

107TH CONGRESS
2D SESSION

H. R. 5177

To provide for the use and distribution of the funds awarded to the Gila River Pima-Maricopa Indian Community under United States Court of Federal claims Docket Nos. 236–C, 236–D, 236–N, and 228, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2002

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

A BILL

To provide for the use and distribution of the funds awarded to the Gila River Pima-Maricopa Indian Community under United States Court of Federal claims Docket Nos. 236–C, 236–D, 236–N, and 228, 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. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—GILA RIVER JUDGMENT FUND DISTRIBUTION

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Distribution of judgment funds.

Sec. 104. Definitions.
 Sec. 105. General Provisions.

TITLE II—AMENDMENT TO COMMUNITY’S PRIOR JUDGMENT FUND PLANS

Sec. 201. Amendment to plan for use and distribution of funds awarded in
 Docket No. 228.
 Sec. 202. Amendment to plan for use and distribution of funds awarded in
 Docket No. 236–N.

TITLE III—EXPERT ASSISTANCE LOANS

Sec. 301. Waiver of repayment of expert assistance loans to Community, Oglala
 Sioux tribe, Pueblo of Santo Domingo, and Seminole Nation of
 Oklahoma.

1 **TITLE I—GILA RIVER JUDGMENT** 2 **FUND DISTRIBUTION**

3 **SEC. 101. SHORT TITLE**

4 This title may be cited as the “Gila River Indian
 5 Community Judgment Fund Distribution Act of 2002”.

6 **SEC. 102. FINDINGS.**

7 Congress finds the following:

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

15 (2) All original 14 dockets under Docket No.
 16 236 have been resolved and funds distributed, except
 17 for Docket Nos. 236–C and 236–D, which remain
 18 undistributed.

1 (3) In Gila River Pima-Maricopa Indian Com-
2 munity v. United States, 29 Ind. Cl. Comm. 144
3 (1972), the Indian Claims Commission held that the
4 United States, as trustee, was liable to the Commu-
5 nity as to the claims made in Docket 236–C.

6 (4) In Gila River Pima-Maricopa Indian Com-
7 munity v. United States, 684 F.2d 852 (1982), the
8 United States Court of Claims held that the United
9 States, as trustee, was liable to the Community as
10 to the claims made in Docket 236–D.

11 (5) With the approval of the Community under
12 Community Resolution GR–98–98, the Community
13 entered into a settlement with the United States for
14 claims made under Dockets 236–C and 236–D on
15 April 27, 1999, for an aggregate total of
16 \$7,000,000.

17 (6) On May 3, 1999, the United States Court
18 of Federal Claims ordered that a final judgment be
19 entered in consolidated Dockets 236–C and 236–D
20 for \$7,000,000 in favor of the Community and
21 against the United States.

22 (7) On October 6, 1999, the Department of the
23 Treasury certified the payment of \$7,000,000, less
24 attorney fees, to be deposited into a trust account on
25 behalf of the Community, and to which such pay-

1 ment was made into a trust account managed by the
2 Office of Trust Funds Management of the Depart-
3 ment of the Interior.

4 (8) Pursuant to the Indian Tribal Judgment
5 Funds Use or Distribution Act (25 U.S.C. 1401, et
6 seq.) as amended and implemented by 25 CFR Part
7 87, the Secretary is required to submit an Indian
8 judgment fund use or distribution plan to Congress
9 for approval.

10 **SEC. 103. DISTRIBUTION OF JUDGMENT FUNDS.**

11 (a) PER CAPITA PAYMENTS.—Notwithstanding any
12 provision of the Indian Tribal Judgment Funds Use or
13 Distribution Act, or any other law, regulation, or plan pro-
14 mulgated pursuant thereto, the funds appropriated on Oc-
15 tober 6, 1999, in satisfaction of an award granted to the
16 Gila River Indian Community in Dockets 236–C and 236–
17 D before the United States Court of Federal Claims, less
18 attorney fees and litigation expenses, and including all ac-
19 rued interest shall be distributed in the form of per capita
20 payments (in sums as equal as possible) to all eligible en-
21 rolled members of the Community.

22 (b) PREPARATION OF PAYMENT ROLL.—The Com-
23 munity shall prepare the payment roll in accordance with
24 the following criteria:

1 (1) Subject to eligibility requirements under
2 paragraph (2), the following individuals shall be eli-
3 gible to be listed on the payment roll and eligible to
4 receive a per capita payment from the Judgment
5 Fund:

6 (A) All enrolled Community members who
7 are eligible to be listed on the per capita pay-
8 ment roll that was approved by the Secretary
9 for the distribution of the funds awarded to the
10 Community in Docket No. 236–N, including
11 those who were inadvertently omitted from such
12 roll.

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

15 (C) All enrolled Community members who
16 have died after the effective date of the pay-
17 ment plan for Docket No. 236–N and on or
18 prior to the date of enactment of this Act.

19 (2) The following individuals shall be ineligible
20 to be listed on the payment roll prepared under this
21 Act and ineligible to receive a per capita payment
22 from the Judgment Fund:

23 (A) Any individual who has relinquished
24 membership with the Community prior to the
25 date the Community certifies their payment roll

1 for the eligible adult members under this sec-
2 tion.

3 (B) Any minor who has relinquished mem-
4 bership with the Community, or whose parent
5 or legal guardian has relinquished membership
6 on their behalf, prior to the date that the minor
7 is 18 years of age.

8 (C) Any individual who has been
9 disenrolled by the Community for just cause,
10 such as dual enrollment or failure to meet the
11 eligibility requirements for enrollment.

12 (D) Any individual who has been deter-
13 mined or certified as eligible by the Secretary to
14 receive per capita payment from any judgment
15 fund that was awarded to another community,
16 tribe or tribal entity if that the judgment fund
17 was appropriated on or before the date of en-
18 actment of this Act.

19 (E) Any individual who has not enrolled as
20 a member of the Community on or before the
21 90th day after the date of the enactment of this
22 Act.

23 (c) NOTICE TO SECRETARY.—When the Community
24 has prepared and approved its payment roll, the Commu-
25 nity shall notify the Secretary of the total number of indi-

1 individuals eligible to share in the per capita distribution. The
2 total number shall be subdivided into the number of shares
3 that belong to eligible living adult tribal members, and the
4 number of shares that belong to deceased individuals, le-
5 gally incompetent individuals, and minors.

6 (d) INFORMATION PROVIDED TO SECRETARY.—The
7 Community shall provide the Secretary with the enroll-
8 ment information necessary to allow the Secretary to es-
9 tablish estate accounts for the deceased individuals, and
10 IIM accounts for legally incompetent individuals and mi-
11 nors.

12 (e) DISBURSEMENT OF FUNDS.—Not later than 30
13 days after the payment roll has been approved by the
14 Community and the Community has reconciled the num-
15 ber of shares that belong in each payment category, the
16 Secretary shall disburse to the Community the funds nec-
17 essary to make the per capita distribution to the eligible
18 living adult tribal members. Once the funds are disbursed
19 to the Community, the Community shall be responsible for
20 administering and distributing the funds.

21 (f) SHARES OF DECEASED INDIVIDUALS.—The Sec-
22 retary shall distribute the per capita shares of deceased
23 individuals to their heirs and legatees in accordance with
24 existing regulations prescribed by the Secretary. If a final
25 determination is made that the decedent has no heirs, the

1 per capita share and the interest earned on that share
2 shall revert to the Community and be deposited into the
3 Community's general fund.

4 (g) SHARES OF LEGALLY INCOMPETENT INDIVID-
5 UALS.—The Secretary shall deposit the shares of legally
6 incompetent individuals into supervised IIM accounts.
7 These IIM accounts shall be administered pursuant to ex-
8 isting regulations and procedures established by the Sec-
9 retary.

10 (h) SHARES OF MINORS.—The Secretary shall de-
11 posit the shares of minors into supervised IIM accounts.
12 The provisions contained in section 3(b)(3) of the Indian
13 Tribal Judgment Funds Use and Distribution Act (25
14 U.S.C. 1403(b)(3)) shall not apply to the minor's per cap-
15 ita shares held by the Secretary under this Act. The Sec-
16 retary shall hold the minor's per capita shares in trust
17 until the minor is 18 years of age. None of the Judgment
18 Funds or the interest earned on those funds shall be dis-
19 bursed from the minor's account until the minor is 18
20 years of age.

21 (i) PAYMENT OF ELIGIBLE INDIVIDUALS NOT LIST-
22 ED ON PAYMENT ROLL.—An individual who is not listed
23 on the payment roll, but is eligible to receive payment,
24 may be paid from any residual principal and interest funds
25 remaining after the Community has made its per capita

1 distribution and the IIM accounts have been established.
2 If the residual Judgment Funds are insufficient to cover
3 the cost of such payment, the Community may pay the
4 individual from its Community-owned Funds. The Sec-
5 retary is authorized to accept and deposit such funds into
6 an IIM or estate account established for a minor, legal
7 incompetent, or deceased beneficiary that the Community
8 has identified as being eligible to receive payment under
9 this section, but who was not paid from the Judgment
10 Fund. The Secretary shall invest these funds pursuant to
11 existing statutory authority.

12 (j) USE OF RESIDUAL FUNDS.—Upon request by the
13 Community, any residual principal and interest funds re-
14 maining after the Community has declared per capita dis-
15 tribution complete shall be disbursed to the Community
16 and deposited into the Community's general fund.

17 (k) NONAPPLICABILITY OF CERTAIN LAW.—Notwith-
18 standing any other provision of law, the Indian Gaming
19 Regulatory Act (25 U.S.C. 2701, et seq.), shall not apply
20 to Community-owned Funds used by the Community to
21 cover shortfalls in funding necessary to make payments
22 to individuals not listed on the payment roll, but eligible
23 to receive payment as described under subsection (i) of
24 this section.

1 **SEC. 104. DEFINITIONS.**

2 As used in this title:

3 (1) ADULT.—The term “adult” means an indi-
4 vidual who—

5 (A) is 18 years of age or older on the date
6 the payment roll is approved by the Commu-
7 nity; or

8 (B) will reach 18 years of age not later
9 than 30 days after the date that the payment
10 roll is approved by the Community.

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

13 (3) COMMUNITY-OWNED FUNDS.—The term
14 “Community-owned Funds” means funds currently
15 held in trust by the Secretary that can be made
16 available to make payments under section 103, or
17 revenues held by the Community that are derived
18 from community-owned enterprises.

19 (4) IIM.—The term “IIM” means individual
20 Indian money account.

21 (5) JUDGMENT FUND.—The term “Judgment
22 Fund” means the funds awarded to the Community
23 by the Court of Federal Claims in Dockets 236–C
24 and 236–D.

25 (6) LEGAL INCOMPETENT.—The term “legal in-
26 competent” means an individual who has been deter-

1 mined incapable of managing their own affairs by a
2 court of competent jurisdiction.

3 (7) MINOR.—The term “minor” means an indi-
4 vidual who is less than 18 years of age on the date
5 the payment roll is approved by the Community, or
6 who will not reach 18 years of age by the date that
7 is 30 days after the date that the payment roll is ap-
8 proved by the Community.

9 (8) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 **SEC. 105. GENERAL PROVISIONS.**

12 (a) RESPONSIBILITY FOR FUNDS—After the funds
13 are disbursed to the Community as provided under section
14 103(e), the United States and the Secretary shall no
15 longer have any trust responsibility for the investment, su-
16 pervision, administration, or expenditure of that portion
17 of the Judgment Funds. The funds subject to subsections
18 (f) and (g) of section 103 shall continue to be held in trust
19 by the Secretary until disbursed under this Act.

20 (b) APPLICABILITY OF OTHER LAW.—All funds dis-
21 tributed under this Act are subject to the provisions of
22 sections 7 and 8 of Public Law 93–134 (25 U.S.C. 1407
23 and 1408, respectively).

1 **TITLE II—AMENDMENT TO COM-**
2 **MUNITY’S PRIOR JUDGMENT**
3 **FUND PLANS**

4 **SEC. 201. AMENDMENT TO PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN**
5
6 **DOCKET 228.**

7 A judgment fund plan for the funds awarded to the
8 Community in Docket No. 228 was submitted to Congress
9 under the provisions of the Act of October 19, 1973 (25
10 U.S.C. 1401, et seq.). The plan became effective on Au-
11 gust 10, 1986, and was published in the Federal Register
12 on March 5, 1987 (52 FR 6887). The plan was amended
13 by the Act of October 16, 1986, Public Law 99–493 (100
14 Stat. 1241). The plan is further amended to include the
15 following paragraphs:

16 “(1) The provisions contained in section 3(b)(3)
17 of the Indian Tribal Judgment Funds Use and Dis-
18 tribution Act (25 U.S.C. 1403(b)(3)) shall not apply
19 to minors’ remaining per capita shares held by the
20 Secretary under this plan, as of the date of the en-
21 actment of the Gila River Indian Community Judg-
22 ment Fund Distribution Act of 2002. The Secretary
23 shall hold the minors’ per capita shares in trust
24 until the minors reach 18 years of age. None of the
25 judgment funds or the interest earned on those

1 funds shall be disbursed from the minors' accounts
 2 until the minors reach 18 years of age.

3 “(2) Upon the request of the Community, any
 4 residual principal and interest funds remaining after
 5 the Community has declared the per capita distribu-
 6 tion complete shall be disbursed to the Community
 7 and deposited into the Community's general fund.”.

8 **SEC. 202. AMENDMENT TO PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN**
 9 **DOCKET 236-N.**
 10

11 A judgment fund plan for the funds awarded to the
 12 Community in Docket 236-N was submitted to Congress
 13 under the provisions of the Act of October 19, 1973 (25
 14 U.S.C. 1401 et seq.). The plan became effective on May
 15 9, 1994, and was published in the Federal Register on
 16 June 16, 1994 (59 FR 31092). The “Per Capita Aspect”
 17 and the “General Provisions” portions of the plan are
 18 amended as follows:

19 (1) PER CAPITA ASPECT AMENDMENTS.—The
 20 last sentence of the paragraph that relates to the
 21 use of remaining amounts shall be amended to read
 22 as follows: “Upon request from the Community, any
 23 residual principal and interest funds remaining after
 24 the Community has declared the per capita distribu-

1 tion complete shall be disbursed to the Community
2 and deposited into the Community’s general fund.”.

3 (2) GENERAL PROVISIONS AMENDMENTS.—The
4 word “minors” shall be deleted from the third sen-
5 tence of the first paragraph and the following para-
6 graph shall be inserted between the first and second
7 paragraph:

8 “The provisions contained in section 3(b)(3) of
9 the Indian Tribal Judgment Funds Use and Dis-
10 tribution Act (25 U.S.C. 1403(b)(3)) shall not apply
11 to the remaining minors’ per capita shares held by
12 the Secretary under this plan, as of the date of the
13 enactment of the Gila River Indian Community
14 Judgment Fund Distribution Act of 2002. The Sec-
15 retary shall hold the minors’ per capita shares in
16 trust until the minor is 18 years of age. None of the
17 judgment funds or the interest earned on those
18 funds shall be disbursed from the minors’ account
19 until the minor is 18 years of age.”.

1 **TITLE III—EXPERT ASSISTANCE**
2 **LOANS**

3 **SEC. 301. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE**
4 **LOANS TO COMMUNITY; OGLALA SIOUX**
5 **TRIBE; PUEBLO OF SANTO DOMINGO; AND**
6 **SEMINOLE NATION OF OKLAHOMA.**

7 (a) GILA RIVER INDIAN COMMUNITY.—Notwith-
8 standing any other provision of law, the balance of all out-
9 standing expert assistance loans made to the Gila River
10 Indian Community under the authority of Public Law 88–
11 168 (77 Stat. 301), and relating to Gila River Indian
12 Community v. United States (United States Court of Fed-
13 eral Claims Docket Nos. 228, 236, and its associated sub-
14 dockets), are canceled and the Secretary of the Interior
15 shall take such action as may be necessary to document
16 such cancellation and to release the Gila River Indian
17 Community from any liability associated with such loans.

18 (b) OGLALA SIOUX TRIBE.—Notwithstanding any
19 other provision of law, the balances of all outstanding ex-
20 pert assistance loans made to the Oglala Sioux Tribe
21 under the authority of Public Law 88–168 (77 Stat. 301)
22 and relating to Oglala Sioux Tribe v. United States
23 (United States Court of Federal Claims Docket No. 117
24 and its associated subdockets) are canceled and the Sec-
25 retary of the Interior shall take such action as may be

1 necessary to document the cancellation and to release the
2 Oglala Sioux Tribe from any liability associated with those
3 loans.

4 (c) SEMINOLE NATION OF OKLAHOMA.—Notwith-
5 standing any other provision of law, the balances of all
6 outstanding expert assistance loans made to the Seminole
7 Nation of Oklahoma under the authority of Public Law
8 88–168 (77 Stat. 301), and relating to Seminole Nation
9 v. United States (United States Court of Federal Claims
10 Docket No. 247), are canceled and the Secretary of the
11 Interior shall take such action as may be necessary to doc-
12 ument the cancellation and to release the Seminole Nation
13 of Oklahoma from any liability associated with those
14 loans.

○