

WESTERN SHOSHONE CLAIMS DISTRIBUTION ACT

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OCTOBER 7, 2003.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed  
\_\_\_\_\_

Mr. POMBO, from the Committee on Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 884]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 884) 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, 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 all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

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

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

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

(1) JUDGMENT ROLL.—The Secretary shall identify and allocate the resources necessary to establish a Western Shoshone Judgment Roll consisting of all Western Shoshones who—

(A) have at least ¼ degree of Western Shoshone Blood;

(B) are citizens of the United States; and

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

(2) CERTAIN INDIVIDUALS INELIGIBLE.—Any individual determined or certified as eligible by the Secretary to receive a per capita payment from any other

judgment fund, based upon an aboriginal land claim, awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be eligible for enrollment under this Act.

(3) PUBLICATION OF ROLL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register rules and regulations governing the establishment of the Western Shoshone Judgment Roll and shall use any documents acceptable to the Secretary in establishing proof of eligibility. The Secretary's determination on all applications for enrollment under this paragraph shall be final.

(4) PER CAPITA PAYMENTS.—Upon completing the Western Shoshone Judgment Roll under paragraph (1), the Secretary shall make a per capita distribution of 100 percent of the funds described in this section, in a sum as equal as possible, to each person listed on the judgment roll.

(5) CONDITIONS OF PER CAPITA PAYMENTS.—

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

(B) The per capita shares of deceased individuals shall be distributed to their heirs and legatees in accordance with regulations prescribed by the Secretary.

(C) The shares of legally incompetent individuals shall be administered pursuant to regulations and procedures established by the Secretary under section 3(b)(3) of Public Law 93-134 (25 U.S.C. 1403(b)(3)).

(D) The shares of minors and individuals who are under the age of 19 years on the date of the distribution provided for under paragraph (4) shall be held by the Secretary in supervised individual Indian money accounts. The funds from such accounts shall be disbursed over a period of 4 years in payments equaling 25 percent of the principal, plus the interest earned on that portion of the per capita share. The first payment shall be disbursed to individuals who have reached the age of 18 years if such individuals are deemed legally competent. Subsequent payments shall be disbursed within 90 days of the individual's following 3 birthdays.

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

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

(8) RESIDUAL AMOUNTS.—Any other residual principal and interest funds remaining after the distribution under paragraph (4) is complete shall be added to the principal funds that are held and invested in accordance with section 3.

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

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

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

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

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

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

(I) as educational grants and as other forms of educational assistance determined appropriate by the Administrative Committee established

under paragraph (2) to individual Western Shoshone members as required under this Act; and

(II) to pay the reasonable and necessary expenses of such Administrative Committee (as defined in the written rules and procedures of such Committee).

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

(2) ADMINISTRATIVE COMMITTEE.—(A) An Administrative Committee, exclusively comprised of Western Shoshone, to oversee the distribution of the educational grants and assistance authorized under section (3)(2) shall be established as provided for in this paragraph.

(B) The Western Shoshone Administrative Committee shall consist of 1 representative from each of the following organizations:

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

(ii) The Duckwater Shoshone Tribe.

(iii) The Yomba Shoshone Tribe.

(iv) The Ely Shoshone Tribe.

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

(vi) The Fallon Band of Western Shoshone.

(vii) The at-large community.

(C) Each member of the Committee shall serve for a term of 4 years. If a vacancy remains unfilled in the membership of the Committee for a period in excess of 60 days, the Committee shall appoint a replacement from among qualified members of the organization for which the replacement is being made and such member shall serve until the organization to be represented designates a replacement.

(D) The Secretary shall consult with the Committee on the management and investment of the funds subject to distribution under this section.

(E) The Committee shall have the authority to disburse the accumulated interest fund under this Act in accordance with the terms of this Act. The Committee shall be responsible for ensuring that the funds provided through grants and assistance under paragraph (1)(C) are utilized in a manner consistent with the terms of this Act. In accordance with paragraph (1)(C)(i)(II), the Committee may use a portion of the interest funds to pay all of the reasonable and necessary expenses of the Committee, including per diem rates for attendance at meetings that are the same as those paid to Federal employees in the same geographic location.

(F) The Committee shall develop written rules and procedures that include such matters as operating procedures, appeals procedures, rules of conduct, eligibility criteria for receipt of educational grants or assistance (such criteria to be consistent with this Act), application selection procedures, fund disbursement procedures, and fund recoupment procedures. Such rules and procedures shall be subject to the approval of the Secretary. A portion of the interest funds in the Trust Fund, not to exceed \$100,000, may be used by the Committee to pay the expenses associated with developing such rules and procedures. At the discretion of the Committee, and with the approval of the appropriate tribal governing body or organization, jurisdiction to hear appeals of the Committee's decisions may be exercised by a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations.

(G) The Committee shall employ an independent certified public accountant to prepare an annual financial statement that includes the operating expenses of the Committee and the total amount of educational grants or assistance disbursed for the fiscal year for which the statement is being prepared under this section. The Committee shall compile a list of names of all individuals approved to receive such grants or assistance during such fiscal year. The financial statement and the list shall be distributed to each organization represented on the Committee and the Secretary and copies shall be made available to the Western Shoshone members upon request.

#### SEC. 4. DEFINITIONS.

In this Act the following definitions apply:

(1) ADMINISTRATIVE COMMITTEE; COMMITTEE.—The terms “Administrative Committee” and “Committee” mean the Administrative Committee established under section 3(2).

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

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

(4) WESTERN SHOSHONE MEMBERS.—The term “Western Shoshone member” means an individual who appears on a Western Shoshone Band or Tribe Base

Roll or an individual who is the lineal descendant of an individual appearing on the base roll of one of the Western Bands of the Shoshone Nation of Indians, who meets the criteria of section 2(1) under this Act and for purposes of the trust funds, who—

(A) satisfies all eligibility criteria established by the Administrative Committee under section 3(F);

(B) fulfills all application requirements established by the Committee; and

(C) agrees to utilize funds distributed in accordance with section 3(1)(C)(i)(I) in a manner approved by the Committee for educational purposes.

(5) WESTERN SHOSHONE IDENTIFIABLE GROUP.—The term “Western Shoshone Identifiable Group” means those individual Western Shoshones identified as claimants by the Indian Claims Commission in Dockets 326–K, 326–A–1, and 326–A–3, distinct and severed from the claims of the Northwestern, Eastern, and Mixed Bands of Shoshones and Bannocks, Lemhi, or Goshute bands of the Shoshone Nation.

(6) ABORIGINAL LAND CLAIM.—The term “aboriginal land claim” means a claim derived from land where the band, tribe or identifiable group claimed a right of occupancy based on their immemorial possession of the area.

(7) BASE ROLL.—The term “base roll” means the originating census (list) compiled by the Federal Government that established tribal membership.

#### SEC. 5. REGULATIONS.

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

#### PURPOSE OF THE BILL

The purpose of H.R. 884 is 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.

#### BACKGROUND AND NEED FOR LEGISLATION

In 1951, the Te-Moak Bands of Western Shoshone Indians filed two claims with the Indian Claims Commission against the United States. One was a takings claim for the 19th-century loss of aboriginal title to lands located mostly in Nevada, California and Idaho. The other was a general accounting claim. The land claim concluded in 1979, and resulted in an award of \$26.1 million. The accounting claim resulted in awards totaling about \$850,000. These awards, however, have never been distributed. H.R. 884 provides for the distribution of the principal and interest of these awards.

H.R. 884 provides for the use and distribution of the awards (referenced by certain docket numbers). When a hearing on H.R. 884 was held on June 18, 2003, the amount of the judgment funds was estimated to be approximately \$143.9 million, including interest. Using this figure as a basis for this report, under H.R. 884, \$142,472,644 will be paid to eligible Western Shoshones on a per capita share basis. The remaining \$1,386,718 would be used for an education trust fund for the benefit of the Western Shoshone Indians.

The bill specifies the criteria for eligibility for the per capita payments and for distributing the funds for the purposes of the bill. The bill requires the Secretary of the Interior to establish a judgment roll consisting of Western Shoshones who have at least  $\frac{1}{4}$  degree of Western Shoshone blood, are citizens of the United States, and are living at the date of enactment. The Secretary would distribute the approximately \$142 million for the land claim to each eligible person on the judgment roll through a per-capita share.

The \$1.38 million awarded for the accounting claim would be used to establish the “Western Shoshone Educational Trust Fund” for educational grants and other purposes.

One of the main reasons for the delay in distributing funds has to do with disputes among some Western Shoshones over the disposition of the funds. Some Western Shoshone people believe the distribution would preclude them from seeking restoration of title to their aboriginal lands, which they argue did not have its title legitimately extinguished. However, federal court decisions have upheld that the Indian Claims Commission payment is a “full discharge of the United States of all claims and demands touching any of the matters involved in the controversy.” (Section 22(a) of the Indian Claims Commission Act). Section 2(9) of the bill (as introduced and as amended in committee) provides that receiving funds under this bill does not waive the Western Shoshone’s existing treaty rights or ability to pursue other rights as guaranteed in law.

During the hearing and later markup of the bill, there was considerable discussion concerning whether a majority, and how large a majority, of the Western Shoshone people favor a distribution of the judgment funds. While there is disagreement among some factions of the Western Shoshone community, it is the judgment of the Department of the Interior that H.R. 884 “reflects the wishes of the vast majority of the Western Shoshone people.” Statement on H.R. 844 of Michael D. Olsen, Counselor to the Assistant Secretary for Indian Affairs, June 18, 2003. More important, there was no evidence provided by dissidents to prove that enactment of this bill of the judgment funds would affect the legal rights of the Western Shoshone.

The basic purpose of this bill is to distribute certain judgment funds that have remained out of reach of their rightful owners for several decades. Delaying the distribution of the funds is unreasonable and unfair.

Similar bills to provide for a distribution of the judgment funds were introduced in the 107th Congress. One of the bills, S. 958, was passed by the Senate and referred to the House Resources Committee, but was not considered further because Congress adjourned.

#### COMMITTEE ACTION

H.R. 884 was introduced on February 25, 2003, by Congressman Jim Gibbons (R–NV). The bill was referred to the Committee on Resources. On June 18, 2003, the Full Committee held a hearing on the bill. On September 24, 2003, the Full Resources Committee met to consider the bill. Congressman Gibbons offered an amendment in the nature of a substitute which made several technical changes to the bill, including clarifying which members of the Western Shoshone Nation are eligible for judgment fund distribution, setting a time frame in which the Interior Department is supposed to act, and adding definitions of certain terms contained in the underlying text. Congressman Nick J. Rahall II offered an amendment to the amendment in the nature of a substitute; however, a point of order was sustained against it. The amendment in the nature of a substitute was agreed to by voice vote. The bill, as

amended, was then ordered favorably reported to the House of Representatives by a rollcall vote of 21 to 14, as follows:



## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII 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 ("The Congress shall have the power to \* \* \* regulate commerce \* \* \* with the Indian Tribes;") grants Congress the authority to enact this bill.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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 this bill. However, clause 3(d)(3)(B) 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 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII 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 this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 25, 2003.*

Hon. RICHARD W. POMBO,  
*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. 884, the Western Shoshone Claims Distribution Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 884—Western Shoshone Claims Distribution Act*

H.R. 884 would establish procedures for the distribution of about \$143 million in judgment awards held in trust funds on behalf of



the members of the Western Shoshone tribes. Under current law, the funds cannot be spent or distributed by the tribes until the Congress approves a plan to allocate the funds.

The tribes were awarded over \$26 million in 1979 as compensation for the federal government's taking of tribal land in California and Nevada and the removal of minerals from that land. H.R. 884 would provide for payments to eligible members of the Western Shoshone tribes of the \$26 million plus interest earned on that amount—a total of about \$143 million.

H.R. 884 also would allow for the distribution of interest earnings on about \$1.4 million that was awarded by the Court of Federal Claims to the Western Shoshone for the federal government's improper accounting of tribal funds. Under the bill, the interest on that trust fund would be used to make educational grants or to provide other education assistance to Western Shoshone members and to pay for the administrative expenses of the disbursement committee.

Those trust funds are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes and are treated in the budget as nonfederal entities. As a result, outlays were recorded on the budget when the judgments were awarded to the tribes and paid into those funds, and there is no budgetary impact when the money is distributed to the individual members of the tribes. Therefore, CBO estimates that enacting H.R. 884 would have no effect on the federal budget.

H.R. 884 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On August 19, 2003, CBO transmitted a cost estimate for S. 618, the Western Shoshone Claims Distribution Act, as ordered reported by the Senate Committee on Indian Affairs on July 16, 2003. The language of the bills are similar and the cost estimates are identical.

The CBO staff contact for this estimate is Lanette J. Walker. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

## WESTERN SHOSHONE TRIBAL ENROLLMENT

**2000 CENSUS – 2/25/02<sup>1</sup>** Includes children and adults  
( Subject to Change Daily due to Deaths and Births)

RANKED BY POPULATION	TOTAL ENROLLED SHOSHONE Children & adults	67% VOTING AGE	VOTING MEMBERS	RESERVATION ESTABLISHED	SIZE
ELKO **	1,495	1001	772	1918 & 31	192 ac
FALLON	334	224	180	1,001 1907 & 17	8,120 ac
BATTLE MOUNTAIN **	572	383	voted Elko	1917 & 64	683 ac
DUCKVALLEY	597	400	337	2,155-1887 / '86-*	289,819 ac
DUCKWATER **	337	225	151	1940 & 44	3,814 ac
ELY**	294	197	151	1930 & 57	111 ac
SOUTH FORK**	258	172	voted Elko	1937 & 41	13,693 ac
MCDERMITT	25	16	voted Elko	875 1936	*34,604 ac
TIMBISHA, CA	UA	voting: 31	31	240 1999	*7,000+ ac
YOMBA**	214	143	82	1934 & 37	4,718 ac
WELLS**	195	130	voted Elko	1977	80 ac
WINNEMUCCA	approximate 21	14	voted Elko	77 1936	360 ac

**TOTAL: 4,342 2,936 1,803 or 61.4 % of eligible voters voted**

Shoshones who were adopted into Paiute tribes, voted with Fallon – “other” ; under “ total enrolled Shoshone” it is possible that some of those people may have taken Paiute or other Indian awards, which would LOWER % row

**Te-Moak:** Has four bands that individually are not IRA tribes recognized by the BIA; Te-Moak as a whole is IRA recognized. Must act as one. (“name claimant” in ICC case for administrative purposes only due to “scattered” status of “Western Shoshone Identifiable Group”, Docket 326-K):

- Elko, Battle Mountain, South Fork, Wells = 2,520 \*reservation
- 4 representatives from Elko Band land crosses
- 2 representatives from Battle Mountain Band state line
- 2 representatives from South Fork Band \*\* “Successor Tribes”, 1982
- 1 representative from Wells Band

**NEVADA, TOTAL enrolled INDIAN census POPULATION: 12,607 ( Paiute, Washoe, Shoshone)**

<sup>1</sup> 2/25/02: Percent of distribution for Indians under age 18 is 32.7%; age 18-64 is 60.1%; age 65 & over is 7.2%

## DISSENTING VIEWS

The issue of the distribution of funds raised by H.R. 884 has come before the House Resources Committee several times, and each time the legislation has failed to be enacted. It has failed generally over the same problem—the lack of a showing of strong support within the Western Shoshone Indian population and among the federally recognized Western Shoshone tribes. This problem still exists and the bill should not be moved until it is appropriately addressed.

The Committee held a hearing on this bill on June 18th of this year. At that time the Administration witness promised to provide additional information to the Committee to support its claim that a “vast majority” of Western Shoshone supported the distribution of the claims judgment as provided for under this legislation. Representative Tom Udall, requested documentation on this assertion and was promised it would be provided to the Committee. A full fifteen weeks later, and despite repeated calls to the Interior Department, no documentation has been sent and we are still waiting for this information.

This goes right to the heart of the question of support for this bill. It is premature to move this legislation forward. We do not have all of the facts and by this point in time one must question whether or not the Department has any such documentation.

We do not have documentation showing the “vast majority” of Western Shoshone Indians support this legislation nor tribally passed resolutions from the majority of tribes in support.

In addition, we are uncomfortable with the assertion that Congress should distribute over \$130 million of Western Shoshone money based on a so called “straw poll” taken by an unofficial ad hoc committee known as the Western Shoshone Steering Committee. By all accounts the Steering Committee was comprised of very dedicated, hard working, honest Western Shoshone Indians.

The problem is that by the very nature of being an ad hoc committee, we are left with no official tribal or federal documentation as to the specifics of how the straw poll vote was taken. We have no consistent and specific information on voter eligibility, voter education, absentee information, sample ballot information, and ballot counting rules that were followed.

Further, the bill contains no process to expand the land base of the various Western Shoshone Indian tribes. Perhaps the one thing the Western Shoshone tribes can agree on is the need for more land. There is no doubt that the ancestral lands of the Western Shoshone are rich in natural resources and minerals. Some estimates have put the value of mining receipts on these lands in the tens of billions since the 1960's.

Western Shoshone Indians are spread across at least three States working hard to eke out a living and provide for their fami-

lies. Elders wonder if they will ever see judgment fund distribution checks. Western Shoshone tribes struggle to keep their sovereign governments afloat with very limited resources available for economic development while others become wealthy off of what used to be Shoshone land.

The National Congress of American Indians (NCAI) which is the oldest and largest national Indian organization passed Resolution #SD-02-017 in November, 2002 which states in part:

\* \* \* Now Therefore Be It Resolved, that the NCAI does hereby call upon the United States to make a legislative commitment to enter into land talks with the Western Shoshone Nation

Representative Nick Rahall, II, offered an amendment during mark up of this legislation which would have directed the Secretary of Interior to enter into discussions with the various Western Shoshone tribes for the purposes of identifying specific land parcels appropriate for adding to each tribe's land base. In addition the amendment would have exempted the judgment funds distributed from taxation or from counting against the recipient in any government program. Finally, the amendment would have required that an audit of the judgment funds be conducted by the Secretary of Interior prior to the funds' distribution. The amendment was objected to and ruled out-of-order.

H.R. 884 as ordered reported by the Committee on Resources establishes a "Western Shoshone Educational Trust Fund." Changes were made to this section at mark up which we feel will cause it to fail as a long lasting education fund. The amended bill now defines the term "Western Shoshone member" as "an individual who is a lineal descendant of an individual appearing on the base roll of one of the Western Bands of the Western Shoshone Nation of Indians, who meets the criterion of section 2(1) under this Act \* \* \*"

Section 2(1) sets out three requirements to be enrolled on the "Western Shoshone Judgment Roll" to receive a per capital share of the Docket 326-K funds. The third requirement, set forth in section 2(1)(C), is that the individual is "\* \* \* living on the date of enactment of this Act." There are problems with the requirements to receive educational benefits.

The first is that individual must appear on the "Western Shoshone Judgment Roll" and appear on "a Western Shoshone Band or Tribe Base Roll" or be a lineal descendant or an individual appearing on the base roll. We have been informed that there are people who will appear on the "Western Shoshone Judgment Roll" who are not listed on a "base roll" or a lineal descent of someone who is. It is unclear why this additional burden has been added.

An additional problem is that all persons born after the date of enactment will be prohibited from receiving educational benefits. Once all eligible persons born on the date of enactment receive benefits or decline to apply, any remaining monies in the Western Shoshone Educational Trust Fund will continue to accrue dividends and interest presumably growing ad infinitum. The fund will grow but Western Shoshone youth will have no way to tap into the resources.

Some simple amendments to this legislation could go a long way to addressing many concerns, however, the bill is on a fast track to move leaving little option remaining but to oppose its passage.

In the year 2003, Congress should pass such legislation only when we are assured of tribal support and the government-to-government partnership has been respected.

NICK J. RAHALL.  
TOM UDALL.  
MARK UDALL.  
DONNA M. CHRISTENSEN.  
MADELEINE Z. BORDALLO.  
FRANK PALLONE, JR.

