

Calendar No. 635107TH CONGRESS
2^D SESSION**S. 2799****[Report No. 107-298]**

To provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2002

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

OCTOBER 4, 2002

Reported by Mr. INOUE, with an amendment

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

A BILL

To provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, 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 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Gila River Indian Community Judgment Fund Distribu-
 4 tion Act of 2002”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—GILA RIVER JUDGMENT FUND DISTRIBUTION

Sec. 101. Distribution of judgment funds.

Sec. 102. Responsibility of Secretary; applicable law.

**TITLE II—CONDITIONS RELATING TO COMMUNITY JUDGMENT
 FUND PLANS**

Sec. 201. Plan for use and distribution of judgment funds awarded in Docket
 No. 228.

Sec. 202. Plan for use and distribution of judgment funds awarded in Docket
 No. 236-N.

TITLE III—EXPERT ASSISTANCE LOANS

Sec. 301. Waiver of repayment of expert assistance loans to certain Indian
 tribes.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

9 (1) on August 8, 1951, the Gila River Indian
 10 Community filed a complaint before the Indian
 11 Claims Commission in Gila River Pima-Maricopa In-
 12 dian Community v. United States, Docket No. 236,
 13 for the failure of the United States to carry out its
 14 obligation to protect the use by the Community of
 15 water from the Gila River and the Salt River in the
 16 State of Arizona;

1 (2) except for Docket Nos. ~~236-C~~ and ~~236-D~~,
2 which remain undistributed, all 14 original dockets
3 under Docket No. ~~236~~ have been resolved and dis-
4 tributed;

5 (3) in *Gila River Pima-Maricopa Indian Com-*
6 *munity v. United States*, 29 Ind. Cl. Comm. 144
7 (1972), the Indian Claims Commission held that the
8 United States, as trustee, was liable to the Commu-
9 nity with respect to the claims made in Docket No.
10 ~~236-C~~;

11 (4) in *Gila River Pima-Maricopa Indian Com-*
12 *munity v. United States*, 684 F.2d 852 (1982), the
13 United States Claims Court held that the United
14 States, as trustee, was liable to the Community with
15 respect to the claims made in Docket No. ~~236-D~~;

16 (5) with the approval of the Community under
17 Community Resolution ~~GR-98-98~~, the Community
18 entered into a settlement with the United States on
19 April 27, 1999, for claims made under Dockets Nos.
20 ~~236-C~~ and ~~236-D~~ for an aggregate total of
21 \$7,000,000;

22 (6) on May 3, 1999, the United States Court
23 of Federal Claims ordered that a final judgment be
24 entered in consolidated Dockets Nos. ~~236-C~~ and

1 ~~236-D~~ for \$7,000,000 in favor of the Community
2 and against the United States;

3 ~~(7)(A)~~ on October 6, 1999, the Department of
4 the Treasury certified the payment of \$7,000,000,
5 less attorney fees, to be deposited in a trust account
6 on behalf of the Community; and

7 ~~(B)~~ that payment was deposited in a trust ac-
8 count managed by the Office of Trust Funds Man-
9 agement of the Department of the Interior; and

10 ~~(8)~~ in accordance with the Indian Tribal Judge-
11 ment Funds Use or Distribution Act (25 U.S.C.
12 1401 et seq.); the Secretary is required to submit an
13 Indian judgment fund use or distribution plan to
14 Congress for approval.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 ~~(1)~~ ADULT.—The term “adult” means an indi-
18 vidual who—

19 ~~(A)~~ is 18 years of age or older as of the
20 date on which the payment roll is approved by
21 the Community; or

22 ~~(B)~~ will reach 18 years of age not later
23 than 30 days after the date on which the pay-
24 ment roll is approved by the Community.

1 (2) COMMUNITY.—The term “Community”
2 means the Gila River Indian Community.

3 (3) COMMUNITY-OWNED FUNDS.—The term
4 “Community-owned funds” means—

5 (A) funds held in trust by the Secretary as
6 of the date of enactment of this Act that may
7 be made available to make payments under sec-
8 tion 101; or

9 (B) revenues held by the Community that
10 are derived from Community-owned enterprises.

11 (4) IIM ACCOUNT.—The term “IIM account”
12 means an individual Indian money account.

13 (5) JUDGMENT FUNDS.—The term “judgment
14 funds” means the aggregate amount awarded to the
15 Community by the Court of Federal Claims in Dock-
16 ets Nos. 236-C and 236-D.

17 (6) LEGALLY INCOMPETENT INDIVIDUAL.—The
18 term “legally incompetent individual” means an in-
19 dividual who has been determined to be incapable of
20 managing his or her own affairs by a court of com-
21 petent jurisdiction.

22 (7) MINOR.—The term “minor” means an indi-
23 vidual who is not an adult.

24 (8) PAYMENT ROLL.—The term “payment roll”
25 means the list of eligible, enrolled members of the

1 Community who are eligible to receive a payment
 2 under section 101(a), as prepared by the Community
 3 under section 101(b).

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

6 **TITLE I—GILA RIVER JUDGMENT**
 7 **FUND DISTRIBUTION**

8 **SEC. 101. DISTRIBUTION OF JUDGMENT FUNDS.**

9 (a) PER CAPITA PAYMENTS.—Notwithstanding the
 10 Indian Tribal Judgment Funds Use or Distribution Act
 11 (25 U.S.C. 1401 et seq.) or any other provision of law
 12 (including any regulation promulgated or plan developed
 13 under such a law), the amounts paid in satisfaction of an
 14 award granted to the Gila River Indian Community in
 15 Dockets Nos. 236-C and 236-D before the United States
 16 Court of Federal Claims, less attorney fees and litigation
 17 expenses and including all accrued interest, shall be dis-
 18 tributed in the form of per capita payments (in amounts
 19 as equal as practicable) to all eligible enrolled members
 20 of the Community.

21 (b) PREPARATION OF PAYMENT ROLL.—

22 (1) IN GENERAL.—The Community shall pre-
 23 pare a payment roll of eligible, enrolled members of
 24 the Community that are eligible to receive payments

1 under this section in accordance with the criteria de-
2 scribed in paragraph (2).

3 ~~(2) CRITERIA.—~~

4 ~~(A) INDIVIDUALS ELIGIBLE TO RECEIVE~~
5 ~~PAYMENTS.—Subject to subparagraph (B), the~~
6 ~~following individuals shall be eligible to be listed~~
7 ~~on the payment roll and eligible to receive a per~~
8 ~~capita payment under subsection (a):~~

9 ~~(i) All enrolled Community members~~
10 ~~who are eligible to be listed on the per cap-~~
11 ~~ita payment roll that was approved by the~~
12 ~~Secretary for the distribution of the funds~~
13 ~~awarded to the Community in Docket No.~~
14 ~~236-N (including any individual who was~~
15 ~~inadvertently omitted from that roll).~~

16 ~~(ii) All enrolled Community members~~
17 ~~who are living on the date of enactment of~~
18 ~~this Act.~~

19 ~~(iii) All enrolled Community members~~
20 ~~who died—~~

21 ~~(I) after the effective date of the~~
22 ~~payment plan for Docket No. 236-N;~~
23 ~~but~~

24 ~~(II) on or before the date of en-~~
25 ~~actment of this Act.~~

1 (B) INDIVIDUALS INELIGIBLE TO RECEIVE
2 PAYMENTS.—The following individuals shall be
3 ineligible to be listed on the payment roll and
4 ineligible to receive a per capita payment under
5 subsection (a):

6 (i) Any individual who, before the
7 date on which the Community approves the
8 payment roll, relinquished membership in
9 the Community.

10 (ii) Any minor who relinquishes mem-
11 bership in the Community, or whose parent
12 or legal guardian relinquishes membership
13 on behalf of the minor, before the date on
14 which the minor reaches 18 years of age.

15 (iii) Any individual who is disenrolled
16 by the Community for just cause (such as
17 dual enrollment or failure to meet the eligi-
18 bility requirements for enrollment).

19 (iv) Any individual who is determined
20 or certified by the Secretary to be eligible
21 to receive a per capita payment of funds
22 relating to a judgment—

23 (I) awarded to another commu-
24 nity, Indian tribe, or tribal entity; and

1 (II) appropriated on or before the
2 date of enactment of this Act.

3 (v) Any individual who is not enrolled
4 as a member of the Community on or be-
5 fore the date that is 90 days after the date
6 of enactment of this Act.

7 (e) NOTICE TO SECRETARY.—On approval by the
8 Community of the payment roll, the Community shall sub-
9 mit to the Secretary a notice that indicates the total num-
10 ber of individuals eligible to share in the per capita dis-
11 tribution under subsection (a), as expressed in subdivi-
12 sions that reflect—

13 (1) the number of shares that are attributable
14 to eligible living adult Community members; and

15 (2) the number of shares that are attributable
16 to deceased individuals, legally incompetent individ-
17 uals, and minors.

18 (d) INFORMATION PROVIDED TO SECRETARY.—The
19 Community shall provide to the Secretary enrollment in-
20 formation necessary to allow the Secretary to establish—

21 (1) estate accounts for deceased individuals de-
22 scribed in subsection (c)(2); and

23 (2) HM accounts for legally incompetent indi-
24 viduals and minors described in subsection (c)(2).

25 (e) DISBURSEMENT OF FUNDS.—

1 (1) IN GENERAL.—Not later than 30 days after
 2 the date on which the payment roll is approved by
 3 the Community and the Community has reconciled
 4 the number of shares that belong in each payment
 5 subdivision described in subsection (c), the Secretary
 6 shall disburse to the Community the funds necessary
 7 to make the per capita distribution under subsection
 8 (a) to eligible living adult members of the Commu-
 9 nity described in subsection (c)(1).

10 (2) ADMINISTRATION AND DISTRIBUTION.—On
 11 disbursement of the funds under paragraph (1), the
 12 Community shall bear sole responsibility for admin-
 13 istration and distribution of the funds.

14 (f) SHARES OF DECEASED INDIVIDUALS.—

15 (1) IN GENERAL.—The Secretary, in accord-
 16 ance with regulations promulgated by the Secretary
 17 and in effect as of the date of enactment of this Act,
 18 shall distribute to the appropriate heirs and legatees
 19 of deceased individuals described in subsection (c)(2)
 20 the per capita shares of those deceased individuals.

21 (2) ABSENCE OF HEIRS AND LEGATEES.—If the
 22 Secretary and the Community make a final deter-
 23 mination that a deceased individual described in sub-
 24 section (c)(2) has no heirs or legatees, the per capita

1 share of the deceased individual and the interest
2 earned on that share shall—

3 ~~(A)~~ revert to the Community; and

4 ~~(B)~~ be deposited into the general fund of
5 the Community.

6 ~~(g)~~ SHARES OF LEGALLY INCOMPETENT INDIVID-
7 UALS.—

8 ~~(1)~~ IN GENERAL.—The Secretary shall deposit
9 the shares of legally incompetent individuals de-
10 scribed in subsection ~~(c)~~(2) in supervised HM ac-
11 counts.

12 ~~(2)~~ ADMINISTRATION.—The HM accounts de-
13 scribed in paragraph ~~(1)~~ shall be administered in ac-
14 cordance with regulations and procedures established
15 by the Secretary and in effect as of the date of en-
16 actment of this Act.

17 ~~(h)~~ SHARES OF MINORS.—

18 ~~(1)~~ IN GENERAL.—The Secretary shall deposit
19 the shares of minors described in subsection ~~(c)~~(2)
20 in supervised HM accounts.

21 ~~(2)~~ ADMINISTRATION.—

22 ~~(A)~~ IN GENERAL.—The Secretary shall
23 hold the per capita share of a minor described
24 in subsection ~~(c)~~(2) in trust until such date as
25 the minor reaches 18 years of age.

1 ~~(B) NONAPPLICABLE LAW.—Section~~
 2 ~~3(b)(3) of the Indian Tribal Judgment Funds~~
 3 ~~Use or Distribution Act (25 U.S.C. 1403(b)(3))~~
 4 ~~shall not apply to any per capita share of a~~
 5 ~~minor that is held by the Secretary under this~~
 6 ~~Act.~~

7 ~~(C) DISBURSEMENT.—No judgment funds,~~
 8 ~~nor any interest earned on judgment funds,~~
 9 ~~shall be disbursed from the account of a minor~~
 10 ~~described in subsection (c)(2) until such date as~~
 11 ~~the minor reaches 18 years of age.~~

12 ~~(i) PAYMENT OF ELIGIBLE INDIVIDUALS NOT LIST-~~
 13 ~~ED ON PAYMENT ROLL.—~~

14 ~~(1) IN GENERAL.—An individual who is not~~
 15 ~~listed on the payment roll, but is eligible to receive~~
 16 ~~a payment under this Act, as determined by the~~
 17 ~~Community, may be paid from any remaining judg-~~
 18 ~~ment funds after the date on which—~~

19 ~~(A) the Community makes the per capita~~
 20 ~~distribution under subsection (a); and~~

21 ~~(B) all appropriate HM accounts are es-~~
 22 ~~tablished under subsections (g) and (h).~~

23 ~~(2) INSUFFICIENT FUNDS.—If insufficient judg-~~
 24 ~~ment funds remain to cover the cost of a payment~~

1 described in paragraph (1), the Community may use
2 Community-owned funds to make the payment.

3 ~~(3) MINORS, LEGALLY INCOMPETENT INDIVID-~~
4 ~~UALS, AND DECEASED INDIVIDUALS.—~~In a case in
5 which a payment described in paragraph (2) is to be
6 made to a minor, a legally incompetent individual, or
7 a deceased individual, the Secretary—

8 (A) is authorized to accept and deposit
9 funds from the payment in an HM account or
10 estate account established for the minor, legally
11 incompetent individual, or deceased individual;
12 and

13 (B) shall invest those funds in accordance
14 with applicable law.

15 ~~(j) USE OF RESIDUAL FUNDS.—~~On request by the
16 Community, any judgment funds remaining after the date
17 on which the Community completes the per capita dis-
18 tribution under subsection (a) and makes any appropriate
19 payments under subsection (i) shall be disbursed to, and
20 deposited in the general fund of, the Community.

21 ~~(k) NONAPPLICABILITY OF CERTAIN LAW.—~~Notwith-
22 standing any other provision of law, the Indian Gaming
23 Regulatory Act (25 U.S.C. 2701 et seq.) shall not apply
24 to Community-owned funds used by the Community to
25 make payments under subsection (i).

1 **SEC. 102. RESPONSIBILITY OF SECRETARY; APPLICABLE**
 2 **LAW.**

3 (a) **RESPONSIBILITY FOR FUNDS**—After the date on
 4 which funds are disbursed to the Community under sec-
 5 tion 101(e)(1), the United States and the Secretary shall
 6 have no trust responsibility for the investment, super-
 7 vision, administration, or expenditure of the funds dis-
 8 bursed.

9 (b) **DECEASED AND LEGALLY INCOMPETENT INDI-**
 10 **VIDUALS.**—Funds subject to subsections (f) and (g) of
 11 section 101 shall continue to be held in trust by the Sec-
 12 retary until the date on which those funds are disbursed
 13 under this Act.

14 (c) **APPLICABILITY OF OTHER LAW.**—Except as oth-
 15 erwise provided in this Act, all funds distributed under
 16 this Act shall be subject to sections 7 and 8 of the Indian
 17 Tribal Judgment Funds Use or Distribution Act (25
 18 U.S.C. 1407, 1408).

19 **TITLE II—CONDITIONS RELAT-**
 20 **ING TO COMMUNITY JUDG-**
 21 **MENT FUND PLANS**

22 **SEC. 201. PLAN FOR USE AND DISTRIBUTION OF JUDG-**
 23 **MENT FUNDS AWARDED IN DOCKET NO. 228.**

24 (a) **DEFINITION OF PLAN.**—In this section, the term
 25 “plan” means the plan for the use and distribution of
 26 judgment funds awarded to the Community in Docket No.

1 228 of the United States Claims Court (52 Fed. Reg.
2 6887 (March 5, 1987)), as modified in accordance with
3 Public Law 99-493 (100 Stat. 1241).

4 (b) CONDITIONS.—Notwithstanding any other provi-
5 sion of law, the Community shall modify the plan to in-
6 clude the following conditions with respect to funds dis-
7 tributed under the plan:

8 (1) APPLICABILITY OF OTHER LAW RELATING
9 TO MINORS.—Section 3(b)(3) of the Indian Tribal
10 Judgment Funds Use or Distribution Act (25
11 U.S.C. 1403(b)(3)) shall not apply to any per capita
12 share of a minor that is held, as of the date of en-
13 actment of this Act, by the Secretary.

14 (2) SHARE OF MINORS IN TRUST.—The Sec-
15 retary shall hold a per capita share of a minor de-
16 scribed in paragraph (1) in trust until such date as
17 the minor reaches 18 years of age.

18 (3) DISBURSAL OF FUNDS FOR MINORS.—No
19 judgment funds, nor any interest earned on judg-
20 ment funds, shall be disbursed from the account of
21 a minor described in paragraph (1) until such date
22 as the minor reaches 18 years of age.

23 (4) USE OF REMAINING JUDGMENT FUNDS.—
24 On request by the governing body of the Commu-
25 nity, as manifested by the appropriate tribal council

1 resolution, any judgment funds remaining after the
 2 date of completion of the per capita distribution
 3 under section 101(a) shall be disbursed to, and de-
 4 posited in the general fund of, the Community.

5 **SEC. 202. PLAN FOR USE AND DISTRIBUTION OF JUDG-**
 6 **MENT FUNDS AWARDED IN DOCKET NO. 236-**
 7 **N.**

8 (a) DEFINITION OF PLAN.—In this section, the term
 9 “plan” means the plan for the use and distribution of
 10 judgment funds awarded to the Community in Docket No.
 11 236–N of the United States Court of Federal Claims (59
 12 Fed. Reg. 31092 (June 16, 1994)).

13 (b) CONDITIONS.—

14 (1) PER CAPITA ASPECT.—Notwithstanding any
 15 other provision of law, the Community shall modify
 16 the last sentence of the paragraph under the heading
 17 “Per Capita Aspect” in the plan to read as follows:
 18 “Upon request from the Community, any residual
 19 principal and interest funds remaining after the
 20 Community has declared the per capita distribution
 21 complete shall be disbursed to, and deposited in the
 22 general fund of, the Community.”.

23 (2) GENERAL PROVISIONS.—Notwithstanding
 24 any other provision of law, the Community shall—

1 (A) modify the third sentence of the first
 2 paragraph under the heading “General Provi-
 3 sions” of the plan to strike the word “minors”;
 4 and

5 (B) insert between the first and second
 6 paragraphs under that heading the following:

7 “Section 3(b)(3) of the Indian Tribal Judgment
 8 Funds Use or Distribution Act (25 U.S.C.
 9 1403(b)(3)) shall not apply to any per capita share
 10 of a minor that is held, as of the date of enactment
 11 of the Gila River Indian Community Judgment
 12 Fund Distribution Act of 2002, by the Secretary.
 13 The Secretary shall hold a per capita share of a
 14 minor in trust until such date as the minor reaches
 15 18 years of age. No judgment funds, or any interest
 16 earned on judgment funds, shall be disbursed from
 17 the account of a minor until such date as the minor
 18 reaches 18 years of age.”.

19 **TITLE III—EXPERT ASSISTANCE**
 20 **LOANS**

21 **SEC. 301. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE**

22 **LOANS TO CERTAIN INDIAN TRIBES.**

23 (a) GILA RIVER INDIAN COMMUNITY.—Notwith-
 24 standing any other provision of law—

1 (1) the balance of all outstanding expert assist-
2 ance loans made to the Community under Public
3 Law 88-168 (77 Stat. 301) and relating to Gila
4 River Indian Community v. United States (United
5 States Court of Federal Claims Docket Nos. 228
6 and 236 and associated subdockets) are canceled;
7 and

8 (2) the Secretary shall take such action as is
9 necessary—

10 (A) to document the cancellation of loans
11 under paragraph (1); and

12 (B) to release the Community from any li-
13 ability associated with those loans.

14 (b) OGLALA SIOUX TRIBE.—Notwithstanding any
15 other provision of law—

16 (1) the balances of all outstanding expert as-
17 sistance loans made to the Oglala Sioux Tribe under
18 Public Law 88-168 (77 Stat. 301) and relating to
19 Oglala Sioux Tribe v. United States (United States
20 Court of Federal Claims Docket No. 117 and associ-
21 ated subdockets) are canceled; and

22 (2) the Secretary shall take such action as is
23 necessary—

24 (A) to document the cancellation of loans
25 under paragraph (1); and

1 ~~(B)~~ to release the Oglala Sioux Tribe from
2 any liability associated with those loans.

3 ~~(c)~~ SEMINOLE NATION OF OKLAHOMA.—Notwith-
4 standing any other provision of law—

5 ~~(1)~~ the balances of all outstanding expert as-
6 sistance loans made to the Seminole Nation of Okla-
7 homa under Public Law 88-168 (77 Stat. 301) and
8 relating to Seminole Nation v. United States (United
9 States Court of Federal Claims Docket No. 247) are
10 canceled; and

11 ~~(2)~~ the Secretary shall take such action as is
12 necessary—

13 ~~(A)~~ to document the cancellation of loans
14 under paragraph ~~(1)~~; and

15 ~~(B)~~ to release the Seminole Nation of
16 Oklahoma from any liability associated with
17 those loans.

18 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

19 ~~(a)~~ *SHORT TITLE.*—*This Act may be cited as the “Gila*
20 *River Indian Community Judgment Fund Distribution Act*
21 *of 2002”.*

22 ~~(b)~~ *TABLE OF CONTENTS.*—*The table of contents of this*
23 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—GILA RIVER JUDGMENT FUND DISTRIBUTION

Sec. 101. Distribution of judgment funds.

Sec. 102. Responsibility of Secretary; applicable law.

TITLE II—CONDITIONS RELATING TO COMMUNITY JUDGMENT FUND PLANS

Sec. 201. Plan for use and distribution of judgment funds awarded in Docket No. 228.

Sec. 202. Plan for use and distribution of judgment funds awarded in Docket No. 236–N.

TITLE III—EXPERT ASSISTANCE LOANS

Sec. 301. Waiver of repayment of expert assistance loans to Gila River Indian Community.

1 SEC. 2. FINDINGS.

2 *Congress finds that—*

3 *(1) on August 8, 1951, the Gila River Indian*
 4 *Community filed a complaint before the Indian*
 5 *Claims Commission in Gila River Pima-Maricopa*
 6 *Indian Community v. United States, Docket No. 236,*
 7 *for the failure of the United States to carry out its*
 8 *obligation to protect the use by the Community of*
 9 *water from the Gila River and the Salt River in the*
 10 *State of Arizona;*

11 *(2) except for Docket Nos. 236–C and 236–D,*
 12 *which remain undistributed, all 14 original dockets*
 13 *under Docket No. 236 have been resolved and distrib-*
 14 *uted;*

15 *(3) in Gila River Pima-Maricopa Indian Com-*
 16 *munity v. United States, 29 Ind. Cl. Comm. 144*
 17 *(1972), the Indian Claims Commission held that the*
 18 *United States, as trustee, was liable to the Commu-*

1 *nity with respect to the claims made in Docket No.*
2 *236-C;*

3 *(4) in Gila River Pima-Maricopa Indian Com-*
4 *munity v. United States, 684 F.2d 852 (1982), the*
5 *United States Claims Court held that the United*
6 *States, as trustee, was liable to the Community with*
7 *respect to the claims made in Docket No. 236-D;*

8 *(5) with the approval of the Community under*
9 *Community Resolution GR-98-98, the Community*
10 *entered into a settlement with the United States on*
11 *April 27, 1999, for claims made under Dockets Nos.*
12 *236-C and 236-D for an aggregate total of*
13 *\$7,000,000;*

14 *(6) on May 3, 1999, the United States Court of*
15 *Federal Claims ordered that a final judgment be en-*
16 *tered in consolidated Dockets Nos. 236-C and 236-D*
17 *for \$7,000,000 in favor of the Community and*
18 *against the United States;*

19 *(7)(A) on October 6, 1999, the Department of the*
20 *Treasury certified the payment of \$7,000,000, less at-*
21 *torney fees, to be deposited in a trust account on be-*
22 *half of the Community; and*

23 *(B) that payment was deposited in a trust ac-*
24 *count managed by the Office of Trust Funds Manage-*
25 *ment of the Department of the Interior; and*

1 (8) *in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401*
 2 *et seq.), the Secretary is required to submit an Indian*
 3 *judgment fund use or distribution plan to Congress*
 4 *for approval.*

6 **SEC. 3. DEFINITIONS.**

7 *In this Act:*

8 (1) *ADULT.*—*The term “adult” means an indi-*
 9 *vidual who—*

10 (A) *is 18 years of age or older as of the date*
 11 *on which the payment roll is approved by the*
 12 *Community; or*

13 (B) *will reach 18 years of age not later*
 14 *than 30 days after the date on which the pay-*
 15 *ment roll is approved by the Community.*

16 (2) *COMMUNITY.*—*The term “Community”*
 17 *means the Gila River Indian Community.*

18 (3) *COMMUNITY-OWNED FUNDS.*—*The term*
 19 *“Community-owned funds” means—*

20 (A) *funds held in trust by the Secretary as*
 21 *of the date of enactment of this Act that may be*
 22 *made available to make payments under section*
 23 *101; or*

24 (B) *revenues held by the Community that—*

1 (i) are derived from trust resources;

2 and

3 (ii) qualify for an exemption under
4 section 7 or 8 of the Indian Tribal Judg-
5 ment Funds Use or Distribution Act (25
6 U.S.C. 1407, 1408).

7 (4) *IIM ACCOUNT*.—The term “IIM account”
8 means an individual Indian money account.

9 (5) *JUDGMENT FUNDS*.—The term “judgment
10 funds” means the aggregate amount awarded to the
11 Community by the Court of Federal Claims in Dock-
12 ets Nos. 236–C and 236–D.

13 (6) *LEGALLY INCOMPETENT INDIVIDUAL*.—The
14 term “legally incompetent individual” means an in-
15 dividual who has been determined to be incapable of
16 managing his or her own affairs by a court of com-
17 petent jurisdiction.

18 (7) *MINOR*.—The term “minor” means an indi-
19 vidual who is not an adult.

20 (8) *PAYMENT ROLL*.—The term “payment roll”
21 means the list of eligible, enrolled members of the
22 Community who are eligible to receive a payment
23 under section 101(a), as prepared by the Community
24 under section 101(b).

1 (9) *SECRETARY.*—*The term “Secretary” means*
 2 *the Secretary of the Interior.*

3 ***TITLE I—GILA RIVER JUDGMENT***
 4 ***FUND DISTRIBUTION***

5 ***SEC. 101. DISTRIBUTION OF JUDGMENT FUNDS.***

6 (a) *PER CAPITA PAYMENTS.*—*Notwithstanding the In-*
 7 *dian Tribal Judgment Funds Use or Distribution Act (25*
 8 *U.S.C. 1401 et seq.) or any other provision of law (includ-*
 9 *ing any regulation promulgated or plan developed under*
 10 *such a law), the amounts paid in satisfaction of an award*
 11 *granted to the Gila River Indian Community in Dockets*
 12 *Nos. 236–C and 236–D before the United States Court of*
 13 *Federal Claims, less attorney fees and litigation expenses*
 14 *and including all accrued interest, shall be distributed in*
 15 *the form of per capita payments (in amounts as equal as*
 16 *practicable) to all eligible enrolled members of the Commu-*
 17 *nity.*

18 (b) *PREPARATION OF PAYMENT ROLL.*—

19 (1) *IN GENERAL.*—*The Community shall prepare*
 20 *a payment roll of eligible, enrolled members of the*
 21 *Community that are eligible to receive payments*
 22 *under this section in accordance with the criteria de-*
 23 *scribed in paragraph (2).*

24 (2) *CRITERIA.*—

1 (A) *INDIVIDUALS ELIGIBLE TO RECEIVE*
2 *PAYMENTS.—Subject to subparagraph (B), the*
3 *following individuals shall be eligible to be listed*
4 *on the payment roll and eligible to receive a per*
5 *capita payment under subsection (a):*

6 (i) *All enrolled Community members*
7 *who are eligible to be listed on the per cap-*
8 *ita payment roll that was approved by the*
9 *Secretary for the distribution of the funds*
10 *awarded to the Community in Docket No.*
11 *236–N (including any individual who was*
12 *inadvertently omitted from that roll).*

13 (ii) *All enrolled Community members*
14 *who are living on the date of enactment of*
15 *this Act.*

16 (iii) *All enrolled Community members*
17 *who died—*

18 (I) *after the effective date of the*
19 *payment plan for Docket No. 236–N;*
20 *but*

21 (II) *on or before the date of enact-*
22 *ment of this Act.*

23 (B) *INDIVIDUALS INELIGIBLE TO RECEIVE*
24 *PAYMENTS.—The following individuals shall be*
25 *ineligible to be listed on the payment roll and*

1 *ineligible to receive a per capita payment under*
2 *subsection (a):*

3 *(i) Any individual who, before the date*
4 *on which the Community approves the pay-*
5 *ment roll, relinquished membership in the*
6 *Community.*

7 *(ii) Any minor who relinquishes mem-*
8 *bership in the Community, or whose parent*
9 *or legal guardian relinquishes membership*
10 *on behalf of the minor, before the date on*
11 *which the minor reaches 18 years of age.*

12 *(iii) Any individual who is disenrolled*
13 *by the Community for just cause (such as*
14 *dual enrollment or failure to meet the eligi-*
15 *bility requirements for enrollment).*

16 *(iv) Any individual who is determined*
17 *or certified by the Secretary to be eligible to*
18 *receive a per capita payment of funds relat-*
19 *ing to a judgment—*

20 *(I) awarded to another commu-*
21 *nity, Indian tribe, or tribal entity; and*

22 *(II) appropriated on or before the*
23 *date of enactment of this Act.*

24 *(v) Any individual who is not enrolled*
25 *as a member of the Community on or before*

1 the date that is 90 days after the date of en-
2 actment of this Act.

3 (c) *NOTICE TO SECRETARY.*—On approval by the
4 Community of the payment roll, the Community shall sub-
5 mit to the Secretary a notice that indicates the total number
6 of individuals eligible to share in the per capita distribu-
7 tion under subsection (a), as expressed in subdivisions that
8 reflect—

9 (1) the number of shares that are attributable to
10 eligible living adult Community members; and

11 (2) the number of shares that are attributable to
12 deceased individuals, legally incompetent individuals,
13 and minors.

14 (d) *INFORMATION PROVIDED TO SECRETARY.*—The
15 Community shall provide to the Secretary enrollment infor-
16 mation necessary to allow the Secretary to establish—

17 (1) estate accounts for deceased individuals de-
18 scribed in subsection (c)(2); and

19 (2) IIM accounts for legally incompetent individ-
20 uals and minors described in subsection (c)(2).

21 (e) *DISBURSEMENT OF FUNDS.*—

22 (1) *IN GENERAL.*—Not later than 30 days after
23 the date on which the payment roll is approved by the
24 Community and the Community has reconciled the
25 number of shares that belong in each payment sub-

1 *division described in subsection (c), the Secretary*
2 *shall disburse to the Community the funds necessary*
3 *to make the per capita distribution under subsection*
4 *(a) to eligible living adult members of the Community*
5 *described in subsection (c)(1).*

6 (2) *ADMINISTRATION AND DISTRIBUTION.—On*
7 *disbursement of the funds under paragraph (1), the*
8 *Community shall bear sole responsibility for adminis-*
9 *tration and distribution of the funds.*

10 (f) *SHARES OF DECEASED INDIVIDUALS.—*

11 (1) *IN GENERAL.—The Secretary, in accordance*
12 *with regulations promulgated by the Secretary and in*
13 *effect as of the date of enactment of this Act, shall dis-*
14 *tribute to the appropriate heirs and legatees of de-*
15 *ceased individuals described in subsection (c)(2) the*
16 *per capita shares of those deceased individuals.*

17 (2) *ABSENCE OF HEIRS AND LEGATEES.—If the*
18 *Secretary and the Community make a final deter-*
19 *mination that a deceased individual described in sub-*
20 *section (c)(2) has no heirs or legatees, the per capita*
21 *share of the deceased individual and the interest*
22 *earned on that share shall—*

23 (A) *revert to the Community; and*

24 (B) *be deposited into the general fund of the*

25 *Community.*

1 (g) *SHARES OF LEGALLY INCOMPETENT INDIVID-*
2 *UALS.—*

3 (1) *IN GENERAL.—The Secretary shall deposit*
4 *the shares of legally incompetent individuals described*
5 *in subsection (c)(2) in supervised IIM accounts.*

6 (2) *ADMINISTRATION.—The IIM accounts de-*
7 *scribed in paragraph (1) shall be administered in ac-*
8 *cordance with regulations and procedures established*
9 *by the Secretary and in effect as of the date of enact-*
10 *ment of this Act.*

11 (h) *SHARES OF MINORS.—*

12 (1) *IN GENERAL.—The Secretary shall deposit*
13 *the shares of minors described in subsection (c)(2) in*
14 *supervised IIM accounts.*

15 (2) *ADMINISTRATION.—*

16 (A) *IN GENERAL.—The Secretary shall hold*
17 *the per capita share of a minor described in sub-*
18 *section (c)(2) in trust until such date as the*
19 *minor reaches 18 years of age.*

20 (B) *NONAPPLICABLE LAW.—Section 3(b)(3)*
21 *of the Indian Tribal Judgment Funds Use or*
22 *Distribution Act (25 U.S.C. 1403(b)(3)) shall not*
23 *apply to any per capita share of a minor that*
24 *is held by the Secretary under this Act.*

1 (C) *DISBURSEMENT.*—*No judgment funds,*
 2 *nor any interest earned on judgment funds, shall*
 3 *be disbursed from the account of a minor de-*
 4 *scribed in subsection (c)(2) until such date as the*
 5 *minor reaches 18 years of age.*

6 (i) *PAYMENT OF ELIGIBLE INDIVIDUALS NOT LISTED*
 7 *ON PAYMENT ROLL.*—

8 (1) *IN GENERAL.*—*An individual who is not list-*
 9 *ed on the payment roll, but is eligible to receive a*
 10 *payment under this Act, as determined by the Com-*
 11 *munity, may be paid from any remaining judgment*
 12 *funds after the date on which—*

13 (A) *the Community makes the per capita*
 14 *distribution under subsection (a); and*

15 (B) *all appropriate IIM accounts are estab-*
 16 *lished under subsections (g) and (h).*

17 (2) *INSUFFICIENT FUNDS.*—*If insufficient judg-*
 18 *ment funds remain to cover the cost of a payment de-*
 19 *scribed in paragraph (1), the Community may use*
 20 *Community-owned funds to make the payment.*

21 (3) *MINORS, LEGALLY INCOMPETENT INDIVID-*
 22 *UALS, AND DECEASED INDIVIDUALS.*—*In a case in*
 23 *which a payment described in paragraph (2) is to be*
 24 *made to a minor, a legally incompetent individual, or*
 25 *a deceased individual, the Secretary—*

1 (A) is authorized to accept and deposit
2 funds from the payment in an IIM account or
3 estate account established for the minor, legally
4 incompetent individual, or deceased individual;
5 and

6 (B) shall invest those funds in accordance
7 with applicable law.

8 (j) *USE OF RESIDUAL FUNDS.*—On request by the gov-
9 erning body of the Community to the Secretary, and after
10 passage by the governing body of the Community of a tribal
11 council resolution affirming the intention of the governing
12 body to have judgment funds disbursed to, and deposited
13 in the general fund of, the Community, any judgment funds
14 remaining after the date on which the Community com-
15 pletes the per capita distribution under subsection (a) and
16 makes any appropriate payments under subsection (i) shall
17 be disbursed to, and deposited in the general fund of, the
18 Community.

19 (k) *REVERSION OF PER-CAPITA SHARES TO TRIBAL*
20 *OWNERSHIP.*—

21 (1) *IN GENERAL.*—In accordance with the first
22 section of Public Law 87–283 (25 U.S.C. 164), the
23 share for an individual eligible to receive a per-capita
24 share under subsection (a) that is held in trust by the
25 Secretary, and any interest earned on that share,

1 *shall be restored to Community ownership if, for any*
 2 *reason—*

3 *(A) subject to subsection (i), the share can-*
 4 *not be paid to the individual entitled to receive*
 5 *the share; and*

6 *(B) the share remains unclaimed for the 6-*
 7 *year period beginning on the date on which the*
 8 *individual became eligible to receive the share.*

9 *(2) REQUEST BY COMMUNITY.—In accordance*
 10 *with subsection (j), the Community may request that*
 11 *unclaimed funds described in paragraph (1)(B) be*
 12 *disbursed to, and deposited in the general fund of, the*
 13 *Community.*

14 **SEC. 102. RESPONSIBILITY OF SECRETARY; APPLICABLE**
 15 **LAW.**

16 *(a) RESPONSIBILITY FOR FUNDS.—After the date on*
 17 *which funds are disbursed to the Community under section*
 18 *101(e)(1), the United States and the Secretary shall have*
 19 *no trust responsibility for the investment, supervision, ad-*
 20 *ministration, or expenditure of the funds disbursed.*

21 *(b) DECEASED AND LEGALLY INCOMPETENT INDIVID-*
 22 *UALS.—Funds subject to subsections (f) and (g) of section*
 23 *101 shall continue to be held in trust by the Secretary until*
 24 *the date on which those funds are disbursed under this Act.*

1 (c) *APPLICABILITY OF OTHER LAW.*—*Except as other-*
 2 *wise provided in this Act, all funds distributed under this*
 3 *Act shall be subject to sections 7 and 8 of the Indian Tribal*
 4 *Judgment Funds Use or Distribution Act (25 U.S.C. 1407,*
 5 *1408).*

6 ***TITLE II—CONDITIONS RELAT-***
 7 ***ING TO COMMUNITY JUDG-***
 8 ***MENT FUND PLANS***

9 ***SEC. 201. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT***
 10 ***FUNDS AWARDED IN DOCKET NO. 228.***

11 (a) *DEFINITION OF PLAN.*—*In this section, the term*
 12 *“plan” means the plan for the use and distribution of judg-*
 13 *ment funds awarded to the Community in Docket No. 228*
 14 *of the United States Claims Court (52 Fed. Reg. 6887*
 15 *(March 5, 1987)), as modified in accordance with Public*
 16 *Law 99–493 (100 Stat. 1241).*

17 (b) *CONDITIONS.*—*Notwithstanding any other provi-*
 18 *sion of law, the Community shall modify the plan to include*
 19 *the following conditions with respect to funds distributed*
 20 *under the plan:*

21 (1) *APPLICABILITY OF OTHER LAW RELATING TO*
 22 *MINORS.*—*Section 3(b)(3) of the Indian Tribal Judg-*
 23 *ment Funds Use or Distribution Act (25 U.S.C.*
 24 *1403(b)(3)) shall not apply to any per capita share*

1 of a minor that is held, as of the date of enactment
2 of this Act, by the Secretary.

3 (2) *SHARE OF MINORS IN TRUST.*—The Secretary
4 shall hold a per capita share of a minor described in
5 paragraph (1) in trust until such date as the minor
6 reaches 18 years of age.

7 (3) *DISBURSAL OF FUNDS FOR MINORS.*—No
8 judgment funds, nor any interest earned on judgment
9 funds, shall be disbursed from the account of a minor
10 described in paragraph (1) until such date as the
11 minor reaches 18 years of age.

12 (4) *USE OF REMAINING JUDGMENT FUNDS.*—On
13 request by the governing body of the Community, as
14 manifested by the appropriate tribal council resolu-
15 tion, any judgment funds remaining after the date of
16 completion of the per capita distribution under sec-
17 tion 101(a) shall be disbursed to, and deposited in the
18 general fund of, the Community.

19 **SEC. 202. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT**
20 **FUNDS AWARDED IN DOCKET NO. 236-N.**

21 (a) *DEFINITION OF PLAN.*—In this section, the term
22 “plan” means the plan for the use and distribution of judg-
23 ment funds awarded to the Community in Docket No. 236-
24 N of the United States Court of Federal Claims (59 Fed.
25 Reg. 31092 (June 16, 1994)).

1 (b) *CONDITIONS.*—

2 (1) *PER CAPITA ASPECT.*—*Notwithstanding any*
3 *other provision of law, the Community shall modify*
4 *the last sentence of the paragraph under the heading*
5 *“Per Capita Aspect” in the plan to read as follows:*
6 *“Upon request from the Community, any residual*
7 *principal and interest funds remaining after the*
8 *Community has declared the per capita distribution*
9 *complete shall be disbursed to, and deposited in the*
10 *general fund of, the Community.”.*

11 (2) *GENERAL PROVISIONS.*—*Notwithstanding*
12 *any other provision of law, the Community shall—*

13 (A) *modify the third sentence of the first*
14 *paragraph under the heading “General Provi-*
15 *sions” of the plan to strike the word “minors”;*
16 *and*

17 (B) *insert between the first and second*
18 *paragraphs under that heading the following:*

19 *“Section 3(b)(3) of the Indian Tribal Judgment*
20 *Funds Use or Distribution Act (25 U.S.C. 1403(b)(3))*
21 *shall not apply to any per capita share of a minor*
22 *that is held, as of the date of enactment of the Gila*
23 *River Indian Community Judgment Fund Distribu-*
24 *tion Act of 2002, by the Secretary. The Secretary*
25 *shall hold a per capita share of a minor in trust until*

Calendar No. 635

107TH CONGRESS
2^D SESSION

S. 2799

[Report No. 107-298]

A BILL

To provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes.

OCTOBER 4, 2002

Reported with an amendment