

108TH CONGRESS
1ST SESSION

S. 618

AN ACT

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

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

6 (2) WESTERN SHOSHONE JOINT JUDGMENT
7 FUNDS.—The term “Western Shoshone joint judg-
8 ment funds” means—

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

14 (B) all interest earned on those funds.

15 (3) WESTERN SHOSHONE JUDGMENT FUNDS.—
16 The term “Western Shoshone judgment funds”
17 means—

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

22 (B) all interest earned on those funds.

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

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

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

6 (7) WESTERN SHOSHONE MEMBER.—The term
7 “Western Shoshone member” means an individual
8 who—

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

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

12 (B)(i) satisfies all eligibility criteria estab-
13 lished by the Committee under section
14 4(e)(4)(D)(iii);

15 (ii) meets any application requirements es-
16 tablished by the Committee; and

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

20 **SEC. 3. DISTRIBUTION OF WESTERN SHOSHONE JUDGMENT**
21 **FUNDS.**

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

24 (b) JUDGMENT ROLL.—

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

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

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

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

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

18 (3) REGULATIONS REGARDING JUDGMENT
19 ROLL.—The Secretary shall—

20 (A) publish in the Federal Register all reg-
21 ulations governing the establishment of the
22 judgment roll; and

23 (B) use any documents acceptable to the
24 Secretary in establishing proof of eligibility of
25 an individual to—

- 1 (i) be listed on the judgment roll; and
2 (ii) receive a per capita payment
3 under this Act.

4 (4) FINALITY OF DETERMINATION.—The deter-
5 mination of the Secretary on an application of an in-
6 dividual to be listed on the judgment roll shall be
7 final.

8 (c) DISTRIBUTION.—

9 (1) IN GENERAL.—On establishment of the
10 judgment roll, the Secretary shall make a per capita
11 distribution of 100 percent of the Western Shoshone
12 judgment funds, in shares as equal as practicable, to
13 each person listed on the judgment roll.

14 (2) REQUIREMENTS FOR DISTRIBUTION PAY-
15 MENTS.—

16 (A) LIVING COMPETENT INDIVIDUALS.—
17 The per capita share of a living, competent in-
18 dividual who is 19 years or older on the date
19 of distribution of the Western Shoshone judg-
20 ment funds under paragraph (1) shall be paid
21 directly to the individual.

22 (B) LIVING, LEGALLY INCOMPETENT INDI-
23 VIDUALS.—The per capita share of a living, le-
24 gally incompetent individual shall be adminis-
25 tered in accordance with regulations promul-

1 gated and procedures established by the Sec-
2 retary under section 3(b)(3) of the Indian Trib-
3 al Judgment Funds Use or Distribution Act
4 (25 U.S.C. 1403(b)(3)).

5 (C) DECEASED INDIVIDUALS.—The per
6 capita share of an individual who is deceased as
7 of the date of distribution of the Western Sho-
8 shone judgment funds under paragraph (1)
9 shall be paid to the heirs and legatees of the in-
10 dividual in accordance with regulations promul-
11 gated by the Secretary.

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

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

19 (ii) distributed to the individual—

20 (I) after the individual has
21 reached the age of 18 years; and

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

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

9 (bb) with respect to the 3
10 remaining payments, not later
11 than 90 days after each of the 3
12 subsequent birthdays of the indi-
13 vidual.

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

19 (A) be subject to Federal or State income
20 taxation;

21 (B) be considered to be income or re-
22 sources for any purpose; or

23 (C) be used as a basis for denying or re-
24 ducing financial assistance or any other benefit
25 to which a household or Western Shoshone

1 member would otherwise be entitled to receive
2 under—

- 3 (i) the Social Security Act (42 U.S.C.
4 301 et seq.); or
5 (ii) any other Federal or federally-as-
6 sisted program.

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

10 (A) all per capita shares (including interest
11 earned on those shares) of living competent
12 adults listed on the judgment roll that remain
13 unpaid as of the date that is—

14 (i) 6 years after the date of distribu-
15 tion of the Western Shoshone judgment
16 funds under paragraph (1); or

17 (ii) in the case of an individual de-
18 scribed in paragraph (2)(D), 6 years after
19 the date on which the individual reaches
20 18 years of age; and

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

1 **SEC. 4. DISTRIBUTION OF WESTERN SHOSHONE JOINT**
 2 **JUDGMENT FUNDS.**

3 (a) IN GENERAL.—The Western Shoshone joint judg-
 4 ment funds shall be distributed in accordance with this
 5 section.

6 (b) WESTERN SHOSHONE EDUCATIONAL TRUST
 7 FUND.—

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

14 (A) the Western Shoshone joint judgment
 15 funds; and

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

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

19 (A) the principal amount—

20 (i) shall not be expended or disbursed;

21 and

22 (ii) shall be invested in accordance
 23 with section 1 of the Act of June 24, 1938

24 (25 U.S.C. 162a); and

1 (B) all interest income earned on the prin-
 2 cipal amount after the date of establishment of
 3 the Trust fund—

4 (i) shall be distributed by the
 5 Committee—

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

12 (II) to pay the reasonable and
 13 necessary expenses of the Committee
 14 (as defined in the written rules and
 15 procedures of the Committee); but

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

18 (c) ADMINISTRATIVE COMMITTEE.—

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

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

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

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

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

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

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

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

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

19 (3) TERM.—

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

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

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

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

10 (4) DUTIES.—The Committee shall—

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

13 (B) for each fiscal year, compile a list of
14 names of all individuals approved to receive
15 those funds;

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

18 (D) develop written rules and procedures,
19 subject to the approval of the Secretary, that
20 cover such matters as—

21 (i) operating procedures;

22 (ii) rules of conduct;

23 (iii) eligibility criteria for receipt of
24 funds under subsection (b)(2)(B)(i);

25 (iv) application selection procedures;

1 (v) procedures for appeals to decisions
2 of the Committee;

3 (vi) fund disbursement procedures;
4 and

5 (vii) fund recoupment procedures;

6 (E) carry out financial management in ac-
7 cordance with paragraph (6); and

8 (F) in accordance with subsection
9 (b)(2)(C)(ii), use a portion of the interest funds
10 from the Trust Fund to pay the reasonable and
11 necessary expenses of the Committee (including
12 per diem rates for attendance at meetings that
13 are equal to those paid to Federal employees in
14 the same geographic location), except that not
15 more than \$100,000 of those funds may be
16 used to develop written rules and procedures
17 described in subparagraph (D).

18 (5) JURISDICTION OF TRIBAL COURTS.—At the
19 discretion of the Committee and with the approval of
20 the appropriate tribal government, a tribal court, or
21 a court of Indian offenses operated under section 11
22 of title 25, Code of Federal Regulations (or a suc-
23 cessor regulation), shall have jurisdiction to hear an
24 appeal of a decision of the Committee.

25 (6) FINANCIAL MANAGEMENT.—

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

5 (i) the operating expenses of the Com-
6 mittee for the fiscal year; and

7 (ii) the total amount of funds dis-
8 bursed under subsection (b)(2)(B)(i) for
9 the fiscal year.

10 (B) DISTRIBUTION OF INFORMATION.—

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

16 (i) the financial statement prepared
17 under subparagraph (A); and

18 (ii) the list of names compiled under
19 paragraph (4)(B).

20 (d) CONSULTATION.—The Secretary shall consult
21 with the Committee on the management and investment
22 of the funds distributed under this section.

1 **SEC. 5. REGULATIONS.**

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

 Passed the Senate October 17 (legislative day, October 16), 2003.

Attest:

Secretary.

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