

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 272

S.P. 152

In Senate, February 21, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LUDWIG of Aroostook.

Cosponsored by Senator COLLINS of Aroostook, Representative MacBRIDE of Presque Isle and Representative LISNIK of Presque Isle.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Implement the Aroostook Band of Micmacs Settlement Act.



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

3 **Sec. 1. 3 MRSA §603** is enacted to read:

5 **§603. Designation of officer; Aroostook Band of Micmacs**

7 The council of the Aroostook Band of Micmacs shall
9 designate, by name and title, the officer authorized to execute
11 the certificate of approval of legislation required by section
13 601. The designation shall be in writing and filed with the
15 Secretary of State no later than the first Wednesday in January
17 in the First Regular Session of the Legislature. The Secretary
of State shall forthwith transmit certified copies of the
designation to the Secretary of the Senate and the Clerk of the
House of Representatives. The designation shall remain in effect
until the council of the Aroostook Band of Micmacs makes a new
designation.

19 **Sec. 2. 30 MRSA §6203, sub-§1-A** is enacted to read:

21 **1-A. Aroostook Band of Micmacs.** "Aroostook Band of
23 Micmacs" means the sole successor to the Micmac Nation as
25 constituted in aboriginal times in what is now the State of
27 Maine, and all its predecessors and successors in interest. The
Aroostook Band of Micmacs is represented, as of the date of
enactment of this subsection, as to lands within the United
States by the Aroostook Micmac Council.

29 **Sec. 3. 30 MRSA §6203, sub-§2-B** is enacted to read:

31 **2-B. Aroostook Band Trust Land.** "Aroostook Band Trust
33 Land" means land or natural resources acquired by the secretary
35 in trust for the Aroostook Band of Micmacs, in compliance with
37 the terms of this Act, with money from the original \$900,000
39 congressional appropriation and interest thereon deposited in the
Land Acquisition Fund established for the Aroostook Band of
Micmacs pursuant to federal legislation concerning the Aroostook
Band of Micmacs or with proceeds from a taking of Aroostook Band
Trust Land for public uses pursuant to the laws of this State or
the United States.

41 **Sec. 4. 30 MRSA §6205-B** is enacted to read:

43 **§6205-B. Acquisition of Aroostook Band Trust Land**

45 **1. Approval.** The State of Maine approves the acquisition
47 by the secretary of Aroostook Band Trust Land within the State of
49 Maine provided as follows.

51 **A.** No land or natural resources acquired by the secretary
may have the status of Aroostook Band Trust Land, or be
deemed to be land or natural resources held in trust by the

1 United States, until the secretary files with the Maine
3 Secretary of State a certified copy of the deed, contract or
5 other instrument of conveyance, setting forth the location
and boundaries of the land or natural resources so
acquired. Filing by mail shall be complete upon mailing.

7 B. No land or natural resources may be acquired by the
9 secretary for the Aroostook Band of Micmacs until the
11 secretary files with the Maine Secretary of State a
13 certified copy of the instrument creating the trust
15 described in section 6208-B, together with a letter stating
that the secretary holds not less than \$50,000 in a trust
account for the payment of obligations of the Aroostook Band
of Micmacs, and a copy of the claim filing procedures the
secretary has adopted.

17 C. No land or natural resources located within any city,
19 town, village or plantation may be acquired by the secretary
21 for the Aroostook Band of Micmacs without the approval of
the legislative body of the city, town, village or
plantation.

23 2. Takings for public uses. Aroostook Band Trust Land may
25 be taken for public uses in accordance with the laws of the State
27 to the same extent as privately owned land. The proceeds from
29 any such taking shall be deposited in the Land Acquisition Fund.
31 The United States shall be a necessary party to any such
condemnation proceeding. After exhausting all state
administrative remedies, the United States shall have an absolute
right to remove any action commenced in the courts of this State
to a United States court of competent jurisdiction.

33 3. Restraints on alienation. Any transfer of Aroostook
35 Band Trust Land shall be void ab initio and without any validity
in law or equity, except:

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

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

43 C. Transfers of individual use assignments from one member
45 of the Aroostook Band of Micmacs to another band member;

47 D. Transfers authorized by United States Public Law 96-420,
49 Section 5(g)(3), United States Code, Title 25, Section
51 1724(g)(3); and

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

1 If the fee to the Aroostook Band Trust Fund Land is lawfully
2 transferred to any person or entity, the land so transferred
3 shall cease to have the status of Aroostook Band Trust Land.

5 **Sec. 5. 30 MRSA §6206-B** is enacted to read:

7 **§ 6206-B. Powers of the Aroostook Band of Micmacs**

9 The Aroostook Band of Micmacs shall not exercise nor enjoy
10 the powers, privileges and immunities of a municipality nor
11 exercise civil or criminal jurisdiction within their lands prior
12 to the enactment of additional legislation specifically
13 authorizing the exercise of those governmental powers.

15 **Sec. 6. 30 MRSA §6208, sub-§2**, as amended by PL 1985, c. 672,
16 sub-§§2 and 4, is further amended to read:

17
18 2. **Property taxes.** The Passamaquoddy Tribe and the
19 Penobscot Nation shall make payments in lieu of taxes on all real
20 and personal property within their respective Indian territory in
21 an amount equal to that which would otherwise be imposed by a
22 county, a district, the State, or other taxing authority on such
23 real and personal property provided, however, that any real or
24 personal property within Indian territory used by either tribe or
25 nation predominantly for governmental purposes shall be exempt
26 from taxation to the same extent that such real or personal
27 property owned by a municipality is exempt under the laws of the
28 State. The Aroostook Band of Micmacs shall make payments in lieu
29 of taxes on Aroostook Band Trust Land in an amount equal to that
30 which would otherwise be imposed by a municipality, county,
31 district, the State or other taxing authority on that land or
32 natural resource. The Houlton Band of Maliseet Indians shall
33 make payments in lieu of taxes on Houlton Band Trust Land in an
34 amount equal to that which would otherwise be imposed by a
35 municipality, county, district, the State or other taxing
36 authority on that land or natural resource. Any other real or
37 personal property owned by or held in trust for any Indian,
38 Indian Nation or tribe or band of Indians and not within Indian
39 territory, shall be subject to levy and collection of real and
40 personal property taxes by any and all taxing authorities,
41 including but without limitation municipalities, except that such
42 real and personal property owned by or held for the benefit of
43 and used by the Passamaquoddy Tribe or the Penobscot Nation
44 predominantly for governmental purposes shall be exempt from
45 property taxation to the same extent that such real and personal
46 property owned by a municipality is exempt under the laws of the
47 State.

49 **Sec. 7. 30 MRSA §6208-B** is enacted to read:

51 **§6208-B. Aroostook Band Tax Fund**

1 1. Fund. The satisfaction of obligations, described in
3 section 6208, owed to a governmental entity by the Aroostook Band
5 of Micmacs shall be assured by a trust fund to be known as the
7 Aroostook Band Tax Fund. The secretary shall administer the fund
9 in accordance with reasonable and prudent trust management
11 standards. The initial principal of the fund shall be not less
13 than \$50,000. The principal shall be formed with money
15 transferred from the Land Acquisition Fund established for the
17 Aroostook Band of Micmacs pursuant to federal legislation
 concerning the Aroostook Band of Micmacs. Any interest earned by
 the Aroostook Band Tax Fund shall 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 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.

19 2. Claims. The secretary shall pay from the fund all valid
21 claims for taxes, payments in lieu of property taxes and fees,
23 together with any interest and penalties thereon, for which the
25 Aroostook Band of Micmacs is liable pursuant to section 6208,
27 provided that such obligation is final and not subject to further
29 direct administrative or judicial review under the laws of the
31 State. No payment of a valid claim may be satisfied with money
33 from the fund unless the secretary finds, as a result of 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 Commissioner of Finance and the
 Commissioner of Administration and the Aroostook Band of Micmacs.

35 3. Distributions. If the unencumbered principal available
37 for the payment of claims exceeds the sum of \$50,000, the
39 secretary shall, except for good cause shown, provide for the
41 transfer of such excess principal to the Aroostook Band of
43 Micmacs. The secretary shall give 30 days' written notice to the
 Commissioner of Finance and Administration of a proposed transfer
 of excess principal to the Aroostook Band of Micmacs. Any
 distribution of excess principal to the Aroostook Band of Micmacs
 shall be exempt from taxation.

45 4. Other remedies. The existence of the Aroostook Band Tax
47 Fund as a source for the payment of the obligations of the
49 Aroostook Band of Micmacs shall 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.

51 **Sec. 8. Effective date.** This Act shall be effective only upon
 enactment of legislation by the United States:

1

1. Ratifying and approving this Act without modification;

3

5

2. Providing the consent of the United States for amendments to the Maine Implementing Act, with respect to the Aroostook Band of Micmacs, provided that such amendment of the Maine Implementing Act is made with the agreement of the Aroostook Band of Micmacs.

7

9

11

STATEMENT OF FACT

13

This bill sets up a tax fund for the Aroostook Band of Micmacs and establishes the procedure whereby they may acquire trust land in the State.

15