sub-§3**, as amended by PL 2021, c. 681, Pt. E, §2, is
6 further amended to read:

7 **3. Monthly payment.** By the end of each month, the Treasurer of State shall make
8 payments to the Passamaquoddy Tribe from the Passamaquoddy fund, to the Penobscot
9 Nation from the Penobscot fund ~~and~~ to the Houlton Band of Maliseet Indians from the
10 Maliseet fund and to the Mi'kmaq Nation from the Mi'kmaq fund equal to the amounts
11 transferred into the respective fund.

12 **Sec. D-5. 36 MRSA §1815, sub-§4**, as enacted by PL 2021, c. 681, Pt. E, §2, is
13 amended to read:

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

19 **Sec. D-6. Application.** This Part applies to sales occurring on or after January 1,
20 2024.

21 **PART E**

22 **Sec. E-1. 36 MRSA §5102, sub-§6**, as amended by PL 2021, c. 681, Pt. G, §2, is
23 further amended by amending the last paragraph to read:

24 "Corporation" does not include the Passamaquoddy Tribe, the Penobscot Nation, the
25 Houlton Band of Maliseet Indians, the Mi'kmaq Nation or a corporation organized by the
26 Passamaquoddy Tribe, the Penobscot Nation ~~or~~ the Houlton Band of Maliseet Indians or
27 the Mi'kmaq Nation under Section 17 of the federal Indian Reorganization Act, 25 United
28 States Code, Section 5124.

29 **Sec. E-2. Application.** This Part applies to tax years beginning on or after January
30 1, 2024.

31 **PART F**

32 **Sec. F-1. Rulemaking.** The Department of Administrative and Financial Services,
33 Bureau of Revenue Services may adopt rules to implement Parts A, B, C, D and E. Rules
34 adopted under this section may include, but are not limited to, rules specifying reporting
35 requirements and the maintenance by the Mi'kmaq Nation and provision to the bureau of
36 lists of the tribe's tribal land, tribal members, tribal entities and corporations organized
37 under 25 United States Code, Section 5124. Rules adopted pursuant to this section are
38 routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375,
39 subchapter 2-A.

40 **PART G**

1 **Sec. G-1. Appropriations and allocations.** The following appropriations and
2 allocations are made.

3 **TREASURER OF STATE, OFFICE OF**
4 **Mi'kmaq Sales Tax Fund N474**

5 Initiative: Establishes the Mi'kmaq Sales Tax Fund to collect and remit sales tax collected
6 on Mi'kmaq Nation Trust Land.

7 OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
8 All Other	\$500	\$500
9		
10 OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$500</u>	<u>\$500</u>

11

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

14

SUMMARY

15 This amendment replaces the bill and changes the title. It establishes tax treatment for
16 the Mi'kmaq Nation that is equal to the treatment of other tribal entities by the State as
17 provided in Public Law 2021, chapter 681.

18

FISCAL NOTE REQUIRED

19

(See attached)