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Changes from original are **highlighted**

Amendment offered by Senator Bellows to LD 2094, **An Act To Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act**

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

**Sec. 1. 30 MRSA §6201**, as enacted by PL 1979, c. 732, §§1 and 31, is amended to read:

**§ 6201.Short title**

This Act ~~shall be~~ known and may be cited as "AN ACT to Implement the Maine Indian Claims Settlement."

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

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

The Legislature finds and declares the following.

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

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

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

~~The~~In the late 1970s, the Indian claimants and the State, acting through the Attorney General, ~~have~~ reached certain agreements ~~which represent~~that represented a good faith effort on the part of all parties to achieve a fair and just resolution of those claims ~~which that~~, in the absence of agreement, would ~~be~~have been pursued through the courts for many years to the ultimate detriment of the State and all its citizens, including the Indians. The resolution reached among the Indian

claimants and the State affirmed the land transfers and the reservations of rights embodied within the specific treaties that gave rise to the claims at issue, and sought to definitively eliminate any prospect that the claims brought by the Indian claimants would cloud private title to land in the State.

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

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

**1. Rights, privileges, powers, duties and immunities.** The purpose of the amendments to this chapter enacted in 2020 is to establish that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians enjoy rights, privileges, powers, duties and immunities similar to those of other federally recognized Indian tribes within the United States.

**2. Federal Indian law applies.** Except as otherwise specified in this chapter, federal Indian law applies with regard to the rights, privileges, powers, duties and immunities of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.

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

### **§ 6203. Definitions**

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

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

**1-A. Federal Indian law.** "Federal Indian law" means the United States Constitution and all generally applicable federal statutes, regulations and case law and subsequent amendments thereto or judicial interpretations thereof, relating to the rights, privileges, powers, duties and immunities of federally recognized Indian tribes within the United States, except those federally recognized Indian tribes subject to United States Public Law 83-280 or a specific treaty or settlement act.

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

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

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

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

**5. Passamaquoddy Indian Reservation.** "Passamaquoddy Indian Reservation" means those lands reserved to the Passamaquoddy Tribe by agreement with the State Commonwealth of Massachusetts dated September 19, 1794, excepting any parcel within such lands transferred to a person or entity other than a member of the Passamaquoddy Tribe subsequent to such agreement and prior to ~~the effective date of this Act~~ October 10, 1980. If any lands reserved to the Passamaquoddy Tribe by the aforesaid agreement hereafter are acquired by the Passamaquoddy Tribe, or the secretary on its behalf, that land ~~shall~~ must be included within the Passamaquoddy Indian Reservation. For purposes of this subsection, the lands reserved to the Passamaquoddy Tribe by the aforesaid agreement ~~shall be~~ are limited to Indian Township in Washington County; Pine Island, sometimes referred to as Taylor's Island, located in Big Lake, in Washington County; 100 acres of land located on Nemcass Point, sometimes referred to as Governor's Point, located in Washington County and shown on a survey of John Gardner ~~which that~~ is filed in the Maine State Archives, Executive Council Records, Report Number 264 and dated June 5, 1855; 100 acres of land located at Pleasant Point in Washington County as described in a deed to Captain John Frost from Theodore Lincoln, Attorney for Benjamin Lincoln, Thomas Russell, and John Lowell dated July 14, 1792, and recorded in the Washington County Registry of Deeds on April 27, 1801, at Book 3, Page 73; and those 15 islands in the St. Croix River in existence on September 19, 1794 and located between the head of the tide of that river and the falls below the forks of that river, both of which points are shown on a 1794 plan of Samuel Titcomb ~~which that~~ is filed in the Maine State Archives in Maine Land Office Plan Book Number 1, page 33. The "Passamaquoddy Indian Reservation" includes those lands ~~which that~~ have been or may be acquired by the Passamaquoddy Tribe within that portion of the Town of Perry ~~which that~~ lies south of Route 1 on the east side of Route 190 and south of lands now owned or formerly owned by William Follis on the west side of Route 190, ~~provided that no such lands may be included in the Passamaquoddy Indian Reservation until the Secretary of State receives certification from the treasurer of the Town of Perry that the Passamaquoddy Tribe has paid to the Town of Perry the amount of \$350,000, provided that the consent of the Town of Perry would be voided unless the payment of the \$350,000 is made within 120 days of the effective date of this section. Any~~

commercial development of those lands must be by approval of the voters of the Town of Perry with the exception of land development currently in the building stages.

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

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

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

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

The "Penobscot Indian Reservation" also includes a certain parcel of land located in Argyle, Penobscot County consisting of approximately 714 acres known as the Argyle East Parcel and more particularly described as Parcel One in a deed from the Penobscot Indian Nation to the United States of America dated November 22, 2005 and recorded at the Penobscot County Registry of Deeds in Book 10267, Page 265.

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

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

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

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

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

**14. Tribal lands.** "Tribal lands" of the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians means any land held by the secretary in trust for the relevant tribe and any reservation land held by the relevant tribe. "Tribal lands" is not limited to those lands held by the secretary in trust or reservation land held by the relevant tribe as of the enactment of this subsection, but includes those lands that are acquired after the enactment of this subsection and held by the secretary in trust for the relevant tribe and reservation lands acquired after the enactment of this subsection and held by the relevant tribe.

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

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

**§ 6205. Indian territory Passamaquoddy Tribal Lands and Penobscot Tribal Lands**

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

A. The Passamaquoddy Indian Reservation;

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

~~The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P. (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.; the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5, B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5, B.K.P.W.K.R.; the land of the heirs of David Pingree located in T.6, R.8, W.E.L.S.; any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International Corporation, International Paper Company and Lincoln Pulp and Paper~~

~~Company located in Argyle; and the lands of the Dyer Interests in T.A.R.7 W.E.L.S., T.3 R.9 N.W.P., T.3 R.3 N.B.K.P. (Alder Brook Township), T.3 R.4 N.B.K.P. (Hammond Township), T.2 R.4 N.B.K.P. (Pittston Academy Grant), T.2 R.3 N.B.K.P. (Soldiertown Township), and T.4 R.4 N.B.K.P. (Prentiss Township), and any lands in Albany Township acquired by the Passamaquoddy Tribe before January 1, 1991;~~

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

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

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

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

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

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

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

**2. Penobscot ~~Indian territory~~ Tribal Lands.** Subject to subsections 3, ~~and 4 and 5,~~ the following lands within the State ~~shall be~~ known as the "Penobscot ~~Indian territory~~ Tribal Lands:"

A. The Penobscot Indian Reservation; and

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

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

**3. Takings under the laws of the State.** ~~This subsection governs takings under the laws of this State.~~

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

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

**B.** If land within either the Passamaquoddy Indian Territory ~~Tribal Lands~~ or the Penobscot Indian Territory ~~Tribal Lands~~ but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation is taken for public uses in accordance with the laws of the State, the money received for said land shall ~~must~~ be reinvested in other lands within 2 years of the date on which the money is received. To the extent that any ~~moneys~~ money received ~~are~~ is so reinvested in land with an area not greater than the area of the land taken and located within an unorganized or unincorporated area of the State, the lands so acquired by such reinvestment shall ~~must~~ be included within the respective Indian territory ~~tribal lands~~ without further approval of the State. To the extent that any ~~moneys~~ money received ~~are~~ is so reinvested in land with an area greater than the area of the land taken and located within an unorganized or unincorporated area of the State, the respective tribe or nation shall designate, within 30 days of such reinvestment, that portion of the land acquired by such reinvestment, not to exceed the area taken, which shall ~~must~~ be included within the respective Indian territory ~~tribal lands~~. No land acquired pursuant to this paragraph shall ~~may~~ be included within either Indian Territory ~~tribal lands~~ until the Secretary of Interior ~~secretary~~ has certified, in writing, to the Secretary of State the location and boundaries of the land acquired.

**4. Taking under the laws of the United States.** — In the event of a taking of land within the Passamaquoddy Indian territory ~~Tribal Lands~~ or the Penobscot Indian territory ~~Tribal Lands~~ for public uses in accordance with the laws of the United States and the reinvestment of the ~~moneys~~ money received from such taking within 2 years of the date on which the ~~moneys are~~ money is received, the status of the lands acquired by such reinvestment shall ~~must~~ be determined in accordance with subsection 3, paragraph B.

**5. Limitations.** — No lands held or acquired by or in trust for the Passamaquoddy Tribe or the Penobscot Nation, other than those described in subsections 1, 2, 3 and 4, shall be included within or added to the Passamaquoddy Indian territory or the Penobscot Indian territory except upon recommendation of the commission and approval of the State to be given in the manner required for the enactment of laws by the Legislature and Governor of Maine, provided, however, that no lands within any city, town, village or plantation shall be added to either the



~~Passamaquoddy Indian territory or the Penobscot Indian territory without approval of the legislative body of said city, town, village or plantation in addition to the approval of the State.~~

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

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

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

### **§ 6205-A. ~~Acquisition of Houlton Band Trust Land~~ Tribal Lands**

**1. ApprovalAcquisition.** ~~The State of Maine approves the acquisition.~~ Lands acquired by the secretary, or for the benefit of the Houlton Band Trust Land within the State of Maine provided as follows of Maliseet Indians in accordance with the requirements of this subsection are known as Houlton Band Tribal Lands.

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

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

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

**1-A. Acquisition of additional trust land.** ~~Nothing in this chapter limits the ability of the Houlton Band of Maliseet Indians to acquire trust land in accordance with applicable settlement acts and federal Indian law, including but not limited to the federal Indian Reorganization Act, Public Law 73-383, and their implementing regulations. Except as required~~

by federal Indian law, acquisition of trust land is not subject to approval by the State or any local government within the State.

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

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

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

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

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

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

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

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

**Sec. 7. 30 MRSA §6206**, as enacted by PL 1979, c. 732, §§1 and 31, is amended to read:

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

**1. General Powerspowers.** Except as otherwise provided in this Act, the State recognizes that the Passamaquoddy Tribe and, the Penobscot Nation, ~~within their respective Indian territories, shall and the Houlton Band of Maliseet Indians and their respective members have, and may exercise and enjoy, all the rights, privileges, powers, duties and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and shall be subject to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, provided, however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income shall not be subject to regulation by the State. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to the respective Indian territories and the residents thereof. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the~~

~~respective tribe or nation nonetheless shall be equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services which are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and shall be entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory generally afforded to that federally recognized Indian tribes and their members generally have or exercise under federal Indian law.~~

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

**3. Ordinances.** ~~The Passamaquoddy Tribe and the Penobscot Nation each shall have the right to exercise exclusive jurisdiction within its respective Indian territory over violations by members of either tribe or nation of tribal ordinances adopted pursuant to this section or section 6207. The decision to exercise or terminate the jurisdiction authorized by this section shall be made by each tribal governing body. Should either tribe or nation choose not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or section 6207, the State shall have exclusive jurisdiction over violations of tribal ordinances by members of either tribe or nation within the Indian territory of that tribe or nation. The State shall have exclusive jurisdiction over violations of tribal ordinances by persons not members of either tribe or nation.~~

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

**Sec. 9. 30 MRSA §6206-B**, as amended by PL 2009, c. 384, Pt. A., §1 and affected by §4, is further amended to read:

### **§ 6206-B. Law enforcement powers of Houlton Band of Maliseet Indians**

**1. Appointment of tribal law enforcement officers.** ~~The Houlton Band of Maliseet Indians may appoint law enforcement officers who have the authority to enforce all the laws of the State within the Houlton Band Trust Land Tribal Lands. This section does not limit the existing authority of tribal officers under tribal law or affect the performance of federal duties by tribal officers.~~

**2. Authority.** ~~Joint authority of state, county and local law enforcement officers.~~ State Law enforcement officers appointed by the Houlton Band of Maliseet Indians have the authority within Houlton Band Tribal Lands and state and county law enforcement officers and law enforcement officers appointed by the Town of Houlton have the authority within Houlton Band Tribal Lands to enforce rules or regulations adopted by the commission under section 6207, subsection 3 and to enforce all laws of the State within the Houlton Band Trust Land over which the State has exclusive or concurrent jurisdiction under section 6209-C.

**3. Agreements for cooperation and mutual aid.** ~~The Houlton Band of Maliseet Indians and any state, county or local law enforcement agency may enter into agreements for cooperation and mutual aid.~~

**4. Powers, duties and training requirements.** Law enforcement officers appointed by the Houlton Band of Maliseet Indians pursuant to this section possess the same powers, enjoy the same immunities and are subject to the same duties, limitations and training requirements as other corresponding law enforcement officers under the laws of the State.

**5. Report to Legislature.** By January 1, 2010, the Houlton Band of Maliseet Indians shall file a report with the joint standing committee of the Legislature having jurisdiction over judiciary matters detailing the band's experience with the exercise of law enforcement authority under this section. The report must include observations and comments from the state and county law enforcement agencies providing law enforcement services in Aroostook County and from the Houlton Police Department.

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

**§ 6207. Regulation of fishfishing, and wildlife resource hunting, trapping and other taking of wildlife**

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

- A. Hunting, trapping or other taking of wildlife; and
- B. Taking of fish on any pond in which all the shoreline and all submerged lands are wholly within Indian territory and which is less than 10 acres in surface area.

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

**1-A. Jurisdiction of tribes.** Except as otherwise specified in subsections 2-A and 3, the State recognizes the exclusive jurisdiction that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians have under federal Indian law to regulate fishing, and hunting, trapping and other taking of wildlife within the boundaries of their respective tribal lands by:

- A. Tribal citizens of any federally recognized Indian tribes; and
- B. Nontribal citizens.

**2. Registration stations.** The Passamaquoddy Tribe and the Penobscot Nation shall establish and maintain registration stations for the purpose of registering bear, moose, deer and other wildlife killed within their respective Indian territories and shall adopt ordinances requiring

registration of such wildlife to the extent and in substantially the same manner as such wildlife are required to be registered under the laws of the State. These ordinances requiring registration shall be equally applicable to all persons without distinction based on tribal membership. The Passamaquoddy Tribe and the Penobscot Nation shall report the deer, moose, bear and other wildlife killed and registered within their respective Indian territories to the Commissioner of Inland Fisheries and Wildlife of the State at such times as the commissioner deems appropriate. The records of registration of the Passamaquoddy Tribe and the Penobscot Nation shall be available, at all times, for inspection and examination by the commissioner.

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

**3. Adoption of regulations by the commission.** Subject to the limitations of subsection 6, the . Except for sustenance fishing by tribal members within the boundaries of their respective tribal lands which are subject to exclusive jurisdiction of the respective Tribe, Nation, or Band. The the commission shall have~~has~~ exclusive authority to ~~promulgate~~adopt fishing rules or regulations ~~on~~for:

- A. Any pond 50% or more of the linear shoreline of which is within tribal lands, other than ~~those specified in subsection 1, paragraph B, 50% or more of the linear shoreline of which is within Indian territory~~ponds in which all the shoreline and all submerged lands are wholly within tribal lands and that are less than 10 acres in surface area;
- B. Any section of a river or stream both sides of which are within ~~Indian territory~~tribal lands; and
- C. Any section of a river or stream one side of which is within ~~Indian territory~~tribal lands for a continuous length of 1/2 mile or more.

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

~~Said~~The rules or regulations ~~shall~~must be equally applicable on a nondiscriminatory basis to all persons regardless of whether ~~such~~a person is a member of the Passamaquoddy Tribe ~~or, the~~Penobscot Nation or the Houlton Band of Maliseet Indians. Rules and regulations ~~promulgated~~adopted by the commission may include the imposition of fees and permits or license requirements on users of such waters other than members of the Passamaquoddy Tribe ~~and, the~~Penobscot Nation or the Houlton Band of Maliseet Indians. In adopting rules or regulations

pursuant to this subsection, the commission shall comply with the Maine Administrative Procedure Act.

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

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

**4. Sustenance fishing and taking of wildlife within the ~~Indian reservations~~ Indian reservations and other tribal lands.** Notwithstanding any rule or regulation ~~promulgated~~adopted by the commission ~~or any other law of the State~~, the members of the Passamaquoddy Tribe ~~and~~, the Penobscot Nation ~~and the Houlton Band of Maliseet Indians~~ may take fish and wildlife, within the boundaries of their respective Indian reservations and other ~~Indian reservations~~tribal lands, for their individual sustenance ~~subject to the limitations of subsection 6.~~

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

**6. Supervision by ~~Commissioner of Inland Fisheries and Wildlife.~~** ~~The Commissioner of Inland Fisheries and Wildlife, or his successor, shall be entitled to conduct fish and wildlife surveys within the Indian territories and on waters subject to the jurisdiction of the commission to the same extent as he is authorized to do so in other areas of the State. Before conducting any such survey the commissioner shall provide reasonable advance notice to the respective tribe or nation and afford it a reasonable opportunity to participate in such survey. If the commissioner, at any time, has reasonable grounds to believe that a tribal ordinance or commission regulation adopted under this section, or the absence of such a tribal ordinance or commission regulation, is adversely affecting or is likely to adversely affect the stock of any fish or wildlife on lands or waters outside the boundaries of land or waters subject to regulation by the commission, the Passamaquoddy Tribe or the Penobscot Nation, he shall inform the governing body of the tribe or nation or the commission, as is appropriate, of his opinion and attempt to develop appropriate remedial standards in consultation with the tribe or nation or the commission. If such efforts fail, he may call a public hearing to investigate the matter further. Any such hearing shall be conducted in a manner consistent with the laws of the State applicable to adjudicative hearings. If, after hearing, the commissioner determines that any such ordinance, rule or regulation, or the absence of an ordinance, rule or regulation, is causing, or there is a reasonable likelihood that it will cause, a significant depletion of fish or wildlife stocks on lands or waters outside the boundaries of lands or waters subject to regulation by the Passamaquoddy Tribe, the Penobscot Nation or the commission, he may adopt appropriate remedial measures including rescission of any such ordinance, rule or regulation and, in lieu thereof, order the enforcement of the generally applicable~~

~~laws or regulations of the State. In adopting any remedial measures the commission shall utilize the least restrictive means possible to prevent a substantial diminution of the stocks in question and shall take into consideration the effect that non-Indian practices on non-Indian lands or waters are having on such stocks. In no event shall such remedial measure be more restrictive than those which the commissioner could impose if the area in question was not within Indian territory or waters subject to commission regulation.~~

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

**7. Transportation of game.** Fish lawfully taken within Indian territory/tribal lands or in waters subject to commission regulation and wildlife lawfully taken within Indian territory/tribal lands and registered pursuant to ordinances adopted by the Passamaquoddy Tribe ~~and~~ the Penobscot Nation, and the Houlton Band of Maliseet Indians may be transported within the State.

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

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

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

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

The State recognizes the rights of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians to ~~exercise regulation of~~ regulate natural resources and land use within the boundaries of ~~on their~~ respective tribal lands to the extent provided in federal Indian law.

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

### **§ 6208. Taxation**

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

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

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

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

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

**4. Exclusive jurisdiction; tribal members, tribal entities.** The State recognizes and adopts federal Indian law providing that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians have exclusive jurisdiction to tax tribal members and tribal entities on their respective tribal lands, including entities owned by a tribe or tribal member.

**5. Not subject to state and local sales taxation.** The State recognizes and adopts federal Indian law providing that the Passamaquoddy Tribe, the Penobscot Nation, the Houlton



Band of Maliseet Indians, their tribal members and their tribal entities are not subject to state or local sales taxation on tribal lands.

**6. Not subject to state income tax.** The State recognizes and adopts federal Indian law providing that the members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians who live on the tribal lands of their respective tribe, nation or band are not subject to state tax for income earned on those tribal lands.

**7. Not subject to state and local real property tax.** The State recognizes and adopts federal Indian law providing that tribal lands are not subject to state and local real property tax.

**8. Concurrent jurisdiction to tax nontribal citizens.** The State recognizes and adopts federal Indian law providing ~~for concurrent jurisdiction for the State, local governments and that~~ the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians ~~have concurrent jurisdiction to tax nontribal citizens on Passamaquoddy Tribal Lands, Penobscot Tribal Lands or Houlton Band Tribal Lands~~ their respective tribal lands, and that the State and local governments have concurrent jurisdiction to tax nontribal citizens on tribal lands unless their jurisdiction is preempted.

**Sec. 13. 30 MRSA §6208-A**, as enacted by PL 1981, c. 675, §§7 and 8, is amended to read:

### **§ 6208-A. Houlton Band Tax Fund**

**1. Fund.** ~~The satisfaction of tax obligations, described in section 6208, owed to a governmental entity by the Houlton Band of Maliseet Indians shall be assured by a trust fund to be known as the Houlton Band Tax Fund. The secretary shall administer the fund in accordance with reasonable and prudent trust management standards. The initial principal of the fund shall must be not less than \$100,000. The principal shall must be formed with moneysmoney transferred from the Land Acquisition Fund established for the Houlton Band of Maliseet Indians pursuant to United States Public Law 96-420, Section 5, United States Code, Title 25, Section 1724. Any interest earned by the Houlton Band Tax Fund shall must be added to the principal as it accrues, and that interest shall be exempt from taxation. The secretary shall maintain a permanent reserve of \$25,000 at all times, and that reserve shall may not be made available for the payment of claims. The interest earned by the reserved funds shall also be added to the principal available for the payment of obligations.~~

**2. Claims.** ~~The secretary shall pay from the fund all valid claims for taxes, payments in lieu of property taxes and fees, together with any interest and penalties thereon, for which the Houlton Band of Maliseet Indians is liable pursuant to section 6208, provided that when such obligation is final and not subject to further direct administrative or judicial review under the laws of the State of Maine. No payment of a valid claim may be satisfied with moneysmoney from the fund unless the secretary finds, as a result of his the secretary's own inquiry, that no other source of funds controlled by the secretary is available to satisfy the obligation. The secretary shall adopt written procedures, consistent with this section, governing the filing and payment of claims after~~

consultation with the Maine Commissioner of Finance and Administration ~~Administrative and Financial Services~~ and the Houlton Band of Maliseet Indians.

**3. Distributions.**— If the unencumbered principal available for the payment of claims exceeds the sum of \$100,000, the secretary shall, except for good cause shown, provide for the transfer of such excess principal to the Houlton Band of Maliseet Indians. The secretary shall give 30 days' written notice to the Commissioner of Finance and Administration ~~Administrative and Financial Services~~ of a proposed transfer of excess principal to the Houlton Band of Maliseet Indians. Any distribution of excess principal to the Houlton Band of Maliseet Indians shall be exempt from taxation.

**4. Other remedies.**— The existence of the Houlton Band Tax Fund as a source for the payment of Houlton Band of Maliseet Indians' obligations ~~shall~~ does not abrogate any other remedy available to a governmental entity for the collection of taxes, payments in lieu of taxes and fees, together with any interest or penalty thereon.

**Sec. 1413. 30 MRSA §6209-A**, as amended by PL 2009, c. 384, Pt. E, §1 and affected by §3, is further amended to read:

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

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

A. Criminal offenses and civil violations for which the maximum ~~potential~~ term of imprisonment is ~~less than~~ imposed does not exceed one year and the maximum ~~potential~~ fine imposed does not exceed \$5,000 ~~and~~ that are committed on ~~the Indian reservation of the Passamaquoddy Tribe~~ Tribal Lands by a member of ~~the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation~~ any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of ~~the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation~~ any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent, or against the property of a person who is not a member of ~~the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation~~ any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent;

A-1. Criminal offenses for which the maximum term of imprisonment imposed for any one offense is greater than one year but does not exceed 3 years and or the maximum fine imposed is greater than \$5,000 but does not exceed \$15,000 that are committed on Passamaquoddy Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent. This paragraph applies only if the due process protections required under 25 United States Code, Section 1302(c) are observed and either the defendant has previously been convicted of a comparable offense within by any jurisdiction in the

United States or the crime would be punishable by more than one year of imprisonment under any state or federal law. The maximum total penalty that may be imposed in a single criminal proceeding is 9 years imprisonment;

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe under paragraph A, or A-1 and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B and C, by the Passamaquoddy Tribe under subsection 2, that would not be crimes if committed by a person who is at least 18 years of age that are committed by a juvenile member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation on the reservation of a federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group on the Passamaquoddy Tribal Lands, in which case jurisdiction is concurrent;

C. Civil actions between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, including domestic relations matters, arising on the Indian reservation of the Passamaquoddy Tribe and cognizable as small claims under the laws of the State, and civil actions against a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian reservation of the Passamaquoddy Tribe by a member of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation Tribal Lands to the extent permitted under federal Indian law; and

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

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

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

**1-A. Concurrent jurisdiction over certain criminal and juvenile matters.** The Passamaquoddy Tribe has the right to exercise concurrent jurisdiction with the State over:

A. Criminal offenses and civil violations for which the maximum term of imprisonment imposed does not exceed one year and the maximum fine imposed does not exceed \$5,000 that are committed on Passamaquoddy Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally

recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group;

B. Criminal offenses and civil violations for which the maximum term of imprisonment imposed for any one offense is greater than one year but does not exceed 3 years and or the maximum fine imposed is greater than \$5,000 but does not exceed \$15,000 that are committed on Passamaquoddy Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group. This paragraph applies only if the due process protections required under 25 United States Code, Section 1302(c) are observed and either the defendant has previously been convicted of a comparable offense by within any jurisdiction of the United States or the crime would be punishable by more than one year of imprisonment under any state or federal law. The maximum total penalty that may be imposed in a single criminal proceeding is 9 years imprisonment; and

C. Juvenile crimes involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe under paragraph A or B and juvenile crimes, as defined by the Passamaquoddy Tribe under subsection 2, that would not be crimes if committed by a person who is at least 18 years of age that are committed by a juvenile member of a federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group on Passamaquoddy Tribal Lands.

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of the concurrent jurisdiction authorized by this subsection. If the Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of, concurrent jurisdiction over the criminal or juvenile matters described in this subsection, the State has exclusive jurisdiction over those matters.

**1-B. Exclusive jurisdiction of the State.** Except as provided in subsections 1 and 1-A, all laws of the State relating to criminal offenses and juvenile crimes apply within Passamaquoddy Tribal Lands, and the State has exclusive jurisdiction over those offenses and crimes.

**2. Definitions of crimes; tribal procedures.** In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Passamaquoddy Tribe has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The Passamaquoddy Tribe has authority to define all crimes, civil violations and juvenile offenses committed on Passamaquoddy Tribal Lands over which the Passamaquoddy Tribe has exclusive or concurrent jurisdiction under subsection 1 or 1-A. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to

1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the State has exclusive or concurrent jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State.

**3. Lesser included offenses in state courts.** In any criminal proceeding in the courts of the State in which a criminal offense under the ~~exclusive~~concurrent jurisdiction of the Passamaquoddy Tribe constitutes a lesser included offense of the criminal offense charged, the defendant may be convicted in the courts of the State of the lesser included offense. A lesser included offense is as defined under the laws of the State.

**4. Double jeopardy, collateral estoppel.** A prosecution for a criminal offense or juvenile crime over which the Passamaquoddy Tribe has exclusive or concurrent jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the State has exclusive or concurrent jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive or concurrent jurisdiction does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the Passamaquoddy Tribe has exclusive or concurrent jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a Passamaquoddy tribal forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a state court does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a Passamaquoddy tribal forum.

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

Sec. **1514. 30 MRSA §6209-B**, as corrected by RR 2009, c. 1, §19, is further amended to read:

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

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

A. Criminal offenses and civil violations for which the maximum ~~potential~~ term of imprisonment imposed does not exceed one year and the maximum ~~potential~~ fine imposed does not exceed \$5,000 ~~and~~ that are committed on the ~~Indian reservation of the Penobscot Nation~~ Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent;

A-1. Criminal offenses for which the maximum term of imprisonment imposed for any one offense is greater than one year but does not exceed 3 years and or the maximum fine imposed is greater than \$5,000 but does not exceed \$15,000 that are committed on Penobscot Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent. This paragraph applies only if the due process protections required under 25 United States Code, Section 1302(c) are observed and either the defendant has previously been convicted of a comparable offense within by any jurisdiction in the United States or the crime would be punishable by more than one year of imprisonment under any state or federal law. The maximum total penalty that may be imposed in a single criminal proceeding is 9 years imprisonment;

B. Juvenile crimes ~~against a person or property~~ involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation under paragraph A, ~~or A-1~~ and juvenile crimes, as defined in ~~Title 15, section 3103, subsection 1, paragraphs B and C,~~ by the Penobscot Nation under subsection 2, that would not be crimes if committed by a person who is at least 18 years of age that are committed by a juvenile member of either ~~the Passamaquoddy Tribe or the Penobscot Nation on the Indian reservation of the~~ a federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group on ~~Penobscot Nation~~ Tribal Lands, in which case jurisdiction is concurrent;

C. Civil actions ~~between members of either the Passamaquoddy Tribe or the Penobscot Nation, including domestic relations matters,~~ arising on the ~~Indian reservation of the Penobscot Nation and cognizable as small claims under the laws of the State,~~ and civil actions against a member of either the Passamaquoddy Tribe or the Penobscot Nation under Title 22, section 2383 involving conduct on the ~~Indian reservation of the Penobscot Nation~~ Tribal Lands to the extent permitted under federal Indian law; and

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

E. ~~Other domestic relations matters, including marriage, divorce and support, between members of either the Passamaquoddy Tribe or the Penobscot Nation, both of whom reside on the Indian reservation of the Penobscot Nation.~~

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

**1-A. Concurrent jurisdiction over certain criminal and juvenile matters.** The Penobscot Nation has the right to exercise concurrent jurisdiction with the State over:

A. Criminal offenses and civil violations for which the maximum term of imprisonment imposed does not exceed one year and the maximum fine imposed does not exceed \$5,000 that are committed on Penobscot Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group;

B. Criminal offenses and civil violations for which the maximum term of imprisonment imposed for any one offense is greater than one year but does not exceed 3 years and or the maximum fine imposed is greater than \$5,000 but does not exceed \$15,000 that are committed on Penobscot Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group. This paragraph applies only if the due process protections required under 25 United States Code, Section 1302(c) are observed and either the defendant has previously been convicted of a comparable offense within by any jurisdiction of the United States or the crime would be punishable by more than one year of imprisonment under any state or federal law. The maximum total penalty that may be imposed in a single criminal proceeding is 9 years imprisonment; and

C. Juvenile crimes involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation under paragraph A or B and juvenile crimes, as defined by the Penobscot Nation under subsection 2, that would not be crimes if committed by a person who is at least 18 years of age that are committed by a juvenile member of a federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group on Penobscot Tribal Lands.

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of the concurrent jurisdiction authorized by this subsection. If the Penobscot Nation chooses not to exercise, or chooses to terminate its exercise of, concurrent jurisdiction over the criminal or juvenile matters described in this subsection, the State has exclusive jurisdiction over those matters.

**1-B. Exclusive jurisdiction of the State.** Except as provided in subsections 1 and 1-A, all laws of the State relating to criminal offenses and juvenile crimes apply within Penobscot Tribal Lands, and the State has exclusive jurisdiction over those offenses and crimes.

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

The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the State has exclusive or concurrent jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State.

**3. Lesser included offenses in state courts.** In any criminal proceeding in the courts of the State in which a criminal offense under the ~~exclusive~~concurrent jurisdiction of the Penobscot Nation constitutes a lesser included offense of the criminal offense charged, the defendant may be convicted in the courts of the State of the lesser included offense. A lesser included offense is as defined under the laws of the State.

**4. Double jeopardy, collateral estoppel.** A prosecution for a criminal offense or juvenile crime over which the Penobscot Nation has exclusive or concurrent jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the State has exclusive or concurrent jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive or concurrent jurisdiction does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the Penobscot Nation has exclusive or concurrent jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a tribal forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a state court does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a tribal forum.

**~~5. Future Indian communities.~~** ~~Any 25 or more adult members of the Penobscot Nation residing within their Indian territory and in reasonable proximity to each other may petition the commission for designation as an extended reservation. If the commission determines, after investigation, that the petitioning tribal members constitute an extended reservation, the~~



~~commission shall establish the boundaries of the extended reservation and recommend to the Legislature that, subject to the approval of the governing body of the Penobscot Nation, it amend this Act to extend the jurisdiction of the Penobscot Nation to the extended reservation. The boundaries of an extended reservation may not exceed those reasonably necessary to encompass the petitioning tribal members.~~

**Sec. 1615. 30 MRSA §6209-C**, as corrected by RR 2011, c. 1, §45, is further amended to read:

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

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

A. Criminal offenses and civil violations for which the maximum ~~potential~~ term of imprisonment imposed does not exceed one year and the maximum ~~potential~~ fine imposed does not exceed \$5,000 ~~and~~ that are committed on the Houlton Band ~~Jurisdiction Land Tribal Lands~~ by a member of ~~the Houlton Band of Maliseet Indians~~ any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of ~~the Houlton Band of Maliseet Indians~~ any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent or against the property of a person who is not a member of ~~the Houlton Band of Maliseet Indians~~ any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent;

A-1. Criminal offenses for which the maximum term of imprisonment imposed for any one offense is greater than one year but does not exceed 3 years ~~and or~~ the maximum fine imposed is greater than \$5,000 but does not exceed \$15,000 that are committed on Houlton Band Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group, in which case jurisdiction is concurrent. This paragraph applies only if the due process protections required under 25 United States Code, Section 1302(c) are observed and either the defendant has previously been convicted of a comparable offense within by any jurisdiction in the United States or the crime would be punishable by more than one year of imprisonment under any state or federal law. The maximum total penalty that may be imposed in a single criminal proceeding is 9 years imprisonment;

B. Juvenile crimes ~~against a person or property~~ involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A or A-1 and juvenile crimes, as defined in ~~Title 15, section 3103, subsection 1, paragraphs B and C,~~ by the Houlton Band of Maliseet Indians under subsection 2, that would not be crimes if committed by a person who is at least 18 years of age that are committed by a juvenile member of ~~the Houlton Band of Maliseet Indians~~ a federally recognized Indian tribe, nation, band or other group, except when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group on the Houlton Band ~~Jurisdiction Land Tribal Lands~~, in which case jurisdiction is concurrent;

~~C. Civil actions between members of the Houlton Band of Maliseet Indians, including domestic relations matters, arising on the Houlton Band Jurisdiction Land and cognizable as small claims under the laws of the State and civil actions against a member of the Houlton Band of Maliseet Indians under Title 22, section 2383 involving conduct on the Houlton Band Jurisdiction Land by a member of the Houlton Band of Maliseet Indians Tribal Lands to the extent permitted under federal Indian law; and~~

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

~~E. Other domestic relations matters, including marriage, divorce and support, between members of the Houlton Band of Maliseet Indians, both of whom reside within the Houlton Band Jurisdiction Land.~~

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

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

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

~~B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A and juvenile crimes, as defined in Title 15, section 3103, subsection 1,~~

paragraphs B and C, committed by a juvenile member of the Penobscot Nation on the Houlton Band Jurisdiction Land;

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

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

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

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

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

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

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

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

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

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

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

**1-C. Concurrent jurisdiction over certain criminal and juvenile matters.** The Houlton Band of Maliseet Indians has the right to exercise concurrent jurisdiction with the State over:

A. Criminal offenses and civil violations for which the maximum term of imprisonment imposed does not exceed one year and the maximum fine imposed does not exceed \$5,000 that are committed on Houlton Band Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group;

B. Criminal offenses and civil violations for which the maximum term of imprisonment imposed **for any one offense is greater than one year** but does not exceed 3 years and the maximum fine imposed **is greater than \$5,000 but** does not exceed \$15,000, and that are committed on Houlton Band Tribal Lands by a member of any federally recognized Indian tribe, nation, band or other group, when committed against a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group. This paragraph applies only if the due process protections required under 25 United States Code, Section 1302(c) are observed and either the defendant has previously been convicted of a comparable offense **within by** any jurisdiction of the United States or the crime would be punishable by more than one year of imprisonment under any state or federal law. The maximum total penalty that may be imposed in a single criminal proceeding is 9 years imprisonment; and

C. Juvenile crimes involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Houlton Band of Maliseet Indians under paragraph A or B and juvenile crimes, as defined by the Houlton Band of Maliseet Indians under subsection 2, that would not be crimes if committed by a person who is at least 18 years of age that are committed by a juvenile member of a federally recognized Indian tribe, nation, band or other group against a person who is not a member of any federally recognized Indian tribe, nation, band or other group on Houlton Band Tribal Lands.

The governing body of the Houlton Band of Maliseet Indians shall decide whether to exercise or terminate the exercise of the concurrent jurisdiction authorized by this subsection. If the Houlton Band of Maliseet Indians chooses not to exercise, or chooses to terminate its exercise of, concurrent jurisdiction over the criminal or juvenile matters described in this subsection, the State has exclusive jurisdiction over those matters.

**1-D. Exclusive jurisdiction of the State.** Except as provided in subsections 1 and 1-C, all laws of the State relating to criminal offenses and juvenile crimes apply within Houlton Band Tribal Lands, and the State has exclusive jurisdiction over those offenses and crimes.

**2. Definitions of crimes; tribal procedures.** ~~In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Houlton Band of Maliseet Indians is deemed to be enforcing tribal law of the Houlton Band of Maliseet Indians. The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Houlton Band of Maliseet Indians has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State.~~ The Houlton Band of Maliseet Indians has authority to define all crimes, civil violations and juvenile offenses committed on Houlton Band Tribal Lands over which the Houlton Band of Maliseet Indians has exclusive or concurrent jurisdiction under subsection 1 or 1-C. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules and regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the State has exclusive or concurrent jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State.

**3. Lesser included offenses in state courts.** In any criminal proceeding in the courts of the State in which a criminal offense under the ~~exclusive~~concurrent jurisdiction of the Houlton Band of Maliseet Indians constitutes a lesser included offense of the criminal offense charged, the defendant may be convicted in the courts of the State of the lesser included offense. A lesser included offense is as defined under the laws of the State.

**4. Double jeopardy; collateral estoppel.** A prosecution for a criminal offense or juvenile crime over which the Houlton Band of Maliseet Indians has exclusive or concurrent jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile crime arising out of the same conduct over which the State has exclusive or concurrent jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive or concurrent jurisdiction does not bar a prosecution for a criminal offense or juvenile crime arising out of the same conduct over which the Houlton Band of Maliseet Indians has exclusive or concurrent jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a tribal forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a state court does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a tribal forum.

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

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

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

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

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

**Sec. 1716. 30 MRSA §6209-D**, as enacted by PL 2009, c. 384, Pt. C, §1 and affected by §2, is amended to read:

### **§ 6209-D. Full faith and credit**

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

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

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

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

**Sec. 1817. 30 MRSA §6210**, as amended by PL 1995, c. 388, §7 and affected by §8, is further amended to read:

### **§ 6210. Law enforcement on Indian reservations and within Indian territory Houlton Band Tribal Lands, Passamaquoddy Tribal Lands and Penobscot Tribal Lands**

**1. Exclusive authority of tribal law enforcement officers.** Law enforcement officers appointed by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation have exclusive authority to enforce, ~~within their respective Indian territories,~~ ordinances adopted under section 6206 and section 6207, subsection 1, and to enforce, on their

respective ~~Indian reservation~~tribal lands, and the criminal, juvenile, civil and domestic relations laws over which the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section 6209-A, ~~subsections~~subsections 1 and 1-A and section 6209-B, ~~subsections~~subsections 1, and 1-A respectively.

**1-A. Appointment of tribal law enforcement officers.** The Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, and the Penobscot Nation may appoint law enforcement officers who have the authority to enforce the laws of the State that are applicable within tribal lands. This section does not limit the appointment or existing authority of tribal officers under tribal law or affect the performance of federal duties by tribal officers.

**2. Joint authority of tribal and state law enforcement officers.** Law enforcement officers appointed by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation have the authority within their respective ~~Indian territories~~tribal lands and state and county law enforcement officers have the authority within both ~~Indian territories~~tribal lands to enforce rules or regulations adopted by the commission under section 6207, subsection 3 and to enforce all laws of the State ~~other than those~~ over which the ~~Passamaquoddy Tribe or the Penobscot Nation~~the State has exclusive or concurrent jurisdiction under ~~section~~sections 6209-A, ~~subsection 1~~ and section 6209-B, and 6209-C, ~~subsection 1~~, respectively.

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

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

**Sec. 1918. 30 MRSA §6211, sub-§1**, as amended by PL 2009, c. 384, Pt. A, §3 and affected by §4, is further amended to read:

**1. Eligibility generally.** The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians are eligible for participation and entitled to receive benefits from the State under any state program that provides financial assistance to all municipalities as a matter of right. Such entitlement must be determined using statutory criteria and formulas generally applicable to municipalities in the State. To the extent that any such program requires municipal financial participation as a condition of state funding, the share for the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians may be raised through any source of revenue available to the respective tribe, nation or band, including ~~but~~ without limitation taxation to the extent authorized within its respective ~~Indian territory~~tribal lands. In the event that any applicable formula regarding distribution of money employs a factor for the municipal real property tax rate, and in the absence of such tax within the ~~Indian territory~~tribal lands, the formula applicable to such ~~Indian territory~~tribal lands must be computed using the most current average

equalized real property tax rate of all municipalities in the State as determined by the State Tax Assessor. In the event any such formula regarding distribution of money employs a factor representing municipal valuation, the valuation applicable to ~~such Indian territory~~ the tribal lands must be determined by the State Tax Assessor in the manner generally provided by the laws of the State as long as property owned by or held in trust for a tribe, nation or band and used for governmental purposes is treated for purposes of valuation as like property owned by a municipality.

**Sec. 2019. 30 MRSA §6211, sub-§4**, as amended by PL 2009, c. 384, Pt. A, §3 and affected by §4, is further amended to read:

**4. Eligibility of individuals for state funds.** Residents of the ~~Indian territories or Houlton Band Trust Land~~ tribal lands are eligible for and entitled to receive any state grant, loan, unemployment compensation, medical or welfare benefit or other social service to the same extent as and subject to the same eligibility requirements applicable to other persons in the State as long as in computing the extent to which any person is entitled to receive any such funds any money received by such person from the United States within substantially the same period of time for which state funds are provided and for a program or purpose substantially similar to that funded by the State is deducted in computing any payment to be made by the State.

**Sec. 2120. 30 MRSA §6213**, as enacted by PL 1979, c. 732, §§1 and 31, is amended to read:

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

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

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

**Sec. 2221. 30 MRSA §6214**, as enacted by PL 1979, c. 732, §§1 and 31, is amended to read:

### **§ 6214. Tribal school committees**

The Passamaquoddy Tribe ~~and~~ the Penobscot Nation ~~and the Houlton Band of Maliseet Indians~~ are authorized to create respective tribal school committees, in substitution for the committees heretofore provided for under the laws of the State. Such tribal school committees shall operate under the laws of the State applicable to school administrative units. The ~~presently constituted~~ tribal school committee of the ~~respective tribe or nation shall continue~~ Passamaquoddy Tribe or Penobscot Nation constituted on October 10, 1980, continues in existence and shall



exercise all the authority heretofore vested by law in it until such time as the respective tribe or nation creates the tribal school committee authorized by this section.

**Sec. 2322.** 30 MRSA §6215 is enacted to read:

**§ 6215. Civil legislative jurisdiction**

The Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians have exclusive authority to exercise civil legislative jurisdiction within their respective tribal lands over members of any federally recognized Indian tribe, nation, band or other group as well as any person who is not a member of any federally recognized Indian tribe, nation, band or other group.

The governing body of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians, respectively, shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this section. If the governing body of the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians chooses not to exercise, or chooses to terminate its exercise of, exclusive jurisdiction over the civil legislative matters described in this section, the State has exclusive jurisdiction over those matters.

**Sec. 2423.** 30 MRSA §6216 is enacted to read:

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

Except for laws that conflict with the criminal and juvenile jurisdiction described in this chapter:

**1. Federal laws apply.** For the purposes of United States Public Law 96-420, Section 6(h), any law or regulation of the United States that accords a special status or right to, or relates to a special status or right of, any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians applies to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their members and is deemed not to affect or preempt the civil, criminal or regulatory jurisdiction of this State, including, without limitation, laws of this State relating to land use or environmental matters; and

**2. Federal laws enacted after October 10, 1980.** For the purposes of United States Public Law 96-420, Section 16(b), the provisions of any federal law enacted after October 10, 1980 for the benefit of Indians, Indian nations or tribes or bands of Indians apply to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians and their members and is deemed not to affect or preempt the application of the laws of this State, including application of the laws of this State to lands owned by or held in trust for Indians or Indian nations, tribes or bands of Indians, regardless of whether such federal law is specifically made applicable within this State.

**Sec. 2524. Contingent effective date.** This Act takes effect 120 days after adjournment of the Second Regular Session of the 129th Legislature only if, within 90 days after the adjournment of the Second Regular Session of the 129th Legislature, the Secretary of State receives written certification from: the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Act; the Governor and the Council of the Penobscot Nation

that the nation has agreed to the provisions of this Act; and the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Act, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

## SUMMARY

This amendment makes the following changes:

- 1) It clarifies and simplifies the definition of “federal law”;
- 2) It adds language to the definition of “Houlton Band Tribal Land” to reference future acquired land;
- 3) It removes references to specific tracts of land in the description of Passamaquoddy Tribal Lands;
- 4) It removes the language describing takings of tribal land by the State and the United States;
- 5) It removes language requiring the Houlton Band of Maliseet Indians to file certified copies of instruments creating a trust with the Maine Secretary of State;
- 6) It removes language stating that Houlton Band of Maliseet Indians Trust lands lawfully transferred to any person or entity cease to be Trust Lands;
- 7) It adds a reference to the Houlton Band of Maliseet Indians to the language describing the power of the Tribes to sue and be sued in State courts;
- 8) It adds a reference to the Houlton Band of Maliseet Indians to the language describing sovereign immunity, and also removes the language limiting sovereign immunity to situations in which the tribe is acting in its governmental capacity;
- 9) It removes the section describing the law enforcement powers of the Houlton Band of Maliseet Indians and adds language referencing the Band to the section describing law enforcement on the Passamaquoddy and Penobscot tribal lands;
- 10) It adds language to the section describing the hunting and fishing rights of tribes to reference “fishing, hunting, trapping and other taking of wildlife”;
- 11) It clarifies that the jurisdiction of the commission to regulate certain fishing activities does not include sustenance fishing within the boundaries of tribal land;
- 12) It clarifies that the Tribes and the State have concurrent jurisdiction to tax nontribal citizens on tribal lands, unless preempted;
- 13) It removes the language establishing and describing the Houlton Band Tax Fund;
- 14) It clarifies that criminal jurisdiction over crimes and civil violations for which the maximum term imposed does not exceed one year and the maximum fine imposed does not exceed \$5,000 and that are committed by a tribal member against a nontribal member on Passamaquoddy tribal lands is concurrently held by the Tribe and the state;
- 15) It clarifies that criminal jurisdiction over crimes and civil violations for which the maximum term imposed exceeds one year but does not exceed 3 years and for which the maximum fine imposed exceeds \$5,000 but does not exceed \$15,000 and that are committed by a tribal member against a nontribal member on Passamaquoddy tribal lands is concurrently held by the Tribe and the state;
- 16) It clarifies that criminal jurisdiction over juvenile crimes that if committed by an adult would fall under the exclusive jurisdiction of the Passamaquoddy Tribe and juvenile crimes that would not be crimes if committed by a person at least 18 years of age and that

are committed by a tribal member against a nontribal member is concurrently held by the Tribe and the state;

- 17) It clarifies that criminal jurisdiction over crimes and civil violations for which the maximum term imposed does not exceed one year and the maximum fine imposed does not exceed \$5,000 and that are committed by a tribal member against a nontribal member on Penobscot Nation tribal lands is concurrently held by the Nation and the state;
- 18) It clarifies that criminal jurisdiction over crimes and civil violations for which the maximum term imposed exceeds one year but does not exceed 3 years and for which the maximum fine imposed exceeds \$5,000 but does not exceed \$15,000 and that are committed by a tribal member against a nontribal member on Penobscot Nation tribal lands is concurrently held by the Nation and the state;
- 19) It clarifies that criminal jurisdiction over juvenile crimes that if committed by an adult would fall under the exclusive jurisdiction of the Penobscot Nation and juvenile crimes that would not be crimes if committed by a person at least 18 years of age and that are committed by a tribal member against a nontribal member is concurrently held by the Nation and the state;
- 20) It clarifies that criminal jurisdiction over crimes and civil violations for which the maximum term imposed does not exceed one year and the maximum fine imposed does not exceed \$5,000 and that are committed by a tribal member against a nontribal member on Houlton Band of Maliseet Indian tribal lands is concurrently held by the Band and the state;
- 21) It clarifies that criminal jurisdiction over crimes and civil violations for which the maximum term imposed exceeds one year but does not exceed 3 years and for which the maximum fine imposed exceeds \$5,000 but does not exceed \$15,000 and that are committed by a tribal member against a nontribal member on Houlton Band of Maliseet Indian tribal lands is concurrently held by the Band and the state;
- 22) It clarifies that criminal jurisdiction over juvenile crimes that if committed by an adult would fall under the exclusive jurisdiction of the Houlton Band of Maliseet Indians and juvenile crimes that would not be crimes if committed by a person at least 18 years of age and that are committed by a tribal member against a nontribal member is concurrently held by the Band and the state;
- 23) It adds language describing the authority of tribes to appoint law enforcement officers;
- 24) It adds language clarifying that when enforcing applicable State laws, tribal law enforcement officers possess the same powers, duties, limitations and training as other law enforcement officers in the State; and
- 25) It makes technical and grammatical changes.