

Public Law 108–270
108th Congress

An Act

To provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, and 326–K, and for other purposes.

July 7, 2004
[H.R. 884]

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

Western
Shoshone Claims
Distribution Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Western Shoshone Claims Distribution Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **COMMITTEE.**—The term “Committee” means the administrative committee established under section 4(c)(1).

(2) **WESTERN SHOSHONE JOINT JUDGMENT FUNDS.**—The term “Western Shoshone joint judgment funds” means—

(A) the funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326–A–1 and 326–A–3 before the United States Court of Claims; and

(B) all interest earned on those funds.

(3) **WESTERN SHOSHONE JUDGMENT FUNDS.**—The term “Western Shoshone judgment funds” means—

(A) the funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326–K before the Indian Claims Commission; and

(B) all interest earned on those funds.

(4) **JUDGMENT ROLL.**—The term “judgment roll” means the Western Shoshone judgment roll established by the Secretary under section 3(b)(1).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(6) **TRUST FUND.**—The term “Trust Fund” means the Western Shoshone Educational Trust Fund established under section 4(b)(1).

(7) **WESTERN SHOSHONE MEMBER.**—The term “Western Shoshone member” means an individual who—

(A)(i) appears on the judgment roll; or

(ii) is the lineal descendant of an individual appearing on the roll; and

(B)(i) satisfies all eligibility criteria established by the Committee under section 4(c)(4)(D)(iii);

(ii) meets any application requirements established by the Committee; and

(iii) agrees to use funds distributed in accordance with section 4(b)(2)(B) for educational purposes approved by the Committee.

SEC. 3. DISTRIBUTION OF WESTERN SHOSHONE JUDGMENT FUNDS.

(a) **IN GENERAL.**—The Western Shoshone judgment funds shall be distributed in accordance with this section.

(b) **JUDGMENT ROLL.**—

(1) **IN GENERAL.**—The Secretary shall establish a Western Shoshone judgment roll consisting of all individuals who—

(A) have at least $\frac{1}{4}$ degree of Western Shoshone blood;

(B) are citizens of the United States; and

(C) are living on the date of enactment of this Act.

(2) **INELIGIBLE INDIVIDUALS.**—Any individual that is certified by the Secretary to be eligible to receive a per capita payment from any other judgment fund based on an aboriginal land claim awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be listed on the judgment roll.

(3) **REGULATIONS REGARDING JUDGMENT ROLL.**—The Secretary shall—

(A) publish in the Federal Register all regulations governing the establishment of the judgment roll; and

(B) use any documents acceptable to the Secretary in establishing proof of eligibility of an individual to—

(i) be listed on the judgment roll; and

(ii) receive a per capita payment under this Act.

(4) **FINALITY OF DETERMINATION.**—The determination of the Secretary on an application of an individual to be listed on the judgment roll shall be final.

(c) **DISTRIBUTION.**—

(1) **IN GENERAL.**—On establishment of the judgment roll, the Secretary shall make a per capita distribution of 100 percent of the Western Shoshone judgment funds, in shares as equal as practicable, to each person listed on the judgment roll.

(2) **REQUIREMENTS FOR DISTRIBUTION PAYMENTS.**—

(A) **LIVING COMPETENT INDIVIDUALS.**—The per capita share of a living, competent individual who is 19 years or older on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid directly to the individual.

(B) **LIVING, LEGALLY INCOMPETENT INDIVIDUALS.**—The per capita share of a living, legally incompetent individual shall be administered in accordance with regulations promulgated and procedures established by the Secretary under section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)).

(C) **DECEASED INDIVIDUALS.**—The per capita share of an individual who is deceased as of the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be paid to the heirs and legatees of the individual

in accordance with regulations promulgated by the Secretary.

(D) INDIVIDUALS UNDER THE AGE OF 19.—The per capita share of an individual who is not yet 19 years of age on the date of distribution of the Western Shoshone judgment funds under paragraph (1) shall be—

(i) held by the Secretary in a supervised individual Indian money account; and

(ii) distributed to the individual—

(I) after the individual has reached the age of 18 years; and

(II) in 4 equal payments (including interest earned on the per capita share), to be made—

(aa) with respect to the first payment, on the eighteenth birthday of the individual (or, if the individual is already 18 years of age, as soon as practicable after the date of establishment of the Indian money account of the individual); and

(bb) with respect to the 3 remaining payments, not later than 90 days after each of the 3 subsequent birthdays of the individual.

(3) APPLICABLE LAW.—Notwithstanding section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407), a per capita share (or the availability of that share) paid under this section shall not—

(A) be subject to Federal or State income taxation;

(B) be considered to be income or resources for any purpose; or

(C) be used as a basis for denying or reducing financial assistance or any other benefit to which a household or Western Shoshone member would otherwise be entitled to receive under—

(i) the Social Security Act (42 U.S.C. 301 et seq.);

or

(ii) any other Federal or federally-assisted program.

(4) UNPAID FUNDS.—The Secretary shall add to the Western Shoshone joint judgment funds held in the Trust Fund under section 4(b)(1)—

(A) all per capita shares (including interest earned on those shares) of living competent adults listed on the judgment roll that remain unpaid as of the date that is—

(i) 6 years after the date of distribution of the Western Shoshone judgment funds under paragraph (1); or

(ii) in the case of an individual described in paragraph (2)(D), 6 years after the date on which the individual reaches 18 years of age; and

(B) any other residual principal and interest funds remaining after the distribution under paragraph (1) is complete.

SEC. 4. DISTRIBUTION OF WESTERN SHOSHONE JOINT JUDGMENT FUNDS.

(a) IN GENERAL.—The Western Shoshone joint judgment funds shall be distributed in accordance with this section.

- Deadline.
- (b) WESTERN SHOSHONE EDUCATIONAL TRUST FUND.—
- (1) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish in the Treasury of the United States, for the benefit of Western Shoshone members, a trust fund to be known as the “Western Shoshone Educational Trust Fund”, consisting of—
- (A) the Western Shoshone joint judgment funds; and
 - (B) the funds added under section 3(b)(4).
- (2) AMOUNTS IN TRUST FUND.—With respect to amounts in the Trust fund—
- (A) the principal amount—
 - (i) shall not be expended or disbursed; and
 - (ii) shall be invested in accordance with section 1 of the Act of June 24, 1938 (25 U.S.C. 162a); and
 - (B) all interest income earned on the principal amount after the date of establishment of the Trust fund—
 - (i) shall be distributed by the Committee—
 - (I) to Western Shoshone members in accordance with this Act, to be used as educational grants or for other forms of educational assistance determined appropriate by the Committee; and
 - (II) to pay the reasonable and necessary expenses of the Committee (as defined in the written rules and procedures of the Committee); but
 - (ii) shall not be distributed under this paragraph on a per capita basis.
- (c) ADMINISTRATIVE COMMITTEE.—
- (1) ESTABLISHMENT.—There is established an administrative committee to oversee the distribution of educational grants and assistance under subsection (b)(2).
- (2) MEMBERSHIP.—The Committee shall be composed of 7 members, of which—
- (A) 1 member shall represent the Western Shoshone Te-Moak Tribe and be appointed by that Tribe;
 - (B) 1 member shall represent the Duckwater Shoshone Tribe and be appointed by that Tribe;
 - (C) 1 member shall represent the Yomba Shoshone Tribe and be appointed by that Tribe;
 - (D) 1 member shall represent the Ely Shoshone Tribe and be appointed by that Tribe;
 - (E) 1 member shall represent the Western Shoshone Committee of the Duck Valley Reservation and be appointed by that Committee;
 - (F) 1 member shall represent the Fallon Band of Western Shoshone and be appointed by that Band; and
 - (G) 1 member shall represent the general public and be appointed by the Secretary.
- (3) TERM.—
- (A) IN GENERAL.—Each member of the Committee shall serve a term of 4 years.
 - (B) VACANCIES.—If a vacancy remains unfilled in the membership of the Committee for a period of more than 60 days—
 - (i) the Committee shall appoint a temporary replacement from among qualified members of the organization for which the replacement is being made; and

(ii) that member shall serve until such time as the organization (or, in the case of a member described in paragraph (2)(G), the Secretary) designates a permanent replacement.

(4) DUTIES.—The Committee shall—

(A) distribute interest funds from the Trust Fund under subsection (b)(2)(B)(i);

(B) for each fiscal year, compile a list of names of all individuals approved to receive those funds;

(C) ensure that those funds are used in a manner consistent with this Act;

(D) develop written rules and procedures, subject to the approval of the Secretary, that cover such matters as—

(i) operating procedures;

(ii) rules of conduct;

(iii) eligibility criteria for receipt of funds under subsection (b)(2)(B)(i);

(iv) application selection procedures;

(v) procedures for appeals to decisions of the Committee;

(vi) fund disbursement procedures; and

(vii) fund recoupment procedures;

(E) carry out financial management in accordance with paragraph (6); and

(F) in accordance with subsection (b)(2)(C)(ii), use a portion of the interest funds from the Trust Fund to pay the reasonable and necessary expenses of the Committee (including per diem rates for attendance at meetings that are equal to those paid to Federal employees in the same geographic location), except that not more than \$100,000 of those funds may be used to develop written rules and procedures described in subparagraph (D).

(5) JURISDICTION OF TRIBAL COURTS.—At the discretion of the Committee and with the approval of the appropriate tribal government, a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations (or a successor regulation), shall have jurisdiction to hear an appeal of a decision of the Committee.

(6) FINANCIAL MANAGEMENT.—

(A) FINANCIAL STATEMENT.—The Committee shall employ an independent certified public accountant to prepare a financial statement for each fiscal year that discloses—

(i) the operating expenses of the Committee for the fiscal year; and

(ii) the total amount of funds disbursed under subsection (b)(2)(B)(i) for the fiscal year.

(B) DISTRIBUTION OF INFORMATION.—For each fiscal year, the Committee shall provide to the Secretary, to each organization represented on the Committee, and, on the request of a Western Shoshone member, to the Western Shoshone member, a copy of—

(i) the financial statement prepared under subparagraph (A); and

(ii) the list of names compiled under paragraph (4)(B).

(d) CONSULTATION.—The Secretary shall consult with the Committee on the management and investment of the funds distributed under this section.

SEC. 5. REGULATIONS.

The Secretary may promulgate such regulations as are necessary to carry out this Act.

Approved July 7, 2004.

LEGISLATIVE HISTORY—H.R. 884 (S. 618):

HOUSE REPORTS: No. 108–299 (Comm. on Resources).

SENATE REPORTS: No. 108–151 accompanying S. 618 (Comm. on Indian Affairs).

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June 21, considered and passed House.

June 24, considered and passed Senate.