

Union Calendar No. 174

108TH CONGRESS
1ST SESSION

H. R. 884

[Report No. 108–299]

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2003

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

OCTOBER 7, 2003

Additional sponsor: Mr. PORTER

OCTOBER 7, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on February 25, 2003]

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

7 *The funds appropriated in satisfaction of the judgment*
8 *award granted to the “Western Shoshone Identifiable*
9 *Group” of the Shoshone Nation, under Docket Number 326–*
10 *K before the Indian Claims Commission, including all*
11 *earned interest, shall be distributed as follows:*

12 (1) *JUDGMENT ROLL.—The Secretary shall iden-*
13 *tify and allocate the resources necessary to establish*
14 *a Western Shoshone Judgment Roll consisting of all*
15 *Western Shoshones who—*

16 (A) *have at least 1/4 degree of Western Sho-*
17 *shone Blood;*

18 (B) *are citizens of the United States; and*

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

21 (2) *CERTAIN INDIVIDUALS INELIGIBLE.—Any in-*
22 *dividual determined or certified as eligible by the Sec-*
23 *retary to receive a per capita payment from any*
24 *other judgment fund, based upon an aboriginal land*
25 *claim, awarded by the Indian Claims Commission,*

1 *the United States Claims Court, or the United States*
2 *Court of Federal Claims, that was appropriated on or*
3 *before the date of enactment of this Act, shall not be*
4 *eligible for enrollment under this Act.*

5 (3) *PUBLICATION OF ROLL.*—*Not later than 120*
6 *days after the date of enactment of this Act, the Sec-*
7 *retary shall publish in the Federal Register rules and*
8 *regulations governing the establishment of the Western*
9 *Shoshone Judgment Roll and shall use any documents*
10 *acceptable to the Secretary in establishing proof of eli-*
11 *gibility. The Secretary's determination on all appli-*
12 *cations for enrollment under this paragraph shall be*
13 *final.*

14 (4) *PER CAPITA PAYMENTS.*—*Upon completing*
15 *the Western Shoshone Judgment Roll under para-*
16 *graph (1), the Secretary shall make a per capita dis-*
17 *tribution of 100 percent of the funds described in this*
18 *section, in a sum as equal as possible, to each person*
19 *listed on the judgment roll.*

20 (5) *CONDITIONS OF PER CAPITA PAYMENTS.*—

21 (A) *With respect to the distribution of funds*
22 *under this section, the per capita shares of living*
23 *competent adults who have reached the age of 19*
24 *years on the date of the distribution provided for*

1 under paragraph (4), shall be paid directly to
2 them.

3 (B) *The per capita shares of deceased indi-*
4 *viduals shall be distributed to their heirs and*
5 *legatees in accordance with regulations pre-*
6 *scribed by the Secretary.*

7 (C) *The shares of legally incompetent indi-*
8 *viduals shall be administered pursuant to regu-*
9 *lations and procedures established by the Sec-*
10 *retary under section 3(b)(3) of Public Law 93–*
11 *134 (25 U.S.C. 1403(b)(3)).*

12 (D) *The shares of minors and individuals*
13 *who are under the age of 19 years on the date*
14 *of the distribution provided for under paragraph*
15 *(4) shall be held by the Secretary in supervised*
16 *individual Indian money accounts. The funds*
17 *from such accounts shall be disbursed over a pe-*
18 *riod of 4 years in payments equaling 25 percent*
19 *of the principal, plus the interest earned on that*
20 *portion of the per capita share. The first pay-*
21 *ment shall be disbursed to individuals who have*
22 *reached the age of 18 years if such individuals*
23 *are deemed legally competent. Subsequent pay-*
24 *ments shall be disbursed within 90 days of the*
25 *individual's following 3 birthdays.*

1 (6) *APPLICABLE LAW.*—*All funds distributed*
2 *under this Act, are subject to the provisions of section*
3 *7 of Public Law 93–134 (25 U.S.C. 1407).*

4 (7) *UNPAID AMOUNTS.*—*All per capita shares be-*
5 *longing to living competent adults certified as eligible*
6 *to share in the judgment fund distribution under this*
7 *section, and the interest earned on those shares, that*
8 *remain unpaid for a period of 6 years shall be added*
9 *to the principal funds that are held and invested in*
10 *accordance with section 3, except that in the case of*
11 *a minor, such 6-year period shall not begin to run*
12 *until the minor reaches the age of majority.*

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

18 (9) *NOT A WAIVER OF TREATY RIGHTS.*—*Receipt*
19 *of a share of the judgment funds under this section*
20 *shall not be construed as a waiver of any existing*
21 *treaty rights pursuant to the “1863 Treaty of Ruby*
22 *Valley”, inclusive of all Articles I through VIII, and*
23 *shall not prevent any Western Shoshone Tribe or*
24 *Band or individual Shoshone Indian from pursuing*
25 *other rights guaranteed by law.*

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

2 *The funds appropriated in satisfaction of the judgment*
3 *awards granted to the Western Shoshone Indians in Docket*
4 *Numbers 326-A-1 and 326-A-3 before the United States*
5 *Court of Claims, and the funds referred to under para-*
6 *graphs (7) and (8) of section 2, together with all earned*
7 *interest, shall be distributed as follows:*

8 (1) *ESTABLISHMENT OF TRUST FUND.*—(A) *not*
9 *later than 120 days after the date of enactment of this*
10 *Act, the Secretary shall establish in the Treasury of*
11 *the United States a trust fund to be known as the*
12 *“Western Shoshone Educational Trust Fund” for the*
13 *benefit of the Western Shoshone members. There shall*
14 *be credited to the Trust Fund the funds described in*
15 *the matter preceding this paragraph.*

16 (B) *The principal in the Trust Fund shall not*
17 *be expended or disbursed. The Trust Fund shall be in-*
18 *vested as provided for in section 1 of the Act of June*
19 *24, 1938 (25 U.S.C. 162a).*

20 (C)(i) *All accumulated and future interest and*
21 *income from the Trust Fund shall be distributed, sub-*
22 *ject to clause (ii)—*

23 (I) *as educational grants and as other*
24 *forms of educational assistance determined*
25 *appropriate by the Administrative Com-*
26 *mittee established under paragraph (2) to*

1 *individual Western Shoshone members as*
2 *required under this Act; and*

3 *(II) to pay the reasonable and nec-*
4 *essary expenses of such Administrative*
5 *Committee (as defined in the written rules*
6 *and procedures of such Committee).*

7 *(ii) Funds shall not be distributed under*
8 *this paragraph on a per capita basis.*

9 (2) *ADMINISTRATIVE COMMITTEE.*—(A) *An Ad-*
10 *ministrative Committee, exclusively comprised of*
11 *Western Shoshone, to oversee the distribution of the*
12 *educational grants and assistance authorized under*
13 *section (3)(2) shall be established as provided for in*
14 *this paragraph.*

15 (B) *The Western Shoshone Administrative Com-*
16 *mittee shall consist of 1 representative from each of*
17 *the following organizations:*

18 (i) *The Te-Moak Tribes of Western Shoshone*
19 *Indians.*

20 (ii) *The Duckwater Shoshone Tribe.*

21 (iii) *The Yomba Shoshone Tribe.*

22 (iv) *The Ely Shoshone Tribe.*

23 (v) *The Western Shoshone Committee of the*
24 *Duck Valley Reservation.*

25 (vi) *The Fallon Band of Western Shoshone.*

1 (vii) *The at-large community.*

2 (C) *Each member of the Committee shall serve*
3 *for a term of 4 years. If a vacancy remains unfilled*
4 *in the membership of the Committee for a period in*
5 *excess of 60 days, the Committee shall appoint a re-*
6 *placement from among qualified members of the orga-*
7 *nization for which the replacement is being made and*
8 *such member shall serve until the organization to be*
9 *represented designates a replacement.*

10 (D) *The Secretary shall consult with the Com-*
11 *mittee on the management and investment of the*
12 *funds subject to distribution under this section.*

13 (E) *The Committee shall have the authority to*
14 *disburse the accumulated interest fund under this Act*
15 *in accordance with the terms of this Act. The Com-*
16 *mittee shall be responsible for ensuring that the funds*
17 *provided through grants and assistance under para-*
18 *graph (1)(C) are utilized in a manner consistent with*
19 *the terms of this Act. In accordance with paragraph*
20 *(1)(C)(i)(II), the Committee may use a portion of the*
21 *interest funds to pay all of the reasonable and nec-*
22 *essary expenses of the Committee, including per diem*
23 *rates for attendance at meetings that are the same as*
24 *those paid to Federal employees in the same geo-*
25 *graphic location.*

1 (F) *The Committee shall develop written rules*
2 *and procedures that include such matters as oper-*
3 *ating procedures, appeals procedures, rules of conduct,*
4 *eligibility criteria for receipt of educational grants or*
5 *assistance (such criteria to be consistent with this*
6 *Act), application selection procedures, fund disburse-*
7 *ment procedures, and fund recoupment procedures.*
8 *Such rules and procedures shall be subject to the ap-*
9 *proval of the Secretary. A portion of the interest*
10 *funds in the Trust Fund, not to exceed \$100,000, may*
11 *be used by the Committee to pay the expenses associ-*
12 *ated with developing such rules and procedures. At*
13 *the discretion of the Committee, and with the ap-*
14 *proval of the appropriate tribal governing body or or-*
15 *ganization, jurisdiction to hear appeals of the Com-*
16 *mittee's decisions may be exercised by a tribal court,*
17 *or a court of Indian offenses operated under section*
18 *11 of title 25, Code of Federal Regulations.*

19 (G) *The Committee shall employ an independent*
20 *certified public accountant to prepare an annual fi-*
21 *nancial statement that includes the operating ex-*
22 *penses of the Committee and the total amount of edu-*
23 *cational grants or assistance disbursed for the fiscal*
24 *year for which the statement is being prepared under*
25 *this section. The Committee shall compile a list of*

1 *names of all individuals approved to receive such*
 2 *grants or assistance during such fiscal year. The fi-*
 3 *nancial statement and the list shall be distributed to*
 4 *each organization represented on the Committee and*
 5 *the Secretary and copies shall be made available to*
 6 *the Western Shoshone members upon request.*

7 **SEC. 4. DEFINITIONS.**

8 *In this Act the following definitions apply:*

9 (1) *ADMINISTRATIVE COMMITTEE; COMMITTEE.—*
 10 *The terms “Administrative Committee” and “Com-*
 11 *mittee” mean the Administrative Committee estab-*
 12 *lished under section 3(2).*

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

15 (3) *TRUST FUND.—The term “Trust Fund”*
 16 *means the Western Shoshone Educational Trust Fund*
 17 *established under section 3(1).*

18 (4) *WESTERN SHOSHONE MEMBERS.—The term*
 19 *“Western Shoshone member” means an individual*
 20 *who appears on a Western Shoshone Band or Tribe*
 21 *Base Roll or an individual who is the lineal descend-*
 22 *ant of an individual appearing on the base roll of one*
 23 *of the Western Bands of the Shoshone Nation of Indi-*
 24 *ans, who meets the criteria of section 2(1) under this*
 25 *Act and for purposes of the trust funds, who—*

1 (A) satisfies all eligibility criteria estab-
2 lished by the Administrative Committee under
3 section 3(F);

4 (B) fulfills all application requirements es-
5 tablished by the Committee; and

6 (C) agrees to utilize funds distributed in ac-
7 cordance with section 3(1)(C)(i)(I) in a manner
8 approved by the Committee for educational pur-
9 poses.

10 (5) WESTERN SHOSHONE IDENTIFIABLE
11 GROUP.—The term “Western Shoshone Identifiable
12 Group” means those individual Western Shoshones
13 identified as claimants by the Indian Claims Com-
14 mission in Dockets 326–K, 326–A–1, and 326–A–3,
15 distinct and severed from the claims of the North-
16 western, Eastern, and Mixed Bands of Shoshones and
17 Bannocks, Lemhi, or Goshute bands of the Shoshone
18 Nation.

19 (6) ABORIGINAL LAND CLAIM.—The term “ab-
20 original land claim” means a claim derived from
21 land where the band, tribe or identifiable group
22 claimed a right of occupancy based on their immemo-
23 rial possession of the area.

1 (7) *BASE ROLL*.—*The term “base roll” means the*
2 *originating census (list) compiled by the Federal Gov-*
3 *ernment that established tribal membership.*

4 ***SEC. 5. REGULATIONS.***

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

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