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SPONSOR'S REVISED PROPOSED COMMITTEE AMENDMENT
For Work Session 3/16/22

🡸 *Changes to the original proposed amendment are highlighted*

Committee Amendment " " to LD 585, An Act To Restore to the Penobscot Nation and Passamaquoddy Tribe the Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010

Amend the title to read:

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

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

PART A

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

CHAPTER 376

TRIBAL-STATE COLLABORATION

§11051. Short title

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

§11052. Definitions

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

1. Indian tribe. "Indian tribe" means a federally recognized Indian tribe within the state of Maine.

2. Agency. "Agency" means the following:

A. The Department of Agriculture, Conservation and Forestry;

B. The Department of Corrections;

C. The Department of Economic and Community Development;

D. The Department of Education;

E. The Department of Environmental Protection;

F. The Department of Health and Human Services;

G. The Department of Inland Fisheries and Wildlife;

H. The Department of Labor;

I. The Department of Public Safety;

J. The Department of Administrative and Financial Services;

K. The Department of Professional and Financial Regulation;

L. The Department of Defense, Veterans and Emergency Management;

M. The Department of Marine Resources;

N. The Department of Transportation;

O. The Office of the Public Advocate; and

P. The Public Utilities Commission.

§11053. Collaboration between Agencies and Indian Tribes

1. Required policies. Each agency shall develop and implement a policy that:

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

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

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

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

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

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

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

(4) Requiring the agency to make reasonable efforts to complete the collaboration process before taking final action on the contemplated program, or service, or in the case of a rule, before publication of the proposed rule pursuant to section 8053, subsection 5; and

E. Establishes a method for informing employees of the agency of the provisions of the Tribal-State Collaboration Act and the policy that the agency adopts pursuant to this section.

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

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

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

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

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

§11054. Training of agency employees.

1. Mandatory training. Each agency shall ensure that the tribal liaison, other employees responsible for tribal collaboration under this Act, and other employees whose work substantially and uniquely affects Indian tribes or tribal members receives training designed to promote:

A. Effective communication and collaboration between the agency and the Indian tribes;

B. Positive government-to-government relations between the State and Indian tribes; and

C. Cultural competency in tribal issues.

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

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

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

B. Implementation of the provisions of this Act; and

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

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

A. A copy of the current policy adopted under section 11053, subsection 1 and a description of any changes that have been made to that policy since the filing of the previous report. If the agency has not yet adopted a policy under section 11053, subsection 1, the agency must describe the steps the agency has taken to adopt such a policy;

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

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

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

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

3. Reports by Indian tribes. Beginning January 10, 2023 and biennially by January 10th thereafter, each Indian tribe may file report with the joint standing committee of the Legislature having jurisdiction over judiciary matters and the Maine Indian Tribal-State Commission that includes a summary of the collaboration between the Indian tribe and agencies under the Tribal-State Collaboration Act during the previous reporting period, and any

recommendations for improving the effectiveness of the Act, including recommendations regarding other agency actions for which it may be appropriate to require collaboration under the Act.

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

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

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

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

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

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

Sec. A-2. 30-A MRSA §2202, sub-§2 is amended to read:

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

A. The Passamaquoddy Tribe; ~~and~~

B. The Penobscot Nation; and

C. The Houlton Band of Maliseet Indians.

PART B

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

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

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

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

PART C

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

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

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

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

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

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

Sec. C-4. 36 MRSA §111, sub-§3-B is enacted to read:

3-B. Passamaquoddy Tribe. "Passamaquoddy Tribe" has the same meaning as in Title 30, section 6203, subsection 7.

Sec. C-5. 36 MRSA §111, sub-§3-C is enacted to read:

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

Sec. C-6. 36 MRSA §111, sub-§3-D is enacted to read:

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

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

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

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

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

A tribal entity must be a separate and distinct legal entity organized or chartered by Federal ~~or~~ state or tribal authorities.

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

9. Tribal land. "Tribal land" means land within the Houlton Band Trust Land, the Passamaquoddy Indian Territory, or the Penobscot Indian Territory.

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

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

Sec. C-10. 36 MRSA §195-E is enacted to read:

195-E. Tribes deemed as acting in a governmental capacity

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

PART D

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

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

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

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

For purposes of this subsection,

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

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

Sec. D-3. 36 MRSA §1760, sub-§114 is enacted to read:

114. Tribal entities. Sales to a tribal entity that are sourced to tribal land~~. If~~, except that, if the property or service is used by the purchaser, including any lessee, primarily outside of tribal land, the purchaser is liable for use tax based on the original sale price, unless otherwise exempt under this Part.

For purposes of this subsection:

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

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

Sec. D-4. Applicability. This Part applies to sales occurring on or after January 1, 2023.

PART E

Sec. E-1. 36 MRSA §191, sub-§2, ¶QQQ is enacted to read:

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

Sec. E-2. 36 MRSA §1815, as enacted by PL 1999, c. 477, §1, is amended to read:

§1815. Tax from sales occurring on ~~Passamaquoddy reservation~~ Tribal Land

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

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

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

2. Monthly transfer. By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under chapter 213 ~~this Part~~ in the previous month on sales occurring on the Passamaquoddy ~~reservation at either Pleasant Point or Indian Township~~ Indian territory, the Penobscot Indian territory and the Houlton Band Trust Land, respectively, reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681. When notified by the assessor, the State Controller shall transfer ~~that amount~~ those amounts to the Passamaquoddy ~~Sales Tax Fund~~ fund, the Penobscot fund and the Maliseet fund, respectively.

For purposes of this subsection, "occurring on" means:

A. The business location of the seller from which the purchase is made is on tribal land; and

B. The tangible personal property or taxable service is received by the purchaser on tribal land. For purposes of this paragraph, "received" has the same meaning as in section 1819.

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

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

Sec. E-3. Applicability. This Part applies to sales occurring on or after January 1, 2023.

PART F

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

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

Sec. F-2. 36 MRSA §4303, first ¶, as amended by PL 2021, c. 222, §1 and affirmed by §7, is further amended to read:

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

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

§4303-B. Exemption for wild blueberries grown on tribal lands

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

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

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

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

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

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

B. Any potatoes received by a processor that are certified as unmerchantable by a federal state inspector; and

C. Any potatoes grown on tribal lands.

Sec. F-6. Applicability. Section F-1 of this Part applies to commercial forestry excise tax due on or after January 1, 2023. Sections F-2 and F-3 of this Part apply to unprocessed wild blueberries received in this State for processing, or transported to a destination outside the State, on or after January 1, 2023. The provision of Section

F-5 of this part that enacts Title 36, section 4605, subsection 1-A, paragraph C applies to potatoes received, sold or shipped by a shipper in this State on or after January 1, 2023.

PART G

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

5-A. Tribal member residing on tribal land. "Tribal member residing on tribal land" is a tribal member:

A. Who is domiciled on tribal land, unless:

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

(2) Within any period of 548 consecutive days, the individual:

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

(b) Is not present on tribal land for more than 90 days;

(c) Does not maintain a permanent place of abode on tribal land at which a minor child of the individual or the individual's spouse is present for more than 90 days, unless the individual and the individual's spouse are legally separated; and

(d) During the nonresident portion of the taxable year with which, or within which, such period of 548 consecutive days begins and the nonresident portion of the taxable year with which, or within which, such period ends, is present on tribal land for a number of days that does not exceed an amount that bears the same ratio to 90 as the number of days contained in such portion of the taxable year bears to 548;

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

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

Sec. G-2. 36 MRSA §5102, sub-§6, is amended to read:

6. Corporation. "Corporation" means any business entity subject to income taxation as a corporation under the laws of the United States, except the following:

A. A corporation that is subject to tax under chapter 357 or that would be subject to tax under chapter 357 if the insurance business conducted by such corporation were conducted in this State;

B. A corporation subject to tax under section 5206;

C. A business entity referred to in Title 24-A, section 1157, subsection 5, paragraph B, subparagraph (1); or

D. A person that is engaged solely in the business of reinsuring risks of one or more affiliated insurance companies that are not captive insurance companies formed or licensed under Title 24-A, chapter 83 or under

the laws of another state. "Insurance companies" means companies that are subject to tax under chapter 357 or that would be subject to tax under chapter 357 if the insurance business conducted by such companies were conducted in this State.

For purposes of this subsection, a corporation described in paragraph A is an "insurance company," and a health maintenance organization to the extent operated under authority of a certificate issued by the Superintendent of Insurance pursuant to Title 24-A, section 4204 is a "Maine health maintenance organization." Notwithstanding paragraph A, an insurance company is subject to the tax imposed by this Part with respect to income it receives from a Maine health maintenance organization, except where the Maine health maintenance organization is separately organized and subject to income taxation. The provisions of this Part pertaining to the taxation and reporting obligations of a unitary business, including section 5200, section 5220, subsection 5 and section 5244, apply to the income, factors and affiliations of an insurance company arising from a Maine health maintenance organization as though the Maine health maintenance organization were a separate corporation, but do not otherwise apply to such insurance company.

"Corporation" does not include the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or a corporation organized under Section 17 of the federal Indian Reorganization Act of 1934, United States Code, Title 25, Section 5124.

Sec. G-3. 36 MRSA §5122, sub-§1, ¶PP is enacted to read:

PP. For a tribal member residing on tribal land and for an estate of a decedent who at the time of death was a tribal member residing on tribal lands, the absolute value of the Maine adjusted gross income derived from or connected with sources on tribal lands as determined under section 5132 if the net amount is less than zero;

Sec. G-4. 36 MRSA §5122, sub-§2, ¶XX is enacted to read:

XX. For a tribal member residing on tribal land and for an estate of a decedent who at the time of death was a tribal member residing on tribal lands, the Maine adjusted gross income derived from or connected with sources on tribal lands as determined under section 5132 if the net amount is greater than zero;

Sec. G-5. 36 MRSA §5132 is enacted to read:

§5132. Income or loss from sources on tribal lands

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

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

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

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

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

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

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

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

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

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

3. Intangibles. Income from intangible personal property including annuities, dividends, interest and gains from the disposition of intangible personal property shall constitute income derived from sources within tribal lands only to the extent that such income is from property employed in a business, trade, profession, or occupation carried on within tribal lands.

4. Gain or loss on sale of partnership interest. Notwithstanding subsection 3, the gain or loss on the sale of a partnership interest is sourced to tribal lands in an amount equal to the gain or loss multiplied by the ratio obtained by dividing the original cost of partnership tangible property located on tribal lands by the original cost of partnership tangible property everywhere, determined at the time of the sale. Tangible property includes property owned or rented and is valued in accordance with section 5211, subsection 10. If more than 50% of the value of the partnership's assets consists of intangible property, gain or loss from the sale of the partnership interest is sourced to tribal lands in accordance with the property and payroll factors of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold. For purposes of this subsection, the property and payroll factors of a partnership are determined in accordance with chapter 821. This subsection does not apply to the sale of a limited partner's interest in an investment partnership where more than 80% of the value of the partnership's total assets consists of intangible personal property held for investment, except that such property cannot include an interest in a partnership unless that partnership is itself an investment partnership.

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

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

6. Apportionment. If a business, trade, profession or occupation is carried on partly within and partly without tribal lands, the items of income and deduction derived from or connected with sources within tribal lands shall be determined as apportioned to tribal lands following the methods for apportioning income to this State under chapter 821, except that instead of apportioning income to tribal lands using the sales factor pursuant to section 5211, subsection 8, income is apportioned to tribal lands by multiplying the income by a fraction, the

numerator of which is the property factor plus the payroll factor, and the denominator of which is 2, or in the case of the rendering of purely personal services by an individual under regulations to be prescribed by the assessor.

Sec. G-6. Applicability. This Part applies to tax years beginning on or after January 1, 2023.

PART H

Sec. H-1. Rulemaking. The Bureau of Revenue Services may adopt rules to implement Parts C, D, E, F and G of this Act. Rules adopted under this section may include, but are not limited to, rules specifying reporting requirements and the maintenance by the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and provision to the bureau of lists of each tribe's respective tribal land, tribal members, tribal entities and corporations organized under Section 17 of the federal Indian Reorganization Act of 1934, 25 United States Code Section 5124. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

PART I

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

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

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

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

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

PART J

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

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

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

§103. Agricultural Fair Promotion Fund

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

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

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

4. Distribution. On January 31st and July 31st of each year, all amounts credited to the fund established by this section as of the last day of the preceding month and not distributed before that day must be distributed by the Treasurer of State in equal shares to each organization in the State that has been identified by the commissioner as an eligible nonprofit organization under subsection 2.

Sec. J-3. 8 MRSA §290, as enacted by PL 1997, c. 528, §46, is amended to read:

§290. Purse supplement

1. Payment. Amounts received pursuant to section 1218, subsection 1, paragraph C and amounts calculated as purse supplement share under section 286 must be paid to the commission for distribution as provided in subsection 2.

2. Distribution. On May 30th, September 30th and January 30th, ~~payments made~~ amounts received under ~~this subsection and~~ subsection 1 for distribution in accordance with this subsection must be divided among the licensees conducting live racing in the State. The amount of the payment made to a licensee is calculated by ~~dividing~~ multiplying the amount of money available for distribution by a fraction, the numerator of which is the number of race dates on which that licensee conducted live racing in any calendar year ~~by~~ and the denominator of which is the total number of race dates on which all licensees conducted live racing in that year. Beginning January 30, 1997, the January 30th payment must be adjusted to reflect the dates when live racing was actually conducted during the previous year, not the dates granted.

Sec. J-4. 8 MRSA §1003, sub-§5, as repealed and replaced by PL 2017, c. 475, Pt. A, §11, is amended to read:

5. Additional duties of the director. The director also serves as the director of the Gambling Control Unit, established as a bureau within the Department of Public Safety under Title 25, section 2902, subsection 12. As director of the unit, the director shall administer and enforce the laws governing fantasy contests under chapter 33, sports wagering under chapter 35 and beano and games of chance under Title 17, chapters 13-A and 62, respectively.

Sec. J-5. 8 MRSA §1104, sub-§2, as enacted by PL 2017, c. 303, §2, is amended to read:

2. Certain leagues and contests prohibited. A fantasy contest operator may not offer a fantasy contest based on the performances of participants in ~~collegiate or~~ high school athletic events or other athletic events involving participants under 18 years of age.

Sec. J-6. 8 MRSA c. 35 is enacted to read:

CHAPTER 35
REGULATION OF SPORTS WAGERING

§1201. Authorization of sports wagering; license required

Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.

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

§1202. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§1203. Powers and duties of director

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

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

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

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

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

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

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

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

A. Additional qualifications and procedures for obtaining a facility sports wagering license, supplier license, management services license, mobile sports wagering license or occupational license, including the procedure and qualifications for obtaining a waiver of the occupational license requirement;

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

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

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

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

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

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

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

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

J. Minimum requirements for a contract between a management services licensee under section 1209 and an operator on whose behalf the management services licensee conducts sports wagering, including but not limited to requirements that the person providing management services is licensed prior to entering a contract, that the contract be approved by the director prior to the conduct of sports wagering; that, if the management services licensee contracts with more than one operator, the contract include a condition requiring the management services licensee to employ a method approved by the director for separately accounting for each operator’s gross receipts from sports wagering and adjusted gross sports wagering receipts; and that the contract not authorize the person providing management services to receive more than 30 percent of the operator’s adjusted gross sports wagering receipts, except that the director may approve a contract authorizing

the management services licensee to receive up to 40 percent of the operator's adjusted gross sports wagering receipts if the director determines that the management services licensee has demonstrated that the fee is commercially reasonable given the management services licensee's capital investments and the operator's projected adjusted gross sports wagering receipts;

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

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

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

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

§1204. Application; criminal history background check

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

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

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

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

D. For the applicant and each person disclosed under paragraph B, a record of previous issuances and denials of or any adverse action taken against a gambling-related license or application under this Title or in any other jurisdiction. For purposes of this paragraph, "adverse action" includes, but is not limited to, a condition resulting from an administrative, civil or criminal violation, a suspension or revocation of a license or a voluntary surrender of a license to avoid or resolve a civil, criminal or disciplinary action; and

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

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

A. Each corporate holding company, parent company or subsidiary company of a corporate applicant or licensee and each person that owns 10% or more of the corporate applicant or licensee and that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of

that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;

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

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

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

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

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

C. An individual required to submit to a criminal history record check under this subsection shall submit to having the individual's fingerprints taken. The State Police, upon payment by the individual of the fee required under paragraph E, shall take or cause to be taken the individual's fingerprints and shall immediately forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. Any person who fails to transmit criminal fingerprint records to the State Bureau of Identification pursuant to this paragraph is subject to the provisions of Title 25, section 1550.

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

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

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

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

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

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

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

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

§1205. Denial of license; administrative sanctions

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

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

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

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

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

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

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

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

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

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

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

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

G. If the applicant, the licensee or a person having control of the applicant or licensee under section 1204, subsection 2 has not demonstrated financial responsibility. For the purposes of this paragraph, "financial

responsibility" means a demonstration of a current and expected future condition of financial solvency sufficient to satisfy the director that the applicant, the licensee or the person can successfully engage in business without jeopardy to the public health, safety and welfare. "Financial responsibility" may be determined by an evaluation of the total history concerning the applicant, the licensee or the person, including past, present and expected condition and record of financial solvency, business record and accounting and managerial practices;

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

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

2. Denial of initial license or renewed license; notice; hearing. The director may deny an application for a license or for renewal of a license for the reasons set forth in subsection 1. The director shall notify the applicant or the licensee in writing of the decision and of the opportunity to request a hearing conducted by the commissioner.
If the applicant or licensee fails to request a hearing within 30 days of the date that the notice was mailed under this subsection, the director may issue a final decision denying the application for a license or for renewal of a license. If the applicant or licensee makes a timely request for a hearing, the commissioner shall conduct an adjudicatory hearing in accordance with Title 5, chapter 375, subchapter 4. The director's decision to deny the license or license renewal stands until the commissioner issues a decision to uphold, modify or overrule the director's decision.

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

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

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

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

A. A written reprimand;

B. Conditions of probation of a license;

C. A license suspension;

D. A license revocation; or

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

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

§1206. Facility sports wagering license

1. Issuance of license. The director shall issue a facility sports wagering license upon finding that the applicant meets all requirements of this section, sections 1204 and 1205 and rules adopted under this chapter. The director may issue no more than ~~7~~ 10 facility sports wagering licenses under this section.

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

A. A commercial track licensed under section 271;

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

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

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

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

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

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

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

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

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

§1207. Mobile sports wagering license

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

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

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

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

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

6. Temporary license. An applicant for a mobile sports wagering license may submit with the application a request for a temporary license. A request for a temporary license must include the initial license fee of $200,000. If the director determines that the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license and has paid the initial license fee and the director is not aware of any reason the applicant is ineligible for a license under this section, the director may issue a temporary mobile sports wagering license. A temporary license issued under this subsection is valid for one year or until a final determination on the mobile sports wagering license application is made, whichever is sooner. If after investigation the director determines that the applicant is eligible for a mobile sports wagering license under this chapter, the director shall issue the initial mobile sports wagering license, at which time the temporary license terminates. The initial mobile sports wagering license is valid for 4 years from the date that the temporary license was issued by the director. Sports wagering conducted under authority of a temporary license must comply with the mobile operator's house rules adopted under section 1211.

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

§1208. Supplier license

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

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

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

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

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

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

7. Inventory. A supplier licensee shall submit to the director a list of all sports wagering equipment, systems and services sold or leased to, delivered to or offered to an operator in this State as required by the director, all of which must be tested and approved by an independent testing laboratory approved by the director. An operator may continue to use supplies acquired from a licensed supplier if the supplier's license subsequently expires or is otherwise revoked, unless the director finds a defect in the supplies.

§1209. Management services license

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

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

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

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

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

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

§1210. Occupational license

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

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

3. Application and fee. Except as provided in subsection 5, an applicant shall submit any required application forms established by the director and pay a nonrefundable application fee of $250. The fee may be

paid on behalf of an applicant by the facility operator employer. Fees paid under this subsection must be retained by the director for the costs of administering this chapter.

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

§1211. Sports wagering house rules

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

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

§1212. Access to premises and equipment

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

§1213. Persons prohibited from making wagers on sports events

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

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

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

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

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

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

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

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

§1214. Certain sports wagers prohibited

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

2. Request from sports governing body. A sports governing body may submit to the director in writing a request to restrict, limit or exclude a certain type, form or category of sports wagering with respect to sports events of that sports governing body if the sports governing body believes that that type, form or category of sports wagering with respect to sports events of that sports governing body may undermine the integrity or perceived integrity of that sports governing body or sports events of that sports governing body. The director shall request comment from operators on all requests under this subsection. After giving due consideration to all comments received, the director shall, upon a demonstration of good cause from the sports governing body that the type, form or category of sports wagering is likely to undermine the integrity or perceived integrity of that sports governing body or sports events of that sports governing body, grant the request. The director shall respond to a request concerning a particular event before the start of the event or, if it is not feasible to respond before the start of the event, no later than 7 days after the request is made. If the director determines that the sports governing body is more likely than not to prevail in successfully demonstrating good cause for its request, the director may provisionally grant the request of the sports governing body until the director makes a final determination as to whether the sports governing body has demonstrated good cause. Absent such a provisional grant by the director, an operator may continue to offer sports wagering on sports events that are the subject of that request during the pendency of the director's consideration of the request.

§1215. Abnormal wagering activity

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

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

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

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

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

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

§1216. Security, maintenance and sharing of wagering records

1. Records maintenance. An operator shall maintain records of all wagers placed, including personally identifiable information of the person placing the wager, amount and type of wager, time the wager was placed, location of the wager, including the Internet protocol address if applicable, the outcome of the wager and instances of abnormal wagering activity for 3 years after the sports event occurs, as well as video recordings in the case of in-person wagers, for at least one year after the sports event occurs and shall make that data available for inspection upon request of the director or as required by court order.

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

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

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

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

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

A. "Child support debt" means child support debt that has been liquidated by judicial or administrative action.

B. "Department" means the Department of Health and Human Services.

C. "Licensee" means a facility operator, a mobile operator or a management services licensee under section 1209.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

number or identifier assigned to the debt, the amount withheld, the date of withholding and the name and location of the licensee.

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

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

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

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

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

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

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

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

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

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

§1218. Allocation of funds

1. Tax imposed; allocation of funds. An operator shall collect and distribute 10% of adjusted gross sports wagering receipts to the director to be forwarded by the director to the Treasurer of State for distribution as follows:

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

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

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

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

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

F. Six and one-half percent of the adjusted gross sports wagering receipts must be deposited in the General Fund.

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

§1219. Applicability of other laws

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

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

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

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

§951. Inapplicability of chapter

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

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

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

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

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

Sec. J-10. 30 MRSA, pt. 5 is enacted to read:

PART 5

FEDERALLY RECOGNIZED INDIAN TRIBES

CHAPTER 701

RIGHTS OF FEDERALL RECOGNIZED INDIAN TRIBES

§8001. Mobile gaming

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

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

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

B. "Lawful gambling activity" means any type of gambling authorized under the laws of this State including, but not limited to, the gambling activities described in Title 8, section 1001, subsection 16.

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

3. Authority to conduct mobile gaming. Notwithstanding any other provision of law to the contrary, a federally recognized Indian tribe in this State has the same right as any other person or entity to obtain any license, permit or registration to conduct mobile gaming under a law of this State enacted on or after the effective date of this section as long as the federally recognized Indian tribe meets all of the qualifications for the license, permit or registration, except that the federally recognized Indian tribe is not required to meet any requirement:

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

B. That an applicant possesses another type of gambling or wagering license, registration or permit.

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

SUMMARY

This amendment replaces the bill.

PART A

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

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

PART B

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

PART C

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

PART D

Part D of the amendment:

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

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

PART E *Corrects an error in the original amendment summary*

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

PART F

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

PART G

Part G of the amendment provides that the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and a tribal corporation organized under Section 17 of the federal Indian Reorganization Act of 1934 is not subject to the Maine corporate income tax. It also creates income tax modifications for tribal members residing on tribal land and for the estates of a decedent who as a tribal member residing on tribal lands for the amount of income or loss derived from or connected with sources on tribal lands. The provisions of Part G apply to tax years beginning on or after January 1, 2023.

PART H

Part H of the amendment authorizes the Bureau of Revenue Services to adopt routine technical rules to implement the provisions of Parts C to G of the amendment.

PART I

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

PART J

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

Up to ~~7~~ 10 total facility sports wagering licenses to conduct in-person sports wagering in the State may be awarded to licensed off-track betting facilities, commercial tracks and the Oxford Casino, each of which may

apply for a single facility license. Each of the State's 4 federally recognized Indian tribes is eligible to apply for a single mobile sports wagering licenses to conduct sports wagering through which individuals physically located within the state make wagers using mobile applications or digital platforms. Facility sports wagering licenses and mobile sports wagering licenses are nontransferable, except that a federally recognized Indian tribe may transfer its mobile sports wagering license to a business entity that is wholly owned by that federally recognized Indian tribe. The 4-year initial and renewal feel for a facility sports wagering license is $4,000 and the four-year initial and renewal fee for a mobile sports wagering license is $200,000.

Facility sports wagering licensees and mobile sports wagering licensees, referred to in the bill as operators, may purchase or lease equipment, systems or services for sports wagering from entities with a supplier license, whose equipment, systems or services must meet standards established by rule. Operators may also enter into written contracts, approved by the director of the Gambling Control Unit within the Department of Public Safety, with management services licensees that have sufficient knowledge and experience in the business of operating sports wagering to effectively conduct sports wagering on behalf of operators. Each mobile operator may enter into a contract with no more than one management services licensee. The fee paid by an operator to a management services licensee may not exceed 30% of the operator's adjusted gross sports wagering receipts, except that the director may approve a contract authorizing the management services licensee to receive up to 40% of the operator's adjusted gross sports wagering receipts if the director determines that the management services licensee has demonstrated that the fee is commercially reasonable given the management services licensee's capital investments and the operator's projected revenues. A person employed by an operator to be engaged directly in sports wagering-related activities must be licensed by the Gambling Control Unit.

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

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

The amendment also requires that the director adopt rules governing the marketing or advertising of sports wagering requiring that an operator disclose that it is a licensed off-track betting facility, federally recognized Indian tribe within the State or business entity wholly owned by a federally recognized Indian tribe in the State; prohibiting the use of misleading, deceptive or false sports wagering advertising; and restricting, to the extent permissible, the marketing or advertising of sports wagering that is designed to reach or to appeal to persons under 21 years of age. Operators are also required to report abnormal wagering activity to the Director of the Gambling Control Unit within the Department of Public Safety and to the relevant sports governing body.

Operators must remit 10% of their adjusted gross sports wagering receipts to the State. One percent of adjusted gross sports wagering receipts must be deposited in the General Fund for the administrative expenses of

the Gambling Control Unit within the Department of Public Safety; 1% of the adjusted gross sports wagering receipts must be deposited in the Gambling Addiction Prevention and Treatment Fund; 0.55% of the adjusted gross sports wagering receipts must be distributed by the State Harness Racing Commission to entities that conduct live harness racing in the State; 0.55% of the adjusted gross sports wagering receipts must be deposited in the Sire States Fund; and 0.4% of the adjusted gross sports wagering receipts must be deposited in the Agricultural Fair Promotion Fund, which is established in the amendment to provide monetary support to eligible nonprofit organizations that have had, for at least the preceding 25 years, a sole or primary purpose of promoting agricultural fairs in the State. The remaining adjusted gross sports wagering receipts remitted to the State must be deposited in the General Fund.

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