

105TH CONGRESS
2^D SESSION

S. 391

AMENDMENT

In the House of Representatives, U. S.,

October 10, 1998.

Resolved, That the bill from the Senate (S. 391) entitled “An Act to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Mississippi Sioux Tribes*
3 *Judgment Fund Distribution Act of 1998”.*

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) *COVERED INDIAN TRIBE.*—*The term “covered*
7 *Indian tribe” means an Indian tribe listed in section*
8 *4(a).*

9 (2) *FUND ACCOUNT.*—*The term “Fund Account”*
10 *means the consolidated account for tribal trust funds*
11 *in the Treasury of the United States that is managed*
12 *by the Secretary—*

13 (A) *through the Office of Trust Fund Man-*
14 *agement of the Department of the Interior; and*

1 (B) *in accordance with the American In-*
2 *dian Trust Fund Management Reform Act of*
3 *1994 (25 U.S.C. 4001 et seq.).*

4 (3) *SECRETARY.*—*The term “Secretary” means*
5 *the Secretary of the Interior.*

6 (4) *TRIBAL GOVERNING BODY.*—*The term “tribal*
7 *governing body” means the duly elected governing*
8 *body of a covered Indian tribe.*

9 **SEC. 3. DISTRIBUTION TO, AND USE OF CERTAIN FUNDS BY,**
10 **THE SISSETON AND WAHPETON TRIBES OF**
11 **SIOUX INDIANS.**

12 *Notwithstanding any other provision of law, including*
13 *Public Law 92–555 (25 U.S.C. 1300d et seq.), any funds*
14 *made available by appropriations under chapter II of Pub-*
15 *lic Law 90–352 (82 Stat. 239) to the Sisseton and*
16 *Wahpeton Tribes of Sioux Indians to pay a judgment in*
17 *favor of those Indian tribes in Indian Claims Commission*
18 *dockets numbered 142 and 359, including interest, that, as*
19 *of the date of enactment of this Act, have not been distrib-*
20 *uted, shall be distributed and used in accordance with this*
21 *Act.*

22 **SEC. 4. DISTRIBUTION OF FUNDS TO TRIBES.**

23 (a) *IN GENERAL.*—

24 (1) *AMOUNT DISTRIBUTED.*—

1 (A) *IN GENERAL.*—Subject to section 8(e)
 2 and if no action is filed in a timely manner (as
 3 determined under section 8(d)) raising any
 4 claim identified in section 8(a), not earlier than
 5 365 days after the date of enactment of this Act
 6 and not later than 415 days after the date of en-
 7 actment of this Act, the Secretary shall transfer
 8 to the Fund Account to be credited to accounts
 9 established in the Fund Account for the benefit
 10 of the applicable governing bodies under para-
 11 graph (2) an aggregate amount determined
 12 under subparagraph (B).

13 (B) *AGGREGATE AMOUNT.*—The aggregate
 14 amount referred to in subparagraph (A) is an
 15 amount equal to the remainder of—

16 (i) the funds described in section 3;
 17 minus

18 (ii) an amount equal to 71.6005 per-
 19 cent of the funds described in section 3.

20 (2) *DISTRIBUTION OF FUNDS TO ACCOUNTS IN*
 21 *THE FUND ACCOUNT.*—The Secretary shall ensure that
 22 the aggregate amount transferred under paragraph
 23 (1) is allocated to the accounts established in the
 24 Fund Account as follows:

1 (A) 28.9276 percent of that amount shall be
2 allocated to the account established for the benefit
3 of the tribal governing body of the Spirit Lake
4 Tribe of North Dakota.

5 (B) 57.3145 percent of that amount, after
6 payment of any applicable attorneys' fees and
7 expenses by the Secretary under the contract
8 numbered A00C14202991, approved by the Sec-
9 retary on August 16, 1988, shall be allocated to
10 the account established for the benefit of the trib-
11 al governing body of the Sisseton and Wahpeton
12 Sioux Tribe of South Dakota.

13 (C) 13.7579 percent of that amount shall be
14 allocated to the account established for the benefit
15 of the tribal governing body of the Assiniboine
16 and Sioux Tribes of the Fort Peck Reservation in
17 Montana, as designated under subsection (c).

18 (b) *USE.*—Amounts distributed under this section to
19 accounts referred to in subsection (d) for the benefit of a
20 tribal governing body shall be distributed and used in a
21 manner consistent with section 5.

22 (c) *TRIBAL GOVERNING BODY OF ASSINIBOINE AND*
23 *SIoux TRIBES OF FORT PECK RESERVATION.*—For pur-
24 poses of making distributions of funds pursuant to this Act,
25 the Sisseton and Wahpeton Sioux Council of the Assiniboine

1 *and Sioux Tribes shall act as the governing body of the As-*
2 *siniboine and Sioux Tribes of the Fort Peck Reservation.*

3 (d) *TRIBAL TRUST FUND ACCOUNTS.*—*The Secretary*
4 *of the Treasury, in cooperation with the Secretary of the*
5 *Interior, acting through the Office of Trust Fund Manage-*
6 *ment of the Department of the Interior, shall ensure that*
7 *such accounts as are necessary are established in the Fund*
8 *Account to provide for the distribution of funds under sub-*
9 *section (a)(2).*

10 **SEC. 5. USE OF DISTRIBUTED FUNDS.**

11 (a) *PROHIBITION.*—*No funds allocated for a covered*
12 *Indian tribe under section 4 may be used to make per cap-*
13 *ita payments to members of the covered Indian tribe.*

14 (b) *PURPOSES.*—*The funds allocated under section 4*
15 *may be used, administered, and managed by a tribal gov-*
16 *erning body referred to in section 4(a)(2) only for the pur-*
17 *pose of making investments or expenditures that the tribal*
18 *governing body determines to be reasonably related to—*

19 (1) *economic development that is beneficial to the*
20 *covered Indian tribe;*

21 (2) *the development of resources of the covered*
22 *Indian tribe;*

23 (3) *the development of programs that are bene-*
24 *ficial to members of the covered Indian tribe, includ-*
25 *ing educational and social welfare programs;*

1 (4) *the payment of any existing obligation or*
2 *debt (existing as of the date of the distribution of the*
3 *funds) arising out of any activity referred to in para-*
4 *graph (1), (2), or (3);*

5 (5)(A) *the payment of attorneys' fees or expenses*
6 *of any covered Indian tribe referred to in subpara-*
7 *graph (A) or (C) of section 4(a)(2) for litigation or*
8 *other representation for matters arising out of the en-*
9 *actment of Public Law 92-555 (25 U.S.C. 1300d et*
10 *seq.); except that*

11 (B) *the amount of attorneys' fees paid by a cov-*
12 *ered Indian tribe under this paragraph with funds*
13 *distributed under section 4 shall not exceed 10 percent*
14 *of the amount distributed to that Indian tribe under*
15 *that section;*

16 (6) *the payment of attorneys' fees or expenses of*
17 *the covered Indian tribe referred to in section*
18 *4(a)(2)(B) for litigation and other representation for*
19 *matters arising out of the enactment of Public Law*
20 *92-555 (25 U.S.C. 1300d et seq.), in accordance, as*
21 *applicable, with the contracts numbered*
22 *A00C14203382 and A00C14202991, that the Sec-*
23 *retary approved on February 10, 1978 and August*
24 *16, 1988, respectively; or*

1 (7) *the payment of attorneys' fees or expenses of*
2 *any covered Indian tribe referred to in section 4(a)(2)*
3 *for litigation or other representation with respect to*
4 *matters arising out of this Act.*

5 (c) *MANAGEMENT.*—*Subject to subsections (a), (b), and*
6 *(d), any funds distributed to a covered Indian tribe pursu-*
7 *ant to sections 4 and 7 may be managed and invested by*
8 *that Indian tribe pursuant to the American Indian Trust*
9 *Fund Management Reform Act of 1994 (25 U.S.C. 4001 et*
10 *seq.).*

11 (d) *WITHDRAWAL OF FUNDS BY COVERED TRIBES.*—

12 (1) *IN GENERAL.*—*Subject to paragraph (2),*
13 *each covered Indian tribe may, at the discretion of*
14 *that Indian tribe, withdraw all or any portion of the*
15 *funds distributed to the Indian tribe under sections 4*
16 *and 7 in accordance with the American Indian Trust*
17 *Fund Management Reform Act (25 U.S.C. 4001 et*
18 *seq.).*

19 (2) *EXEMPTION.*—*For purposes of paragraph*
20 *(1), the requirements under subsections (a) and (b) of*
21 *section 202 of the American Indian Trust Fund Man-*
22 *agement Reform Act (25 U.S.C. 4022 (a) and (b))*
23 *and section 203 of such Act (25 U.S.C. 4023) shall*
24 *not apply to a covered Indian tribe or the Secretary.*

1 (3) *RULE OF CONSTRUCTION.*—*Nothing in para-*
 2 *graph (2) may be construed to limit the applicability*
 3 *of section 202(c) of the American Indian Trust Fund*
 4 *Management Reform Act (25 U.S.C. 4022(c)).*

5 **SEC. 6. EFFECT OF PAYMENTS TO COVERED INDIAN TRIBES**
 6 **ON BENEFITS.**

7 *A payment made to a covered Indian tribe or an indi-*
 8 *vidual under this Act shall not—*

9 (1) *for purposes of determining the eligibility for*
 10 *a Federal service or program of a covered Indian*
 11 *tribe, household, or individual, be treated as income*
 12 *or resources; or*

13 (2) *otherwise result in the reduction or denial of*
 14 *any service or program to which, pursuant to Federal*
 15 *law (including the Social Security Act (42 U.S.C.*
 16 *301 et seq.)), the covered Indian tribe, household, or*
 17 *individual would otherwise be entitled.*

18 **SEC. 7. DISTRIBUTION OF FUNDS TO LINEAL DESCEND-**
 19 **ANTS.**

20 (a) *IN GENERAL.*—*Subject to section 8(e), the Sec-*
 21 *retary shall, in the manner prescribed in section 202(c) of*
 22 *Public Law 92–555 (25 U.S.C. 1300d–4(c)), distribute to*
 23 *the lineal descendants of the Sisseton and Wahpeton Tribes*
 24 *of Sioux Indians an amount equal to 71.6005 percent of*

1 *the funds described in section 3, subject to any reduction*
2 *determined under subsection (b).*

3 *(b) ADJUSTMENTS.—*

4 *(1) IN GENERAL.—Subject to section 8(e), if the*
5 *number of individuals on the final roll of lineal de-*
6 *scendants certified by the Secretary under section*
7 *201(b) of Public Law 92–555 (25 U.S.C. 1300d–3(b))*
8 *is less than 2,588, the Secretary shall distribute a re-*
9 *duced aggregate amount to the lineal descendants re-*
10 *ferred to in subsection (a), determined by decreas-*
11 *ing—*

12 *(A) the percentage specified in section*
13 *4(a)(B)(ii) by a percentage amount equal to—*

14 *(i) .0277; multiplied by*

15 *(ii) the difference between 2,588 and*
16 *the number of lineal descendants on the*
17 *final roll of lineal descendants, but not to*
18 *exceed 600; and*

19 *(B) the percentage specified in subsection*
20 *(a) by the percentage amount determined under*
21 *subparagraph (A).*

22 *(2) DISTRIBUTION.—If a reduction in the*
23 *amount that otherwise would be distributed under*
24 *subsection (a) is made under paragraph (1), an*
25 *amount equal to that reduction shall be added to the*

1 amount available for distribution under section
2 4(a)(1), for distribution in accordance with section
3 4(a)(2).

4 (c) *VERIFICATION OF ANCESTRY.*—*In seeking to verify*
5 *the Sisseton and Wahpeton Mississippi Sioux Tribe ances-*
6 *try of any person applying for enrollment on the roll of*
7 *lineal descendants after January 1, 1998, the Secretary*
8 *shall certify that each individual enrolled as a lineal de-*
9 *scendant can trace ancestry to a specific Sisseton or*
10 *Wahpeton Mississippi Sioux Tribe lineal ancestor who was*
11 *listed on—*

12 (1) *the 1909 Sisseton and Wahpeton annuity*
13 *roll;*

14 (2) *the list of Sisseton and Wahpeton Sioux pris-*
15 *oners convicted for participating in the outbreak re-*
16 *ferred to as the “1862 Minnesota Outbreak”;*

17 (3) *the list of Sioux scouts, soldiers, and heirs*
18 *identified as Sisseton and Wahpeton Sioux on the roll*
19 *prepared pursuant to the Act of March 3, 1891 (26*
20 *Stat. 989 et seq., chapter 543); or*

21 (4) *any other Sisseton or Wahpeton payment or*
22 *census roll that preceded a roll referred to in para-*
23 *graph (1), (2), or (3).*

24 (d) *CONFORMING AMENDMENTS.*—

1 (1) *IN GENERAL.*—Section 202(a) of Public Law
2 92–555 (25 U.S.C. 1300d–4(a)) is amended—

3 (A) *in the matter preceding the table—*

4 (i) *by striking “, plus accrued inter-*
5 *est,”; and*

6 (ii) *by inserting “plus interest received*
7 *(other than funds otherwise distributed to*
8 *the Sisseton and Wahpeton Tribes of Sioux*
9 *Indians in accordance with the Mississippi*
10 *Sioux Tribes Judgment Fund Distribution*
11 *Act of 1998),” after “docket numbered*
12 *359,”; and*

13 (B) *in the table contained in that sub-*
14 *section, by striking the item relating to “All*
15 *other Sisseton and Wahpeton Sioux”.*

16 (2) *ROLL.*—Section 201(b) of Public Law 92–
17 555 (25 U.S.C. 1300d–3(b)) is amended by striking
18 “*The Secretary*” and inserting “*Subject to the Mis-*
19 *issippi Sioux Tribes Judgment Fund Distribution*
20 *Act of 1998, the Secretary*”.

21 **SEC. 8. JURISDICTION; PROCEDURE.**

22 (a) *ACTIONS AUTHORIZED.*—*In any action brought by*
23 *or on behalf of a lineal descendant or any group or com-*
24 *ination of those lineal descendants to challenge the con-*
25 *stitutionality or validity of distributions under this Act to*

1 *any covered Indian tribe, any covered Indian tribe, sepa-*
2 *rately, or jointly with another covered Indian tribe, shall*
3 *have the right to intervene in that action to—*

4 (1) *defend the validity of those distributions; or*

5 (2) *assert any constitutional or other claim chal-*
6 *lenging the distributions made to lineal descendants*
7 *under this Act.*

8 (b) *JURISDICTION AND VENUE.—*

9 (1) *EXCLUSIVE ORIGINAL JURISDICTION.—Sub-*
10 *ject to paragraph (2), only the United States District*
11 *Court for the District of Columbia, and for the dis-*
12 *tricts in North Dakota and South Dakota, shall have*
13 *original jurisdiction over any action brought to con-*
14 *test the constitutionality or validity under law of the*
15 *distributions authorized under this Act.*

16 (2) *CONSOLIDATION OF ACTIONS.—After the fil-*
17 *ing of a first action under subsection (a), all other ac-*
18 *tions subsequently filed under that subsection shall be*
19 *consolidated with that first action.*

20 (3) *JURISDICTION BY THE UNITED STATES*
21 *COURT OF FEDERAL CLAIMS.—If appropriate, the*
22 *United States Court of Federal Claims shall have ju-*
23 *risdiction over an action referred to in subsection (a).*

24 (c) *NOTICE TO COVERED TRIBES.—In an action*
25 *brought under this section, not later than 30 days after the*

1 *service of a summons and complaint on the Secretary that*
2 *raises a claim identified in subsection (a), the Secretary*
3 *shall send a copy of that summons and complaint, together*
4 *with any responsive pleading, to each covered Indian tribe*
5 *by certified mail with return receipt requested.*

6 (d) *STATUTE OF LIMITATIONS.*—*No action raising a*
7 *claim referred to in subsection (a) may be filed after the*
8 *date that is 365 days after the date of enactment of this*
9 *Act.*

10 (e) *SPECIAL RULE.*—

11 (1) *FINAL JUDGMENT FOR LINEAL DESCEND-*
12 *ANTS.*—

13 (A) *IN GENERAL.*—*If an action that raises*
14 *a claim referred to in subsection (a) is brought,*
15 *and a final judgment is entered in favor of 1 or*
16 *more lineal descendants referred to in that sub-*
17 *section, section 4(a) and subsections (a) and (b)*
18 *of section 7 shall not apply to the distribution of*
19 *the funds described in subparagraph (B).*

20 (B) *DISTRIBUTION OF FUNDS.*—*Upon the*
21 *issuance of a final judgment referred to in sub-*
22 *paragraph (A) the Secretary shall distribute 100*
23 *percent of the funds described in section 3 to the*
24 *lineal descendants in a manner consistent*
25 *with—*

1 (i) section 202(c) of Public Law 92–
2 555 (25 U.S.C. 1300d–4(c)); and

3 (ii) section 202(a) of Public Law 92–
4 555, as in effect on the day before the date
5 of enactment of this Act.

6 (2) *FINAL JUDGMENT FOR COVERED INDIAN*
7 *TRIBES.*—

8 (A) *IN GENERAL.*—*If an action that raises*
9 *a claim referred to in subsection (a) is brought,*
10 *and a final judgment is entered in favor of 1 or*
11 *more covered Indian tribes that invalidates the*
12 *distributions made under this Act to lineal de-*
13 *scendants, section 4(a), other than the percent-*
14 *ages under section 4(a)(2), and subsections (a)*
15 *and (b) of section 7 shall not apply.*

16 (B) *DISTRIBUTION OF FUNDS.*—*Not later*
17 *than 180 days after the date of the issuance of*
18 *a final judgment referred to in subparagraph*
19 *(A), the Secretary shall distribute 100 percent of*
20 *the funds described in section 3 to each covered*
21 *Indian tribe in accordance with the judgment*
22 *and the percentages for distribution contained in*
23 *section 4(a)(2).*

24 (f) *LIMITATION ON CLAIMS BY A COVERED INDIAN*
25 *TRIBE.*—

1 (1) *IN GENERAL.*—*If any covered Indian tribe*
2 *receives any portion of the aggregate amounts trans-*
3 *ferred by the Secretary to a Fund Account or any*
4 *other account under section 4, no action may be*
5 *brought by that covered Indian tribe in any court for*
6 *a claim arising from the distribution of funds under*
7 *Public Law 92–555 (25 U.S.C. 1300d et seq.).*

8 (2) *RULE OF CONSTRUCTION.*—*Nothing in this*
9 *subsection shall be construed to limit the right of a*
10 *covered Indian tribe to—*

11 (A) *intervene in an action that raises a*
12 *claim referred to in subsection (a); or*

13 (B) *limit the jurisdiction of any court re-*
14 *ferred to in subsection (b), to hear and determine*
15 *any such claims.*

Attest:

Clerk.