

Calendar No. 592

108TH CONGRESS
2^D SESSION

H. R. 884

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2004

Received; read twice and placed on the calendar

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.

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.**

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

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

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

9 (2) WESTERN SHOSHONE JOINT JUDGMENT
10 FUNDS.—The term “Western Shoshone joint judg-
11 ment funds” means—

12 (A) the funds appropriated in satisfaction
13 of the judgment awards granted to the Western
14 Shoshone Indians in Docket Numbers 326–A–
15 1 and 326–A–3 before the United States Court
16 of Claims; and

17 (B) all interest earned on those funds.

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

21 (A) the funds appropriated in satisfaction
22 of the judgment award granted to the Western
23 Shoshone Indians in Docket Number 326–K be-
24 fore the Indian Claims Commission; and

25 (B) all interest earned on those funds.

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

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

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

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

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

13 (ii) is the lineal descendant of an indi-
14 vidual appearing on the roll; and

15 (B)(i) satisfies all eligibility criteria estab-
16 lished by the Committee under section
17 4(e)(4)(D)(iii);

18 (ii) meets any application requirements es-
19 tablished by the Committee; and

20 (iii) agrees to use funds distributed in ac-
21 cordance with section 4(b)(2)(B) for edu-
22 cational purposes approved by the Committee.

1 **SEC. 3. DISTRIBUTION OF WESTERN SHOSHONE JUDGMENT**
2 **FUNDS.**

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

5 (b) JUDGMENT ROLL.—

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

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

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

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

14 (2) INELIGIBLE INDIVIDUALS.—Any individual
15 that is certified by the Secretary to be eligible to re-
16 ceive a per capita payment from any other judgment
17 fund based on an aboriginal land claim awarded by
18 the Indian Claims Commission, the United States
19 Claims Court, or the United States Court of Federal
20 Claims, that was appropriated on or before the date
21 of enactment of this Act, shall not be listed on the
22 judgment roll.

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

1 (A) publish in the Federal Register all reg-
2 ulations governing the establishment of the
3 judgment roll; and

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

7 (i) be listed on the judgment roll; and

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

10 (4) FINALITY OF DETERMINATION.—The deter-
11 mination of the Secretary on an application of an in-
12 dividual to be listed on the judgment roll shall be
13 final.

14 (c) DISTRIBUTION.—

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

20 (2) REQUIREMENTS FOR DISTRIBUTION PAY-
21 MENTS.—

22 (A) LIVING COMPETENT INDIVIDUALS.—
23 The per capita share of a living, competent in-
24 dividual who is 19 years or older on the date
25 of distribution of the Western Shoshone judg-

1 ment funds under paragraph (1) shall be paid
2 directly to the individual.

3 (B) LIVING, LEGALLY INCOMPETENT INDI-
4 VIDUALS.—The per capita share of a living, le-
5 gally incompetent individual shall be adminis-
6 tered in accordance with regulations promul-
7 gated and procedures established by the Sec-
8 retary under section 3(b)(3) of the Indian Trib-
9 al Judgment Funds Use or Distribution Act
10 (25 U.S.C. 1403(b)(3)).

11 (C) DECEASED INDIVIDUALS.—The per
12 capita share of an individual who is deceased as
13 of the date of distribution of the Western Sho-
14 shone judgment funds under paragraph (1)
15 shall be paid to the heirs and legatees of the in-
16 dividual in accordance with regulations promul-
17 gated by the Secretary.

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

23 (i) held by the Secretary in a super-
24 vised individual Indian money account; and

25 (ii) distributed to the individual—

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

3 (II) in 4 equal payments (includ-
4 ing interest earned on the per capita
5 share), to be made—

6 (aa) with respect to the first
7 payment, on the eighteenth birth-
8 day of the individual (or, if the
9 individual is already 18 years of
10 age, as soon as practicable after
11 the date of establishment of the
12 Indian money account of the in-
13 dividual); and

14 (bb) with respect to the 3
15 remaining payments, not later
16 than 90 days after each of the 3
17 subsequent birthdays of the indi-
18 vidual.

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

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

1 (B) be considered to be income or re-
2 sources for any purpose; or

3 (C) be used as a basis for denying or re-
4 ducing financial assistance or any other benefit
5 to which a household or Western Shoshone
6 member would otherwise be entitled to receive
7 under—

8 (i) the Social Security Act (42 U.S.C.
9 301 et seq.); or

10 (ii) any other Federal or federally-as-
11 sisted program.

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

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

19 (i) 6 years after the date of distribu-
20 tion of the Western Shoshone judgment
21 funds under paragraph (1); or

22 (ii) in the case of an individual de-
23 scribed in paragraph (2)(D), 6 years after
24 the date on which the individual reaches
25 18 years of age; and

1 (B) any other residual principal and inter-
2 est funds remaining after the distribution under
3 paragraph (1) is complete.

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

6 (a) IN GENERAL.—The Western Shoshone joint judg-
7 ment funds shall be distributed in accordance with this
8 section.

9 (b) WESTERN SHOSHONE EDUCATIONAL TRUST
10 FUND.—

11 (1) ESTABLISHMENT.—Not later than 120 days
12 after the date of enactment of this Act, the Sec-
13 retary shall establish in the Treasury of the United
14 States, for the benefit of Western Shoshone mem-
15 bers, a trust fund to be known as the “Western Sho-
16 shone Educational Trust Fund”, consisting of—

17 (A) the Western Shoshone joint judgment
18 funds; and

19 (B) the funds added under section 3(b)(4).

20 (2) AMOUNTS IN TRUST FUND.—With respect
21 to amounts in the Trust fund—

22 (A) the principal amount—

23 (i) shall not be expended or disbursed;

24 and

1 (ii) shall be invested in accordance
2 with section 1 of the Act of June 24, 1938
3 (25 U.S.C. 162a); and

4 (B) all interest income earned on the prin-
5 cipal amount after the date of establishment of
6 the Trust fund—

7 (i) shall be distributed by the Com-
8 mittee—

9 (I) to Western Shoshone mem-
10 bers in accordance with this Act, to be
11 used as educational grants or for
12 other forms of educational assistance
13 determined appropriate by the Com-
14 mittee; and

15 (II) to pay the reasonable and
16 necessary expenses of the Committee
17 (as defined in the written rules and
18 procedures of the Committee); but

19 (ii) shall not be distributed under this
20 paragraph on a per capita basis.

21 (c) ADMINISTRATIVE COMMITTEE.—

22 (1) ESTABLISHMENT.—There is established an
23 administrative committee to oversee the distribution
24 of educational grants and assistance under sub-
25 section (b)(2).

1 (2) MEMBERSHIP.—The Committee shall be
2 composed of 7 members, of which—

3 (A) 1 member shall represent the Western
4 Shoshone Te-Moak Tribe and be appointed by
5 that Tribe;

6 (B) 1 member shall represent the
7 Duckwater Shoshone Tribe and be appointed by
8 that Tribe;

9 (C) 1 member shall represent the Yomba
10 Shoshone Tribe and be appointed by that Tribe;

11 (D) 1 member shall represent the Ely Sho-
12 shone Tribe and be appointed by that Tribe;

13 (E) 1 member shall represent the Western
14 Shoshone Committee of the Duck Valley Res-
15 ervation and be appointed by that Committee;

16 (F) 1 member shall represent the Fallon
17 Band of Western Shoshone and be appointed by
18 that Band; and

19 (G) 1 member shall represent the general
20 public and be appointed by the Secretary.

21 (3) TERM.—

22 (A) IN GENERAL.—Each member of the
23 Committee shall serve a term of 4 years.

1 (B) VACANCIES.—If a vacancy remains un-
2 filled in the membership of the Committee for
3 a period of more than 60 days—

4 (i) the Committee shall appoint a tem-
5 porary replacement from among qualified
6 members of the organization for which the
7 replacement is being made; and

8 (ii) that member shall serve until such
9 time as the organization (or, in the case of
10 a member described in paragraph (2)(G),
11 the Secretary) designates a permanent re-
12 placement.

13 (4) DUTIES.—The Committee shall—

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

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

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

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

24 (i) operating procedures;

25 (ii) rules of conduct;

1 (iii) eligibility criteria for receipt of
2 funds under subsection (b)(2)(B)(i);
3 (iv) application selection procedures;
4 (v) procedures for appeals to decisions
5 of the Committee;
6 (vi) fund disbursement procedures;
7 and
8 (vii) fund recoupment procedures;
9 (E) carry out financial management in ac-
10 cordance with paragraph (6); and
11 (F) in accordance with subsection
12 (b)(2)(C)(ii), use a portion of the interest funds
13 from the Trust Fund to pay the reasonable and
14 necessary expenses of the Committee (including
15 per diem rates for attendance at meetings that
16 are equal to those paid to Federal employees in
17 the same geographic location), except that not
18 more than \$100,000 of those funds may be
19 used to develop written rules and procedures
20 described in subparagraph (D).

21 (5) JURISDICTION OF TRIBAL COURTS.—At the
22 discretion of the Committee and with the approval of
23 the appropriate tribal government, a tribal court, or
24 a court of Indian offenses operated under section 11
25 of title 25, Code of Federal Regulations (or a suc-

1 cessor regulation), shall have jurisdiction to hear an
2 appeal of a decision of the Committee.

3 (6) FINANCIAL MANAGEMENT.—

4 (A) FINANCIAL STATEMENT.—The Com-
5 mittee shall employ an independent certified
6 public accountant to prepare a financial state-
7 ment for each fiscal year that discloses—

8 (i) the operating expenses of the Com-
9 mittee for the fiscal year; and

10 (ii) the total amount of funds dis-
11 bursed under subsection (b)(2)(B)(i) for
12 the fiscal year.

13 (B) DISTRIBUTION OF INFORMATION.—

14 For each fiscal year, the Committee shall pro-
15 vide to the Secretary, to each organization rep-
16 resented on the Committee, and, on the request
17 of a Western Shoshone member, to the Western
18 Shoshone member, a copy of—

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

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

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

1 **SEC. 5. REGULATIONS.**

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

Passed the House of Representatives June 21, 2004.

Attest: JEFF TRANDAHL,
Clerk.

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