

PROVIDING FOR THE DIVISION, USE, AND DISTRIBUTION
OF JUDGMENT FUNDS OF THE OTTAWA AND CHIPPEWA
INDIANS OF MICHIGAN

OCTOBER 28, 1997.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1604]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1604) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Table of contents.
- Sec. 2. Findings; purpose.
- Sec. 3. Definitions.
- Sec. 4. Division of funds.
- Sec. 5. Development of tribal plans for use or distribution of funds.
- Sec. 6. Preparation of judgment distribution roll of descendants.
- Sec. 7. Plan for use and distribution of Bay Mills Indian Community funds.
- Sec. 8. Plan for use of Sault Ste. Marie tribe of Chippewa Indians of Michigan funds.
- Sec. 9. Payment of per capita shares.
- Sec. 10. Newly recognized or affirmed tribes.
- Sec. 11. Treatment of funds in relation to other laws.
- Sec. 12. Treaties not affected.

SEC. 2. 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 Tribe 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 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 Act 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. 3. DEFINITIONS.

For purposes of this Act 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 Tribe of Chippewa Indians.

(5) The term "judgment distribution roll of descendants" means the roll prepared under section 6.

(6) The term "Secretary" means the Secretary of the Interior.

SEC. 4. 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 or \$9,253,104.47, for 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, or \$8,313,877 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) 17.3 percent to the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan.

(4) 17.3 percent to the Little Traverse Bay Bands of Odawa Indians of Michigan.

(5) 17.3 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 (1) 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 or \$25,026.79 for 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 (1) 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 JUDGMENT DISTRIBUTION ROLL OF DESCENDANTS HELD IN TRUST.**—Pending distribution under this Act to individuals on the judgment distribution roll of descendants prepared under section 6, the Secretary shall hold amounts referred to in subsections (a)(1) and (b)(1) in trust.

SEC. 5. DEVELOPMENT OF TRIBAL PLANS FOR USE OR DISTRIBUTION OF FUNDS.

(a) **DISBURSEMENT OF FUNDS.**—(1) The Secretary shall disburse each tribe's respective share of the judgment funds described in subsections (a) and (b) of section 4 to a tribe specified in subsection (b) of this section 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 7 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 4. 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 7.

(3) Section 8 shall be the plan for use and distribution of the judgment funds described in subsections (a)(2)(B), (b)(2)(A), and (c)(1) of section 4. 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 8.

(b) **ELIGIBLE TRIBES.**—The tribes referred to in subsection (a) are the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan, the Little Traverse Bay Bands of Odawa Indians of Michigan, and the Little River Band of Ottawa Indians of Michigan.

(c) **APPROVAL OR COMMENT OF SECRETARY.**—

(1) The 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.

(d) **RESPONSE BY TRIBE.**—The tribe shall have 60 days after receipt of comments under subsection (c)(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.

(e) **SUBMISSION TO CONGRESS.**—(1) The Secretary shall, within 45 days after receiving the governing body's comments under subsection (d), 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 (d), 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)).

(f) GOVERNING LAW AFTER APPROVAL BY SECRETARY.—Once approved by the Secretary under this Act, 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).

(g) 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 Act shall comply with section 4 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1404).

SEC. 6. PREPARATION OF JUDGMENT DISTRIBUTION ROLL OF DESCENDANTS.

(a) PREPARATION.—Not later than 9 years after the date of the enactment of this Act, 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—

- (1) were born on or before the date of enactment of this Act;
- (2) were living on the date of the enactment of this Act;
- (3) are of at least one-quarter Michigan Ottawa or Chippewa Indian blood, or a combination thereof;
- (4) are not members of the tribal organizations listed in section 4;
- (5) are lineal descendants whose Michigan Ottawa or Chippewa ancestry is derived from at least one of the groups described in subsection (d); and
- (6) are not described in subsection (e).

(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)(5) are—

- (1) the Ottawa Bands of Grand River, Traverse, Grand Traverse, Little Traverse, Maskigo, or L'Arbre Croche;
- (2) the Chippewa Tribes of Sault Ste. Marie, Michilmackinac, or Cheboigan; and
- (3) any Ottawa or Chippewa subdivisions of any groups referred to in paragraph (1) or (2).

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

(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, 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.

SEC. 7. 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 Act, 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 annually and exclusively for the consolidation and enhancement of tribal landholdings through purchase or exchange. Any land so acquired shall be held in trust by the United States for the Bay Mills Indian Community.

(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 a 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 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 Act, 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 on the date of the enactment of this Act;

(B) is alive on the date of the enactment of this Act;

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

(D)(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.

(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 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 between the ages of 62 and 69 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 has 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. 8. 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 choose 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 the 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; or

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

(2) At least one-half of the principal of the Self-Sufficiency Fund at any given time shall be invested in investment instruments or funds calculated to produce a reasonable rate of return without undue speculation or risk, unless, for good cause shown by the Sault Ste. Marie Tribe, the Secretary determines that a lesser amount may be invested in that manner.

- (3) No portion of the principal of the Self-Sufficiency Fund shall be distributed in the form of per capita payments.
- (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; or
 - (4) for educational, social welfare, health, cultural, or charitable purposes which benefit the members of the Sault Ste. Marie Tribe.
- (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 4.
 - (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.

SEC. 9. PAYMENT OF PER CAPITA SHARES.

Subject to section 10, the Secretary shall distribute per capita the funds described in subsections (a)(1) and (b)(1) of section 4 to the individuals listed on the judgment distribution roll of descendants prepared pursuant to section 6. Payment of a per capita share of funds—

- (1) to which a living, competent adult is entitled under this Act shall be paid directly to that adult;
- (2) to which a deceased individual is entitled under this Act 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 Act 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. 10. NEWLY RECOGNIZED OR AFFIRMED TRIBES.

(a) **DISTRIBUTION OF FUNDS ALLOTTED FOR MEMBERS OF NEWLY RECOGNIZED OR AFFIRMED TRIBES.**—If, after the date of the enactment of this Act and before approval by the Secretary of the judgment distribution roll of descendants prepared pursuant to section 6, Congress or the Secretary recognizes a tribe which includes an individual on the judgment distribution roll of descendants, the funds allotted for that individual shall be held in trust for the newly recognized or affirmed tribe in accordance with the provisions of this section.

(b) **FUNDS SUBJECT TO PLAN.**—Funds held in trust pursuant to subsection (a) shall be subject to a plan that is approved in accordance with this Act.

(c) **DETERMINATION OF MEMBERSHIP IN NEWLY RECOGNIZED OR AFFIRMED TRIBE.**—

(1) For purposes of this section, if:

(A) 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 membership 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 under section 9.

(2) 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 affirmed 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 under section 9.

(d) NOTIFICATION TO INDIVIDUALS.—The Bureau of Indian Affairs shall notify any individual that is listed on the newly recognized or affirmed tribe's membership list and that the funds to which the individual would be entitled under this Act will be held in trust for the individual's newly recognized or affirmed tribe unless, not later than 60 days after such notification, the individual informs the Bureau of Indian Affairs and the tribe, in writing, that the individual relinquishes membership in the newly recognized or affirmed tribe.

SEC. 11. 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. 12. 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.

PURPOSE OF THE BILL

The purpose of H.R. 1604 is 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.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1604 would provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan awarded in 1971 pursuant to four Indian Claims Commission dockets. These judgment funds were appropriated by Congress subsequent to the Indian Claims Commission award and have since been held in trust by the Department of the Interior for the beneficiaries.

According to a formula included in H.R. 1604, the funds would be divided between individuals on a judgment distribution roll of descendants (to be created by the Secretary of the Interior) and five Federally recognized Michigan tribes. Those portions of the funds to be disbursed to each tribe would be disbursed after a plan for use and distribution by each tribe has been approved by the Secretary of the Interior.

H.R. 1604 also provides for the creation and operation of a land trust and a claims distribution trust fund by the Bay Mills Indian Community and provides for the creation and operation of a self-sufficiency fund by the Sault Ste. Marie Tribe.

Following the vote of the Committee on Resources on H.R. 1604 on July 16, 1997, certain issues arose concerning the text of the bill as it related to the treatment of certain tribes such as the Burt

Lake Band, the Grand River Ottawa Band, and other descendency groups. These issues have been resolved to the satisfaction of the Tribes and descendency groups involved and the Committee plans to address them with a floor amendment to H.R. 1604 when it is taken up for consideration in the House of Representatives.

COMMITTEE ACTION

H.R. 1604 was introduced on May 14, 1997, by Congressman Dale Kildee (D-MI). The bill was referred to the Committee on Resources. On June 24, 1997, the Committee held a hearing on the bill. On July 16, 1997, the Resources Committee met to consider H.R. 1604. An amendment in the nature of a substitute to make certain technical corrections proposed by the Administration was offered by Congressman Kildee, and adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives, in the presence of a quorum.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1604.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1604. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1604 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1604.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the

following cost estimate for H.R. 1604 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 15, 1997.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1604, a bill 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.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lisa H. Daley (for federal costs), and Majorie Miller (for the state, local, and tribal impact).

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

H.R. 1604—A bill 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

CBO estimates that enacting H.R. 1604 would have no impact on the federal budget. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 1604 contains no private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA). While the bill contains intergovernmental mandates, CBO estimates that they would impose costs on tribal governments far below the threshold established by that act and would not affect state and local governments.

H.R. 1604 would provide for the division, use, and distribution of funds awarded to the Ottawa and Chippewa Indians of Michigan pursuant to judgments of the Indian Claims Commission. These judgment funds were previously appropriated by the Congress and have been held in trust by the Department of the Interior for the beneficiaries, pending a determination of how the funds will be divided and used.

Enacting this bill would have no impact on the federal budget because the budget authority and outlays associated with all four of these settlements were recorded at the time the original judgments were approved by Congress.

The bill includes specific requirements for the use of the judgment funds awarded to the Sault Ste. Marie Tribe and the Bay Mills Indian Community. These requirements—primarily directives about how the funds are to be invested and the broad purposes for which they may be used—are mandates as defined by UMRA. CBO

estimates that the cost of complying with these mandates would be small, far less than the amount of funds received by the tribes under this bill. The other groups designated to receive funds as a result of this bill are required to develop plans for the use and distribution of the funds. This provision is not a mandate because the bill provides that the Secretary of the Interior would take over responsibility for developing a plan if the tribes do not submit one within eight years of the bill's enactment. Again, any costs associated with this process would be more than offset by the funds released.

The CBO staff contacts for this estimate are Lisa H. Daley (for federal costs), and Marjorie Miller (for the impact on state, local, and tribal governments). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1604 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1604 would make no changes in existing law.

