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Date: (Filing No. S-)

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
127TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “E” to H.P. 876, L.D. 1280, Bill, “An Act To Provide Income Tax Relief by Expanding Gaming Opportunities”

Amend the amendment by striking out the substitute title and replacing it with the following:

'An Act To Establish a Competitive Bidding Process for the Operation of a Resort-style Casino in Southern Maine and a Casino To Benefit Federally Recognized Indian Tribes in the State'

Amend the amendment in section 7 in subsection 2-C in the 5th line (page 3, line 5 in amendment) by inserting after the following: "1011-B" the following: 'or 1011-C'

Amend the amendment in section 9 in §1011-B in subsection 5 in paragraph B in the 4th line (page 7, line 4 in amendment) by striking out the following: "subsection 2-B" and inserting the following: 'subsection 2-C'

Amend the amendment by inserting after section 9 the following:

'Sec. 10. 8 MRSA §1011-C is enacted to read:

§1011-C. Privilege to submit a casino operator license application for a northern casino pursuant to competitive bidding

The privilege to submit an application to the board for a casino operator license for a casino in Washington County or Aroostook County is governed by this section.

1. Commission required to request statements from federally recognized Indian tribes. Prior to developing a request for proposals for the privilege to apply to the board for a casino operator license for a casino in Washington County or Aroostook County, the commission shall request a statement from each of the 4 federally recognized Indian tribes in the State with regard to their support of and interest in entering into a partnership agreement relative to the operation of or ownership in a casino, or both, and whether the tribe wishes not to be included in such a partnership.

2. Request for proposals to include tribal partnership. A request for proposals developed by the commission must require a partnership agreement with all of the tribes that provided a statement under subsection 1 to the commission indicating that they

SENATE AMENDMENT

1 wished to be included in a partnership for the operation of or ownership in a casino,
2 except that the commission may not submit a request for proposals if more than 2 of the
3 federally recognized Indian tribes in the State provided a statement under subsection 1 to
4 the commission indicating that they do not wish to be included in such a partnership.

5 **3. County approval.** If the voters of either Washington County or Aroostook
6 County, or both, approve the operation of a casino pursuant to a referendum held in
7 accordance with section 1011-A, the commission shall develop a request for proposals
8 designed to encourage vigorous bidding for the purpose of awarding one bidder the
9 privilege to submit an application to the board for a casino operator license. The
10 commission shall request bids for the privilege to submit an application to the board for
11 one casino to be operated in either Washington County or Aroostook County, except that
12 bids may not be requested for a proposal in a county in which the voters rejected the
13 operation of a casino.

14 **4. Information to bidders.** A request for proposals developed by the commission
15 must instruct potential bidders to propose the scope of the gambling facility and amenities
16 to be offered in conjunction with the facility and how the proposed casino will establish a
17 socially responsible, economically successful business for the operator, considering
18 license fees, minimum capital investment requirements, regulatory standards and required
19 rates of revenue distribution. The request for proposals must list the federally recognized
20 Indian tribes in the State that provided a statement under subsection 1 to the commission
21 indicating that they wished to be included in a partnership for the operation of or
22 ownership in a casino and require a bid submission to include a partnership agreement
23 that includes each of the tribes listed.

24 **5. Consideration of bids for privilege to submit casino operator license**
25 **application to the board for a northern casino.** A bidder seeking award of the
26 privilege to submit an application to the board for a license to operate a casino in
27 Washington County or Aroostook County shall comply with the requirements determined
28 by the commission, including the requirement that proposals include a partnership with at
29 least 2 federally recognized Indian tribes in the State regarding operation of the casino or
30 ownership in the casino, or both. The commission shall require that a proposal for the
31 privilege to submit an application to the board for the operation of a casino include a
32 nonrefundable application fee of \$100,000 and an agreement to pay the costs of the board
33 for processing an application and performing background investigations, as described in
34 section 1018, subsection 1, if awarded the privilege to submit an application to the board
35 for a license to operate a casino. The commission shall ensure that the request for
36 proposals clearly identifies the deadline for submission and all bid requirements. The
37 commission shall follow, as nearly as practicable, the provisions governing competitive
38 bidding prescribed by Title 5, chapter 155, subchapter 1-A and rules adopted pursuant to
39 that subchapter.

40 **6. Request for proposals; factors; northern casino.** When considering bids
41 received in response to a request for proposals prescribed in this section for a location in
42 Washington County or Aroostook County, the commission shall consider the following:

43 A. Business and market factors, including:

44 (1) The bidder's commitment and capacity to make an initial minimum capital
45 investment of \$20,000,000 for a casino facility. Land acquisition, license fees and

1 off-site improvements are not considered to be part of the minimum capital
2 investment;

3 (2) The potential gross and net income to be generated by the bidder based upon
4 documented, expert market analysis;

5 (3) The extent to which the bidder's market plans suit the character of the region
6 and the local population in a way that encourages residents of the State to choose
7 to patronize the bidder's proposed facility as opposed to gaming facilities in other
8 states or provinces;

9 (4) The extent to which the bidder's proposed gambling facility can reasonably
10 be expected to serve as a regional recreational gambling destination;

11 (5) The bidder's proposed capital investment in a gambling facility, proposed
12 amenities associated with the facility and timing of capital investment
13 expenditures in terms of ensuring that the facility is profitable; and

14 (6) Other factors, properly disclosed in the commission's request for proposals,
15 that the commission determines to be relevant;

16 B. Economic development factors, including:

17 (1) The bidder's plan to be part of or enter into a partnership with 2 or more
18 federally recognized Indian tribes in the State and the extent to which the
19 proposed gambling facility will maximize employment opportunities and
20 economic benefits for all federally recognized Indian tribes in the State;

21 (2) The bidder's workforce development plan and the extent to which it will
22 maximize use of the region's existing labor force;

23 (3) The impact on economic development, existing and planned, in the region of
24 the proposed gambling facility; and

25 (4) Other factors, properly disclosed in the commission's request for proposals,
26 that the commission determines to be relevant;

27 C. Site location factors, including:

28 (1) The adequacy of transportation routes leading to the proposed location of the
29 gambling facility;

30 (2) Any negative impact of the proposed location of the gambling facility on the
31 municipality in which the facility is to be located, including but not limited to
32 traffic congestion, worsened road safety conditions and increased safety concerns
33 for pedestrian traffic;

34 (3) The proximity of the proposed location of the gambling facility to major
35 transportation routes and the Canadian border in order to maximize patronage
36 from cross-border traffic;

37 (4) The bidder's proposals for mitigating negative impacts identified under this
38 paragraph; and

1 (5) Other factors, properly disclosed in the commission's request for proposals,
2 that the commission determines to be relevant; and

3 D. Factors other than those listed in paragraphs A to C, including:

4 (1) The bidder's plan to identify, address and minimize the potential for and
5 existence of negative consequences associated with gambling and the operation
6 of the bidder's proposed facility, including, but not limited to, a financial
7 commitment to efforts to address problem gambling prevention, intervention,
8 treatment and research;

9 (2) The effects, both positive and negative, that can be reasonably anticipated to
10 be experienced by the municipality in which the proposed gambling facility is
11 located and the communities in the region; and

12 (3) The likelihood that the bidder will meet the casino operator license
13 requirements described in section 1016.

14 **7. Bid award factor priorities; northern casino.** The commission shall develop a
15 system of assigning points to the factors required to be considered under subsection 6.
16 The commission is authorized to hire or enter into a contract with vendors experienced in
17 evaluating business plans for large-scale development and the effects of development on
18 the local and regional economies to assist with the consideration of bids and development
19 of the point system required by this subsection. The commission shall request, and take
20 into consideration when awarding a bid, comment from members of the 4 federally
21 recognized Indian tribes in the State for the purpose of determining which proposal
22 provides the greatest employment opportunities and economic benefits to all of the 4
23 federally recognized Indian tribes. Development of a point system must ensure that
24 factors that support the following are awarded the highest point value:

25 A. The maximum potential increase in employment opportunities and economic
26 benefits for all federally recognized Indian tribes in the State; and

27 B. The representation and incorporation by the proposed casino of the character of
28 the State generally and, in particular, the character of the surrounding region
29 consistent with historic uses, local planning and zoning requirements.

30 **8. Notice of award.** Upon award of the privilege to submit an application for a
31 casino operator license to the board, the commission shall identify in a document
32 provided to all bidders and posted on the board's publicly accessible website how the
33 successful bidder's proposal supported the priorities described in subsection 7.

34 **9. Contract required; northern casino.** A person who is selected as the winning
35 bidder for the privilege to submit an application to the board for a casino operator license
36 shall agree to enter into a contract with the commission that obligates the casino operator
37 to the proposals made in the bid submitted in accordance with this section. In addition,
38 the contract must include:

39 A. A framework of reasonable financial penalties for failure of the casino operator to
40 comply with the terms of the contract and the circumstances under which failure to
41 comply with terms of the contract justifies withholding all net slot machine income
42 and net table game income until the terms of the contract are satisfied;

1 B. Disclosure of partnership agreements with at least 2 of the federally recognized
2 Indian tribes in the State and a framework of compensation to be paid to the parties in
3 the partnership for failure to abide by those agreements;

4 C. An agreement that, regardless of whether the casino is operated on land owned by
5 a federally recognized Indian tribe, tribal reservation land, tribal territory or land held
6 in trust by a tribe, the casino is subject to the provisions of this chapter and the laws
7 of the State, generally; and

8 D. Annual reinvestment requirements that direct the casino operator, beginning no
9 sooner than 5 years after commencing operation of slot machines at the casino, to
10 either make capital improvements to the casino facility or deposit with the board, in
11 an account described in section 1018, subsection 2-D, an amount no less than 2% but
12 no greater than 3% of net slot machine income and net table game income generated
13 by the casino during the previous year.

14 The commission shall consult with the Office of the Attorney General during the
15 negotiation and execution of the contract. The contract must be approved by the Attorney
16 General. The casino operator license issued by the board does not take effect and the
17 board may not accept the license fee required under section 1018, subsection 1, paragraph
18 C-3 until the contract is executed.

19 **10. Entity that is not federally recognized tribe may submit bid; expert analysis**
20 **may be required.** Nothing in this section precludes an entity that is not a federally
21 recognized Indian tribe from submitting a bid to the commission as long as the entity that
22 is not a federally recognized Indian tribe has entered into a partnership agreement with
23 the federally recognized Indian tribes that provided a statement to the commission under
24 subsection 1 indicating that they wished to be in a partnership for the operation of or
25 ownership in a casino. The commission may require submission of documented expert
26 analysis from a bidder to support the proposals submitted by the bidder.'

27 Amend the amendment by striking out all of section 12 and inserting the following:

28 '**Sec. 12. 8 MRSA §1018, sub-§1, ¶¶C-2 to C-5** are enacted to read:

29 C-2. The fee for a casino operator license for a casino in York County or
30 Cumberland County, issued in accordance with section 1011-B, is \$55,000,000. The
31 license fee must be deposited in accordance with section 1018-A, except for
32 \$5,000,000, which must be deposited to the General Fund and used for the
33 administrative expenses of the board. The license fee is separate from the
34 nonrefundable application fee required pursuant to section 1011-B, subsection 1 and
35 the payment of costs to the board for processing the application and performing
36 background investigations.

37 C-3. The fee for a casino operator license for a casino in Washington County or
38 Aroostook County, issued in accordance with section 1011-C, is \$1,000,000, which
39 must be deposited to the General Fund and used for the administrative expenses of
40 the board. The license fee is separate from the nonrefundable application fee required
41 pursuant to section 1011-C, subsection 5 and the payment of costs to the board for
42 processing the application and performing background investigations.

1 C-4. The renewal fee for a casino operator license for a casino in Washington
2 County or Aroostook County, issued subsequent to the award by competitive bidding
3 in accordance with section 1011-C, is \$100,000 and is due 5 years after the initial fee
4 required under paragraph C-3 and every 5 years thereafter.

5 C-5. The annual registration fee for a slot machine and a table game operated at a
6 casino licensed on or after January 1, 2016 is \$100.'

7 Amend the amendment by striking out all of section 15 and inserting the following:

8 'Sec. 15. 8 MRSA §1018, sub-§§2-A to 2-D, 3-A and 3-B are enacted to read:

9 2-A. Term of license issued on or after January 1, 2016; southern casino. A
10 casino operator license issued by the board pursuant to section 1011, subsection 2-C is
11 effective for 20 years unless revoked or surrendered pursuant to subchapter 5.

12 2-B. Term of license issued on or after January 1, 2016; northern casino. A
13 casino operator license for a facility in Washington County or Aroostook County issued
14 by the board pursuant to section 1011, subsection 2-C is effective for 5 years from the
15 date of issuance unless revoked or surrendered pursuant to subchapter 5.

16 2-C. Annual reinvestment requirements; southern casino. A casino operator
17 licensed by the board pursuant to section 1011, subsection 2-C operating a casino in York
18 County or Cumberland County may deposit with the board the percentage of net slot
19 machine income and net table game income required as an annual reinvestment pursuant
20 to the contract executed in accordance with section 1011-B, subsection 5. The board
21 shall hold the funds in an interest-bearing, nonlapsing account. The casino operator may
22 request funds from the account for the purpose of making capital investments or
23 improvements to the casino facility. If there are funds in the account and the casino
24 ceases operation for a period of more than 90 days, the funds must be deposited to the
25 General Fund.

26 2-D. Annual reinvestment requirements; northern casino. A casino operator
27 licensed by the board pursuant to section 1011, subsection 2-C operating a casino in
28 Washington County or Aroostook County may deposit with the board the percentage of
29 net slot machine income and net table game income required as an annual reinvestment
30 pursuant to the contract executed in accordance with section 1011-C, subsection 9. The
31 board shall hold the funds in an interest-bearing, nonlapsing account. The casino operator
32 may request funds from the account for the purpose of making capital investments or
33 improvements to the casino facility. If there are funds in the account and the casino
34 ceases operation for a period of more than 90 days, the funds must be deposited to the
35 General Fund.

36 3-A. Licensee other than the original applicant; contract applicable; transfer
37 fee. If a person initially licensed to operate a casino after January 1, 2016 in York
38 County or Cumberland County surrenders the license or the license is revoked, a
39 subsequent licensee authorized to operate the casino in accordance with this chapter is
40 subject to the terms of the contract required by and executed under section 1011-B,
41 subsection 5. A subsequent licensee is required to submit an application to the board and
42 is subject to the licensing qualifications prescribed under section 1016 and may only
43 operate the casino for the remainder of the 20-year license term applied to the initial
44 licensee. The fee for the transfer of a casino operator license initially issued subsequent

1 to the competitive bid process under section 1011-B is \$500,000, which must be
2 submitted to the board for deposit to the General Fund.

3 **3-B. Licensee other than original applicant; contract applicable.** If a person
4 initially licensed to operate a casino in Washington County or Aroostook County
5 surrenders the license or the license is revoked, a subsequent licensee authorized to
6 operate the casino in accordance with this chapter is subject to the terms of the contract
7 required by and executed under section 1011-C, subsection 9. A subsequent licensee is
8 required to submit an application to the board and is subject to the licensing qualifications
9 prescribed under section 1016.'

10 Amend the amendment in section 16 in §1018-A in the first line (page 9, line 2 in
11 amendment) by inserting after the following: "**mitigation**" the following: '**southern**
12 **casino fee**'

13 Amend the amendment in section 19 in subsection 3 in paragraph A in the last line
14 (page 10, line 9 in amendment) by striking out the following: "and" and inserting the
15 following: '~~and~~'

16 Amend the amendment in section 19 in subsection 3 in paragraph B in the last line
17 (page 10, line 13 in amendment) by striking out the following: "casino." and inserting the
18 following: '~~casino~~; and'

19 Amend the amendment in section 19 in subsection 3 by inserting at the end the
20 following:

21 'C. A casino operating in Washington County or Aroostook County, licensed
22 pursuant to section 1011-C, may operate up to 250 slot machines for the 3 years after
23 commencement of slot machine operation at the casino and up to 350 machines after
24 3 years of slot machine operation at the casino.'

25 Amend the amendment by inserting after section 19 the following:

26 '**Sec. 20. 8 MRSA §1036, sub-§2-A**, as amended by PL 2013, c. 118, §2, is
27 further amended to read:

28 **2-A. Distribution from casino of slot machine income.** A casino operator shall
29 collect and distribute 46% of the net slot machine income from slot machines operated by
30 the casino operator to the board for distribution by the board as follows:

31 A. Twenty-five percent of the net slot machine income must be forwarded directly
32 by the board to the Treasurer of State, who shall credit the money to the Department
33 of Education, to be used to supplement and not to supplant funding for essential
34 programs and services for kindergarten to grade 12 under Title 20-A, chapter 606-B;

35 B. Four percent of the net slot machine income must be forwarded by the board to
36 the University of Maine System Scholarship Fund created in Title 20-A, section
37 10909 and to the Board of Trustees of the Maine Maritime Academy to be applied by
38 the board of trustees to fund its scholarship program. The slot machine income under
39 this paragraph must be distributed as follows:

40 (1) The University of Maine System share is the total amount of the distribution
41 multiplied by the ratio of enrolled students in the system to the total number of
42 enrolled students both in the system and at the Maine Maritime Academy; and

1 (2) The Maine Maritime Academy share is the total amount of the distribution
2 multiplied by the ratio of enrolled students at the academy to the total number of
3 enrolled students both in the system and at the academy;

4 C. Three percent of the net slot machine income must be forwarded by the board to
5 the Board of Trustees of the Maine Community College System to be applied by the
6 board of trustees to fund its scholarships program under Title 20-A, section 12716,
7 subsection 1;

8 D. Four percent of the net slot machine income must be forwarded by the board to
9 the Treasurer of State, who shall distribute the funds to the tribal governments of the
10 Penobscot Nation and the Passamaquoddy Tribe;

11 E. Three percent of the net slot machine income must be deposited to the General
12 Fund for administrative expenses of the board, including gambling addiction
13 counseling services, in accordance with rules adopted by the board;

14 F. Two percent of the net slot machine income must be forwarded directly to the
15 municipality in which the casino is located;

16 G. One percent of the net slot machine income must be forwarded by the board to the
17 Treasurer of State, who shall credit the money to the Agricultural Fair Support Fund
18 established in Title 7, section 91;

19 H. One percent of the net slot machine income must be forwarded by the board to the
20 Treasurer of State, who shall credit the money to the fund established in section 298
21 to supplement harness racing purses;

22 I. One percent of the net slot machine income must be credited by the board to the
23 Sire Stakes Fund created in section 281;

24 J. One percent of the net slot machine income must be forwarded directly to the
25 county in which the casino is located to pay for mitigation of costs resulting from
26 gaming operations;

27 L. Beginning July 1, 2013, 1/2 of 1% of the net slot machine income must be
28 forwarded by the board to the Treasurer of State, who shall credit the money to the
29 Maine Milk Pool, Other Special Revenue Funds account within the Department of
30 Agriculture, Conservation and Forestry to help fund dairy farm stabilization pursuant
31 to Title 7, sections 3153-B and 3153-D; and

32 M. Beginning July 1, 2013, 1/2 of 1% of the net slot machine income must be
33 forwarded by the board to the Treasurer of State, who shall credit the money to the
34 Dairy Improvement Fund established under Title 10, section 1023-P.

35 If a recipient of net slot machine income in paragraph ~~D~~, H or I owns or receives funds
36 from a slot machine facility or casino, other than the casino in Oxford County or the slot
37 machine facility in Bangor, then the recipient may not receive funds under this
38 subsection, and those funds must be retained by the Oxford County casino operator.'

39 Amend the amendment in section 20 in the first line (page 10, line 14 in amendment)
40 by striking out the following: "**and 2-E**" and inserting the following: '**to 2-F**'

41 Amend the amendment in section 20 by inserting at the end the following:

1 **2-F. Distribution of slot machine income and table game income from a**
2 **northern casino.** A casino operator licensed to operate a casino in Washington County
3 or Aroostook County pursuant to section 1011-C shall collect and distribute 46% of net
4 slot machine income and 16% of net table game income to the board. The distributions
5 must be held by the board until a distribution is established by the Legislature for net slot
6 machine income and net table game income generated by a casino.'

7 Amend the amendment by inserting after section 24 the following:

8 **'Sec. 25. Joint standing committee authorized to submit legislation.** The
9 joint standing committee of the Legislature having jurisdiction over veterans and legal
10 affairs is authorized to submit legislation to the First Regular Session of the 128th
11 Legislature establishing a manner of distribution of slot machine and table game revenue
12 that will apply to a casino licensed pursuant to the Maine Revised Statutes, Title 8,
13 section 1011-C in either Washington County or Aroostook County and amending the
14 laws governing the issuance of casino operator licenses and the regulation of casinos
15 based on rules of the Department of Public Safety, Gambling Control Board that currently
16 govern those functions.'

17 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
18 or section number to read consecutively.

19 SUMMARY

20 This amendment establishes a competitive bid process for a casino in either
21 Washington County or Aroostook County, the operation of which is to maximize
22 economic and employment benefits for the 4 federally recognized Indian tribes in the
23 State, known as the northern casino. The Casino Development Commission is directed to
24 develop a request for proposals for the privilege to submit an application to the
25 Department of Public Safety, Gambling Control Board for a casino operator license. Prior
26 to the commission's submitting a request for proposals for a northern casino operator
27 license, voters would have to approve the operation of a casino by a countywide
28 referendum. The referendum must be held on the same date as a statewide election and no
29 sooner than June 1, 2017 and no later than July 1, 2018. The fee to submit a bid to the
30 commission is \$100,000 for a northern casino. It provides for specific supporting
31 information to be submitted by the bidder and considered by the commission including
32 the bidder's ability to make a minimum capital investment of \$20,000,000 for a northern
33 casino. The bid for a northern casino requires a partnership with at least 2 federally
34 recognized Indian tribes in the State.

35 For the northern casino, the commission is directed to develop a point system for the
36 factors to be considered in evaluating proposals and give priority to proposals that
37 maximize the employment and economic benefits to federally recognized Indian tribes in
38 the State. The winning bidder must enter into a contract with the commission that
39 obligates the casino operator to abide by the proposals made in the winning bid. Failure to
40 abide by the terms of the contract could result in financial penalties to the operator.

41 The license fee for a northern casino under the amendment is \$1,000,000 for a 5-year
42 term with a renewal fee of \$100,000.

1 The amendment sets the distribution of net slot machine revenue for the northern
2 casino at 46% and sets the distribution of net table game revenue for the casino at 16%.
3 The bill authorizes the Joint Standing Committee on Veterans and Legal Affairs to submit
4 legislation establishing a distribution of the slot machine and table game revenue required
5 to be paid by the casino.

6 Under current law, 4% of net slot machine income must be forwarded to the tribal
7 governments of the Penobscot Nation and the Passamaquoddy Tribe, unless those tribal
8 governments own or receive funds from a slot machine facility or casino, other than the
9 casino located in Oxford County or the slot machine facility in Bangor, in which case the
10 tribal governments are not due any of the net slot machine income. This amendment
11 removes that disqualification, allowing those tribal governments to receive net slot
12 machine income even if they own or receive funds from a slot machine facility or casino.

13 **SPONSORED BY:** _____

14 **(Senator PATRICK)**

15 **COUNTY: Oxford**