

INTERIOR ACTS

PUBLIC LAW 105-143—DEC. 15, 1997

Public Law 105-143
105th Congress

An Act

Dec. 15, 1997
[H.R. 1604]

Michigan Indian
Land Claims
Settlement Act.

To provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18-E, 58, 364, and 18-R before the Indian Claims Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Michigan Indian Land Claims Settlement Act”.

TITLE I—DIVISION, USE, AND DISTRIBUTION OF JUDGMENT FUNDS OF THE OTTAWA AND CHIPPEWA INDIANS OF MICHIGAN

SEC. 101. TABLE OF CONTENTS.

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SEC. 102. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Judgments were rendered in the Indian Claims Commission in dockets numbered 18-E, 58, and 364 in favor of the Ottawa and Chippewa Indians of Michigan and in docket numbered 18-R in favor of the Sault Ste. Marie Band of Chippewa Indians.

(2) The funds Congress appropriated to pay these judgments have been held by the Department of the Interior for the beneficiaries pending a division of the funds among the beneficiaries in a manner acceptable to the tribes and descendency group and pending development of plans for the use and distribution of the respective tribes' share.

(3) The 1836 treaty negotiations show that the United States concluded negotiations with the Chippewa concerning

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the cession of the upper peninsula and with the Ottawa with respect to the lower peninsula.

(4) A number of sites in both areas were used by both the Ottawa and Chippewa Indians. The Ottawa and Chippewa Indians were intermarried and there were villages composed of members of both tribes.

(b) PURPOSE.—It is the purpose of this title to provide for the fair and equitable division of the judgment funds among the beneficiaries and to provide the opportunity for the tribes to develop plans for the use or distribution of their share of the funds.

SEC. 103. DEFINITIONS.

For purposes of this title the following definitions apply:

(1) The term “judgment funds” means funds appropriated in full satisfaction of judgments made in the Indian Claims Commission—

(A) reduced by an amount for attorneys fees and litigation expenses; and

(B) increased by the amount of any interest accrued with respect to such funds.

(2) The term “dockets 18-E and 58 judgment funds” means judgment funds awarded in dockets numbered 18-E and 58 in favor of the Ottawa and Chippewa Indians of Michigan.

(3) The term “docket 364 judgment funds” means the judgment funds awarded in docket numbered 364 in favor of the Ottawa and Chippewa Indians of Michigan.

(4) The term “docket 18-R judgment funds” means the judgment funds awarded in docket numbered 18-R in favor of the Sault Ste. Marie Band of Chippewa Indians.

(5) The term “judgment distribution roll of descendants” means the roll prepared pursuant to section 106.

(6) The term “Secretary” means the Secretary of the Interior.

SEC. 104. DIVISION OF FUNDS.

(a) DOCKET 18-E AND 58 JUDGMENT FUNDS.—The Secretary shall divide the docket 18-E and 58 judgment funds as follows:

(1) The lesser of 13.5 percent and \$9,253,104.47, and additional funds as described in this section, for newly recognized or reaffirmed tribes described in section 110 and eligible individuals on the judgment distribution roll of descendants.

(2) 34.6 percent to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan and the Bay Mills Indian Community, of which—

(A) the lesser of 35 percent of the principal and interest as of December 31, 1996, and \$8,313,877 shall be for the Bay Mills Indian Community; and

(B) the remaining amount (less \$161,723.89 which shall be added to the funds described in paragraph (1)) shall be for the Sault Ste. Marie Tribe of Chippewa Indians of Michigan.

(3) 17.3 percent (less \$161,723.89 which shall be added to the funds described in paragraph (1)) to the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan.

(4) 17.3 percent (less \$161,723.89 which shall be added to the funds described in paragraph (1)) to the Little Traverse Bay Bands of Odawa Indians of Michigan.

(5) 17.3 percent (less \$161,723.89 which shall be added to the funds described in paragraph (1)) to the Little River Band of Ottawa Indians of Michigan.

(6) Any funds remaining after distribution pursuant to paragraphs (1) through (5) shall be divided and distributed to each of the recognized tribes listed in this subsection in an amount which bears the same ratio to the amount so divided and distributed as the distribution of judgment funds pursuant

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to each of paragraphs (2) through (5) bears to the total distribution under all such paragraphs.

(b) **DOCKET 364 JUDGMENT FUNDS.**—The Secretary shall divide the docket 364 judgment funds as follows:

(1) The lesser of 20 percent and \$28,026.79 for newly recognized or reaffirmed tribes described in section 110 and eligible individuals on the judgment distribution roll of descendants.

(2) 32 percent to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan and the Bay Mills Indian Community, of which—

(A) 35 percent shall be for the Bay Mills Indian Community; and

(B) the remaining amount shall be for the Sault Ste. Marie Tribe of Chippewa Indians of Michigan.

(3) 16 percent to the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan.

(4) 16 percent to the Little Traverse Bay Bands of Odawa Indians of Michigan.

(5) 16 percent to the Little River Band of Ottawa Indians of Michigan.

(6) Any funds remaining after distribution pursuant to paragraphs (1) through (5) shall be divided and distributed to each of the recognized tribes listed in this subsection in an amount which bears the same ratio to the amount so divided and distributed as the distribution of judgment funds pursuant to each of paragraphs (2) through (5) bears to the total distribution under all such paragraphs.

(c) **DOCKET 18-R JUDGMENT FUNDS.**—The Secretary shall divide the docket 18-R judgment funds as follows:

(1) 65 percent to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan.

(2) 35 percent to the Bay Mills Indian Community.

(d) **AMOUNTS FOR NEWLY RECOGNIZED OR REAFFIRMED TRIBES OR INDIVIDUALS ON THE JUDGMENT DISTRIBUTION ROLL OF DESCENDANTS HELD IN TRUST.**—Pending distribution under this title to newly recognized or reaffirmed tribes described in section 110 or individuals on the judgment distribution roll of descendants, the Secretary shall hold amounts referred to in subsections (a)(1) and (b)(1) in trust.

SEC. 105. DEVELOPMENT OF TRIBAL PLANS FOR USE OR DISTRIBUTION OF FUNDS.

(a) **DISBURSEMENT OF FUNDS.**—(1) Except as provided in paragraphs (2), (3), and (4), the Secretary shall disburse each tribe's respective share of the judgment funds described in subsections (a), (b), and (c) of section 104 not later than 30 days after a plan for use and distribution of such funds has been approved in accordance with this section. Disbursement of a tribe's share shall not be dependent upon approval of any other tribe's plan.

(2) Section 107 shall be the plan for use and distribution of the judgment funds described in subsections (a)(2)(A), (b)(2)(A), and (c)(2) of section 104. Such plan shall be approved upon the enactment of this Act and such funds shall be distributed by the Secretary to the Bay Mills Indian Community not later than 90 days after the date of the enactment of this Act to be used and distributed in accordance with section 107.

(3) Section 108 shall be the plan for use and distribution of the judgment funds described in subsections (a)(2)(B), (b)(2)(B), and (c)(1) of section 104. Such plan shall be approved upon the enactment of this Act and such funds shall be distributed by the Secretary to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan not later than 90 days after the date of the enactment of this Act to be used and distributed in accordance with section 108.

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(4) Section 109 shall be the plan for use and distribution of the judgment funds described in subsections (a)(3) and (b)(3) of section 104. Such plan shall be approved upon the enactment of this Act and such funds shall be distributed by the Secretary to the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan, not later than 90 days after the date of the enactment of this Act to be used and distributed in accordance with section 109.

(b) APPROVAL OR COMMENT OF SECRETARY.—(1) Except as otherwise provided in this title, each tribe shall develop a plan for the use and distribution of its respective share of the judgment funds. The tribe shall hold a hearing or general membership meeting on its proposed plan. The tribe shall submit to the Secretary its plan together with an accompanying resolution of its governing body accepting such plan, a transcript of its hearings or meetings in which the plan was discussed with its general membership, any documents circulated or made available to the membership on the proposed plan, and comments from its membership received on the proposed plan.

(2) Not later than 90 days after a tribe makes its submission under paragraph (1), the Secretary shall—

(A) if the plan complies with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)), approve the plan; or

(B) if the plan does not comply with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)), return the plan to the tribe with comments advising the tribe why the plan does not comply with such provisions.

(c) RESPONSE BY TRIBE.—The tribe shall have 60 days after receipt of comments under subsection (b)(2), or other time as the tribe and the Secretary agree upon, in which to respond to such comments and make such response by submitting a revised plan to the Secretary.

(d) SUBMISSION TO CONGRESS.—(1) The Secretary shall, within 45 days after receiving the governing body's comments under subsection (c), submit a plan to Congress in accordance with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)). If the tribe does not submit a response pursuant to subsection (c), the Secretary shall, not later than 45 days after the end of the response time for such a response, submit a plan to Congress in accordance with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)).

(2) If a tribe does not submit a plan to the Secretary within 8 years of the date of enactment of this Act, the Secretary shall approve a plan which complies with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)).

(e) GOVERNING LAW AFTER APPROVAL BY SECRETARY.—Once approved by the Secretary under this title, the effective date of the plan and other requisite action, if any, is determined by the provisions of section 5 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1405).

(f) HEARINGS NOT REQUIRED.—Notwithstanding section 3 and section 4 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403 and 25 U.S.C. 1404), the Secretary shall not be required to hold hearings or submit transcripts of any hearings held previously concerning the Indian judgments which are related to the judgment funds. The Secretary's submission of the plan pursuant to this title shall comply with section 4 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1404).

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SEC. 106. PREPARATION OF JUDGMENT DISTRIBUTION ROLL OF DESCENDANTS.**(a) PREPARATION.—**

(1) **IN GENERAL.**—The Secretary shall prepare, in accordance with parts 61 and 62 of title 25, Code of Federal Regulations, a judgment distribution roll of all citizens of the United States who—

(A) were born on or before the date of enactment of this Act;

(B) were living on the date of the enactment of this Act;

(C) are of at least one-quarter Michigan Ottawa or Chippewa Indian blood, or a combination thereof;

(D) are not members of the tribal organizations listed in section 104;

(E) are lineal descendants of the Michigan Ottawa or Chippewa bands or tribes that were parties to either the 1820 treaty (7 Stat. 207), the 1836 treaty (7 Stat. 491), or the 1855 treaty (11 Stat. 621);

(F) are lineal descendants of at least one of the groups described in subsection (d); and

(G) are not described in subsection (e).

(2) **TIME LIMITATIONS.**—The judgment distribution roll of descendants prepared pursuant to paragraph (1)—

(A) shall not be approved before 8 years after the date of the enactment of this Act or a final determination has been made regarding each petition filed pursuant to section 110, whichever is earlier; and

(B) shall be approved not later than 9 years after the date of the enactment of this Act.

(b) APPLICATIONS.—Applications for inclusion on the judgment distribution roll of descendants must be filed with the superintendent, Michigan agency, Bureau of Indian Affairs, Sault Ste. Marie, Michigan, not later than 1 year after the date of enactment of this Act.

(c) APPEALS.—Appeals arising under this section shall be handled in accordance with parts 61 and 62 of title 25, Code of Federal Regulations.

(d) GROUPS.—The groups referred to in subsection (a)(1)(F) are Chippewa or Ottawa tribe or bands of—

(1) Grand River, Traverse, Grand Traverse, Little Traverse, Maskigo, or L'Arbre Croche, Cheboigan, Sault Ste. Marie, Michilmackinac; and

(2) any subdivisions of any groups referred to in paragraph (1).

(e) INELIGIBLE INDIVIDUALS.—An individual is not eligible under this section, if that individual—

(1) received benefits pursuant to the Secretarial Plan effective July 17, 1983, for the use and distribution of Potawatomi judgment funds;

(2) received benefits pursuant to the Secretarial Plan effective November 12, 1977, for the use and distribution of Saginaw Chippewa judgment funds;

(3) is a member of the Keweenaw Bay Chippewa Indian Community of Michigan on the date of the enactment of this Act;

(4) is a member of the Lac Vieux Desert Band of Lake Superior Chippewa Indians on the date of the enactment of this Act; or

(5) is a member of a tribe whose membership is predominantly Potawatomi.

(f) USE OF HORACE B. DURANT ROLL.—In preparing the judgment distribution roll of descendants under this section, the Secretary shall refer to the Horace B. Durant Roll, approved February 18, 1910, of the Ottawa and Chippewa Tribe of Michigan,

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as qualified and corrected by other rolls and records acceptable to the Secretary, including the Durant Field Notes of 1908-1909 and the Annuity Payroll of the Ottawa and Chippewa Tribe of Michigan approved May 17, 1910. The Secretary may employ the services of the descendant group enrollment review committees.

(g) PAYMENT OF FUNDS.—Subject to section 110, not later than 90 days after the approval by the Secretary of the judgment distribution roll of descendants prepared pursuant to this section, the Secretary shall distribute per capita the funds described in subsections (a)(1) and (b)(1) of section 104 to the individuals listed on that judgment distribution roll of descendants. Payment under this section—

(1) to which a living, competent adult is entitled under this title shall be paid directly to that adult;

(2) to which a deceased individual is entitled under this title shall be paid to that individual's heirs and legatees upon determination of such heirs and legatees in accordance with regulations prescribed by the Secretary; and

(3) to which a legally incompetent individual or an individual under 18 years of age is entitled under this title shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of that individual.

SEC. 107. PLAN FOR USE AND DISTRIBUTION OF BAY MILLS INDIAN COMMUNITY FUNDS.

(a) TRIBAL LAND TRUST.—(1) The Executive Council of the Bay Mills Indian Community shall establish a nonexpendable trust to be known as the "Land Trust". Not later than 60 days after receipt of the funds distributed to the Bay Mills Indian Community pursuant to this title, the Executive Council of the Bay Mills Indian Community shall deposit 20 percent of the share of the Bay Mills Indian Community into the Land Trust.

(2) The Executive Council shall be the trustee of the Land Trust and shall administer the Land Trust in accordance with this section. The Executive Council may retain or hire a professional trust manager and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the trust and charged against earnings of the current fiscal year.

(3) The earnings generated by the Land Trust shall be used exclusively for improvements on tribal land or the consolidation and enhancement of tribal landholdings through purchase or exchange. Any land acquired with funds from the Land Trust shall be held as Indian lands are held.

(4) The principal of the Land Trust shall not be expended for any purpose, including but not limited to, per capita payment to members of the Bay Mills Indian Community.

(5) The Land Trust shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be a public document, and shall be available for inspection by any member of the Bay Mills Indian Community.

(6) Notwithstanding any other provision of law, the approval of the Secretary of any payment from the Land Trust shall not be required and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of funds from the Land Trust.

(b) LAND CLAIMS DISTRIBUTION TRUST.—(1) The Executive Council of the Bay Mills Indian Community shall establish a nonexpendable trust to be known as the "Land Claims Distribution Trust Fund". Not later than 60 days after receipt of the funds distributed to the Bay Mills Indian Community pursuant to this

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title, the Executive Council of the Bay Mills Indian Community shall deposit into the Land Claims Distribution Trust Fund the principal funds which shall consist of—

(A) amounts remaining of the funds distributed to the Bay Mills Indian Community after distribution pursuant to subsections (a) and (c);

(B) 10 percent of the annual earnings generated by the Land Claims Distribution Trust Fund; and

(C) such other funds which the Executive Council chooses to add to the Land Claims Distribution Trust Fund.

(2) The Executive Council shall be the trustee of the Land Claims Distribution Trust Fund and shall administer the Land Claims Distribution Trust Fund in accordance with this section. The Executive Council may retain or hire a professional trust manager and may pay for said services the prevailing market rate. Such payment for services shall be made from the current income accounts of the trust and charged against earnings of the current fiscal year.

(3) 90 percent of the annual earnings of the Land Claims Distribution Trust Fund shall be distributed on October 1 of each year after the creation of the trust fund to any person who—

(A) is enrolled as a member of the Bay Mills Indian Community;

(B) is at least 55 years of age as of the annual distribution date; and

(C)(i) has been enrolled as a member of the Bay Mills Indian Community for a minimum of 25 years as of the annual distribution date, or

(ii) was adopted as a member of the Bay Mills Indian Community on or before June 30, 1996.

(4) In the event that a member of the Bay Mills Indian Community who is eligible for payment under subsection (b)(3), should die after preparation of the annual distribution roll and prior to the October 1 distribution, that individual's share for that year shall be provided to the member's heirs at law.

(5) In the event that a member of the Bay Mills Indian Community who is at least 55 years of age and who is eligible for payment under subsection (b)(3), shall have a guardian appointed for said individual, such payment shall be made to the guardian.

(6) Under no circumstances shall any part of the principal of the Land Claims Distribution Trust Fund be distributed as a per capita payment to members of the Bay Mills Indian Community, or used or expended for any other purpose by the Executive Council.

Reports.

(7) The Land Claims Distribution Trust Fund shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be a public document and shall be available for inspection by any member of the Bay Mills Indian Community.

(8) Notwithstanding any other provision of law, the approval of the Secretary of any payment from the Land Claims Distribution Trust Fund shall not be required and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the Fund.

(c) LAND CLAIMS INITIAL PAYMENT.—As compensation to the members of the Bay Mills Indian Community for the delay in distribution of the judgment fund, payment shall be made by the Executive Council within 30 days of receipt of the Bay Mills Indian Community's share of the judgment fund from the Secretary, as follows:

(1) The sum of \$3,000 to each enrolled member of the Bay Mills Indian Community living on the date of enactment of this legislation, who has attained the age of 55 years, but is less than 62 years of age, if that individual was adopted

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into or a member of the Bay Mills Indian Community on or before June 30, 1996.

(2) The sum of \$5,000 to each enrolled member of the Bay Mills Indian Community living on the date of enactment of this legislation, who is at least 62 years of age and less than and 70 years of age, if that individual was adopted into or a member of the Bay Mills Indian Community on or before June 30, 1996.

(3) The sum of \$10,000 to each enrolled member of the Bay Mills Indian Community living on the date of enactment of this legislation, who is 70 years of age or older, if that individual was adopted into or a member of the Bay Mills Indian Community on or before June 30, 1996.

(d) ANNUAL PAYMENTS FROM LAND CLAIMS DISTRIBUTION TRUST FUND.—The Executive Council shall prepare the annual distribution roll and ensure its accuracy prior to August 30 of each year prior to distribution. The distribution roll shall identify each member of the Bay Mills Indian Community who, on the date of distribution, will have attained the minimum age and membership duration required for distribution eligibility, as specified in subsection (b)(3). The number of eligible persons in each age category defined in this subsection, multiplied by the number of shares for which the age category is entitled, added together for the 3 categories, shall constitute the total number of shares to be distributed each year. On each October 1, the shares shall be distributed as follows:

(1) Each member who is at least 55 years of age and less than 62 years of age shall receive 1 share.

(2) Each member who is between the ages of 62 and 69 years shall receive 2 shares.

(3) Each member who is 70 years of age or older shall receive 3 shares.

SEC. 108. PLAN FOR USE OF SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS OF MICHIGAN FUNDS.

(a) SELF-SUFFICIENCY FUND.—

(1) The Sault Ste. Marie Tribe of Chippewa Indians of Michigan (referred to in this section as the "Sault Ste. Marie Tribe"), through its board of directors, shall establish a trust fund for the benefit of the Sault Ste. Marie Tribe which shall be known as the "Self-Sufficiency Fund". The principal of the Self-Sufficiency Fund shall consist of—

(A) the Sault Ste. Marie Tribe's share of the judgment funds transferred by the Secretary to the board of directors pursuant to subsection (e);

(B) such amounts of the interest and other income of the Self-Sufficiency Fund as the board of directors may choose to add to the principal; and

(C) any other funds that the board of directors of the Sault Ste. Marie Tribe chooses to add to the principal.

(2) The board of directors shall be the trustee of the Self-Sufficiency Fund and shall administer the Fund in accordance with the provisions of this section.

(b) USE OF PRINCIPAL.—

(1) The principal of the Self-Sufficiency Fund shall be used exclusively for investments or expenditures which the board of directors determines—

(A) are reasonably related to—

(i) economic development beneficial to the tribe; or

(ii) development of tribal resources;

(B) are otherwise financially beneficial to the tribe and its members; or

(C) will consolidate or enhance tribal landholdings.

(2) At least one-half of the principal of the Self-Sufficiency Fund at any given time shall be invested in investment

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instruments or funds calculated to produce a reasonable rate of return without undue speculation or risk.

(3) No portion of the principal of the Self-Sufficiency Fund shall be distributed in the form of per capita payments.

(4) Any lands acquired using amounts from the Self-Sufficiency Fund shall be held as Indian lands are held.

(c) USE OF SELF-SUFFICIENCY FUND INCOME.—The interest and other investment income of the Self-Sufficiency Fund shall be distributed—

(1) as an addition to the principal of the Fund;

(2) as a dividend to tribal members;

(3) as a per capita payment to some group or category of tribal members designated by the board of directors;

(4) for educational, social welfare, health, cultural, or charitable purposes which benefit the members of the Sault Ste. Marie Tribe; or

(5) for consolidation or enhancement of tribal lands.

(d) GENERAL RULES AND PROCEDURES.—

(1) The Self-Sufficiency Fund shall be maintained as a separate account.

(2) The books and records of the Self-Sufficiency Fund shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be treated as a public document of the Sault Ste. Marie Tribe and a copy of the report shall be available for inspection by any enrolled member of the Sault Ste. Marie Tribe.

(e) TRANSFER OF JUDGMENT FUNDS TO SELF-SUFFICIENCY FUND.—

(1) The Secretary shall transfer to the Self-Sufficiency Fund the share of the funds which have been allocated to the Sault Ste. Marie Tribe pursuant to section 104.

(2) Notwithstanding any other provision of law, after the transfer required by paragraph (1) the approval of the Secretary for any payment or distribution from the principal or income of the Self-Sufficiency Fund shall not be required and the Secretary shall have no trust responsibility for the investment, administration, or expenditure of the principal or income of the Self-Sufficiency Fund.

(f) LANDS ACQUIRED USING INTEREST OR OTHER INCOME OF THE SELF-SUFFICIENCY FUND.—Any lands acquired using amounts from interest or other income of the Self-Sufficiency Fund shall be held in trust by the Secretary for the benefit of the tribe.

SEC. 109. PLAN FOR USE OF GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS OF MICHIGAN FUNDS.

(a) LAND CLAIMS DISTRIBUTION TRUST FUND.—(1) The share of the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan (hereafter in this section referred to as the “Band”), as determined pursuant to subsections (a)(3) and (b)(3) of section 104, shall be deposited by the Secretary in a nonexpendable trust fund to be established by the Tribal Council of the Band to be known as the “Land Claims Distribution Trust Fund” (hereafter in this section referred to as the “Trust Fund”).

(2) The principal of the Trust Fund shall consist of—

(A) the funds deposited into the Trust Fund by the Secretary pursuant to this subsection;

(B) annual earnings of the Trust Fund which shall be retained, and added to the principal; and

(C) such other funds as may be added to the Trust Fund by action of the Tribal Council of the Band.

(b) MANAGEMENT OF THE TRUST FUND.—The Tribal Council of the Band shall be the trustee of the Trust Fund and shall administer the Fund in accordance with this section. In carrying out this responsibility, the Tribal Council may retain or hire a

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professional trust manager and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the Trust Fund and charged against the earnings of the fiscal year in which the payment becomes due.

(c) TRUST FUND AS LOAN COLLATERAL.—(1) The Trust Fund shall be used by the Band as collateral to secure a bank loan equal to 80 percent of the principal of the Trust Fund at the lowest interest rate then available. Such loan shall be used by the Band to make a one-time per capita payment to all eligible members.

(2) The loan secured pursuant to this subsection shall be amortized by the earnings of the Trust Fund. The Tribal Council of the Band shall have the authority to invest the principal of the Trust Fund on market risk principles that will ensure adequate payments of the debt obligation while at the same time protecting the principal.

(d) ELDERS' LAND CLAIM DISTRIBUTION TRUST FUND.—(1) Upon the retirement of the loan obtained pursuant to subsection (c), the Tribal Council shall establish the Grand Traverse Band Elders' Land Claims Distribution Trust Fund (hereafter in this section referred to as the "Elders' Trust Fund"). There shall be deposited into the Elders' Trust Fund the principal and all accrued earnings that are in the Land Claims Distribution Trust Fund on the date of retirement of such loan.

(2) Upon establishment of the Elders' Trust Fund, the Tribal Council of the Band shall make a one-time payment to any person who is living on the date of the establishment of the Elders' Trust Fund, and who was an enrolled member of the Band for at least 2 years prior to the date of the enactment of this Act as follows:

(A) \$500 for each member who has attained the age of 55 years, but is less than 62 years of age.

(B) \$1,000 for each member who has attained the age of 62 years, but is less than 70 years of age.

(C) \$2,500 for each member who is 70 years of age or older.

(3) After distribution pursuant to paragraph (2), the net annual earnings of the Elders' Trust Fund shall be distributed as follows:

(A) 90 percent shall be distributed on October 1 of each year after the creation of the Elder's Trust Fund to all living enrolled members of the Band who have attained the age of 55 years upon such date, and who shall have been an enrolled member of the Band for not less than 2 years upon such date.

(B) 10 percent shall be added to the principal of the Elders' Trust Fund.

(4) Distribution pursuant to paragraph (3)(A) shall be as follows:

(A) One share for each person on the current annual Elders' roll who has attained the age of 55 years, but is less than 62 years of age.

(B) Two shares for each person who has attained the age of 62 years, but is less than 70 years of age.

(C) Three shares for each person who is 70 years of age or older.

(5) None of the funds in the Elders' Trust Fund shall be distributed or expended for any purpose other than as provided in this subsection.

(6) The Elders' Trust Fund shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be reasonably available for inspection by the members of the Band.

(7) The Tribal Council of the Band shall prepare an annual Elders' distribution roll and ensure its accuracy prior to August 30 of each year. The roll shall identify each member of the Band

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who has attained the minimum age and membership duration required for distribution eligibility pursuant to paragraph (3)(A).

(e) GENERAL PROVISIONS.—(1) In the event that a tribal member eligible for a payment under this section shall die after preparation of the annual distribution roll, but prior to the distribution date, such payment shall be paid to the estate of such member.

(2) In any case where a legal guardian has been appointed for a person eligible for a payment under this section, payment of that person's share shall be made to such guardian.

(f) NO SECRETARIAL RESPONSIBILITIES FOR TRUST FUND.—The Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the Land Claims Distribution Trust Fund or the Elders' Trust Fund.

SEC. 110. PAYMENT TO NEWLY RECOGNIZED OR REAFFIRMED TRIBES.

(a) ELIGIBILITY.—In order to be eligible for tribal funds under this Act, a tribe that is not federally recognized or reaffirmed on the date of the enactment of this Act—

(1) must be a signatory to either the 1836 treaty (7 Stat. 491) or the 1855 treaty (11 Stat. 621);

(2) must have a membership that is predominantly Chippewa and Ottawa;

(3) shall not later than 6 months after the date of the enactment of this Act, submit to the Bureau of Indian Affairs a letter of intent for Federal recognition if such a letter is not on file with the Bureau of Indian Affairs; and

(4) shall not later than 3 years after the date of the enactment of this Act, submit to the Bureau of Indian Affairs a documented petition for Federal recognition if such a petition is not on file with the Bureau of Indian Affairs.

(b) DISTRIBUTION OF FUNDS ALLOTTED FOR NEWLY RECOGNIZED OR REAFFIRMED TRIBES.—Not later than 90 days after a tribe that has submitted a timely petition pursuant to subsection (a) is federally recognized or reaffirmed, the Secretary shall segregate and hold in trust for such tribe, its respective share of the funds described in sections 104(a)(1) and (b)(1), \$3,000,000 plus 30 percent of any income earned on the funds described in section 104(a)(1) and (b)(1) up to the date of such distribution.

(c) DISTRIBUTION OF FUNDS ALLOTTED FOR CERTAIN INDIVIDUALS.—If, after the date of the enactment of this Act and before approval by the Secretary of the judgment distribution roll of descendants, Congress or the Secretary recognizes a tribe which has as a member an individual that is listed on the judgment distribution roll of descendants as approved pursuant to section 106, the Secretary shall, not later than 90 days after the approval of such judgment distribution roll of descendants, remove that individual's name from the descendants roll and reallocate the funds allotted for that individual to the fund established for such newly recognized or reaffirmed tribe.

(d) FUNDS SUBJECT TO PLAN.—Funds held in trust for a newly recognized or reaffirmed tribe shall be subject to plans that are approved in accordance with this title.

(e) DETERMINATION OF MEMBERSHIP IN NEWLY RECOGNIZED OR REAFFIRMED TRIBE.—

(1) SUBMISSION OF MEMBERSHIP ROLL.—For purposes of this section—

(A) if the tribe is acknowledged by the Secretary under part 83 of title 25, Code of Federal Regulations, the Secretary shall use the tribe's most recent membership list provided under such part;

(B) unless otherwise provided by the statutes which recognizes the tribe, if Congress recognizes a tribe, the Secretary shall use the most recent membership list provided to Congress. If no membership list is provided to Congress, the Secretary shall use the most recent member-

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ship list provided with the tribe's petition for acknowledgment under part 83 of title 25, Code of Federal Regulations. If no such list was provided to Congress or under such part, the newly recognized tribe shall submit a membership list to the Secretary before the judgment distribution roll of descendants is approved or the judgment funds shall be distributed per capita pursuant to section 106;

(C) a tribe that has submitted a membership roll pursuant to this section may update its membership rolls not later than 180 days before distribution pursuant to section 106.

(2) FAILURE TO SUBMIT UPDATED MEMBERSHIP ROLL.—If a membership list was not provided—

(A) to the Secretary, the Secretary will use the tribe's most recent membership list provided to the Bureau of Indian Affairs in their petition for Federal acknowledgment filed under part 83 of title 25, Code of Federal Regulations, unless otherwise provided in the statute which recognized the tribe;

(B) to the Bureau of Indian Affairs, the newly recognized or reaffirmed tribe shall submit a membership list before the judgment distribution roll of descendants is approved by the Secretary, unless otherwise provided in the statute which recognized the tribe; and

(C) before the judgment distribution roll of descendants is approved, the judgment funds shall be distributed per capita pursuant to section 106.

SEC. 111. TREATMENT OF FUNDS IN RELATION TO OTHER LAWS.

The eligibility for or receipt of distributions under this Act by a tribe or individual shall not be considered as income, resources, or otherwise when determining the eligibility for or computation of any payment or other benefit to such tribe, individual, or household under—

(1) any financial aid program of the United States, including grants and contracts subject to the Indian Self-Determination Act; or

(2) any other benefit to which such tribe, household, or individual would otherwise be entitled under any Federal or federally assisted program.

SEC. 112. TREATIES NOT AFFECTED.

No provision of this Act shall be construed to constitute an amendment, modification, or interpretation of any treaty to which a tribe mentioned in this Act is a party nor to any right secured to such a tribe or to any other tribe by any treaty.

TITLE II—LIMITATION ON HEALTH CARE CONTRACTS AND COMPACTS FOR THE KETCHIKAN GATEWAY BOROUGH

SEC. 201. FINDINGS.

Congress finds that—

(1) the execution of more than 1 contract or compact between an Alaska Native village or regional or village corporation in the Ketchikan Gateway Borough and the Secretary to provide for health care services in an area with a small population leads to duplicative and wasteful administrative costs; and

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(2) incurring the wasteful costs referred to in paragraph (1) leads to decrease in the quality of health care that is provided to Alaska Natives in an affected area.

SEC. 202. DEFINITIONS.

In this title:

(1) **ALASKA NATIVE.**—The term “Alaska Native” has the meaning given the term “Native” in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) **ALASKA NATIVE VILLAGE OR REGIONAL OR VILLAGE CORPORATION.**—The term “Alaska Native village or regional or village corporation” means an Alaska Native village or regional or village corporation defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) **CONTRACT; COMPACT.**—The terms “contract” and “compact” mean a self-determination contract and a self-governance compact as these terms are defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

SEC. 203. LIMITATION.

(a) **IN GENERAL.**—The Secretary shall take such action as may be necessary to ensure that, in considering a renewal of a contract or compact, or signing of a new contract or compact for the provision of health care services in the Ketchikan Gateway Borough, there will be only one contract or compact in effect.

(b) **CONSIDERATION.**—In any case in which the Secretary, acting through the Director of the Indian Health Service, is required to select from more than 1 application for a contract or compact described in subsection (a), in awarding the contract or compact, the Secretary shall take into consideration—

- (1) the ability and experience of the applicant;
- (2) the potential for the applicant to acquire and develop the necessary ability; and
- (3) the potential for growth in the health care needs of the covered borough.

Approved December 15, 1997.

LEGISLATIVE HISTORY—H.R. 1604:

HOUSE REPORTS: No. 105-352 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 143 (1997):

Nov. 4, considered and passed House.

Nov. 9, considered and passed Senate, amended.

Nov. 13, House concurred in certain Senate amendments and disagreed to another amendment. Senate receded from its amendment.