



STATE OF MAINE
HOUSE OF REPRESENTATIVES
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RACHEL TALBOT ROSS
SPEAKER OF THE HOUSE

Wednesday, May 31st, 2023

Testimony of Speaker Rachel Talbot Ross presenting
LD 1620 An Act to Enact the Mi'kmaq Restoration Act
Before the Joint Standing Committee on the Judiciary

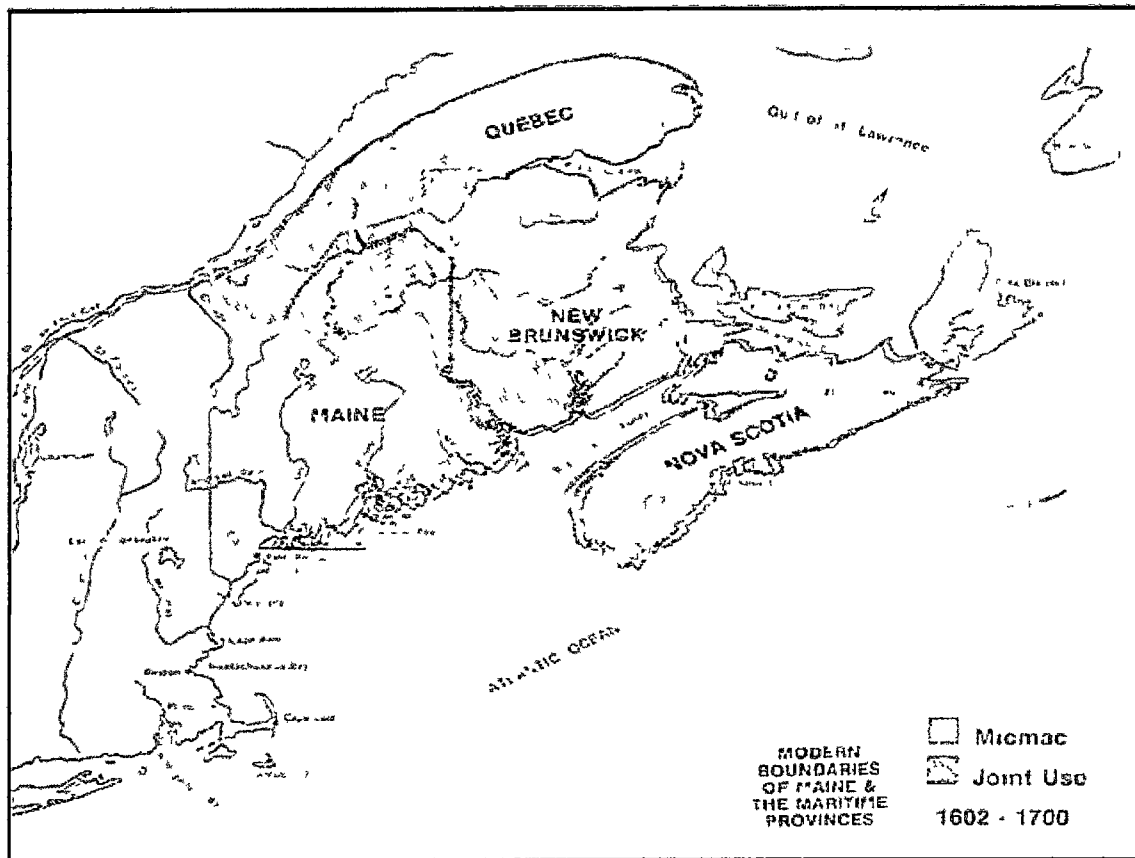
Senator Carney, Representative Moonen, and other distinguished members of the Judiciary Committee I am Rachel Talbot Ross and I represent House District 118 which is the Portland neighborhoods of Parkside, Bayside, East Bayside, Oakdale and the University of Southern Maine Campus and I also have the distinct honor of serving as Maine Speaker of the House With the consent of the Mi'kmaq Nation Chief and Mi'kmaq Nation Tribal Council, I am here today to present **LD 1620, An Act to Enact the Mi'kmaq Restoration Act.**

Before I begin, it is important to recognize that the land we stand on today is most recently the ancestral unceded land of the Nanrantsouak Band of Abenaki Indians, a name meaning "people of the still water between the rapids", who were the last native stewards of the land between the Kennebec and Androscoggin Rivers, where they lived as farmers and fishermen until European contact, when they merged into the Tribes that make up the larger Wabanaki Confederacy – the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passaquoddy Tribes at Motahkomikuk and Sipayik, and the Penobscot Nation

The amended language that I am submitting to replace LD 1620 is a piece of historic legislation that will bring parity for the Tribal nations located in Maine

The Mi'kmaq Nation, formerly known as the Aroostook Band of Micmacs, is a federally recognized Tribe that has continuously inhabited northern New England and the Canadian Maritime Provinces since time immemorial The population of Mi'kmaq currently located in Maine number 1,500 Tribal citizens, yet just across the Canadian border over 65,000 Mi'kmaq live across 61 Tribal reservations The community located in Presque Isle has lived in Aroostook County for 100s of years

District 118: Portland neighborhoods of Parkside, Bayside, East Bayside, Oakdale and the University of Southern Maine Campus



Recognition of the Mi'kmaq Nation in Maine has been a long fraught history. While monolithic in Canada, the Federal government has had trouble tracing back the ancestry of the community in Aroostook County due to a lack of consistently occupied land. That land was sold away due to a lack of respect of treaty rights. The Association of Aroostook Indians, the Mi'kmaq and the Maliseet Tribes, worked together with genealogists to survey Tribal citizens to gain state recognition in 1973. In the 1970s and 1980s, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmacs worked the halls of Congress to gain federal recognition. The Maliseets gained federal recognition in October of 1980 and the Micmacs in November of 1991.

In 1989 in the 114th Legislature, Senator Margaret Ludwig of Houlton sponsored LD 272 "An Act to Implement the Aroostook Band of Micmacs Settlement Act" which was co-sponsored by the entire Presque Isle delegation: Senator Donald Collins, Representative Mary MacBride, and Representative John Lisnik. This legislation was signed into law by Governor John McKernan, but ultimately, the then-Aroostook Band of Micmac Tribal Council did not certify the legislation as part of the government-to-government agreement.

The 1989 legislation gave very little sovereign rights to the Aroostook Band of Micmacs. They were not allowed to acquire any of their ancestral land or the right to self-govern over their internal Tribal matters. Effectively, the recognition was in title only.

Since the rejection of the Aroostook Band of Micmacs there has been frequent argument and litigation of whether or not the Micmac Settlement Act is actual law because of the lack of certification from the Tribal government. These cases have reached the Federal Court and there has been confusing jurisdiction of which ordinances and laws are in effect on Mi'kmaq Tribal land.

LD 1620, which sits before you today, is the culmination of years of conversations and months of careful crafting to put forward a solution with full support of the Governor's Office, the Attorney General's Office, and Mi'kmaq Nation Chief Edward Peter Paul to repeal the Micmac Settlement Act and create the Mi'kmaq Restoration Act.

The Mi'kmaq Restoration Act will bring the Mi'kmaq Nation up to near parity to the same current *limited* rights and allowances of self-governance that the Houlton Band of Maliseet Indians, the Passamaquoddy Tribes, and the Penobscot Nation currently enjoy.

Sections 5 of the amendment to LD 1620 outline that where expressly provided that the Tribal government has exclusive jurisdiction, Maine Laws still do apply to the Tribe. This section of the bill recognizes the unique government within a government structure that exists and that many, if not most, of state laws will still apply to Mi'kmaq Nation Tribal citizens on Tribal land.

Section 6 outlines the new *limited* privileges granting the ability for the Mi'kmaq Tribal government to create their own ordinances on Tribal lands for Tribal citizens. This sovereign recognition status to self-govern is a respectful allowance by the State for the Tribe to have exclusive jurisdiction over internal Tribal matters. For day-to-day matters, it should ultimately be up to the Mi'kmaq Nation to regulate and enforce the Mi'kmaq laws on Mi'kmaq land for members of federally recognized Tribes.

Section 7 of the bill explains the *limited* regulation of natural resources that are fully within the boundaries of Mi'kmaq Nation Jurisdiction Land. This is exclusive authority to adopt hunting, trapping, and fishing laws that the Tribal government sees fit on Tribal lands and *limited* water. Like the other Tribal

governments in Maine, there is great cooperation with the State of Maine's Department of Inland Fisheries & Wildlife to collaboratively oversee the regional takings and consult on remedial measures that need to be taken. As the descendants of the original stewards of these lands, there is no one more capable in seeing the long-term sustainability of the local fish and wildlife populations who have provided the same sustenance to their elders and ancestors.

Section 7 also includes exclusive authority for the Tribal government to enact ordinances to regulate clean drinking water on Tribal land, and section 8 is the allowance to administer drinking water programs on Tribal land. The members of the 130th Legislature should be familiar with the disturbing trouble that the Passamaquoddy Tribe at Sipayik had to fight for their Tribal citizens to have clean drinking water. As a basic human right, each and every person in a position of power should be working to ensure that the water that comes out of the kitchen tap should be clean enough to drink as is.

Section 9 establishes the Mi'kmaq Nation Tribal Court. This is by far the most important piece of the Mi'kmaq Restoration Act. Without an ability to enforce and execute laws, a government is a government in name only. As the Houlton Band of Maliseet Indians, the Passamaquoddy Tribes at Motahkomikuk and Sipayik, and the Penobscot Nation all have their own court system, the Mi'kmaq Nation are the lone exception of where the State has full enforcement over detail of the lives of Mi'kmaq Tribal citizens.

The Mi'kmaq Nation Tribal Court will have jurisdiction of Class D & E crimes committed on Mi'kmaq Nation Jurisdiction Land, exclusively by and against members of federally recognized Tribes. Any instances where a Class D or E crime has been committed against a non-Tribal citizen will be heard in a state court. Any Class A, B or C crimes would also be heard in a state court – which is generally true for the laws across *Indian Country* in the United States.

The Mi'kmaq Nation Tribal Court will also have exclusive jurisdiction of juvenile Class D & E crimes committed against Tribal citizens or Tribal property, small claims civil actions between Wabanaki Tribal Citizens on Wabanaki land.

Additionally, the Mi'kmaq Nation Tribal Court will oversee many of family court cases: granting marriages of Mi'kmaq Tribal citizens, processing divorces and separation agreements, and all Indian child custody proceedings applicable by federal Indian child welfare laws ensuring that Mi'kmaq children stay in the home of a family with a similar culture to their own and avoiding cultural whitewashing.

Section 11 is the creation of a Mi'kmaq Nation Tribal law enforcement. This new police force will have exclusive authority to enforce Mi'kmaq Tribal ordinances within Mi'kmaq Nation Jurisdiction Land. Together with state and local police, the Mi'kmaq Nation police will have joint authority to enforce Tribal and State laws within Mi'kmaq Nation Jurisdiction land. Mi'kmaq Nation police may also enter into mutual aid agreements with other state and local law enforcement. These agreements have been highly beneficial in Washington County where Passamaquoddy Police are filling a staffing hole left by area agencies who are unable to afford 24/7 policing. It is not unusual for Passamaquoddy Police to be the first responder to E-911 calls anywhere in Washington County. This bill could allow for the Mi'kmaq Nation Police to help assist in responding to calls where Presque Isle and Aroostook County law enforcement are unable to respond to because of staffing challenges.

While the benefit of the Mi'kmaq Restoration Act will be most realized for Mi'kmaq Tribal citizens, the surrounding region will also be impacted by the newly allowed powers adopted in the bill. The clear status of the Mi'kmaq Nation will allow the Tribal government to be approved for more federal and state discretionary funds, grants and loans that complicated their application. According to US Census estimates, the Mi'kmaq Nation's per capita income is only \$11,431 – well below the State's standard deduction. The per capita income for all people in Maine is \$34,593. Child poverty is also highest among the Mi'kmaq Nation at a rate of 76.9%. Comparably, Maine's child poverty rate is at 15.1%. Any help directed to advancing the lives of the Mi'kmaq Nation will have immediate and generational change for the future of many lives of families located in Maine.

The state and federal funds coming into the Tribe will also have an amplified benefit with more funds into the region. More economic development opportunities for the Mi'kmaq Nation, mean more products and services being created in Central Aroostook County, more jobs being created, and more money being spent locally. The City of Presque Isle and the Mi'kmaq Nation already are already close partners working to give back to each other. The Mi'kmaq Nation is a member of the Presque Isle Chamber of Commerce and prioritizes local business investment. The Mi'kmaq Nation Health Clinic, located across the street from the only low-barrier homeless shelter north of Bangor, provides care for anyone that walks into their doors. More mutual cooperation is nearly guaranteed to happen and the economic impacts will be major a region of the state with a population that has been steadily declining because of a lack of opportunities since the closing of the Loring Air Force Base.

With the Mi'kmaq Nation fully on the outside of the Maine Indian Claims Settlement Act (MICSA), and no concrete Settlement Act of their own, they find themselves in a very unique situation with no true legal standing. From Title 30 MRSA c 601 Maine Indian Claims Settlement §6204 "Laws of the State to apply to Indian Lands"

Except as otherwise provided in this Act, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine

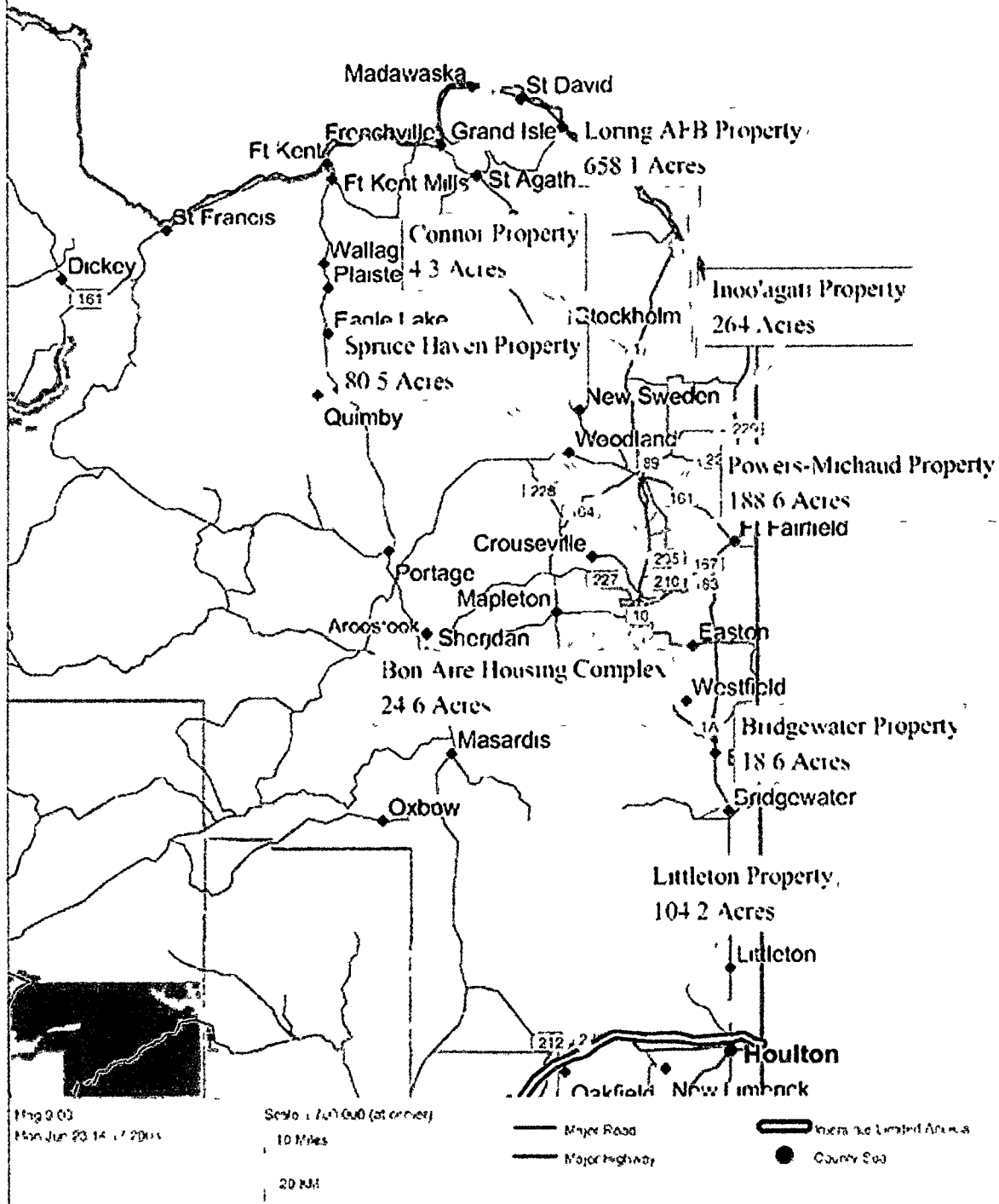
This provision in MICSA, along with a non-certified settlement, has relegated the Mi'kmaq Nation to little legal allowances for federal funding. The Tribal government funding sources are 100% through private and public grant opportunities. The Mi'kmaq Nation Tribal government does not even have the condescending State of Maine classification of Tribal nation governments as equal to municipalities to allow for any state funding opportunities that municipalities are granted. With the Wabanaki Nations located in Maine being at the bottom of the barrel of the 574 federally recognized Tribes in the United States by having the least economic and sovereign freedoms, the Mi'kmaq Nation is the bottom of the bottom. By passing LD 1620 and enacting the Mi'kmaq Restoration Act, the State of Maine is taking a large step forward in rebuilding Tribal relations with the Mi'kmaq Nation and also making a large investment in the future of many Mi'kmaq Tribal children.

In concluding, I would like to highlight the theme of the Harvard Project on American Indian Economic Development study *Economic and Social Impacts of Restrictions on the Applicability of Federal Indian Policies to the Wabanaki Nations in Maine*, "there is nowhere to go, but up"

I appreciate the conversations of the Governor's Office and the Attorney General's Office to find unanimous agreement of the language being presented to you today. I hope the work that has taken place before today's public hearing will help expedite a decision for the committee.

Thank you for time and attention. I am happy to take questions, but there are others that are more knowledgeable on the subject than I am that can be more helpful.

Micmac Tribal Land Holdings (June 2003)



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FROM
Speaker
Talbot
Ross
LD 2004

Be it enacted by the People of the State of Maine as follows.

Sec. 1. 30 MRSA Ch. 603, as enacted by PL 1989, c 148, is repealed

Sec. 2. 30 MRSA, Ch. 605, is enacted., is enacted to read

§ __. Short title

This Act shall be known and may be cited as "The Mi'kmaq Restoration Act "

Sec. 3. 30 MRSA § __, is enacted to read

§ __. Legislative findings and declaration of policy

1. The Mi'kmaq Nation, previously known as the Aroostook Band of Micmac Indians, as represented as of the time of passage of this Act by the Mi'kmaq Tribal Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Mi'kmaq Nation which years ago claimed aboriginal title to certain lands in the State of Maine
2. The Mi'kmaq Nation was not referred to in the Maine Indian Claims Settlement Act of 1980
3. There exists aboriginal lands in Maine jointly used by the Mi'kmaq and other tribes to which the Mi'kmaq Nation could have asserted aboriginal title but for the extinguishment of all such claims by the Maine Indian Claims Settlement Act of 1980
4. In 1991, the United States formally recognized the Nation as a sovereign government to whom it owed a special trust relationship by enacting the Aroostook Band of Micmacs Settlement Act
5. Section 6(d) of the Aroostook Band of Micmacs Settlement Act authorized the State of Maine and the Mi'kmaq Nation to execute agreements regarding the State of Maine's jurisdiction over lands owned by, or held in trust for the benefit of the Mi'kmaq Nation or any citizen of the Nation
6. The State of Maine and the Mi'kmaq Nation intend for this Act to constitute a jurisdictional agreement pursuant to Section 6(d) of the Aroostook Band of Micmacs Settlement Act that amends the Micmac Settlement Act, P L 1989, ch 148

Sec. 4. 30 MRSA § __, is enacted to read

§ __. Definitions

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

1. **Aroostook Band of Micmacs Settlement Act.** "Aroostook Band of Micmacs Settlement Act" means P L 102-171, 105 Stat 1143 (Nov 26, 1991), which act was formerly codified at 25 U S C § 1721 note
2. **Mi'kmaq Nation.** "Mi'kmaq Nation" means the sole successor to the Mi'kmaq Nation as constituted in aboriginal times in what is now the State of Maine, and all its

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predecessors and successors in interest The Mi'kmaq Nation is represented, as of the date of enactment of this subsection, as to lands within the United States by the Mi'kmaq Tribal Council This definition has the same meaning as section 3(1) of the Aroostook Band of Micmacs Settlement Act

3. **Mi'kmaq Nation Jurisdiction Land.** "Mi'kmaq Nation Jurisdiction Land" means all Mi'kmaq Nation Trust Land that exists as of the date of enactment of this Act ("Existing Trust Lands") and all Mi'kmaq Nation Trust Land acquired after the date of enactment of this Act, which is within Aroostook County and within 50 miles of Existing Trust Lands
4. **Mi'kmaq Nation Trust Land.** "Mi'kmaq Nation Trust Land" means land or other natural resources acquired by the Secretary in trust for the Mi'kmaq Nation pursuant to federal legislation concerning the Mi'kmaq Nation This definition has the same meaning as section 3(4) of the Aroostook Band of Micmacs Settlement Act
5. **Land or other natural resources.** "Land or other natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including, but without limitation, minerals and mineral rights, timber and timber rights, water and water rights and hunting and fishing rights
6. **Laws of the State.** "Laws of the State" means the Constitution 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
7. **Secretary.** "Secretary" means the Secretary of the Interior of the United States

Sec. 5. 30 MRSA §___, is enacted to read
§ ___. Laws of the State to apply to Indian Lands

Except as otherwise provided in this Act, the Mi'kmaq Nation and all members of the Mi'kmaq Nation in the State and any lands or other natural resources owned by them, held in trust for them by the United States or by any other person or entity shall be subject to the laws of the State and to the civil and criminal jurisdiction of the courts of the State to the same extent as any other person or lands or other natural resources therein

Sec. 6. 30 MRSA §___, is enacted to read
§ ___. Powers and duties of the Mi'kmaq Nation within Mi'kmaq Nation Jurisdiction Land

1. Sovereign Status. The State recognizes that the Mi'kmaq Nation predates the State of Maine and the United States and possesses the power and authority to self-govern as limited by the Aroostook Band of Micmacs Settlement Act and this Act

1A. General powers. Except as otherwise provided in this Act, the Mi'kmaq Nation, within Mi'kmaq Nation Jurisdiction Land, may, separate and distinct from the State, exercise exclusive jurisdiction over internal tribal matters, including membership in the Nation, the right to reside within Mi'kmaq Nation Jurisdiction Land, tribal organization, tribal government, tribal elections, and the exercise of power pursuant to section 7206, subsection 10, section 7207 and section 7208, subsection 1, paragraph F shall not be subject to regulation by the State The Mi'kmaq Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State

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applicable to Mi'kmaq Nation Jurisdiction Land and the residents thereof Any resident of the Mi'kmaq Nation Jurisdiction Land who is not a member of the nation nonetheless shall be equally entitled to receive any municipal or governmental services provided by the nation or by the State, except those services which are provided exclusively to members of the 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 Mi'kmaq Nation Jurisdiction Land

2. Power to sue and be sued The Mi'kmaq Nation and its 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, however, that the nation and its officers and employees shall be immune from suit when the nation is acting in its governmental capacity to the same extent as public officers or public employees within the State

3. Ordinances. The Mi'kmaq Nation has the right to exercise exclusive jurisdiction within its Mi'kmaq Nation Jurisdiction Land over violations by members of any federally recognized Indian tribe, nation, band or other group of tribal ordinances adopted pursuant to this section or section 7206 The decision to exercise or terminate the jurisdiction authorized by this section must be made by the Mi'kmaq Tribal Council If the Nation chooses not to exercise, or to terminate its exercise of, jurisdiction as authorized by this section or section 7206, the State has exclusive jurisdiction over violations of tribal ordinances by members of any federally recognized Indian tribe, nation, band or other group within the Mi'kmaq Nation Jurisdiction Land The State has exclusive jurisdiction over violations of tribal ordinances by persons not members of any federally recognized Indian tribe, nation, band or other group except as provided in section 7208

Sec. 7. 30 MRSA §___, is enacted to read
§___. Regulation of natural resources

1 Adoption of hunting, trapping and fishing ordinances by the Mi'kmaq Nation.

Subject to the limitations of subsection 6, the Mi'kmaq Nation shall have exclusive authority within Mi'kmaq Nation Jurisdiction Land to 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 Mi'kmaq Nation Jurisdiction Land 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 Mi'kmaq 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 Mi'kmaq Nation In addition to the authority provided by this subsection, the Mi'kmaq Nation, subject to the limitations of subsection 6, may exercise within its Mi'kmaq Nation Jurisdiction Land all the rights incident to ownership of land under the laws of the State

2. Registration stations. The Mi'kmaq Nation shall establish and maintain registration stations for the purpose of registering bear, moose, deer and other wildlife killed within its Mi'kmaq Nation Jurisdiction Land and shall adopt ordinances requiring registration of such wildlife to the extent and in substantially the same manner as such wildlife are

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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 Mi'kmaq Nation shall report the deer, moose, bear and other wildlife killed and registered within its Mi'kmaq Nation Jurisdiction Land 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 Mi'kmaq Nation shall be available, at all times, for inspection and examination by the commissioner.

3. Sustenance fishing within Mi'kmaq Nation Jurisdiction Land. Notwithstanding any other law of the State, the members of the Mi'kmaq Nation may take fish, within the boundaries of Mi'kmaq Nation Jurisdiction Land, for their individual sustenance subject to the limitations of subsection 5.

4. Posting. Lands or waters subject to regulation the Mi'kmaq Nation shall 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.

5. 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 Mi'kmaq Nation Jurisdiction Land 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 Mi'kmaq 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 adopted under this section, or the absence of such a tribal ordinance, 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 Mi'kmaq Nation, he shall inform the governing body of the nation, as is appropriate, of his opinion and attempt to develop appropriate remedial standards in consultation with the nation. 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 a 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 Mi'kmaq Nation, 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 Mi'kmaq Nation 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 Mi'kmaq Nation Jurisdiction Land. 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.

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6. Transportation of game Fish lawfully taken within Mi'kmaq Nation Jurisdiction Land and wildlife lawfully taken within Mi'kmaq Nation Jurisdiction Land and registered pursuant to ordinances adopted by the Mi'kmaq Nation, may be transported within the State

7 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

8. Regulation of drinking water Unless the Mi'kmaq Nation, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within the Mi'kmaq Nation Jurisdiction Land

A. The Mi'kmaq Nation has exclusive authority to enact ordinances regulating drinking water within Mi'kmaq Nation Jurisdiction Land,

B. The State may not exercise primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within the Mi'kmaq Nation Jurisdiction Land, and

C. The Mi'kmaq Nation may seek to be treated as a state and to obtain primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within the Mi'kmaq Nation Jurisdiction Land

Notwithstanding any other provision of this subsection, the Mi'kmaq Nation's jurisdiction does not extend beyond the Mi'kmaq Nation Jurisdiction Land

Sec. 8. 30 MRSA §___, is enacted to read

§ ___. Jurisdiction of the Mi'kmaq Nation over drinking water within the Mi'kmaq Nation Jurisdiction Land

Notwithstanding any provision of state law to the contrary, the State and the Mi'kmaq Nation agree and establish that

1. Jurisdiction of Mi'kmaq Nation to administer drinking water-related programs.

The Mi'kmaq Nation may seek to be treated as a state pursuant to the federal Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing regulations, as amended, within the Mi'kmaq Nation Jurisdiction Land and may otherwise benefit from and exercise jurisdiction under any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs, and

2. Administration of drinking water-related programs does not affect or preempt state law. The application of any provision of the federal Safe Drinking Water Act and its implementing regulations, as amended, and of any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs, and the enforcement of such laws and regulations by the Mi'kmaq Nation under subsection 1 does not affect or preempt the laws of the State
Notwithstanding any other provision of this section, the Mi'kmaq Nation's jurisdiction does not extend beyond the Mi'kmaq Nation Jurisdiction Land

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Sec. 9. 30 MRSA §___, is enacted to read

§ _____ Jurisdiction of the Mi'kmaq Nation Tribal Court

1 Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Mi'kmaq Nation 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 is less than one year and the maximum potential fine does not exceed \$5,000 and that are committed on the Mi'kmaq Nation Jurisdiction Land 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.

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Mi'kmaq Nation 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 Mi'kmaq Nation, Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation on the Mi'kmaq Nation Jurisdiction Land.

C. Civil actions between members of the Mi'kmaq Nation, Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation arising on the Mi'kmaq Nation Jurisdiction Land and cognizable as small claims under the laws of the State, and civil actions against a member of the Mi'kmaq Nation, Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation under Title 22, section 2383 involving conduct on the Mi'kmaq Nation Jurisdiction Land by a member of the Mi'kmaq Nation, Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation.

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

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

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 7206, subsection 10, except that the Mi'kmaq Nation may not exercise jurisdiction over a nonprofit public municipal corporation, including, but not limited to, the water district established by Private and Special Law 1983, chapter 25

The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Mi'kmaq Nation chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State has exclusive jurisdiction over those matters. Except as provided in paragraphs A and

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B, all laws of the State relating to criminal offenses and juvenile crimes apply within the Mi'kmaq Nation Jurisdiction Land and the State has exclusive jurisdiction over those offenses and crimes

1-A. Concurrent jurisdiction over certain criminal offenses. The Mi'kmaq Nation has the right to exercise jurisdiction, concurrently with the State, over the following Class D crimes committed by a person on the Mi'kmaq Nation Jurisdiction Land or on lands taken into trust by the Secretary for the benefit of the Mi'kmaq Nation, now or in the future, for which the potential maximum term of imprisonment does not exceed one year and the potential fine does not exceed \$2,000 Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A and Title 19-A, section 4011 The concurrent jurisdiction authorized by this subsection does not include an offense committed by a juvenile or a criminal offense committed by a person who is not a member of any federally recognized Indian tribe, nation, band or other group against the person or property of a person who is not a member of any federally recognized Indian tribe, nation, band or other group

The governing body of the Mi'kmaq Nation shall decide whether to exercise or terminate the exercise of jurisdiction authorized by this subsection Notwithstanding subsection 2, the Mi'kmaq Nation may not deny to any criminal defendant prosecuted under this subsection the right to a jury of 12, the right to a unanimous jury verdict, the rights and protections enumerated in 25 United States Code, Sections 1302(a), 1302(c), 1303 and 1304(d) and all other rights whose protection is necessary under the United States Constitution in order for the State to authorize concurrent jurisdiction under this subsection If a criminal defendant prosecuted under this subsection moves to suppress statements on the ground that they were made involuntarily, the prosecution has the burden to prove beyond a reasonable doubt that the statements were made voluntarily

In exercising the concurrent jurisdiction authorized by this subsection, the Mi'kmaq Nation is deemed to be enforcing Mi'kmaq tribal law The definitions of the criminal offenses and the punishments applicable to those criminal offenses over which the Mi'kmaq Nation has concurrent jurisdiction under this subsection are governed by the laws of the State Issuance and execution of criminal process also are governed by the laws of the State

2 Definitions of crimes, tribal procedures. In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Mi'kmaq Nation is deemed to be enforcing Mi'kmaq 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 Mi'kmaq 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 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

2-A. Criminal records, juvenile records and fingerprinting. At the arraignment of a criminal defendant, the Mi'kmaq Tribal Court shall inquire whether fingerprints have

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been taken or whether arrangements have been made for fingerprinting. If neither has occurred, the Mi'kmaq Tribal Court shall instruct both the responsible law enforcement agency and the person charged as to their respective obligations in this regard, consistent with Title 25, section 1542-A.

At the conclusion of a criminal or juvenile proceeding within the Mi'kmaq Nation's exclusive or concurrent jurisdiction, except for a violation of Title 12 or Title 29-A that is a Class D or Class E crime other than a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a watercraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the Mi'kmaq Tribal Court shall transmit to the Department of Public Safety, State Bureau of Identification an abstract duly authorized on forms provided by the bureau.

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 jurisdiction of the Mi'kmaq 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 Mi'kmaq Nation has exclusive 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 jurisdiction. A prosecution for a criminal offense over which the Mi'kmaq Nation has concurrent jurisdiction under this section does not bar a prosecution for a criminal offense, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a criminal offense over which the State has concurrent jurisdiction under this section does not bar a prosecution for a criminal offense, arising out of the same conduct, over which the Mi'kmaq Nation has exclusive jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the Mi'kmaq Nation has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a Mi'kmaq 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 Mi'kmaq tribal forum.

Sec. 10. 30 MRSA §___, is enacted to read
§___. Full faith and credit

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

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

The Penobscot Nation, the Houlton Band of Maliseet Indians, the Mi'kmaq Nation 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, the Mi'kmaq Nation and the State shall give full faith and credit to the judicial proceedings of the Penobscot Nation

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

Sec. A-11. 30 MRSA §___, is enacted to read
§ ___. Law enforcement on Mi'kmaq Nation Jurisdiction Land

1. Exclusive authority of tribal law enforcement officers. Law enforcement officers appointed by the Mi'kmaq Nation have exclusive authority to enforce, within Mi'kmaq Nation Jurisdiction Land, ordinances adopted under section 7205 and section 7206, subsection 1, and to enforce, on Mi'kmaq Nation Jurisdiction Land, the criminal, juvenile, civil and domestic relations laws over which the Mi'kmaq Nation has jurisdiction under section 7208, subsection 1.

2. Joint authority of tribal and state law enforcement officers. Law enforcement officers appointed by the Mi'kmaq Nation have the authority within Mi'kmaq Nation Jurisdiction Land and state and county law enforcement officers have the authority within Mi'kmaq Nation Jurisdiction Land to enforce all laws of the State other than those over which the Mi'kmaq Nation has exclusive jurisdiction under section 7208, subsection 1.

3. Agreements for cooperation and mutual aid This section does not prevent the Mi'kmaq Nation and any state, county or local law enforcement agency from entering into agreements for cooperation and mutual aid.

4. Powers and training requirements. Law enforcement officers appointed by the Mi'kmaq 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.

4-A. Reports to the State Bureau of Identification by Mi'kmaq Nation. Mi'kmaq Nation law enforcement agencies shall submit to the Department of Public Safety, State Bureau of Identification uniform crime reports and other information required by Title 25, section 1544.

Sec A-12. 30 MRSA §___, is enacted to read
§ ___. Eligibility of Indian tribes and state funding

1. Eligibility for discretionary funds The Mi'kmaq Nation is eligible to apply for any federally-funded discretionary state grants or loans to the same extent and subject to

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the same eligibility requirements, including availability of funds, applicable to municipalities in the State

2. Eligibility of individuals for state funds. Residents of Mi'kmaq Nation Trust Land 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 13. Contingent effective date. This Act takes effect 120 days after adjournment of the First Regular Session of the 131st Legislature only if, within 90 days after adjournment of the First Regular Session of the 131st Legislature, the Secretary of State receives written certification from the Mi'kmaq Nation Tribal Council that the nation 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 Provisions of this Act relevant to the Joint Tribal Council of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall take effect as applicable with respect to each tribe 120 days after adjournment of the First Regular Session of the 131st Legislature only if, within 90 days after adjournment of the First Regular Session of the 131st 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, which apply to the tribe, from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Act, which apply to the nation, from the Houlton Band Council of the Houlton Band of Maliseet Indians that the band has agreed to the provisions of this Act, which apply to the band, 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 Upon such written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians, each section of this Act regarding or affecting the Houlton Band of Maliseet Indians and its lands constitutes a jurisdictional agreement for purposes of the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(2) Such written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians does not constitute an agreement that the contingencies in Public Law 1981, chapter 675 were met or that the provisions of Public Law 1981, chapter 675 ever took effect Upon such written certification by the Mi'kmaq Nation Tribal Council, each section of this Act regarding or affecting the Mi'kmaq Nation and its lands constitutes a jurisdictional agreement for purposes of the Aroostook Band of Micmac Settlement Act, United States Public Law 102-171, Section 6(d) Such written certification by the Mi'kmaq Nation Tribal Council does not constitute an agreement that the contingencies in Public Law 1989, chapter 148 were met or that the provisions of Public Law 1989, chapter 148 ever took effect