

Union Calendar No. 367

103^D CONGRESS
2^D SESSION

H. R. 4653

[Report No. 103-676]

A BILL

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

AUGUST 5, 1994

Reported with amendments, committed to the Committee
of the Whole House on the State of the Union, and or-
dered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1994

Mr. GEJDENSON introduced the following bill; which was referred to the Committee on Natural Resources

AUGUST 5, 1994

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 27, 1994]

A BILL

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 Con-*
5 *necticut Land Claims Settlement Act of 1994”.*

1 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF**
2 **POLICY.**

3 *Congress finds and declares that—*

4 *(1) the Mohegan Tribe of Indians of Connecticut*
5 *has been recognized by the United States through the*
6 *administrative process pursuant to part 83 of title 25*
7 *of the Code of Federal Regulations;*

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

15 *(3) there is pending before the United States Dis-*
16 *trict Court for the Southern District of Connecticut a*
17 *lawsuit by the Mohegan Indian Tribe which involves*
18 *certain lands within the State of Connecticut;*

19 *(4) the pendency of the lawsuit may result in*
20 *economic hardships for residents of the State of Con-*
21 *necticut by clouding the titles to lands in the State,*
22 *including lands not now involved in the lawsuit;*

23 *(5) the State of Connecticut and the Mohegan*
24 *Tribe have executed agreements for the purposes of re-*
25 *solving all disputes between them and settling the*

1 *lawsuit, which agreements require implementing leg-*
2 *islation by the Congress of the United States;*

3 *(6) in the agreements described above, the parties*
4 *provide for the assumption by the State of Connecti-*
5 *cut of jurisdiction over offenses by and against mem-*
6 *bers of the Mohegan Tribe and other Indians on In-*
7 *dian country and to the submission of all gaming-re-*
8 *lated development to the jurisdiction of the State of*
9 *Connecticut State Traffic Commission;*

10 *(7) the Town of Montville, Connecticut, will be*
11 *affected by the loss of tax base from, and jurisdiction*
12 *over, lands taken into trust on behalf of the Tribe and*
13 *will serve as the host community for the Tribe's gam-*
14 *ing operations;*

15 *(8) the Town of Montville and the Mohegan*
16 *Tribe have entered into an agreement to resolve issues*
17 *extant between them and to establish the basis for a*
18 *cooperative government-to-government relationship;*
19 *and*

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

24 **SEC. 3. DEFINITIONS.**

25 *For purposes of this Act, the term—*

1 (1) “*Mohegan Tribe*” means the Mohegan Tribe
2 of Indians of Connecticut, a tribe of American Indi-
3 ans recognized by the United States pursuant to part
4 83 of title 25, Code of Federal Regulations, and by the
5 State of Connecticut pursuant to Connecticut General
6 Statutes sections 47–59 (a) and (b);

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

11 (3) “*Secretary*” means the Secretary of the Inte-
12 rior;

13 (4) “*Lands or natural resources*” means any real
14 property or natural resources, or any interest in or
15 right involving any real property or natural resources
16 including, but not limited to, minerals and mineral
17 rights, timber and timber rights, water and water
18 rights, and rights to hunt and fish;

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

23 (6) “*State Agreement*” means that document en-
24 titled “*Agreement between the Mohegan Tribe and the*
25 *State of Connecticut*” executed on May 17, 1994, by

1 *the Governor acting on behalf of the State of Con-*
2 *necticut and the Chief of the Mohegan Tribe acting on*
3 *behalf of the Mohegan Tribe and filed with the Sec-*
4 *retary of State of the State of Connecticut;*

5 (7) *“Town Agreement” means that document ex-*
6 *ecuted on June 16, 1994, by the Mayor of the Town*
7 *of Montville and the Chief of the Mohegan Tribe;*

8 (8) *“Transfer” includes, but is not limited to,*
9 *any sale, grant, lease, allotment, partition, or convey-*
10 *ance, any transaction the purpose of which was to ef-*
11 *fect a sale, grant, lease, allotment, partition, or con-*
12 *veyance, or any event or events that resulted in a*
13 *change of possession or control of lands or natural re-*
14 *sources.*

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

16 *Section 5 of this Act shall not take effect until the fol-*
17 *lowing events have occurred and the Secretary so 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 for*

1 *Act of 1790, Act of July 22, 1790, ch. 33, sec. 4, 1*
2 *Stat. 137, and any amendments thereto and all subse-*
3 *quent versions thereof), and Congress does hereby ap-*
4 *prove any such transfers effective as of the date of*
5 *said transfers.*

6 *(b)(1) All claims to lands within the State of Connecti-*
7 *cut based upon aboriginal title by the Mohegan Tribe, or*
8 *any predecessor or successor in interest, are hereby extin-*
9 *guished, as are any and all other claims the Mohegan Tribe*
10 *might have to any public or private lands or natural re-*
11 *sources in Connecticut, such as claims or rights based on*
12 *recognized title, including but not limited to—*

13 *(A) any claim the Mohegan Tribe might have to*
14 *the tribal sequestered lands bounded out to the Tribe*
15 *in 1684, consisting of some 20,480 acres lying be-*
16 *tween the Thames River, New London bounds, Nor-*
17 *wich bounds, and Colchester bounds;*

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

24 *(C) any claim the Mohegan Tribe might have*
25 *based on any action by the State in 1860, 1861, or*

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

17 *(2) By virtue of the approval of a transfer of lands*
18 *or natural resources effected by this section, or an extin-*
19 *guishment of aboriginal title effected thereby, all claims*
20 *against the United States, any State or subdivision thereof,*
21 *or any other person or entity, by the Mohegan Tribe, aris-*
22 *ing subsequent to the transfer and based upon any interest*
23 *in or right involving the claims described in paragraph (1)*
24 *above in lands or natural resources, including, but not lim-*
25 *ited to, claims for trespass damages or claims for use and*

1 *occupancy, shall be regarded as extinguished as of the date*
2 *of the transfer, provided that this limitation shall not apply*
3 *to any interest in lands or natural resources subsequently*
4 *and lawfully acquired by the Mohegan Tribe or its mem-*
5 *bers.*

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

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

12 *(a) The Secretary of the Interior is authorized and di-*
13 *rected to accept the conveyance of title to lands described*
14 *in Exhibits A and B of the State Agreement to be taken*
15 *in the name of the United States of America in trust for*
16 *the use and benefit of the Mohegan Tribe of Indians of Con-*
17 *necticut. The lands shall be the Mohegan Tribe's Initial In-*
18 *dian reservation.*

19 *(b) With regard to any tracts of land subject to Exhibit*
20 *B of the State Agreement but not specifically identified*
21 *therein, the Secretary shall consult with the Town of*
22 *Montville with respect to the impact on the Town resulting*
23 *from the removal of the land from the tax rolls and jurisdic-*
24 *tional problems and potential conflicts of land use which*
25 *may arise. With respect to all lands not subject to Exhibits*

1 *A and B of the State Agreement, nothing in this Act shall*
2 *diminish or otherwise affect the Town's rights under appli-*
3 *cable law to participate in the decisionmaking process on*
4 *trust acquisition requests involving these lands.*

5 **SEC. 7. ASSUMPTION BY STATE OF JURISDICTION OVER**
6 **CRIMES AND MOTOR VEHICLE TRAFFIC.**

7 (a) *The consent of the United States is hereby given*
8 *to the State of Connecticut to assume by affirmative legisla-*
9 *tion jurisdiction over offenses committed by or against Indi-*
10 *ans on the Mohegan Indian reservation or Indian country*
11 *owned by the Mohegan tribe or its members. Such jurisdic-*
12 *tion shall be to the same extent that the State has over such*
13 *offenses committed elsewhere within the State, and the*
14 *criminal laws of the State shall have the same force within*
15 *such reservation and Indian country as they have elsewhere*
16 *in the State.*

17 (b) *Notwithstanding other provisions of Federal law,*
18 *including but not limited to title IV of Public Law 90-*
19 *284 (25 U.S.C. 1321-1326) the Mohegan Tribe of Indians*
20 *agrees to and consents to the assumption of jurisdiction by*
21 *the State of Connecticut State Traffic Commission over all*
22 *gaming-related traffic control matters to the same extent as*
23 *the State Traffic Commission has jurisdiction over traffic*
24 *control within the State of Connecticut as set out in chapter*
25 *249 of the Connecticut General Statutes, sections 14-297*

1 to 14-314C. The Congress consents to this assumption of
2 traffic control jurisdiction by the State of Connecticut.

3 **SEC. 8. GENERAL DISCHARGE AND RELEASE OF STATE OF**
4 **CONNECTICUT.**

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

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

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

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

1 *otherwise expire, such rights will be extended for a period*
2 *not to exceed 6 months from the date the Mohegan Tribe*
3 *receives notice of a final determination in such suit or, if*
4 *an appeal is filed, 6 months after entry of judgment by the*
5 *court of last resort.*

6 **SEC. 10. JUDICIAL REVIEW.**

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

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

16 *Notwithstanding any other provision of law—*

17 *(1) the Mohegan Tribe is authorized to make*
18 *payments to the town of Montville according to the*
19 *terms of the Town Agreement, subject to modification*
20 *by mutual agreement of the parties; and*

21 *(2) the Secretary is authorized and directed to*
22 *approve that Agreement, thereby giving full force and*
23 *effect to its provisions, and to approve future modi-*
24 *fications mutually agreed to by the parties.*

Amend the title so as to read: “A bill to settle certain Indian land claims within the State of Connecticut, and for other purposes.”.

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