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House Order, Propounding a Question to the Supreme Judicial Court

WHEREAS, it appears to the House of Representatives of the 128th Legislature that the following is an important question of law and that this is a solemn occasion; and

WHEREAS, the Constitution of Maine, Article VI, Section 3 provides for the Justices of the Supreme Judicial Court to render their opinion on such a question; and

WHEREAS, the House of Representatives has repeatedly considered proposals to authorize tribal gaming such as House Paper 838, Legislative Document 1201, "An Act To Authorize Tribal Gaming" and House Paper 999, Legislative Document 1447, "An Act To Recognize and Provide for the Right of the Houlton Band of Maliseet Indians To Operate a Casino on Houlton Band Trust Land Exempt from Certain Gaming Laws"; and

WHEREAS, the State authorizes and regulates casinos, including the operation of table games and slot machines, pursuant to the Maine Revised Statutes, Title 8, chapter 31; authorizes and regulates betting on harness racing pursuant to Title 8, chapter 11; and authorizes and regulates a state lottery pursuant to Title 8, chapter 14-A; and

WHEREAS, the revenue provided to the Houlton Band of Maliseet Indians by tribal gaming will ensure tribal self-sufficiency and self-determination and will be used by the tribal government for critical social and health programs vital to the well-being of tribal members including reducing chronically high rates of unemployment, depression and mortality and providing services such as health care, elder care, housing and education; and

WHEREAS, the Supreme Court of the United States decided in California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987) that state and local governments do not have the authority to regulate gambling on Indian land; and

WHEREAS, it is important that the Legislature be informed as to the question raised in this order; now, therefore, be it

ORDERED, that, in accordance with the provisions of the Constitution of Maine, the House of Representatives respectfully requests the Justices of the Supreme Judicial Court to give the House of Representatives their opinion on the following question of law:

Question. Does the decision of the Supreme Court of the United States in California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987) allow the Houlton Band of Maliseet Indians, a federally recognized Indian tribe, to conduct gambling on tribal trust land without permission to do so from the State?