

107TH CONGRESS
1ST SESSION

H. R. 2851

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.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2001

Mr. GIBBONS introduced the following bill; which was referred to the Committee on Resources

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. DISTRIBUTION OF DOCKET 326-K FUNDS.**

7 The funds appropriated in satisfaction of the judg-
8 ment award granted to the Western Shoshone Indians in

1 Docket Number 326–K before the Indian Claims Commis-
2 sion, including all earned interest, shall be distributed as
3 follows:

4 (1) JUDGMENT ROLL.—The Secretary shall es-
5 tablish a Western Shoshone Judgment Roll con-
6 sisting of all Western Shoshones who—

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

9 (B) are citizens of the United States; and

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

12 (2) CERTAIN INDIVIDUALS INELIGIBLE.—Any
13 individual determined or certified as eligible by the
14 Secretary to receive a per capita payment from any
15 other judgment fund awarded by the Indian Claims
16 Commission, the United States Claims Court, or the
17 United States Court of Federal Claims, that was ap-
18 propriated on or before the date of enactment of this
19 Act, shall not be eligible for enrollment under this
20 Act.

21 (3) PUBLICATION OF ROLL.—The Secretary
22 shall publish in the Federal Register rules and regu-
23 lations governing the establishment of the Western
24 Shoshone Judgment Roll and shall use any docu-
25 ments acceptable to the Secretary in establishing

1 proof of eligibility. The Secretary's determination on
2 all applications for enrollment under this paragraph
3 shall be final.

4 (4) PER CAPITA PAYMENTS.—Upon completing
5 the Western Shoshone Judgment Roll under para-
6 graph (1), the Secretary shall make a per capita dis-
7 tribution of 100 percent of the funds described in
8 this section, in a sum as equal as possible, to each
9 person listed on the roll.

10 (5) CONDITIONS OF PER CAPITA PAYMENTS.—

11 (A) With respect to the distribution of funds under
12 this section, the per capita shares of living com-
13 petent adults who have reached the age of 19 years
14 on the date of the distribution provided for under
15 paragraph (4), shall be paid directly to them.

16 (B) The per capita shares of deceased individ-
17 uals shall be distributed to their heirs and legatees
18 in accordance with regulations prescribed by the
19 Secretary.

20 (C) The shares of legally incompetent individ-
21 uals shall be administered pursuant to regulations
22 and procedures established by the Secretary under
23 section 3(b)(3) of Public Law 93–134 (25 U.S.C.
24 1403(b)(3)).

1 (D) The shares of minors and individuals who
2 are under the age of 19 years on the date of the dis-
3 tribution provided for under paragraph (4) shall be
4 held by the Secretary in supervised individual Indian
5 money accounts. The funds from such accounts shall
6 be disbursed over a period of 4 years in payments
7 equaling 25 percent of the principal, plus the inter-
8 est earned on that portion of the per capita share.
9 The first payment shall be disbursed to individuals
10 who have reached the age of 18 years if such indi-
11 viduals are deemed legally competent. Subsequent
12 payments shall be disbursed within 90 days of the
13 individual's following 3 birthdays.

14 (6) APPLICABLE LAW.—All funds distributed
15 under this Act are subject to the provisions of sec-
16 tion 7 of Public Law 93–134 (25 U.S.C. 1407).

17 (7) UNPAID AMOUNTS.—All per capita shares
18 belonging to living competent adults certified as eli-
19 gible to share in the judgment fund distribution
20 under this section, and the interest earned on those
21 shares, that remain unpaid for a period of 6 years
22 shall be added to the principal funds that are held
23 and invested in accordance with section 3, except
24 that in the case of a minor, such 6-year period shall

1 not begin to run until the minor reaches the age of
2 majority.

3 (8) RESIDUAL AMOUNTS.—Any other residual
4 principal and interest funds remaining after the dis-
5 tribution under paragraph (4) is complete shall be
6 added to the principal funds that are held and in-
7 vested in accordance with section 3.

8 (9) NOT A WAIVER OF TREATY RIGHTS.—Re-
9 ceipt of a share of the judgment funds under this
10 section shall not be construed as a waiver of any ex-
11 isting treaty rights pursuant to the “1863 Treaty of
12 Ruby Valley”, inclusive of all Articles I through
13 VIII, and shall not prevent any Western Shoshone
14 Tribe or Band or individual Shoshone Indian from
15 pursuing other rights guaranteed by law.

16 **SEC. 3. DISTRIBUTION OF DOCKETS 326-A-1 AND 326-A-3.**

17 The funds appropriated in satisfaction of the judg-
18 ment awards granted to the Western Shoshone Indians in
19 Docket Numbers 326-A-1 and 326-A-3 before the
20 United States Court of Claims, and the funds referred to
21 under paragraphs (7) and (8) of section 2, together with
22 all earned interest, shall be distributed as follows:

23 (1) ESTABLISHMENT OF TRUST FUND.—(A)
24 Not later than 120 days after the date of enactment
25 of this Act, the Secretary shall establish in the

1 Treasury of the United States a trust fund to be
2 known as the “Western Shoshone Educational Trust
3 Fund” for the benefit of the Western Shoshone
4 members. There shall be credited to the Trust Fund
5 the funds described in the matter preceding this
6 paragraph.

7 (B) The principal in the Trust Fund shall not
8 be expended or disbursed. The Trust Fund shall be
9 invested as provided for in section 1 of the Act of
10 June 24, 1938 (25 U.S.C. 162a).

11 (C)(i) All accumulated and future interest and
12 income from the Trust Fund shall be distributed,
13 subject to clause (ii)—

14 (I) as educational grants and as other
15 forms of educational assistance determined
16 appropriate by the Administrative Com-
17 mittee established under paragraph (2) to
18 individual Western Shoshone members as
19 required under this Act; and

20 (II) to pay the reasonable and nec-
21 essary expenses of such Administrative
22 Committee (as defined in the written rules
23 and procedures of such Committee).

24 (ii) Funds shall not be distributed under this
25 paragraph on a per capita basis.

1 (2) ADMINISTRATIVE COMMITTEE.—(A) An Ad-
2 ministrative Committee to oversee the distribution of
3 the educational grants and assistance authorized
4 under paragraph (1)(C) shall be established as pro-
5 vided for in this paragraph.

6 (B) The Administrative Committee shall consist
7 of 1 representative from each of the following orga-
8 nizations:

9 (i) The Te-Moak Tribes of Western Sho-
10 shone Indians.

11 (ii) The Duckwater Shoshone Tribe.

12 (iii) The Yomba Shoshone Tribe.

13 (iv) The Ely Shoshone Tribe.

14 (v) The Western Shoshone Business Coun-
15 cil of the Duck Valley Reservation.

16 (vi) The Fallon Band of Western Sho-
17 shone.

18 (vii) The at-large community.

19 (C) Each member of the Committee shall serve
20 for a term of 4 years. If a vacancy remains unfilled
21 in the membership of the Committee for a period in
22 excess of 60 days, the Committee shall appoint a re-
23 placement from among qualified members of the or-
24 ganization for which the replacement is being made

1 and such member shall serve until the organization
2 to be represented designates a replacement.

3 (D) The Secretary shall consult with the Com-
4 mittee on the management and investment of the
5 funds subject to distribution under this section.

6 (E) The Committee shall have the authority to
7 disburse the accumulated interest fund under this
8 Act in accordance with the terms of this Act. The
9 Committee shall be responsible for ensuring that the
10 funds provided through grants and assistance under
11 paragraph (1)(C) are utilized in a manner consistent
12 with the terms of this Act. In accordance with para-
13 graph (1)(C)(i)(II), the Committee may use a por-
14 tion of the interest funds to pay all of the reasonable
15 and necessary expenses of the Committee, including
16 per diem rates for attendance at meetings that are
17 the same as those paid to Federal employees in the
18 same geographic location.

19 (F) The Committee shall develop written rules
20 and procedures that include such matters as oper-
21 ating procedures, rules of conduct, eligibility criteria
22 for receipt of educational grants or assistance (such
23 criteria to be consistent with this Act), application
24 selection procedures, appeal procedures, fund dis-
25 bursement procedures, and fund recoupment proce-

1 dures. Such rules and procedures shall be subject to
2 the approval of the Secretary. A portion of the inter-
3 est funds in the Trust Fund, not to exceed
4 \$100,000, may be used by the Committee to pay the
5 expenses associated with developing such rules and
6 procedures. At the discretion of the Committee, and
7 with the approval of the appropriate tribal governing
8 body, jurisdiction to hear appeals of the Committee's
9 decisions may be exercised by a tribal court, or a
10 court of Indian offenses operated under section 11
11 of title 25, Code of Federal Regulations.

12 (G) The Committee shall employ an inde-
13 pendent certified public accountant to prepare an
14 annual financial statement that includes the oper-
15 ating expenses of the Committee and the total
16 amount of educational grants or assistance dis-
17 bursed for the fiscal year for which the statement is
18 being prepared under this section. The Committee
19 shall compile a list of names of all individuals ap-
20 proved to receive such grants or assistance during
21 such fiscal year. The financial statement and the list
22 shall be distributed to each organization represented
23 on the Committee and the Secretary and copies shall
24 be made available to the Western Shoshone members
25 upon request.

1 **SEC. 4. DEFINITIONS.**

2 In this Act the following definitions apply:

3 (1) ADMINISTRATIVE COMMITTEE; COM-
4 MITTEE.—The terms “Administrative Committee”
5 and “Committee” mean the Administrative Com-
6 mittee established under section 3(2).

7 (2) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

9 (3) TRUST FUND.—The term “Trust Fund”
10 means the Western Shoshone Educational Trust
11 Fund established under section 3(1).

12 (4) WESTERN SHOSHONE MEMBERS.—The term
13 “Western Shoshone members” means an individual
14 who appears on the Western Shoshone Judgment
15 Roll established under section 2(1), or an individual
16 who is the lineal descendant of an individual appear-
17 ing on the roll, and who—

18 (A) satisfies all eligibility criteria estab-
19 lished by the Administrative Committee under
20 section 3(F);

21 (B) fulfills all application requirements es-
22 tablished by the Committee; and

23 (C) agrees to utilize funds distributed in
24 accordance with section 3(1)(C)(i)(I) in a man-

1 ner approved by the Committee for educational
2 purposes.

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