

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2329

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

---

IN THE SENATE OF THE UNITED STATES

JULY 27 (legislative day, JULY 20), 1994

Mr. DODD (for himself and Mr. LIEBERMAN) introduced the following bill;  
which was read twice and referred to the Committee on Indian Affairs

---

## A BILL

To settle certain 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. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds the following:

8               (1) The Mohegan Tribe of Indians of Connecti-  
9       cut received recognition by the United States pursu-

1 ant to the administrative process under part 83 of  
2 title 25 of the Code of Federal Regulations.

3 (2) The Mohegan Tribe of Indians of Connecti-  
4 cut is the successor in interest to the aboriginal en-  
5 tity known as the Mohegan Indian Tribe.

6 (3) The Mohegan Tribe has existed in the geo-  
7 graphic area that is currently the State of Connecti-  
8 cut for a long period preceding the colonial period of  
9 the history of the United States.

10 (4) Certain lands were sequestered as tribal  
11 lands by the Colony of Connecticut and subsequently  
12 by the State of Connecticut.

13 (5) The Mohegan Tribe of Indians of Connecti-  
14 cut v. State of Connecticut, et al. (Civil Action No.  
15 H-77-434, pending before the United States Dis-  
16 trict Court for the Southern District of Connecticut)  
17 relates to the ownership of certain lands within the  
18 State of Connecticut.

19 (6) Such action will likely result in economic  
20 hardships for residents of the State of Connecticut  
21 by encumbering the title to lands in the State, in-  
22 cluding lands that are not currently the subject of  
23 the action.

24 (7) The State of Connecticut and the Mohegan  
25 Tribe have executed agreements for the purposes of

1 resolving all disputes between the State of Connecti-  
2 cut and the Mohegan Tribe and providing a settle-  
3 ment for the action referred to in paragraph (5).

4 (8) In order to implement the agreements re-  
5 ferred to in paragraphs (5) and (6) of section 3 that  
6 address matters of jurisdiction with respect to cer-  
7 tain offenses committed by and against members of  
8 the Mohegan Tribe and other Indians in Indian  
9 country and matters of gaming-related development,  
10 it is necessary for the Congress to enact legislation.

11 (9) The town of Montville, Connecticut, will—

12 (A) be affected by the loss of a tax base  
13 from, and jurisdiction over, lands that will be  
14 held in trust by the United States on behalf of  
15 the Mohegan Tribe; and

16 (B) serve as the host community for the  
17 gaming operations of the Mohegan Tribe.

18 (10) The town of Montville and the Mohegan  
19 Tribe have entered into an agreement to resolve is-  
20 sues extant between them and to establish the basis  
21 for a cooperative government-to-government relation-  
22 ship.

23 (b) PURPOSES.—The purposes of this Act are as  
24 follows:

1           (1) To facilitate the settlement of claims  
2 against the State of Connecticut by the Mohegan  
3 Tribe.

4           (2) To facilitate the removal of any encum-  
5 brance to any title to land in the State of Connecti-  
6 cut that would have resulted from the action re-  
7 ferred to in subsection (a).

8 **SEC. 3. DEFINITIONS.**

9 As used in this Act:

10           (1) **LANDS OR NATURAL RESOURCES.**—The  
11 term “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 any right or interest in minerals,  
15 timber, or water, and any hunting or fishing rights.

16           (2) **MOHEGAN TRIBE.**—The term “Mohegan  
17 Tribe” means the Mohegan Tribe of Indians of Con-  
18 necticut, a tribe of American Indians recognized by  
19 the United States pursuant to part 83 of title 25,  
20 Code of Federal Regulations, and the State of Con-  
21 necticut pursuant to section 47-59a(b) of the Con-  
22 necticut General Statutes.

23           (3) **SECRETARY.**—The term “Secretary” means  
24 the Secretary of the Interior.

1 (4) STATE.—The term “State” means the State  
2 of Connecticut.

3 (5) STATE AGREEMENT.—The term “State  
4 Agreement” means the Agreement between the Mo-  
5 hegan Tribe and the State of Connecticut, executed  
6 on May 17, 1994, by the Governor of the State of  
7 Connecticut and the Chief of the Mohegan Tribe,  
8 that was filed with the Secretary of State of the  
9 State of Connecticut.

10 (6) TOWN AGREEMENT.—The term “Town  
11 Agreement” means the agreement executed on June  
12 16, 1994, by the Mayor of the town of Montville and  
13 the Chief of the Mohegan Tribe.

14 (7) TRANSFER.—The term “transfer” includes  
15 any sale, grant, lease, allotment, partition, or con-  
16 veyance, any transaction the purpose of which is to  
17 effect a sale, grant, lease, allotment, partition or  
18 conveyance, or any event that results in a change of  
19 possession or control of land or natural resources.

20 **SEC. 4. ACTION BY SECRETARY.**

21 (a) IN GENERAL.—The Secretary is authorized to  
22 carry out the duties specified in subsection (b) at such  
23 time as the Secretary makes a determination that—

24 (1) in accordance with the Indian Gaming Reg-  
25 ulatory Act (25 U.S.C. 2701 et seq.), the State of

1 Connecticut has entered into a binding compact with  
2 the Mohegan Tribe providing for class III tribal  
3 gaming operations (as defined in section 4(8) of  
4 such Act (25 U.S.C. 2703(8));

5 (2) the compact has been approved by the Sec-  
6 retary pursuant to section 11(d)(8) of such Act (25  
7 U.S.C. 2710(d)(8)); and

8 (3) pursuant to transfers carried out pursuant  
9 to the State Agreement, the United States holds title  
10 to lands described in exhibit B of the State Agree-  
11 ment in trust for the Mohegan Tribe to be used as  
12 the initial Indian reservation of the Mohegan Tribe.

13 (b) PUBLICATION BY SECRETARY.—If the Secretary  
14 makes a determination under subsection (a) that the con-  
15 ditions specified in paragraphs (1) through (3) of that  
16 subsection have been met, the Secretary shall publish the  
17 determination, together with the State Agreement, in the  
18 Federal Register.

19 (c) EFFECT OF PUBLICATION.—

20 (1) IN GENERAL.—Upon the publication of the  
21 determination and the State Agreement in the Fed-  
22 eral Register pursuant to subsection (b), a transfer,  
23 waiver, release, relinquishment, or other commitment  
24 made by the Mohegan Tribe in accordance with the

1 terms and conditions of the State Agreement shall  
2 be in full force and effect.

3 (2) APPROVAL BY THE UNITED STATES.—(A)  
4 The United States hereby approves any transfer,  
5 waiver, release, relinquishment, or other commitment  
6 carried out pursuant to paragraph (1).

7 (B) A transfer made pursuant to paragraph (1)  
8 shall be deemed to have been made in accordance  
9 with all provisions of Federal law that specifically  
10 apply to transfers of lands or natural resources  
11 from, by, or on behalf of an Indian, Indian nation,  
12 or tribe of Indians (including the Act popularly  
13 known as the “Trade and Intercourse Act of 1790”;  
14 section 4 of the Act of July 22, 1790 (1 Stat. 137,  
15 chapter 33)). The approval of the United States  
16 made pursuant to subparagraph (A) shall apply to  
17 the transfer beginning on the date of the transfer.

18 (d) EXTINGUISHMENT OF CLAIMS.—

19 (1) IN GENERAL.—Subject to subsection (g)  
20 and paragraph (3), the following claims are hereby  
21 extinguished:

22 (A) Any claim to land within the State of  
23 Connecticut based upon aboriginal title by the  
24 Mohegan Tribe or any predecessor or successor  
25 in interest of the Mohegan Tribe.

1 (B) Any other claim that the Mohegan  
2 Tribe may have with respect to any public or  
3 private lands or natural resources in Connecti-  
4 cut, including any claim or right based on rec-  
5 ognized title, including—

6 (i) any claim the Mohegan Tribe may  
7 have to the tribal sequestered lands bound-  
8 ed out to the Tribe in 1684, consisting of  
9 some 20,480 acres lying between the  
10 Thames River, New London bounds, Nor-  
11 wich bounds and Colchester bounds;

12 (ii) any claim the Mohegan Tribe may  
13 have based on a survey conducted under  
14 the authority of the Connecticut General  
15 Assembly in 1736 of lands reserved and se-  
16 questered by the General Assembly for the  
17 sole use and improvement of the Mohegan  
18 Indian Tribe; and

19 (iii) any claim the Mohegan Tribe  
20 may have based on any action by the State  
21 carried out in 1860 or 1861 or otherwise  
22 made by the State to allot, realLOT, or con-  
23 firm any lands of the Mohegan Tribe to in-  
24 dividual Indians or other persons.

1           (2) APPROVAL BY THE UNITED STATES.—An  
2           extinguishment made pursuant to this subsection  
3           shall be deemed to have been made in accordance  
4           with all provisions of Federal law that specifically  
5           apply to transfers of lands or natural resources  
6           from, by, or on behalf of an Indian, Indian nation,  
7           or tribe of Indians (including the Act popularly  
8           known as the “Trade and Intercourse Act of 1790”;  
9           section 4 of the Act of July 22, 1790 (1 Stat. 137,  
10          chapter 33)).

11          (e) TRANSFERS.—Subject to subsection (g), any  
12          transfer of lands or natural resources located within the  
13          State of Connecticut, including any such transfer made  
14          pursuant to any applicable Federal or State law (including  
15          any applicable treaty), made by, from, or on behalf of the  
16          Mohegan Tribe or any predecessor or successor in interest  
17          of the Mohegan Tribe shall be deemed to be in full force  
18          and effect, as provided in subsection (c)(1).

19          (f) LIMITATION.—

20                 (1) IN GENERAL.—Except as provided in para-  
21                 graph (2) and subject to subsection (g), by virtue of  
22                 the approval by the United States under this section  
23                 of a transfer of land or the extinguishment of ab-  
24                 original title, any claim by the Mohegan Tribe  
25                 against the United States, any State or political sub-

1 division of a State, or any other person or entity, by  
2 the Mohegan Tribe, that—

3 (A) arises after the transfer or extinguish-  
4 ment is carried out; and

5 (B) is based on any interest in or right in-  
6 volving any claim to lands or natural resources  
7 described in this section, including claims for  
8 trespass damages or claims for use and occu-  
9 pancy,

10 shall, beginning on the date of the transfer of land  
11 or the extinguishment of aboriginal title, be consid-  
12 ered an extinguished claim.

13 (2) EXCEPTION.—The limitation under para-  
14 graph (1) shall not apply to any interest in lands or  
15 natural resources that is lawfully acquired by the  
16 Mohegan Tribe or a member of the Mohegan Tribe  
17 after the applicable date specified in paragraph (1).

18 (g) STATUTORY CONSTRUCTION.—

19 (1) ABORIGINAL INTERESTS.—Nothing in this  
20 section may be construed to extinguish any aborigi-  
21 nal right, title, interest, or claim to lands on natural  
22 resources, to the extent that such right, title, inter-  
23 est, or claim that is defined as an excepted interest  
24 under section 1(a) of the State Agreement.

1           (2) **PERSONAL CLAIMS.**—Nothing in this sec-  
2           tion may be construed to offset or eliminate the per-  
3           sonal claim of any individual Indian if the individual  
4           Indian pursues such claim under any law of general  
5           applicability.

6 **SEC. 5. CONVEYANCE OF LANDS TO THE UNITED STATES**  
7                           **TO BE HELD IN TRUST FOR THE MOHEGAN**  
8                           **TRIBE.**

9           (a) **IN GENERAL.**—The Secretary shall take such ac-  
10          tion as may be necessary to facilitate the conveyance to  
11          the United States of title to lands described in exhibits  
12          A and B of the State Agreement. Such lands shall be held  
13          by the United States in trust for the use and benefit of  
14          the Mohegan Tribe as the initial Indian reservation of the  
15          Mohegan Tribe.

16          (b) **CONSULTATION.**—

17                 (1) **IN GENERAL.**—The Secretary shall consult  
18          with the appropriate official of the town of Montville  
19          concerning any tract of land subject to exhibit B of  
20          the State Agreement but not specifically identified in  
21          such exhibit with respect to the impact on the town  
22          resulting from—

23                         (A) the removal of the land from taxation  
24                         by the town;

1 (B) problems concerning the determination  
2 of jurisdiction; and

3 (C) potential land use conflicts.

4 (2) STATUTORY CONSTRUCTION.—Nothing in  
5 this Act may affect the right of the town of  
6 Montville to participate, under any applicable law, in  
7 decisionmaking processes concerning the acquisition  
8 of any lands by the Federal Government to be held  
9 in trust for the Mohegan Tribe.

10 **SEC. 6. RATIFICATION OF STATE AGREEMENT.**

11 The consent of the United States is hereby given to  
12 the following provisions of the State Agreement:

13 (1) Subsections (c) and (d) of section 1, relat-  
14 ing to the location of any tribal gaming operation  
15 and the conditions of gaming-related development.

16 (2) Section 1(f), relating to payments on real  
17 property.

18 (3) Section 1(g), relating to matters of criminal  
19 jurisdiction.

20 (4) Section 1(h), relating to gaming-related  
21 traffic control jurisdiction.

22 **SEC. 7. RATIFICATION OF TOWN AGREEMENT.**

23 (a) IN GENERAL.—Notwithstanding any other provi-  
24 sion of law, the Mohegan Tribe is authorized to make pay-  
25 ments to the town of Montville in accordance with the

1 terms of the Town Agreement, subject to modification by  
2 mutual agreement of the parties to the Town Agreement.

3 (b) APPROVAL OF TOWN AGREEMENT.—Notwith-  
4 standing any other provision of law—

5 (1) as soon as practicable after the date of en-  
6 actment of this Act, the Secretary shall approve the  
7 Town Agreement; and

8 (2) the Secretary shall approve any subsequent  
9 amendments made to the agreement by both the  
10 town of Montville and the Mohegan Tribe.

11 **SEC. 8. GENERAL DISCHARGE AND RELEASE OF STATE OF**  
12 **CONNECTICUT.**

13 Except as expressly provided in this Act, the State  
14 Agreement, or the Town Agreement, this Act shall con-  
15 stitute a general discharge and release of all obligations  
16 of the State of Connecticut and the political subdivisions,  
17 agencies, departments, officers, or employees of the State  
18 of Connecticut arising from any treaty or agreement with,  
19 or on behalf of, the Mohegan Tribe or the United States  
20 as trustee for the Mohegan Tribe.

21 **SEC. 9. EFFECT OF REVOCATION OF STATE AGREEMENT.**

22 (a) IN GENERAL.—If the State Agreement is invali-  
23 dated, or if the gaming compact described in section  
24 4(a)(1) or any agreement between the State of Connecti-

1 cut and the Mohegan Tribe to implement the compact is  
2 invalidated by a court of competent jurisdiction—

3 (1) the transfers, waivers, releases,  
4 relinquishments, and other commitments made by  
5 the Mohegan Tribe under section 1(a) of the State  
6 Agreement shall cease to be of any force or effect;

7 (2) section 4 of this Act shall not apply to the  
8 lands, interest in lands or natural resources of the  
9 Mohegan Tribe or any of its members, and the title  
10 to the lands or interests in lands or natural re-  
11 sources shall be determined as if such section were  
12 never enacted; and

13 (3) the approval by the United States of prior  
14 transfers and the extinguishment of claims and ab-  
15 original title of the Mohegan Tribe otherwise made  
16 under section 4 shall be void.

17 (b) RIGHT OF MOHEGAN TRIBE TO REINSTATE  
18 CLAIM.—

19 (1) IN GENERAL.—If a State Agreement or  
20 compact or agreement described in subsection (a) is  
21 invalidated by a court of competent jurisdiction, the  
22 Mohegan Tribe or its members shall have the right  
23 to reinstate a claim to lands or interests in lands or  
24 natural resources to which the Tribe or members are

1 entitled as a result of the invalidation, within a rea-  
2 sonable time, but not later than the later of—

3 (A) 180 days after the Mohegan Tribe re-  
4 ceives written notice of such determination of  
5 an invalidation described in subsection (a); or

6 (B) if the determination of the invalidation  
7 is subject to an appeal, 180 days after the court  
8 of last resort enters a judgment.

9 (2) DEFENSES.—Notwithstanding any other  
10 provision of law, if a party to an action described in  
11 paragraph (1) reinstates the action during the pe-  
12 riod described in paragraph (1)(B)—

13 (A) no defense, such as laches, statute of  
14 limitations, law of the case, res judicata, or  
15 prior disposition may be asserted based on the  
16 withdrawal of the action and reinstatement of  
17 the action; and

18 (B) the substance of any discussions lead-  
19 ing to the State Agreement may not be admissi-  
20 ble in any subsequent litigation, except that, if  
21 any such action is reinstated, any defense that  
22 would have been available to the State of Con-  
23 necticut at the time the action was with-  
24 drawn—

25 (i) may be asserted; and

1                   (ii) is not waived by anything in the  
2                   State Agreement or by subsequent events  
3                   occurring between the withdrawal action  
4                   and commencement of the reinstated ac-  
5                   tion.

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

7           (a) JURISDICTION.—Notwithstanding any other pro-  
8 vision of law, during the period beginning on the date of  
9 enactment of this Act and ending on the date that is 180  
10 days after such date, the United States District Court for  
11 the Southern District of Connecticut shall have exclusive  
12 jurisdiction over any action to contest the constitutionality  
13 of this Act or the validity of any agreement entered into  
14 under the authority of this Act or approved by this Act.

15           (b) DEADLINE FOR FILING.—Effective with the ter-  
16 mination of the period specified in subsection (a), no court  
17 shall have jurisdiction over any action to contest the con-  
18 stitutionality of this Act or the validity of any agreement  
19 entered into under the authority of this Act or approved  
20 by this Act, unless such action was filed prior to the date  
21 of termination of the period specified in subsection (a).

○

S 2329 IS—2