

Calendar No. 553

103^D CONGRESS
2^D SESSION

H. R. 4653

AN ACT

To settle Indian land claims within the State of
Connecticut, and for other purposes.

AUGUST 10 (legislative day, AUGUST 8), 1994
Read twice and ordered placed on the calendar

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IN THE SENATE OF THE UNITED STATES

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AN ACT

To settle Indian land claims within the State of Connecticut,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mohegan Nation of
5 Connecticut Land Claims Settlement Act of 1994”.

6 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF**
7 **POLICY.**

8 Congress finds and declares that—

1 (1) the Mohegan Tribe of Indians of Connecti-
2 cut has been recognized by the United States
3 through the administrative process pursuant to part
4 83 of title 25 of the Code of Federal Regulations;

5 (2) the Mohegan Tribe of Indians of Connecti-
6 cut is a successor in interest to the aboriginal entity
7 known as the Mohegan Indian Tribe which has ex-
8 isted in what is now the State of Connecticut from
9 time immemorial and for which certain lands were
10 sequestered as tribal lands by the Colony and State
11 of Connecticut;

12 (3) there is pending before the United States
13 District Court for the Southern District of Connecti-
14 cut a lawsuit by the Mohegan Indian Tribe which in-
15 volves certain lands within the State of Connecticut;

16 (4) the pendency of the lawsuit may result in
17 economic hardships for residents of the State of
18 Connecticut by clouding the titles to lands in the
19 State, including lands not now involved in the law-
20 suit;

21 (5) the State of Connecticut and the Mohegan
22 Tribe have executed agreements for the purposes of
23 resolving all disputes between them and settling the
24 lawsuit, which agreements require implementing leg-
25 islation by the Congress of the United States;

1 (6) in the agreements described above, the par-
2 ties provide for the assumption by the State of Con-
3 necticut of jurisdiction over offenses by and against
4 members of the Mohegan Tribe and other Indians
5 on Indian country and to the submission of all gam-
6 ing-related development to the jurisdiction of the
7 State of Connecticut State Traffic Commission;

8 (7) the Town of Montville, Connecticut, will be
9 affected by the loss of tax base from, and jurisdic-
10 tion over, lands taken into trust on behalf of the
11 Tribe and will serve as the host community for the
12 Tribe's gaming operations;

13 (8) the Town of Montville and the Mohegan
14 Tribe have entered into an agreement to resolve is-
15 sues extant between them and to establish the basis
16 for a cooperative government-to-government relation-
17 ship; and

18 (9) Congress shares with the parties to such
19 agreements a desire to settle all Mohegan Indian
20 claims in the State of Connecticut and to remove all
21 clouds on titles resulting from such lawsuits.

22 **SEC. 3. DEFINITIONS.**

23 For purposes of this Act, the term—

24 (1) “Mohegan Tribe” means the Mohegan
25 Tribe of Indians of Connecticut, a tribe of American

1 Indians recognized by the United States pursuant to
2 part 83 of title 25, Code of Federal Regulations, and
3 by the State of Connecticut pursuant to Connecticut
4 General Statutes sections 47–59a(b);

5 (2) “State of Connecticut” means the State of
6 Connecticut, its agencies, political subdivisions, con-
7 stitutional officers, officials of its agencies and sub-
8 divisions;

9 (3) “Secretary” means the Secretary of the In-
10 terior;

11 (4) “lands or natural resources” means any real
12 property or natural resources, or any interest in or
13 right involving any real property or natural re-
14 sources including, but not limited to, minerals and
15 mineral rights, timber and timber rights, water and
16 water rights, and rights to hunt and fish;

17 (5) “lawsuit” means the action in the United
18 States District Court for the District of Connecticut,
19 entitled “Mohegan Tribe of Indians of Connecticut
20 v. State of Connecticut, et al.”, Case No. H77–434;

21 (6) “State Agreement” means that document
22 entitled “Agreement between the Mohegan Tribe
23 and the State of Connecticut” executed on May 17,
24 1994, by the Governor acting on behalf of the State
25 of Connecticut and the Chief of the Mohegan Tribe

1 acting on behalf of the Mohegan Tribe and filed with
2 the Secretary of State of the State of Connecticut;

3 (7) “Town Agreement” means that document
4 executed on June 16, 1994, by the Mayor of the
5 Town of Montville and the Chief of the Mohegan
6 Tribe;

7 (8) “transfer” includes, but is not limited to,
8 any sale, grant, lease, allotment, partition, or con-
9 veyance, any transaction the purpose of which was
10 to effect a sale, grant, lease, allotment, partition, or
11 conveyance, or any event or events that resulted in
12 a change of possession or control of lands or natural
13 resources.

14 **SEC. 4. FINDINGS BY THE SECRETARY.**

15 Section 5 of this Act shall not take effect until the
16 following events have occurred and the Secretary so
17 finds—

18 (1) the State of Connecticut has entered into a
19 binding compact with the Mohegan Tribe providing
20 for Class III tribal gaming operations, in accordance
21 with the Indian Gaming Regulatory Act (25 U.S.C.
22 2701 et seq.), and the compact has received all the
23 Federal approvals required to be fully effective; and

24 (2) title to lands described in Exhibit B to the
25 Agreement has vested in the United States in trust

1 for the Mohegan Tribe to be used as the Mohegan
2 Tribe's initial Indian reservation.

3 **SEC. 5. APPROVAL OF PRIOR TRANSFERS AND EXTIN-**
4 **GUISHMENT OF CLAIMS AND ABORIGINAL**
5 **TITLE INVOLVING THE MOHEGAN TRIBE.**

6 (a) If the Secretary finds that the conditions set forth
7 in section 4 of this Act have been satisfied, he shall publish
8 such findings and the State Agreement in the Federal
9 Register, and upon such publication:

10 (1) The transfers, waivers, releases,
11 relinquishments, and other commitments made by
12 the Mohegan Tribe in paragraph (1) of its Agree-
13 ment with the State of Connecticut shall be of full
14 force and effect on the terms and conditions therein
15 stated.

16 (2) The transfers, waivers, releases,
17 relinquishments, and other commitments validated
18 by paragraph (1) of the Agreement and of this sec-
19 tion and the transfers and extinguishments approved
20 and validated by subsection (b)(1) and (2) shall be
21 deemed to have been made in accordance with the
22 United States Constitution and all laws of the
23 United States that are specifically applicable to
24 transfers of lands or natural resources from, by, or
25 on behalf of any Indian, Indian nation, or tribe of

1 Indians (including but not limited to the Trade and
2 Intercourse Act of 1790, Act of July 22, 1790, ch.
3 33, sec. 4, 1 Stat. 137, and any amendments thereto
4 and all subsequent versions thereof), and Congress
5 does hereby approve any such transfers effective as
6 of the date of said transfers.

7 (b)(1) All claims to lands within the State of Con-
8 necticut based upon aboriginal title by the Mohegan Tribe
9 are hereby extinguished, as are any and all other claims
10 the Mohegan Tribe might have to any public or private
11 lands or natural resources in Connecticut, such as claims
12 or rights based on recognized title, including but not lim-
13 ited to—

14 (A) any claim the Mohegan Tribe might have to
15 the tribal sequestered lands bounded out to the
16 Tribe in 1684, consisting of some 20,480 acres lying
17 between the Thames River, New London bounds,
18 Norwich bounds, and Colchester bounds;

19 (B) any claim the Mohegan Tribe might have
20 based on a survey under the authority of the Con-
21 necticut General Assembly in 1736 of lands reserved
22 and sequestered by the General Assembly for the
23 sole use and improvement of the Mohegan Indian
24 Tribe; and

1 (C) any claim the Mohegan Tribe might have
2 based on any action by the State in 1860, 1861, or
3 otherwise to allot, reallocate, and/or confirm any lands
4 of the Mohegan Tribe to individual Indians or other
5 persons. Any transfer of lands or natural resources
6 located anywhere within the State of Connecticut in-
7 cluding, but not limited to, transfers pursuant to the
8 statute or treaty of or with any State or the United
9 States, by, from, or on behalf of the Mohegan Tribe,
10 or any predecessor or successor in interest, shall be
11 deemed to be in full force and effect, as provided in
12 subsection (a)(2): *Provided, however,* That nothing
13 herein shall be construed as extinguishing any ab-
14 original right, title, interest, or claim to lands or
15 natural resources solely to the extent of the rights
16 or interests defined as “excepted interests” in para-
17 graph 1a of the Agreement between the Mohegan
18 Tribe and the State of Connecticut.

19 (2) By virtue of the approval of a transfer of lands
20 or natural resources effected by this section, or an extin-
21 guishment of aboriginal title effected thereby, all claims
22 against the United States, any State or subdivision there-
23 of, or any other person or entity, by the Mohegan Tribe,
24 arising subsequent to the transfer and based upon any in-
25 terest in or right involving the claims described in para-

1 graph (1) above in lands or natural resources, including,
2 but not limited to, claims for trespass damages or claims
3 for use and occupancy, shall be regarded as extinguished
4 as of the date of the transfer, provided that this limitation
5 shall not apply to any interest in lands or natural re-
6 sources subsequently and lawfully acquired by the Mohe-
7 gan Tribe or its members.

8 (c) No provision of this section shall be construed to
9 offset or eliminate the personal claim of any individual In-
10 dian which is pursued under any law of general applicabil-
11 ity that protects Indians as well as non-Indians.

12 **SEC. 6. CONVEYANCE OF LANDS TO THE UNITED STATES IN**
13 **TRUST FOR THE MOHEGAN TRIBE.**

14 (a) The Secretary of the Interior is authorized and
15 directed, subject to the satisfaction of environmental re-
16 quirements otherwise applicable to actions under part 151
17 of title 25, Code of Federal Regulations, to accept the con-
18 veyance of title to lands described in Exhibits A and B
19 of the State Agreement to be taken in the name of the
20 United States of America in trust for the use and benefit
21 of the Mohegan Tribe of Indians of Connecticut. The lands
22 shall be the Mohegan Tribe's Initial Indian reservation.

23 (b) With regard to any tracts of land subject to Ex-
24 hibit B of the State Agreement but not specifically identi-
25 fied therein, the Secretary shall consult with the Town of

1 Montville with respect to the impact on the Town resulting
2 from the removal of the land from the tax rolls and juris-
3 dictional problems and potential conflicts of land use
4 which may arise. With respect to all lands not subject to
5 Exhibits A and B of the State Agreement, nothing in this
6 Act shall diminish or otherwise affect the Town's rights
7 under applicable law to participate in the decisionmaking
8 process on trust acquisition requests involving these lands.

9 **SEC. 7. ASSUMPTION BY STATE OF JURISDICTION OVER**
10 **CRIMES.**

11 The consent of the United States is hereby given to
12 the State of Connecticut to assume by affirmative legisla-
13 tion jurisdiction over offenses committed by or against In-
14 dians on the Mohegan Indian reservation or Indian coun-
15 try owned by the Mohegan tribe or its members. Such ju-
16 risdiction shall be to the same extent that the State has
17 over such offenses committed elsewhere within the State,
18 and the criminal laws of the State shall have the same
19 force within such reservation and Indian country as they
20 have elsewhere in the State. Such exercise of criminal ju-
21 risdiction by the State shall not affect the Tribe's concur-
22 rent jurisdiction over such matters.

1 **SEC. 8. GENERAL DISCHARGE AND RELEASE OF STATE OF**
2 **CONNECTICUT.**

3 Except as expressly provided herein and in the State
4 Agreement and the Town Agreement, this Act shall con-
5 stitute a general discharge and release of all obligations
6 of the State of Connecticut and all of its political subdivi-
7 sions, agencies, departments, and all of the officers or em-
8 ployees thereof arising from any treaty or agreement with,
9 or on behalf of the Tribe of the United States as trustee
10 therefor.

11 **SEC. 9. REVOCATION OF STATE AGREEMENT.**

12 In the event that, within 15 years of the date of the
13 publication of the notice required by section 5(a), the
14 Agreement between the Mohegan Tribe and the State of
15 Connecticut is invalidated, or if the gaming compact pro-
16 vided in section 4(1) of this Act, or any implementing
17 agreements between the parties thereto, is invalidated by
18 a court of competent jurisdiction, the transfers, waivers,
19 releases, relinquishments and other commitments made by
20 the Mohegan Tribe in paragraph 1a of the State Agree-
21 ment shall no longer be of any force or effect, section 5
22 of this Act shall be inapplicable to the lands, interests in
23 lands or natural resources of the Mohegan Tribe and its
24 members as if never enacted, and the approvals of prior
25 transfers and the extinguishment of claims and aboriginal
26 title of the Mohegan Tribe otherwise effected by section

1 5 shall be void ab initio. In any such event, the Mohegan
2 Tribe shall have the right to reinstate its land claim within
3 a reasonable time, which period shall be defined as the
4 later of 6 months after the Mohegan Tribe receives written
5 notice of such determination, or if appealed, 6 months
6 after entry of judgment by the court of last resort, and,
7 if the suit is reinstated within that time, no defense, such
8 as laches, statute of limitations, law of the case, res judi-
9 cata, or prior disposition shall be asserted based on the
10 withdrawal of the lawsuit and commencement of the re-
11 sumed litigation, nor shall the substance of discussions
12 leading to the State Agreement be admissible in any sub-
13 sequent litigation: *Provided, however,* That if any such suit
14 is reinstated, any defense which would have been available
15 to the State of Connecticut at the time the lawsuit was
16 withdrawn may be asserted, and is not waived by anything
17 in the State Agreement or by subsequent events occurring
18 between the withdrawal of the lawsuit and commencement
19 of the resumed litigation. In the event that any suit chal-
20 lenging the validity of the State Agreement, the gaming
21 compact provided in section 4 of this Act, or any imple-
22 menting agreements between the parties thereto, is pend-
23 ing in any court of competent jurisdiction on the date that
24 the Mohegan Tribe's rights under this section would other-
25 wise expire, such rights will be extended for a period not

1 to exceed 6 months from the date the Mohegan Tribe re-
2 ceives notice of a final determination in such suit or, if
3 an appeal is filed, 6 months after entry of judgment by
4 the court of last resort.

5 **SEC. 10. JUDICIAL REVIEW.**

6 Notwithstanding any other provision of law, any ac-
7 tion to contest the constitutionality of this Act or the va-
8 lidity of any agreement entered into under the authority
9 of this Act or approved by this Act shall be barred unless
10 the complaint is filed within 180 days after the date of
11 enactment of this Act. Exclusive jurisdiction over any such
12 action is hereby vested in the United States District Court
13 for the District of Connecticut.

14 **SEC. 11. RATIFICATION OF TOWN AGREEMENT.**

15 (a) Notwithstanding any other provision of law, the
16 Town agreement entered into by the Mohegan Indian tribe
17 and the Town of Montville is hereby ratified and given
18 full force and effect.

19 (b) The Secretary is authorized and directed to ap-
20 prove future modifications to the Town Agreement mutu-
21 ally agreed to by the parties and consistent with applicable
22 law.

Passed the House of Representatives August 8,
1994.

Attest: DONNALD K. ANDERSON,
Clerk.