

105TH CONGRESS
2D 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*

(B) in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

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.—*

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

16 (i) the funds described in section 3;

17 *minus*

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;

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.*—

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—*

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.*—

3 (A) in the matter preceding the table—

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

(B) in the table contained in that subsection, by striking the item relating to "All other Sisseton and Wahpeton Sioux".

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 *bination 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—

6 (2) FINAL JUDGMENT FOR COVERED INDIAN

7 *TRIBES.*—

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.