

Calendar No. 1050

96TH CONGRESS
2D SESSION

S. 2829

[Report No. 96-957]

To provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13 (legislative day, JUNE 12), 1980

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

SEPTEMBER 17 (legislative day, JUNE 12), 1980

Reported by Mr. MELCHER, with an amendment

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

A BILL

To provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, 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,*

1 Council of the Passamaquoddy Tribe, is the successor
2 in interest to the aboriginal entity generally known as
3 the Passamaquoddy Tribe, which years ago claimed
4 aboriginal title to certain lands in the State of Maine.

5 (5) The Houlton Band of Maliseet Indians, as rep-
6 resented as of the time of passage of this Act by the
7 Houlton Band Council, is the successor in interest, as
8 to lands within the United States, to the aboriginal
9 entity generally known as the Maliseet Tribe, which
10 years ago claimed aboriginal title to certain lands in
11 the State of Maine.

12 (6) Substantial economic and social hardship to a
13 large number of landowners, citizens, and communities
14 in the State of Maine, and therefore to the economy of
15 the State of Maine as a whole, will result if the afore-
16 mentioned claims are not resolved promptly.

17 (7) This Act represents a good faith effort on the
18 part of Congress to provide the Passamaquoddy Tribe,
19 the Penobscot Nation, and the Houlton Band of Mali-
20 seet Indians with a fair and just settlement of their
21 land claims. In the absence of congressional action,
22 these land claims would be pursued through the courts,
23 a process which in all likelihood would consume many
24 years and thereby promote hostility and uncertainty in
25 the State of Maine to the ultimate detriment of the

1 Passamaquoddy Tribe, the Penobscot Nation, the
2 Houlton Band of Maliseet Indians, their members, and
3 all other citizens of the State of Maine.

4 (8) The parties to these claims, acting through
5 their duly authorized representatives, whose authority
6 is hereby recognized and acknowledged, have executed
7 a Settlement Agreement dated _____, 1980,
8 which requires implementing legislation by Congress.

9 (9) The State of Maine, with the agreement of the
10 Passamaquoddy Tribe, the Penobscot Nation, and the
11 Houlton Band of Maliseet Indians, has enacted legisla-
12 tion defining the relationship between the Passama-
13 quoddy Tribe, the Penobscot Nation, the Houlton Band
14 of Maliseet Indians and their members, and the State
15 of Maine.

16 (10) Since 1820, the State of Maine has provided
17 special services to the Indians residing within its bor-
18 ders, including the members of the Passamaquoddy
19 Tribe, the Penobscot Nation, and the Houlton Band of
20 Maliseet Indians. During this same period, the United
21 States provided few special services to the respective
22 tribe, nation, or band, and repeatedly denied that it
23 had jurisdiction over or responsibility for the said tribe,
24 nation, and band. In view of this provision of special
25 services by the State of Maine, requiring substantial

1 expenditures by the State of Maine and made by the
2 State of Maine without being required to do so by Fed-
3 eral law, it is the intent of Congress that the State of
4 Maine not be required further to contribute directly to
5 this claims settlement.

6 (b) It is the purpose of this Act—

7 (1) to remove the cloud on the titles to land in the
8 State of Maine resulting from Indian claims;

9 (2) to clarify the status of other land and natural
10 resources in the State of Maine;

11 (3) to ratify the Maine Implementing Act, which
12 defines the relationship between the State of Maine
13 and the Passamaquoddy Tribe and the Penobscot
14 Nation; and

15 (4) to confirm that all other Indians, Indian na-
16 tions and tribes and bands of Indians now or hereafter
17 existing or recognized in the State of Maine are and
18 shall be subject to all laws of the State of Maine.

19 DEFINITIONS

20 SEC. 3. For purposes of this Act, the term—

21 (a) "Houlton Band of Maliseet Indians" means
22 the Maliseet Tribe of Indians as constituted on March
23 4, 1789, and all its predecessors and successors in in-
24 terest, which, as of the date of passage of this Act, are
25 represented, as to lands within the United States, by

1 the Houlton Band Council of the Houlton Band of
2 Maliseet Indians.

3 (b) "Land or other natural resources" means any
4 real property or other natural resources, or any inter-
5 est in or right involving any real property or other nat-
6 ural resources, including but without limitation miner-
7 als and mineral rights, timber and timber rights, water
8 and water rights, and hunting and fishing rights.

9 (c) "Land Acquisition Fund" means the Maine
10 Indian Claims Land Acquisition Fund established
11 under section 5(e) of this Act.

12 (d) "Laws of the State" means the Constitution,
13 and all statutes, regulations, and common laws of the
14 State of Maine and its political subdivisions, and all
15 subsequent amendments thereto or judicial interpreta-
16 tions thereof.

17 (e) "Maine Implementing Act" means the "Act to
18 Implement the Maine Indian Claims Settlement" en-
19 acted by the State of Maine in chapter of the Pri-
20 vate and Special Laws of 1979.

21 (f) "Passamaquoddy Indian Reservation" means
22 those lands as defined in the Maine Implementing Act.

23 (g) "Passamaquoddy Territory" means those lands
24 as defined in the Maine Implementing Act.

1 (h) "Passamaquoddy Tribe" means the Passama-
2 quoddy Indian Tribe, as constituted on March 4, 1789,
3 and all its predecessors and successors in interest,
4 which as of the date of passage of this Act, are repre-
5 sented by the Joint Tribal Council of the Passama-
6 quoddy Tribe, with separate Councils at the Indian
7 Township and Pleasant Point Reservations.

8 (i) "Penobscot Indian Reservation" means those
9 lands as defined in the Maine Implementing Act.

10 (j) "Penobscot Indian Territory" means those
11 lands defined in the Maine Implementing Act.

12 (k) "Penobscot Nation" means the Penobscot
13 Indian Nation as constituted on March 4, 1789, and all
14 its predecessors and successors in interest, which as of
15 the date of passage of this Act are represented by the
16 Penobscot Nation Governor and Council.

17 (l) "Secretary" means the Secretary of the
18 Interior.

19 (m) "Settlement Fund" means the Maine Indian
20 Claims Settlement Fund established under section 5(a)
21 of this Act.

22 (n) "Transfer" includes but is not limited to any
23 voluntary or involuntary sale, grant, lease, allotment,
24 partition, or other conveyance; any transaction the pur-
25 pose of which was to effect a sale, grant, lease, allot-

1 ment, partition, or conveyance; and any act, event, or
2 circumstance that resulted in a change in title to, pos-
3 session of, dominion over, or control of land or other
4 natural resources.

5 APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT
6 OF INDIAN TITLE AND CLAIMS OF THE PASSAMA-
7 QUODDY TRIBE, THE PENOBSCOT NATION, THE HOUL-
8 TON BAND OF MALISEET INDIANS, AND ANY OTHER
9 INDIANS, INDIAN NATION, OR TRIBE OR BAND OF IN-
10 DIANS WITHIN THE STATE OF MAINE

11 SEC. 4. (a)(1) Any transfer of land or other natural re-
12 sources located anywhere within the United States from, by,
13 or on behalf of the Passamaquoddy Tribe, the Penobscot
14 Nation, the Houlton Band of Maliseet Indians, or any of their
15 members, and any transfer of land or other natural resources
16 located anywhere within the State of Maine, from, by, or on
17 behalf of any Indian, Indian nation, or tribe or band of Indi-
18 ans, including but without limitation any transfer pursuant to
19 any treaty, compact, or statute of any State, shall be deemed
20 to have been made in accordance with the Constitution and
21 all laws of the United States, including but without limitation
22 the Trade and Intercourse Act of 1790, Act of July 22, 1790
23 (ch. 33, sec. 4, 1 Stat. 137, 138), and all amendments there-
24 to and all subsequent reenactments and versions thereof, and

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1 Congress hereby does approve and ratify any such transfer
2 effective as of the date of said transfer.

3 (2) Any transfer of land or other natural resources lo-
4 cated anywhere within the State of Maine, from, by, or on
5 behalf of any Indian nation, or tribe or band of Indians in-
6 cluding but without limitation any transfer pursuant to any
7 treaty, compact or statute of any State, shall be deemed to
8 have been made in accordance with the laws of the State,
9 and Congress hereby does approve and ratify any such trans-
10 fer effective as of the date of said transfer.

11 (3) Any transfer of land or other natural resources lo-
12 cated anywhere within the State of Maine, from, by, or on
13 behalf of any individual Indian, which occurred prior to De-
14 cember 1, 1873, including but without limitation any transfer
15 pursuant to any treaty, compact or statute of any State, shall
16 be deemed to have been made in accordance with the laws of
17 the State, and Congress hereby does approve and ratify any
18 such transfer effective as of the date of said transfer.

19 (b) To the extent that any transfer of land or other natu-
20 ral resources described in section 4(a) may involve land or
21 other natural resources to which the Passamaquoddy Tribe,
22 the Penobscot Nation, the Houlton Band of Maliseet Indians,
23 or any of their members, or any other Indian, Indian nation,
24 or tribe or band of Indians had aboriginal title, subsection

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1 4(a) shall be regarded as an extinguishment of said aboriginal
2 title as of the date of such transfer.

3 (c) By virtue of the approval and ratification of a trans-
4 fer of land or other natural resources effected by this section,
5 or the extinguishment of aboriginal title effected thereby, all
6 claims against the United States, any State or subdivision
7 thereof, or any other person or entity, by the Passamaquoddy
8 Tribe, the Penobscot Nation, the Houlton Band of Maliseet
9 Indians or any of their members or by any other Indian,
10 Indian nation, tribe or band of Indians, or any predecessors
11 or successors in interest thereof, arising at the time of or
12 subsequent to the transfer and based on any interest in or
13 right involving such land or other natural resources, includ-
14 ing but without limitation claims for trespass damages or
15 claims for use and occupancy, shall be deemed extinguished
16 as of the date of the transfer.

17 ESTABLISHMENT OF FUNDS

18 SEC. 5. (a) The Secretary of the Treasury shall establish
19 an account in the Treasury of the United States to be known
20 as the Maine Indian Claims Settlement Fund and shall trans-
21 fer \$27,000,000 from the general funds of the Treasury into
22 such account following the appropriation authorized by sec-
23 tion 13 of this Act.

24 (b)(1) One-half of the principal of the Settlement Fund
25 shall be held in trust by the Secretary for the benefit of the

1 Passamaquoddy Tribe, and the other half of the Settlement
2 Fund shall be held in trust for the benefit of the Penobscot
3 Nation. Each portion of the Settlement Fund shall be in-
4 vested and administered by the Secretary in accordance with
5 terms established by the Passamaquoddy Tribe or the Penob-
6 scot Nation, respectively, and agreed to by the Secretary.
7 The Secretary shall accept reasonable terms for investment
8 and administration proposed by the Passamaquoddy Tribe or
9 the Penobscot Nation within thirty days of the date on which
10 he receives the proposed terms, and, until such terms have
11 been agreed upon, shall fix the terms for the administration of
12 the Settlement Fund. The Passamaquoddy Tribe or the Pe-
13 nobscot Nation may obtain judicial review in the United
14 States District Court for the District of Maine of any refusal
15 by the Secretary to accept reasonable terms put forth by the
16 respective tribe or nation, or of any failure of the Secretary
17 to administer such funds in accordance with such terms.

18 (2) Under no circumstances shall any part of the princi-
19 pal of the Settlement Fund be distributed to either the Passa-
20 maquoddy Tribe or the Penobscot Nation, or to any member
21 of either tribe or nation: *Provided, however,* That nothing
22 herein shall prevent reasonable investment of the principal of
23 said Fund by the Secretary.

24 (3) The Secretary, on a quarterly basis, shall make
25 available to the Passamaquoddy Tribe and the Penobscot

1 Nation, without liability to or on the part of the United
2 States, and without any deductions, any income derived from
3 that portion of the Settlement Fund allocated to the respec-
4 tive tribe or nation, the use of which shall be free from regu-
5 lation by the Secretary: *Provided, however,* That the Passa-
6 maquoddy Tribe and the Penobscot Nation annually shall
7 each expend the income from \$1,000,000 of their portion of
8 the Settlement Fund for the benefit of their respective mem-
9 bers who are over the age of sixty.

10 (e) The Secretary of the Treasury shall establish an ac-
11 count in the Treasury of the United States to be known as
12 the Maine Indian Claims Land Acquisition Fund and shall
13 transfer \$54,500,000 from the general funds of the Treasury
14 into such account following the appropriation authorized by
15 section 13 of this Act.

16 (d) The principal of the Land Acquisition Fund shall be
17 held in trust by the Secretary as follows:

18 (1) \$900,000 shall be held for the benefit of the
19 Houlton Band of Maliseet Indians to be used to pur-
20 chase 5,000 acres of Maine woodland;

21 (2) one-half of the balance of the principal of the
22 Land Acquisition Fund shall be held by the Secretary
23 for the benefit of the Passamaquoddy Tribe; and

1 (3) the other half of the balance of the principal of
2 the Land Acquisition Fund shall be held for the benefit
3 of the Penobscot Nation.

4 The Secretary shall expend, with the consent of the affected
5 tribe, nation, or band, the principal and any income accruing
6 to this Land Acquisition Fund for the purpose of acquiring
7 land for the Passamaquoddy Tribe, the Penobscot Nation,
8 and the Houlton Band of Maliseet Indians and for no other
9 purpose. If the Houlton Band of Maliseet Indians should
10 cease to exist, any lands acquired for the Maliseet Tribe pur-
11 suant to section 5 shall be divided equally and held in trust,
12 one-half for the benefit of the Passamaquoddy Tribe and one-
13 half for the benefit of the Penobscot Nation.

14 (e)(1) The provisions of section 177 of title 25 of the
15 United States Code shall not be applicable to (i) the Passa-
16 maquoddy Tribe, the Penobscot Nation, or the Houlton Band
17 of Maliseet Indians or any other Indian, Indian nation, or
18 tribe or band of Indians in the State of Maine, and (ii) any
19 land or other natural resources owned by or held in trust for
20 the Passamaquoddy Tribe, the Penobscot Nation, or the
21 Houlton Band of Maliseet Indians or any other Indian,
22 Indian nation, or tribe or band of Indians in the State of
23 Maine. Except as provided in subsection (e)(2), such land or
24 other natural resources shall not otherwise be subject to any

1 restraint on alienation by virtue of being held in trust by the
2 United States or the Secretary.

3 (2) Any transfer of land or other natural resources
4 within the Passamaquoddy Indian Territory or the Penobscot
5 Indian Territory, except takings for public uses consistent
6 with the Maine Implementing Act or the laws of the United
7 States, or transfers of individual Indian assignments from one
8 member of the Passamaquoddy Tribe or Penobscot Nation to
9 another member of the same tribe or nation shall be void ab
10 initio and without any validity in law or equity unless made
11 by or with the consent of the respective tribe or nation and
12 with the approval of the Secretary: *Provided, however,* That
13 the Secretary and the respective tribe or nation shall have
14 authority to approve only transfers of timber and other natu-
15 ral resources; leases of land for a term not to exceed fifty
16 years; exchanges of land; and transfers of land or other natu-
17 ral resources the proceeds of which are reinvested in land
18 within two years of the date of the receipt of such proceeds.

19 (f) Land acquired and held by the Secretary for the
20 benefit of the Passamaquoddy Tribe and the Penobscot
21 Nation shall be managed and administered in accordance
22 with terms established by the respective tribe or nation and
23 agreed to by the Secretary. The Secretary shall accept rea-
24 sonable terms for management and administration proposed
25 by the Passamaquoddy Tribe or the Penobscot Nation within

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1 thirty days of the date on which he receives the proposed
2 terms, and until such terms have been agreed upon shall fix
3 the terms for management and administration of said lands.
4 The Passamaquoddy Tribe or the Penobscot Nation may
5 obtain judicial review in the United States District Court for
6 the District of Maine of any refusal of the Secretary to accept
7 reasonable terms put forth by the respective tribe or nation,
8 or of any failure of the Secretary to administer such lands in
9 accordance with such terms.

10 (g) In the event of a taking of land or any interest in
11 land owned by or held in trust for the Passamaquoddy Tribe,
12 the Penobscot Nation or the Houlton Band of Maliseet Indi-
13 ans for public uses pursuant to the laws of the State or the
14 laws of the United States, the Secretary shall reinvest the
15 money received in other lands for the respective tribe, nation
16 or band within two years of the date on which the money is
17 received. Any lands so acquired shall be approved by the
18 affected tribe, nation, or band, and shall be subject to the
19 terms of this Act and the Maine Implementing Act.

20 APPLICATION OF STATE LAWS

21 SEC. 6. (a) Except as otherwise provided in subsections
22 (b), (d), and (e) of this section, all Indians, Indian nations,
23 tribes, and bands of Indians in the State of Maine, other than
24 the Passamaquoddy Tribe and the Penobscot Nation and
25 their members, and all lands or other natural resources

1 owned by or held in trust by the United States, or by any
2 other person or entity for any such Indian, Indian nation or
3 tribe, or band of Indians, shall be subject to the civil and
4 criminal jurisdiction of the State, the laws of the State, and
5 to the civil and criminal jurisdiction of the courts of the State,
6 to the same extent as any other person or land therein.

7 (b) The Passamaquoddy Tribe, the Penobscot Nation,
8 their members, and the land owned by or held for the benefit
9 of the Passamaquoddy Tribe, the Penobscot Nation, and their
10 members, shall be subject to the jurisdiction of the State of
11 Maine to the extent and in the manner provided in the Maine
12 Implementing Act. The Maine Implementing Act is hereby
13 approved, ratified and confirmed, and the provisions of the
14 Maine Implementing Act which hereafter become effective,
15 including any subsequent amendments pursuant to subsection
16 (d), are incorporated by reference as fully as if set forth
17 herein. The Maine Implementing Act shall not be subject to
18 the provisions of section 1910 of title 25 of the United States
19 Code.

20 (c) The Passamaquoddy Tribe, the Penobscot Nation,
21 the Houlton Band of Maliseet Indians, and all members
22 thereof, and all other Indians, Indian nations, or tribes, or
23 bands of Indians in the State of Maine may sue and be sued
24 in the courts of the State of Maine and the United States to
25 the same extent as any other entity or person residing in the

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1 State of Maine may sue and be sued in those courts: *Pro-*
2 *vided, however,* That the Passamaquoddy Tribe, the Penob-
3 seot Nation, and their officers and employees shall be
4 immune from suit to the extent provided in the Maine Imple-
5 menting Act. In the event that either the Passamaquoddy
6 Tribe or the Penobseot Nation fails to pay any money judg-
7 ment entered against it within ninety days after entry of final
8 judgment, the Secretary shall pay any such money judgment
9 from that portion of the income of the Settlement Fund held
10 for the respective tribe or nation. Any person asserting a
11 money judgment against either the Passamaquoddy Tribe or
12 the Penobseot Nation may sue the Secretary in the United
13 States District Court for the District of Maine for any such
14 amount due.

15 (d) Congress hereby consents to any amendment to the
16 Maine Implementing Act with respect to either the Passama-
17 quoddy Tribe or Penobseot Nation provided that such amend-
18 ment is made with the agreement of such tribe or nation.

19 (e) The Passamaquoddy Tribe and the Penobseot Nation
20 are hereby authorized to exercise jurisdiction, separate and
21 distinct from the civil and criminal jurisdiction of the State of
22 Maine, to the extent authorized by the Maine Implementing
23 Act, and any subsequent amendments thereto.

24 (f) The United States, every State, every territory or
25 possession of the United States, and every Indian nation and

1 tribe and band of Indians shall give full faith and credit to the
2 judicial proceedings of the Passamaquoddy Tribe and the Pe-
3 nobscot Nation. The Passamaquoddy Tribe and the Penob-
4 scot Nation shall give full faith and credit to the judicial pro-
5 ceedings of each other and to the judicial proceedings of the
6 United States, every State, every territory or possession of
7 the United States, and every recognized Indian nation and
8 tribe and band of Indians.

9 (g) Except as provided in this Act, the laws of the
10 United States which relate or accord special status or rights
11 to Indians, Indian nations, tribes, and bands of Indians,
12 Indian lands, Indian reservations, Indian country, Indian ter-
13 ritory, or lands held in trust for Indians, shall not apply
14 within the State of Maine: *Provided, however,* That the
15 Passamaquoddy Tribe, the Penobscot Nation, and the Houl-
16 ton Band of Maliseet Indians shall be eligible to receive all
17 the financial benefits which the United States provides to In-
18 dians, Indian nations and tribes or bands of Indians to the
19 same extent and subject to the same eligibility criteria gener-
20 ally applicable to other Indians, Indian nations, or tribes or
21 bands of Indians and for the purposes of determining eligibil-
22 ity for such financial benefits, the respective tribe, nation,
23 and band shall be deemed to be federally recognized Indian
24 tribes: *And provided further,* That the Passamaquoddy Tribe,
25 the Penobscot Nation, and the Houlton Band of Maliseet In-

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1 dians shall be considered federally recognized Indian tribes
2 for the purposes of Federal taxation and any lands owned by
3 or held in trust for the respective tribe, nation, or band shall
4 be considered Federal Indian reservations for purposes of
5 Federal taxation.

6 IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT

7 SEC. 7. (a) The Passamaquoddy Tribe or the Penobscot
8 Nation may assume exclusive jurisdiction over Indian child
9 custody proceedings pursuant to section 1901 of title 25,
10 United States Code. Before the respective tribe or nation
11 may assume such jurisdiction over Indian child custody pro-
12 ceedings, the respective tribe or nation shall present to the
13 Secretary for approval a petition to assume such jurisdiction
14 and the Secretary shall approve that petition in the manner
15 prescribed by section 1918(a)-(c) of title 25, United States
16 Code.

17 (b) Any petition to assume jurisdiction over Indian child
18 custody proceedings by the Passamaquoddy Tribe or the Pe-
19 nobscot Nation shall be considered and determined by the
20 Secretary in accordance with section 1918 (b) and (c) of title
21 25, United States Code.

22 (c) Assumption of jurisdiction under this section shall
23 not affect any action or proceeding over which a court has
24 already assumed jurisdiction.

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1 (d) For the purposes of this section, the Passamaquoddy
2 Indian Reservation and the Penobscot Indian Reservation
3 shall be deemed to be "reservations" within section 1903(10)
4 of title 25, United States Code, and the Passamaquoddy
5 Tribe and the Penobscot Nation shall be deemed to be
6 "Indian tribes" within section 1903(8) of title 25, United
7 States Code.

8 (e) Until the Passamaquoddy Tribe or the Penobscot
9 Nation has assumed exclusive jurisdiction over the Indian
10 child custody proceedings pursuant to this section, the State
11 of Maine shall have exclusive jurisdiction over the Indian
12 child custody proceedings of that tribe or nation.

13 EFFECT OF PAYMENTS TO PASSAMAQUODDY TRIBE,
14 PENOBSCOT NATION, AND HOULTON BAND OF MALI-
15 SEET INDIANS

16 SEC. 8. (a) No payments to be made for the benefit of
17 the Passamaquoddy Tribe, the Penobscot Nation, and the
18 Houlton Band of Maliseet Indians pursuant to the terms of
19 this Act shall be considered by any agency or department of
20 the United States in determining or computing the State of
21 Maine's eligibility for participation in any financial aid pro-
22 gram of the United States.

23 (b) The eligibility for or receipt of payments from the
24 State of Maine by the Passamaquoddy Tribe and the Penob-
25 scot Nation or any of their members pursuant to the Maine

1 Implementing Act or any other law of the State of Maine
2 shall not be considered by any department or agency of the
3 United States in determining the eligibility of or computing
4 payments to the Passamaquoddy Tribe or the Penobscot
5 Nation or any of their members under any financial aid pro-
6 gram of the United States.

7 (e) The availability of funds or distribution of funds pur-
8 suant to section 5 of this Act may not be considered as
9 income or resources or otherwise utilized as the basis (1) for
10 denying any Indian household or member thereof participa-
11 tion in any federally assisted housing program; (2) for deny-
12 ing or reducing the Federal financial assistance or other Fed-
13 eral benefits to which such household or member would oth-
14 erwise be entitled; or (3) for denying or reducing the Federal
15 financial assistance or other Federal benefits to which the
16 Passamaquoddy Tribe or Penobscot Nation would otherwise
17 be entitled.

18 DEFERRAL OF CAPITAL GAINS

19 SEC. 9. For the purpose of subtitle A of the Internal
20 Revenue Code of 1954, any transfer by private owners of
21 land purchased by the Secretary with moneys from the Land
22 Acquisition Fund shall be deemed to be an involuntary con-
23 version within the meaning of section 1033 of the Internal
24 Revenue Code of 1954, as amended.

1 TRANSFER OF TRIBAL TRUST FUNDS HELD BY THE STATE
2 OF MAINE

3 SEC. 10. All funds of either the Passamaquoddy Tribe
4 or the Penobscot Nation held in trust by the State of Maine
5 as of the effective date of this Act shall be transferred to the
6 Secretary to be held in trust for the respective tribe or nation
7 and shall be added to the principal of the Settlement Fund
8 allocated to that tribe or nation. The delivery of said State
9 funds to the Secretary shall be accepted in full discharge of
10 any claim of the respective tribe or nation, its predecessors
11 and successors in interest, and its members, against the State
12 of Maine, its officers, employees, agents, and representatives,
13 arising from the administration or management of said State
14 funds. Upon receipt of said State funds, the Secretary, on
15 behalf of the respective tribe and nation, shall execute
16 general releases of all claims against the State of Maine, its
17 officers, employees, agents, and representatives arising from
18 the administration or management of said State funds.

19 OTHER CLAIMS DISCHARGED BY THIS ACT

20 SEC. 11. Except as expressly provided herein, this Act
21 shall constitute a general discharge and release of all obliga-
22 tions of the State of Maine and all of its political subdivisions,
23 agencies, departments, and all of the officers or employees
24 thereof arising from any treaty or agreement with, or on
25 behalf of, any Indian, Indian nation, or tribe or band of Indi-

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1 CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

2 SEC. 2. (a) Congress hereby finds and declares that:

3 (1) The Passamaquoddy Tribe, the Penobscot
4 Nation, and the Maliseet Tribe are asserting claims for
5 possession of lands within the State of Maine and for
6 damages on the ground that the lands in question were
7 originally transferred in violation of law, including,
8 but without limitation, the Trade and Intercourse Act
9 of 1790 (1 Stat. 137), or subsequent reenactments or
10 versions thereof.

11 (2) The Indians, Indian nations, and tribes and
12 bands of Indians, other than the Passamaquoddy
13 Tribe, the Penobscot Nation, and the Houlton Band of
14 Maliseet Indians, that once may have held aboriginal
15 title to lands within the State of Maine long ago aban-
16 doned their aboriginal holdings.

17 (3) The Penobscot Nation, as represented as of
18 the time of passage of this Act by the Penobscot Na-
19 tion's Governor and Council, is the sole successor in
20 interest to the aboriginal entity generally known as the
21 Penobscot Nation which years ago claimed aboriginal
22 title to certain lands in the State of Maine.

23 (4) The Passamaquoddy Tribe, as represented as
24 of the time of passage of this Act by the Joint Tribal
25 Council of the Passamaquoddy Tribe, is the sole suc-

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1 *cessor in interest to the aboriginal entity generally*
 2 *known as the Passamaquoddy Tribe which years ago*
 3 *claimed aboriginal title to certain lands in the State of*
 4 *Maine.*

5 *(5) The Houlton Band of Maliseet Indians, as*
 6 *represented as of the time of passage of this Act by the*
 7 *Houlton Band Council, is the sole successor in inter-*
 8 *est, as to lands within the United States, to the ab-*
 9 *original entity generally known as the Maliseet Tribe*
 10 *which years ago claimed aboriginal title to certain*
 11 *lands in the State of Maine.*

12 *(6) Substantial economic and social hardship to a*
 13 *large number of landowners, citizens, and communities*
 14 *in the State of Maine, and therefore to the economy of*
 15 *the State of Maine as a whole, will result if the afore-*
 16 *mentioned claims are not resolved promptly.*

17 *(7) This Act represents a good faith effort on the*
 18 *part of Congress to provide the Passamaquoddy Tribe,*
 19 *the Penobscot Nation, and Houlton Band of Maliseet*
 20 *Indians with a fair and just settlement of their land*
 21 *claims. In the absence of congressional action, these*
 22 *land claims would be pursued through the courts, a*
 23 *process which in all likelihood would consume many*
 24 *years and thereby promote hostility and uncertainty in*
 25 *the State of Maine to the ultimate detriment of the*

1 *Passamaquoddy Tribe, the Penobscot Nation, the*
2 *Houlton Band of Maliseet Indians, their members, and*
3 *all other citizens of the State of Maine.*

4 (8) *The State of Maine, with the agreement of the*
5 *Passamaquoddy Tribe and the Penobscot Nation, has*
6 *enacted legislation defining the relationship between*
7 *the Passamaquoddy Tribe, the Penobscot Nation, and*
8 *their members, and the State of Maine.*

9 (9) *Since 1820, the State of Maine has provided*
10 *special services to the Indians residing within its bor-*
11 *ders, including the members of the Passamaquoddy*
12 *Tribe, the Penobscot Nation, and the Houlton Band of*
13 *Maliseet Indians. During this same period, the United*
14 *States provided few special services to the respective*
15 *tribe, nation, or band, and repeatedly denied that it*
16 *had jurisdiction over or responsibility for the said*
17 *tribe, nation, and band. In view of the provision of*
18 *special services by the State of Maine, requiring sub-*
19 *stantial expenditures by the State of Maine and made*
20 *by the State of Maine without being required to do so*
21 *by Federal law, it is the intent of Congress that the*
22 *State of Maine not be required further to contribute di-*
23 *rectly to this claims settlement.*

24 (b) *It is the purpose of this Act—*

1 (b) "land or natural resources" means any real
2 property or natural resources, or any interest in or
3 right involving any real property or natural resources,
4 including but without limitation minerals and mineral
5 rights, timber and timber rights, water and water
6 rights, and hunting and fishing rights;

7 (c) "Land Acquisition Fund" means the Maine
8 Indian Claims Land Acquisition Fund established
9 under section 5(c) of this Act;

10 (d) "laws of the State" means the Constitution,
11 and all statutes, regulations, and common laws of the
12 State of Maine and its political subdivisions and all
13 subsequent amendments thereto or judicial interpreta-
14 tions thereof;

15 (e) "Maine Implementing Act" means section 1,
16 section 30, and section 31, of the "Act to Implement
17 the Maine Indian Claims Settlement" enacted by the
18 State of Maine in chapter 732 of the Public Laws of
19 1979;

20 (f) "Passamaquoddy Indian Reservation" means
21 those lands as defined in the Maine Implementing Act;

22 (g) "Passamaquoddy Indian Territory" means
23 those lands as defined in the Maine Implementing Act;

24 (h) "Passamaquoddy Tribe" means the Passama-
25 quoddy Indian Tribe, as constituted in aboriginal

1 *times and all its predecessors and successors in inter-*
2 *est. The Passamaquoddy Tribe is represented, as of the*
3 *date of the enactment of this Act, by the Joint Tribal*
4 *Council of the Passamaquoddy Tribe, with separate*
5 *Councils at the Indian Township and Pleasant Point*
6 *Reservations;*

7 (i) *“Penobscot Indian Reservation” means those*
8 *lands as defined in the Maine Implementing Act;*

9 (j) *“Penobscot Indian Territory” means those*
10 *lands as defined in the Maine Implementing Act;*

11 (k) *“Penobscot Nation” means the Penobscot*
12 *Indian Nation as constituted in aboriginal times, and*
13 *all its predecessors and successors in interest. The Pen-*
14 *obscot Nation is represented, as of the date of the en-*
15 *actment of this Act, by the Penobscot Nation Governor*
16 *and Council;*

17 (l) *“Secretary” means the Secretary of the*
18 *Interior;*

19 (m) *“Settlement Fund” means the Maine Indian*
20 *Claims Settlement Fund established under section 5(a)*
21 *of this Act; and*

22 (n) *“transfer” includes but is not limited to any*
23 *voluntary or involuntary sale, grant, lease, allotment,*
24 *partition, or other conveyance; any transaction the pur-*
25 *pose of which was to effect a sale, grant, lease, allot-*

1 *ment, partition, or conveyance; and any act, event, or*
2 *circumstance that resulted in a change in title to, pos-*
3 *session of, dominion over, or control of land or natural*
4 *resources.*

5 *APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT*
6 *OF INDIAN TITLE AND CLAIMS OF THE PASSAMA-*
7 *QUODDY TRIBE, THE PENOBSCOT NATION, THE*
8 *HOULTON BAND OF MALISEET INDIANS, AND ANY*
9 *OTHER INDIANS, INDIAN NATION, OR TRIBE OR*
10 *BAND OF INDIANS WITHIN THE STATE OF MAINE*

11 *SEC. 4. (a)(1) Any transfer of land or natural resources*
12 *located anywhere within the United States from, by, or on*
13 *behalf of the Passamaquoddy Tribe, the Penobscot Nation,*
14 *the Houlton Band of Maliseet Indians, or any of their mem-*
15 *bers, and any transfer of land or natural resources located*
16 *anywhere within the State of Maine, from, by, or on behalf*
17 *of any Indian, Indian nation, or tribe or band of Indians,*
18 *including but without limitation any transfer pursuant to*
19 *any treaty, compact, or statute of any State, shall be deemed*
20 *to have been made in accordance with the Constitution and*
21 *all laws of the United States, including but without limita-*
22 *tion the Trade and Intercourse Act of 1790, Act of July 22,*
23 *1790 (ch. 33, sec. 4, 1 Stat. 137, 138), and all amendments*
24 *thereto and all subsequent reenactments and versions thereof,*
25 *and Congress hereby does approve and ratify any such trans-*

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1 *fer effective as of the date of said transfer: Provided, however,*
2 *That nothing in this section shall be construed to affect or*
3 *eliminate the personal claim of any individual Indian*
4 *(except for any Federal common law fraud claim) which is*
5 *pursued under any law of general applicability that protects*
6 *non-Indians as well as Indians.*

7 (2) *The United States is barred from asserting on*
8 *behalf of any Indian, Indian nation, or tribe or band of Indi-*
9 *ans any claim under the laws of the State of Maine arising*
10 *before the date of this Act and arising from any transfer of*
11 *land or natural resources by any Indian, Indian nation, or*
12 *tribe or band of Indians, located anywhere within the State*
13 *of Maine, including but without limitation any transfer pur-*
14 *suant to any treaty, compact, or statute of any State, on the*
15 *grounds that such transfer was not made in accordance with*
16 *the laws of the State of Maine.*

17 (3) *The United States is barred from asserting by or on*
18 *behalf of any individual Indian any claim under the laws of*
19 *the State of Maine arising from any transfer of land or natu-*
20 *ral resources located anywhere within the State of Maine*
21 *from, by, or on behalf of any individual Indian, which oc-*
22 *curred prior to December 1, 1873, including but without lim-*
23 *itation any transfer pursuant to any treaty, compact, or stat-*
24 *ute of any State.*

1 (b) To the extent that any transfer of land or natural
2 resources described in subsection (a)(1) of this section may
3 involve land or natural resources to which the Passamaquod-
4 dy Tribe, the Penobscot Nation, the Houlton Band of Mali-
5 seet Indians, or any of their members, or any other Indian,
6 Indian nation, or tribe or band of Indians had aboriginal
7 title, such subsection (a)(1) shall be regarded as an extin-
8 guishment of said aboriginal title as of the date of such
9 transfer.

10 (c) By virtue of the approval and ratification of a trans-
11 fer of land or natural resources effected by this section, or the
12 extinguishment of aboriginal title effected thereby, all claims
13 against the United States, any State or subdivision thereof,
14 or any other person or entity, by the Passamaquoddy Tribe,
15 the Penobscot Nation, the Houlton Band of Maliseet Indians
16 or any of their members or by any other Indian, Indian
17 nation, tribe or band of Indians, or any predecessors or suc-
18 cessors in interest thereof, arising at the time of or subsequent
19 to the transfer and based on any interest in or right involving
20 such land or natural resources, including but without limita-
21 tion claims for trespass damages or claims for use and occu-
22 pancy, shall be deemed extinguished as of the date of the
23 transfer.

24 (d) The provisions of this section shall take effect imme-
25 diately upon appropriation of the funds authorized to be ap-

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1 *propriated to implement the provisions of section 5 of this*
2 *Act. The Secretary shall publish notice of such appropriation*
3 *in the Federal Register when such funds are appropriated.*

4 *ESTABLISHMENT OF FUNDS*

5 *SEC. 5. (a) There is hereby established in the United*
6 *States Treasury a fund to be known as the Maine Indian*
7 *Claims Settlement Fund in which \$27,000,000 shall be de-*
8 *posited following the appropriation of sums authorized by*
9 *section 14 of this Act.*

10 *(b)(1) One-half of the principal of the Settlement Fund*
11 *shall be held in trust by the Secretary for the benefit of the*
12 *Passamaquoddy Tribe, and the other half of the Settlement*
13 *Fund shall be held in trust for the benefit of the Penobscot*
14 *Nation. Each portion of the Settlement Fund shall be ad-*
15 *ministered by the Secretary in accordance with reasonable*
16 *terms established by the Passamaquoddy Tribe or the Penob-*
17 *scot Nation, respectively, and agreed to by the Secretary:*
18 *Provided, That the Secretary may not agree to terms which*
19 *provide for investment of the Settlement Fund in a manner*
20 *not in accordance with section 1 of the Act of June 24, 1938*
21 *(52 Stat. 1037), unless the respective tribe or nation first*
22 *submits a specific waiver of liability on the part of the*
23 *United States for any loss which may result from such an*
24 *investment: Provided further, That until such terms have*
25 *been agreed upon, the Secretary shall fix the terms for the*

1 administration of the portion of the Settlement Fund as to
2 which there is no agreement.

3 (2) Under no circumstances shall any part of the princi-
4 pal of the Settlement Fund be distributed to either the Passa-
5 maquoddy Tribe or the Penobscot Nation, or to any member
6 of either tribe or nation: Provided, however, That nothing
7 herein shall prevent the Secretary from investing the princi-
8 pal of said fund in accordance with paragraph (1) of this
9 subsection.

10 (3) The Secretary shall make available to the Passama-
11 quoddy Tribe and the Penobscot Nation in quarterly pay-
12 ments, without any deductions except as expressly provided
13 in subsection 6(d)(2) and without liability to or on the part of
14 the United States, any income received from the investment
15 of that portion of the Settlement Fund allocated to the respec-
16 tive tribe or nation, the use of which shall be free of regula-
17 tion by the Secretary. The Passamaquoddy Tribe and the
18 Penobscot Nation annually shall each expend the income
19 from \$1,000,000 of their portion of the Settlement Fund for
20 the benefit of their respective members who are over the age of
21 sixty. Once payments under this paragraph have been made
22 to the tribe or nation, the United States shall have no further
23 trust responsibility to the tribe or nation or their members
24 with respect to the sums paid, any subsequent distribution of
25 these sums, or any property or services purchased therewith.

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1 (c) *There is hereby established in the United States*
2 *Treasury a fund to be known as the Maine Indian Claims*
3 *Land Acquisition Fund in which \$54,500,000 shall be de-*
4 *posited following the appropriation of sums authorized by*
5 *section 14 of this Act.*

6 (d) *The principal of the Land Acquisition Fund shall be*
7 *apportioned as follows:*

8 (1) *\$900,000 to be held in trust for the Houlton*
9 *Band of Maliseet Indians;*

10 (2) *\$26,800,000 to be held in trust for the Passa-*
11 *maquoddy Tribe; and*

12 (3) *\$26,800,000 to be held in trust for the Penob-*
13 *scot Nation.*

14 *The Secretary is authorized and directed to expend, at the*
15 *request of the affected tribe, nation or band, the principal and*
16 *any income accruing to the respective portions of the Land*
17 *Acquisition Fund for the purpose of acquiring land or natu-*
18 *ral resources for the Passamaquoddy Tribe, the Penobscot*
19 *Nation, and the Houlton Band of Maliseet Indians and for*
20 *no other purpose. The first one hundred and fifty thousand*
21 *acres of land or natural resources acquired for the Passama-*
22 *quoddy Tribe and the first one hundred and fifty thousand*
23 *acres acquired for the Penobscot Nation within the area de-*
24 *scribed in the Maine Implementing Act as eligible to be in-*
25 *cluded within the Passamaquoddy Indian Territory and the*

1 *Penobscot Indian Territory shall be held in trust by the*
2 *United States for the benefit of the respective tribe or nation.*
3 *The Secretary is also authorized to take in trust for the*
4 *Passamaquoddy Tribe or the Penobscot Nation any land or*
5 *natural resources acquired within the aforesaid area by pur-*
6 *chase, gift, or exchange by such tribe or nation. Land or*
7 *natural resources acquired outside the boundaries of the*
8 *aforesaid areas shall be held in fee by the respective tribe or*
9 *nation, and the United States shall have no further trust*
10 *responsibility with respect thereto. Land or natural resources*
11 *acquired within the State of Maine for the Houlton Band of*
12 *Maliseet Indians shall be held in trust by the United States*
13 *for the benefit of the band: Provided, That no land or natural*
14 *resources shall be so acquired for or on behalf of the Houlton*
15 *Band of Maliseet Indians without the prior enactment of ap-*
16 *propriate legislation by the State of Maine approving such*
17 *acquisition: Provided further, That the Passamaquoddy*
18 *Tribe and the Penobscot Nation shall each have a one-half*
19 *undivided interest in the corpus of the trust, which shall con-*
20 *sist of any such property or subsequently acquired exchange*
21 *property, in the event the Houlton Band of Maliseet Indians*
22 *should terminate its interest in the trust.*

23 (4) *The Secretary is authorized to, and at the request of*
24 *either party shall, participate in negotiations between the*
25 *State of Maine and the Houlton Band of Maliseet Indians*

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1 for the purpose of assisting in securing agreement as to the
2 land or natural resources to be acquired by the United States
3 to be held in trust for the benefit of the Houlton Band. Such
4 agreement shall be embodied in the legislation enacted by the
5 State of Maine approving the acquisition of such lands as
6 required by section 5(d)(3). The agreement and the legisla-
7 tion shall be limited to:

8 (A) provisions providing restrictions against
9 alienation or taxation of land or natural resources held
10 in trust for the Houlton Band no less restrictive than
11 those provided by this Act and the Maine Implement-
12 ing Act for land or natural resources to be held in trust
13 for the Passamaquoddy Tribe or Penobscot Nation;

14 (B) provisions limiting the power of the State of
15 Maine to condemn such lands that are no less restric-
16 tive than the provisions of this Act and the Maine Im-
17 plementing Act that apply to the Passamaquoddy
18 Indian Territory and the Penobscot Indian Territory
19 but not within either the Passamaquoddy Indian Res-
20 ervation or the Penobscot Indian Reservation;

21 (C) consistent with the trust and restricted char-
22 acter of the lands, provisions satisfactory to the State
23 and the Houlton Band concerning:

24 (i) payments by the Houlton Band in lieu of
25 payment of property taxes on land or natural re-

1 sources held in trust for the band, except that the
2 band shall not be deemed to own or use any prop-
3 erty for governmental purposes under the Maine
4 Implementing Act;

5 (ii) payments of other fees and taxes to the
6 extent imposed on the Passamaquoddy Tribe and
7 the Penobscot Nation under the Maine Imple-
8 menting Act, except that the band shall not be
9 deemed to be a governmental entity under the
10 Maine Implementing Act of to have the powers of
11 a municipality under the Maine Implementing
12 Act;

13 (iii) securing performance of obligations of
14 the Houlton Band arising after the effective date
15 of agreement between the State and the band;

16 (D) provisions on the location of these lands.
17 Except as set forth in this subsection, such agreement shall
18 not include any other provisions regarding the enforcement or
19 application of the laws of the State of Maine. Within one
20 year of the date of enactment of this Act, the Secretary is
21 directed to submit to the appropriate committees of the House
22 of Representatives and the Senate having jurisdiction over
23 Indian affairs a report on the status of these negotiations.

24 (e) Notwithstanding the provisions of section 1 of the
25 Act of August 1, 1888 (25 Stat. 357), as amended, and sec-

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1 tion 1 of the Act of February 26, 1931 (46 Stat. 1421), the
2 Secretary may acquire land or natural resources under this
3 section from the ostensible owner of the land or natural re-
4 sources only if the Secretary and the ostensible owner of the
5 land or natural resources have agreed upon the identity of the
6 land or natural resources to be sold and upon the purchase
7 price and other terms of sale. Subject to the agreement re-
8 quired by the preceding sentence, the Secretary may institute
9 condemnation proceedings in order to perfect title satisfactory
10 to the Attorney General of the United States and condemn
11 interests adverse to the ostensible owner. Except for the pro-
12 visions of this Act, the United States shall have no other
13 authority to acquire lands or natural resources in trust for
14 the benefit of Indians or Indian nations, or tribes, or bands
15 of Indians in the State of Maine.

16 (f) The Secretary may not expend on behalf of the
17 Passamaquoddy Tribe, the Penobscot Nation, or the Houlton
18 Band of Maliseet Indians any sums deposited in the funds
19 established pursuant to the subsections (a) and (c) of this
20 section unless and until he finds that authorized officials of
21 the respective tribe, nation, or band have executed appropri-
22 ate documents relinquishing all claims to the extent provided
23 by sections, 4, 11, and 12 of this Act and by section 6213 of
24 the Maine Implementing Act, including stipulations to the
25 final judicial dismissal with prejudice of their claims.

1 (g)(1) *The provisions of section 2116 of the Revised*
2 *Statutes shall not be applicable to (A) the Passamaquoddy*
3 *Tribe, the Penobscot Nation, or the Houlton Band of Mali-*
4 *seet Indians or any other Indian, Indian nation, or tribe or*
5 *band of Indians in the State of Maine, or (B) any land or*
6 *natural resources owned by or held in trust for the Passama-*
7 *quoddy Tribe, the Penobscot Nation, or the Houlton Band of*
8 *Maliseet Indians or any other Indian, Indian nation or tribe*
9 *or band of Indians in the State of Maine. Except as provided*
10 *in subsections (d)(4) and (g)(2), such land or natural re-*
11 *sources shall not otherwise be subject to any restraint on*
12 *alienation by virtue of being held in trust by the United*
13 *States or the Secretary.*

14 (2) *Except as provided in paragraph (3) of this subsec-*
15 *tion, any transfer of land or natural resources within Passa-*
16 *maquoddy Indian Territory or Penobscot Indian Territory,*
17 *except (A) takings for public uses consistent with the Maine*
18 *Implementing Act, (B) takings for public uses pursuant to*
19 *the laws of the United States, or (C) transfers of individual*
20 *Indian use assignments from one member of the Passama-*
21 *quoddy Tribe or Penobscot Nation to another member of the*
22 *same tribe or nation, shall be void ab initio and without any*
23 *validity in law or equity.*

24 (3) *Land or natural resources within the Passama-*
25 *quoddy Indian Territory or the Penobscot Indian Territory*

1 or held in trust for the benefit of the Houlton Band of Mali-
2 seet Indians may, at the request of the respective tribe,
3 nation, or band, be—

4 (A) leased in accordance with the Act of Au-
5 gust 9, 1955 (69 Stat. 539), as amended;

6 (B) leased in accordance with the Act of May 11,
7 1938 (52 Stat. 347), as amended;

8 (C) sold in accordance with Section 7 of the Act
9 of June 25, 1910 (36 Stat. 857), as amended;

10 (D) subjected to rights-of-way in accordance with
11 the Act of February 5, 1948 (62 Stat. 17);

12 (E) exchanged for other land or natural resources
13 of equal value, or if they are not equal, the values
14 shall be equalized by the payment of money to the
15 grantor or to the Secretary for deposit in the Land Ac-
16 quisition Fund for the benefit of the affected tribe,
17 nation, or band, as the circumstances require, so long
18 as payment does not exceed 25 per centum of the total
19 value of the interests in land to be transferred by the
20 tribe, nation, or band; and

21 (F) sold, only if at the time of sale the Secretary
22 has entered into an option agreement or contract of sale
23 to purchase other lands of approximate equal value.

24 (h) Land or natural resources acquired by the Secretary
25 in trust for the Passamaquoddy Tribe and the Penobscot

1 Nation shall be managed and administered in accordance
2 with terms established by the respective tribe or nation and
3 agreed to by the Secretary in accordance with section 102 of
4 the Indian Self-Determination and Education Assistance
5 Act (88 Stat. 2206), or other existing law.

6 (i)(1) Trust or restricted land or natural resources
7 within the Passamaquoddy Indian Reservation or the Penob-
8 scot Indian Reservation may be condemned for public pur-
9 poses pursuant to the Maine Implementing Act. In the event
10 that the compensation for the taking is in the form of substi-
11 tute land to be added to the reservation, such land shall
12 become a part of the reservation in accordance with the
13 Maine Implementing Act and upon notification to the Secre-
14 tary of the location and boundaries of the substitute land.
15 Such substitute land shall have the same trust or restricted
16 status as the land taken. To the extent that the compensation
17 is in the form of monetary proceeds, it shall be deposited and
18 reinvested as provided in paragraph (2) of this subsection.

19 (2) Trust land of the Passamaquoddy Tribe or the Pen-
20 obscot Nation not within the Passamaquoddy Reservation
21 or Penobscot Reservation may be condemned for public pur-
22 poses pursuant to the Maine Implementing Act. The proceeds
23 from any such condemnation shall be deposited in the Land
24 Acquisition Fund established by section 5(c) and shall be
25 reinvested in acreage within unorganized or unincorporated

1 areas of the State of Maine. When the proceeds are rein-
 2 vested in land whose acreage does not exceed that of the land
 3 taken, all the land shall be acquired in trust. When the pro-
 4 ceeds are invested in land whose acreage exceeds the acreage
 5 of the land taken, the respective tribe or nation shall desig-
 6 nate, with the approval of the United States, and within
 7 thirty days of such reinvestment, that portion of the land ac-
 8 quired by the reinvestment, not to exceed the area taken,
 9 which shall be acquired in trust. The land not acquired in
 10 trust shall be held in fee by the respective tribe or nation. The
 11 Secretary shall certify, in writing, to the Secretary of State
 12 of the State of Maine the location, boundaries, and status of
 13 the land acquired.

14 (3) The State of Maine shall have initial jurisdiction
 15 over condemnation proceedings brought under this section.
 16 The United States shall be a necessary party to any such
 17 condemnation proceedings. After exhaustion of all State ad-
 18 ministrative remedies, the United States is authorized to seek
 19 judicial review of all relevant matters in the courts of the
 20 United States and shall have an absolute right of removal, at
 21 its discretion, over any action commenced in the courts of the
 22 State.

23 (j) When trust or restricted land or natural resources of
 24 the Passamaquoddy Tribe, the Penobscot Nation, or the
 25 Houlton Band of Maliseet Indians are condemned pursuant

1 to any law of the United States other than this Act, the pro-
2 ceeds paid in compensation for such condemnation shall be
3 deposited and reinvested in accordance with subsection (i)(2)
4 of this section.

5 APPLICATION OF STATE LAWS

6 SEC. 6. (a) Except as provided in section 8, subsection
7 (e), all Indians, Indian nations, tribes or bands of Indians
8 in the State of Maine, other than the Passamaquoddy Tribe,
9 the Penobscot Nation, and their members, and any lands or
10 natural resources owned by any such Indian, Indian nation,
11 tribe or band of Indians and any lands or natural resources
12 held in trust by the United States, or by any other person or
13 entity, for any such Indian, Indian nation, tribe, or band of
14 Indians shall be subject to the civil and criminal jurisdiction
15 of the State, the laws of the State, and the civil and criminal
16 jurisdiction of the courts of the State, to the same extent as
17 any other person or land therein.

18 (b)(1) The Passamaquoddy Tribe, the Penobscot
19 Nation, and their members, and the land and natural re-
20 sources owned by, or held in trust for the benefit of the tribe,
21 nation, or their members, shall be subject to the jurisdiction
22 of the State of Maine to the extent and in the manner pro-
23 vided in the Maine Implementing Act and that Act is hereby
24 approved, ratified, and confirmed.

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1 (2) Funds appropriated for the benefit of Indian people
2 or for the administration of Indian affairs may be utilized,
3 consistent with the purposes for which they are appropriated,
4 by the Passamaquoddy Tribe and the Penobscot Nation to
5 provide part or all of the local share as provided by the Maine
6 Implementing Act.

7 (3) Nothing in this section shall be construed to super-
8 sede any Federal laws or regulations governing the provision
9 or funding of services or benefits to any person or entity in
10 the State of Maine unless expressly provided by this Act.

11 (4) Not later than October 30, 1982, the Secretary is
12 directed to submit to the appropriate committees of the House
13 of Representatives and the Senate having jurisdiction over
14 Indian affairs a report on the Federal and State funding
15 provided the Passamaquoddy Tribe and Penobscot Nation
16 compared with the respective Federal and State funding in
17 other States.

18 (c) The United States shall not have any criminal ju-
19 risdiction in the State of Maine under the provisions of sec-
20 tions 1152, 1153, 1154, 1155, 1156, 1160, 1161, 1162,
21 1163, and 1165 of title 18 of the United States Code. This
22 provision shall not be effective until sixty days after the pub-
23 lication of notice in the Federal Register as required by sub-
24 section 4(d) of this Act.

1 (d)(1) *The Passamaquoddy Tribe, the Penobscot*
2 *Nation, and the Houlton Band of Maliseet Indians, and all*
3 *members thereof, and all other Indians, Indian nations, or*
4 *tribes or bands of Indians in the State of Maine may sue and*
5 *be sued in the courts of the State of Maine and the United*
6 *States to the same extent as any other entity or person resid-*
7 *ing in the State of Maine may sue and be sued in those*
8 *courts; and section 1362 of title 28, United States Code,*
9 *shall be applicable to civil actions brought by the Passama-*
10 *quoddy Tribe, the Penobscot Nation, and the Houlton Band*
11 *of Maliseet Indians: Provided, however, That the Passama-*
12 *quoddy Tribe, the Penobscot Nation, and their officers and*
13 *employees shall be immune from suit to the extent provided*
14 *in the Maine Implementing Act.*

15 (2) *Notwithstanding the provisions of section 3477 of*
16 *the Revised Statutes, as amended, the Secretary shall honor*
17 *valid final orders of a Federal, State, or territorial court*
18 *which enters money judgments for causes of action which*
19 *arise after the date of the enactment of this Act against either*
20 *the Passamaquoddy Tribe or the Penobscot Nation by*
21 *making an assignment to the judgment creditor of the right to*
22 *receive income out of the next quarterly payment from the*
23 *Settlement Fund established pursuant to section 5(a) of this*
24 *Act and out of such future quarterly payments as may be*
25 *necessary until the judgment is satisfied.*

1 (e)(1) *The consent of the United States is hereby given*
2 *to the State of Maine to amend the Maine Implementing Act*
3 *with respect to either the Passamaquoddy Tribe or the Penob-*
4 *scot Nation: Provided, That such amendment is made with*
5 *the agreement of the affected tribe or nation, and that such*
6 *amendment relates to (A) the enforcement or application of*
7 *civil, criminal or regulatory laws of the Passamaquoddy*
8 *Tribe, the Penobscot Nation, and the State within their re-*
9 *spective jurisdictions; (B) the allocation or determination of*
10 *governmental responsibility of the State and the tribe or*
11 *nation over specified subject matters or specified geographical*
12 *areas, or both, including provision for concurrent jurisdiction*
13 *between the State and the tribe or nation; or (C) the alloca-*
14 *tion of jurisdiction between tribal courts and State courts.*
15 (2) *Notwithstanding the provisions of subsection (a) of*
16 *this section, the State of Maine and the Houlton Band of*
17 *Maliseet Indians are authorized to execute agreements re-*
18 *garding the jurisdiction of the State of Maine over lands*
19 *owned by or held in trust for the benefit of the band or its*
20 *members.*
21 (f) *The Passamaquoddy Tribe and the Penobscot*
22 *Nation are hereby authorized to exercise jurisdiction, sepa-*
23 *rate and distinct from the civil and criminal jurisdiction of*
24 *the State of Maine, to the extent authorized by the Maine*
25 *Implementing Act, and any subsequent amendments thereto.*

1 (g) *The Passamaquoddy Tribe, the Penobscot Nation,*
2 *and the State of Maine shall give full faith and credit to the*
3 *judicial proceedings of each other.*

4 (h) *Except as otherwise provided in this Act, the laws*
5 *and regulations of the United States which are generally ap-*
6 *plicable to Indians, Indian nations, or tribes or bands of In-*
7 *dians or to lands owned by or held in trust for Indians,*
8 *Indian nations, or tribes or bands of Indians shall be appli-*
9 *cable in the State of Maine, except that no law or regulation*
10 *of the United States (1) which accords or relates to a special*
11 *status or right of or to any Indian, Indian nation, tribe or*
12 *band of Indians, Indian lands, Indian reservations, Indian*
13 *country, Indian territory or land held in trust for Indians,*
14 *and also (2) which affects or preempts the civil, criminal, or*
15 *regulatory jurisdiction of the State of Maine, shall apply*
16 *within the State.*

17 (i) *As federally recognized Indian tribes, the Passama-*
18 *quoddy Tribe, the Penobscot Nation, and the Houlton Band*
19 *of Maliseet Indians shall be eligible to receive all of the fi-*
20 *nancial benefits which the United States provides to Indians,*
21 *Indian nations, or tribes or bands of Indians to the same*
22 *extent and subject to the same eligibility criteria generally*
23 *applicable to other Indians, Indian nations or tribes or bands*
24 *of Indians. The Passamaquoddy Tribe, the Penobscot*
25 *Nation, and the Houlton Band of Maliseet Indians shall be*

1 *treated in the same manner as other federally recognized*
2 *tribes for the purposes of Federal taxation and any lands*
3 *which are held by the respective tribe, nation, or band subject*
4 *to a restriction against alienation or which are held in trust*
5 *for the benefit of the respective tribe, nation, or band shall be*
6 *considered Federal Indian reservations for purposes of Fed-*
7 *eral taxation.*

8 *TRIBAL ORGANIZATION*

9 *SEC. 7. (a) The Passamaquoddy Tribe, the Penobscot*
10 *Nation, and the Houlton Band of Maliseet Indians may each*
11 *organize for their common welfare and adopt an appropriate*
12 *instrument in writing to govern the affairs of the tribe,*
13 *nation, or band when each is acting in its governmental ca-*
14 *capacity. Such instrument and any amendments thereto must*
15 *be consistent with the terms of this Act and the Maine Imple-*
16 *menting Act. The Passamaquoddy Tribe, the Penobscot*
17 *Nation, and the Houlton Band of Maliseet Indians shall*
18 *each file with the Secretary a copy of its organic governing*
19 *document and any amendments thereto.*

20 *(b) For purposes of benefits under this Act and the rec-*
21 *ognition extended the Houlton Band of Maliseet Indians, no*
22 *person who is not a citizen of the United States may be con-*
23 *sidered a member of the Houlton Band of Maliseets, except*
24 *persons who, as of the date of this Act, are enrolled members*
25 *on the band's existing membership roll, and direct lineal de-*

1 scendants of such members. Membership in the band shall be
2 subject to such further qualifications as may be provided by
3 the band in its organic governing document or amendments
4 thereto subject to the approval of the Secretary.

5 IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT

6 SEC. 8. (a) The Passamaquoddy Tribe or the Penobscot
7 Nation may assume exclusive jurisdiction over Indian child
8 custody proceedings pursuant to the Indian Child Welfare
9 Act of 1978 (92 Stat. 3069). Before the respective tribe or
10 nation may assume such jurisdiction over Indian child
11 custody proceedings, the respective tribe or nation shall
12 present to the Secretary for approval a petition to assume
13 such jurisdiction and the Secretary shall approve that petition
14 in the manner prescribed by sections 108(a)-(c) of said Act.

15 (b) Any petition to assume jurisdiction over Indian
16 child custody proceedings by the Passamaquoddy Tribe or
17 the Penobscot Nation shall be considered and determined by
18 the Secretary in accordance with sections 108 (b) and (c) of
19 the Act.

20 (c) Assumption of jurisdiction under this section shall
21 not affect any action or proceeding over which a court has
22 already assumed jurisdiction.

23 (d) For the purposes of this section, the Passamaquoddy
24 Indian Reservation and the Penobscot Indian Reservation
25 are "reservations" within section 4(10) of the Act.

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1 (e) For the purposes of this section, the Houlton Band of
2 Maliseet Indians is an "Indian tribe" within section 4(8) of
3 the Act: Provided, That nothing in this subsection shall alter
4 or effect the jurisdiction of the State of Maine over child
5 welfare matters as provided in subsection 6(e)(2) of this Act.

6 (f) Until the Passamaquoddy Tribe or the Penobscot
7 Nation has assumed exclusive jurisdiction over the Indian
8 child custody proceedings pursuant to this section, the State
9 of Maine shall have exclusive jurisdiction over Indian child
10 custody proceedings of that tribe or nation.

11 EFFECT OF PAYMENTS TO PASSAMAQUODDY TRIBE,
12 PENOBSCOT NATION, AND HOULTON BAND OF MALI-
13 SEET INDIANS

14 SEC. 9. (a) No payments to be made for the benefit of
15 the Passamaquoddy Tribe, the Penobscot Nation, or the
16 Houlton Band of Maliseet Indians pursuant to the terms of
17 this Act shall be considered by any agency or department of
18 the United States in determining or computing the eligibility
19 of the State of Maine for participation in any financial aid
20 program of the United States.

21 (b) The eligibility for or receipt of payments from the
22 State of Maine by the Passamaquoddy Tribe and the Penob-
23 scot Nation or any of their members pursuant to the Maine
24 Implementing Act shall not be considered by any department
25 of agency of the United States in determining the eligibility

1 of or computing payments to the Passamaquoddy Tribe or the
2 Penobscot Nation or any of their members under any finan-
3 cial aid program of the United States: Provided, That to the
4 extent that eligibility for the benefits of such a financial aid
5 program is dependent upon a showing of need by the appli-
6 cant, the administering agency shall not be barred by this
7 subsection from considering the actual financial situation of
8 the applicant.

9 (c) The availability of funds or distribution of funds
10 pursuant to section 5 of this Act may not be considered as
11 income or resources or otherwise utilized as the basis (1) for
12 denying any Indian household or member thereof participa-
13 tion in any Federally assisted housing program, (2) for
14 denying or reducing the Federal financial assistance or other
15 Federal benefits to which such household or member would
16 otherwise be entitled, or (3) for denying or reducing the Fed-
17 eral financial assistance or other Federal benefits to which
18 the Passamaquoddy Tribe and the Penobscot Nation would
19 otherwise be eligible or entitled.

20 DEFERRAL OF CAPITAL GAINS

21 SEC. 10. For the purpose of subtitle A of the Internal
22 Revenue Code of 1954, any transfer by private owners of
23 land purchased or otherwise acquired by the Secretary with
24 moneys from the Land Acquisition Fund whether in the
25 name of the United States or of the respective tribe, nation,

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1 *or band shall be deemed to be an involuntary conversion*
2 *within the meaning of section 1033 of the Internal Revenue*
3 *Code of 1954, as amended.*

4 *TRANSFER OF TRIBAL TRUST FUNDS HELD BY THE STATE*
5 *OF MAINE*

6 *SEC. 11. All funds of either the Passamaquoddy Tribe*
7 *or the Penobscot Nation held in trust by the State of Maine*
8 *as of the effective date of this Act shall be transferred to the*
9 *Secretary to be held in trust for the respective tribe or nation*
10 *and shall be added to the principal of the Settlement Fund*
11 *allocated to that tribe or nation. The receipt of said State*
12 *funds by the Secretary shall constitute a full discharge of*
13 *any claim of the respective tribe or nation, its predecessors*
14 *and successors in interest, and its members, may have against*
15 *the State of Maine, its officers, employees, agents, and repre-*
16 *sentatives, arising from the administration or management of*
17 *said State funds. Upon receipt of said State funds, the Sec-*
18 *retary, on behalf of the respective tribe and nation, shall*
19 *execute general releases of all claims against the State of*
20 *Maine, its officers, employees, agents, and representatives,*
21 *arising from the administration or management of said State*
22 *funds.*

23 *OTHER CLAIMS DISCHARGED BY THIS ACT*

24 *SEC. 12. Except as expressly provided herein, this Act*
25 *shall constitute a general discharge and release of all obliga-*

1 tions of the State of Maine and all of its political subdivi-
2 sions, agencies, departments, and all of the officers or em-
3 ployees thereof arising from any treaty or agreement with, or
4 on behalf of Indian, any Indian nation, or tribe or band of
5 Indians or the United States as trustee therefor, including
6 those actions now pending in the United States District
7 Court for the District of Maine captioned United States of
8 America versus State of Maine (Civil Action Numbered
9 1966-ND and 1969-ND).

10 *LIMITATION OF ACTIONS*

11 *SEC. 13. Except as provided in this Act, no provision of*
12 *this Act shall be construed to constitute a jurisdictional act,*
13 *to confer jurisdiction to sue, or to grant implied consent to*
14 *any Indian, Indian nation, or tribe or band of Indians to sue*
15 *the United States or any of its officers with respect to the*
16 *claims extinguished by the operation of this Act.*

17 *AUTHORIZATION*

18 *SEC. 14. There is hereby authorized to be appropriated*
19 *\$81,500,000 for the fiscal year beginning October 1, 1980*
20 *for transfer to the funds established by section 5 of this Act.*

21 *INSEPARABILITY*

22 *SEC. 15. In the event that any provision of section 4 of*
23 *this Act is held invalid, it is the intent of Congress that the*
24 *entire Act be invalidated. In the event that any other section*
25 *or provision of this Act is held invalid, it is the intent of*

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1 Congress that the remaining sections of this Act shall con-
2 tinue in full force and effect.

3 CONSTRUCTION

4 SEC. 16. (a) In the event a conflict of interpretation
5 between the provisions of the Maine Implementing Act and
6 this Act should emerge, the provisions of this Act shall
7 govern.

8 (b) The provisions of any Federal law enacted after the
9 date of enactment of this Act for the benefit of Indians,
10 Indian nations, or tribes or bands of Indians, which would
11 materially affect or preempt the application of the laws of the
12 State of Maine, including application of the laws of the State
13 to lands owned by or held in trust for Indians, or Indian
14 Nations, tribes, or bands of Indians, as provided in this Act
15 and the Maine Implementing Act, shall not apply within the
16 State of Maine, unless such provision of such subsequently
17 enacted Federal law is specifically made applicable within
18 the State of Maine.