

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1015

S. P. 346

In Senate, February 23, 1973

Referred to the Committee on Appropriations and Financial Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Roberts of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT Providing Funds to Defend Lawsuits Pending Against the State of
Maine on Behalf of Passamaquoddy and Penobscot Indians.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the said 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, Passamaquoddy Indians have commenced an action against the United States Government, in which the State has intervened to protect its interests, seeking a declaration that they are now and have been entitled to the protection and benefits of certain federal constitution and statutory provisions and a mandatory injunction requiring the United States Government to commence an action against the State to redress alleged unlawful acts by the State; and

Whereas, as a result of the aforesaid lawsuit, the United States Government commenced actions against the State on behalf of Passamaquoddy and Penobscot Indians seeking, among other things, to upset treaties entered into between the State, and its predecessor, the Commonwealth of Massachusetts, and those Indians, to invalidate transactions involving alleged Indian land and to recover \$300,000,000 in combined damages for alleged wrongs committed against the Indians over the course of the last 200 years; and

Whereas, the proper defense of said lawsuits requires extraordinary expenditures of time, effort and money and special services of experts, research assistants and counsel; and

Whereas, the court has directed the State to report to it as of June 1, 1973 with respect to the progress which the State has made in its research into and analysis of the factual history underlying the claims asserted on behalf of the Passamaquoddy Indians; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Appropriation. There is appropriated from the Unappropriated Surplus of the General Fund the sum of \$70,000 to the Department of the Attorney General to provide funds for the services of experts, research assistants and counsel utilized in connection with actions pending against the State on behalf of Passamaquoddy and Penobscot Indians, to wit: Civil Nos. 1960, 1966 and 1969 pending in the United States District Court for the District of Maine, Northern Division. Any unexpended balance shall not lapse but shall remain a continuous carrying account until June 30, 1975. The breakdown shall be as follows:

	1973-74	1974-75
ATTORNEY GENERAL, DEPARTMENT OF		
All Other	\$20,000	\$50,000

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to provide funds necessary for the proper defense of lawsuits which have been initiated on behalf of Passamaquoddy and Penobscot Indians against the State of Maine seeking redress for alleged wrongs committed by the State. Such funds would be utilized for the special services of experts, research assistants and counsel. The lawsuits involve mixed questions of law and fact involving transactions entered into as far back as 1794, and seek, among other things, \$300,000,000 in combined alleged damages. Because the pertinent disputed facts are not readily ascertainable, extensive historical research will be required, and because of the complex and unconventional nature of the action, more than the usual amount of time and effort devoted to routine litigation must be expended. The court has directed the State to report as of June 1, 1973 as to the progress it has made on ascertaining the historical facts underlying the Passamaquoddy claims.