

107TH CONGRESS
2D SESSION

S. 2799

To provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2002

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide for the use and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Gila River Indian Community Judgment Fund Distribu-
6 tion Act of 2002”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—GILA RIVER JUDGMENT FUND DISTRIBUTION

Sec. 101. Distribution of judgment funds.

Sec. 102. Responsibility of Secretary; applicable law.

TITLE II—CONDITIONS RELATING TO COMMUNITY JUDGMENT
FUND PLANS

Sec. 201. Plan for use and distribution of judgment funds awarded in Docket No. 228.

Sec. 202. Plan for use and distribution of judgment funds awarded in Docket No. 236–N.

TITLE III—EXPERT ASSISTANCE LOANS

Sec. 301. Waiver of repayment of expert assistance loans to certain Indian tribes.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) on August 8, 1951, the Gila River Indian
4 Community filed a complaint before the Indian
5 Claims Commission in Gila River Pima-Maricopa In-
6 dian Community v. United States, Docket No. 236,
7 for the failure of the United States to carry out its
8 obligation to protect the use by the Community of
9 water from the Gila River and the Salt River in the
10 State of Arizona;

11 (2) except for Docket Nos. 236–C and 236–D,
12 which remain undistributed, all 14 original dockets
13 under Docket No. 236 have been resolved and dis-
14 tributed;

15 (3) in Gila River Pima-Maricopa Indian Com-
16 munity v. United States, 29 Ind. Cl. Comm. 144
17 (1972), the Indian Claims Commission held that the
18 United States, as trustee, was liable to the Commu-

1 nity with respect to the claims made in Docket No.
2 236–C;

3 (4) in *Gila River Pima-Maricopa Indian Com-*
4 *munity v. United States*, 684 F.2d 852 (1982), the
5 United States Claims Court held that the United
6 States, as trustee, was liable to the Community with
7 respect to the claims made in Docket No. 236–D;

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

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

19 (7)(A) on October 6, 1999, the Department of
20 the Treasury certified the payment of \$7,000,000,
21 less attorney fees, to be deposited in a trust account
22 on behalf of the Community; and

23 (B) that payment was deposited in a trust ac-
24 count managed by the Office of Trust Funds Man-
25 agement of the Department of the Interior; and

1 (8) in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 2 1401 et seq.), the Secretary is required to submit an 3 Indian judgment fund use or distribution plan to 4 Congress for approval. 5

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) ADULT.—The term “adult” means an individual who— 9

10 (A) is 18 years of age or older as of the 11 date on which the payment roll is approved by 12 the Community; or

13 (B) will reach 18 years of age not later 14 than 30 days after the date on which the payment roll is approved by the Community. 15

16 (2) COMMUNITY.—The term “Community” 17 means the Gila River Indian Community.

18 (3) COMMUNITY-OWNED FUNDS.—The term 19 “Community-owned funds” means—

20 (A) funds held in trust by the Secretary as 21 of the date of enactment of this Act that may 22 be made available to make payments under section 23 101; or

24 (B) revenues held by the Community that 25 are derived from Community-owned enterprises.

1 (4) IIM ACCOUNT.—The term “IIM account”
2 means an individual Indian money account.

3 (5) JUDGMENT FUNDS.—The term “judgment
4 funds” means the aggregate amount awarded to the
5 Community by the Court of Federal Claims in Dock-
6 ets Nos. 236–C and 236–D.

7 (6) LEGALLY INCOMPETENT INDIVIDUAL.—The
8 term “legally incompetent individual” means an in-
9 dividual who has been determined to be incapable of
10 managing his or her own affairs by a court of com-
11 petent jurisdiction.

12 (7) MINOR.—The term “minor” means an indi-
13 vidual who is not an adult.

14 (8) PAYMENT ROLL.—The term “payment roll”
15 means the list of eligible, enrolled members of the
16 Community who are eligible to receive a payment
17 under section 101(a), as prepared by the Community
18 under section 101(b).

19 (9) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 **TITLE I—GILA RIVER JUDGMENT** 22 **FUND DISTRIBUTION**

23 **SEC. 101. DISTRIBUTION OF JUDGMENT FUNDS.**

24 (a) PER CAPITA PAYMENTS.—Notwithstanding the
25 Indian Tribal Judgment Funds Use or Distribution Act

1 (25 U.S.C. 1401 et seq.) or any other provision of law
2 (including any regulation promulgated or plan developed
3 under such a law), the amounts paid in satisfaction of an
4 award granted to the Gila River Indian Community in
5 Dockets Nos. 236–C and 236–D before the United States
6 Court of Federal Claims, less attorney fees and litigation
7 expenses and including all accrued interest, shall be dis-
8 tributed in the form of per capita payments (in amounts
9 as equal as practicable) to all eligible enrolled members
10 of the Community.

11 (b) PREPARATION OF PAYMENT ROLL.—

12 (1) IN GENERAL.—The Community shall pre-
13 pare a payment roll of eligible, enrolled members of
14 the Community that are eligible to receive payments
15 under this section in accordance with the criteria de-
16 scribed in paragraph (2).

17 (2) CRITERIA.—

18 (A) INDIVIDUALS ELIGIBLE TO RECEIVE
19 PAYMENTS.—Subject to subparagraph (B), the
20 following individuals shall be eligible to be listed
21 on the payment roll and eligible to receive a per
22 capita payment under subsection (a):

23 (i) All enrolled Community members
24 who are eligible to be listed on the per cap-
25 ita payment roll that was approved by the

1 Secretary for the distribution of the funds
2 awarded to the Community in Docket No.
3 236–N (including any individual who was
4 inadvertently omitted from that roll).

5 (ii) All enrolled Community members
6 who are living on the date of enactment of
7 this Act.

8 (iii) All enrolled Community members
9 who died—

10 (I) after the effective date of the
11 payment plan for Docket No. 236–N;
12 but

13 (II) on or before the date of en-
14 actment of this Act.

15 (B) INDIVIDUALS INELIGIBLE TO RECEIVE
16 PAYMENTS.—The following individuals shall be
17 ineligible to be listed on the payment roll and
18 ineligible to receive a per capita payment under
19 subsection (a):

20 (i) Any individual who, before the
21 date on which the Community approves the
22 payment roll, relinquished membership in
23 the Community.

24 (ii) Any minor who relinquishes mem-
25 bership in the Community, or whose parent

1 or legal guardian relinquishes membership
2 on behalf of the minor, before the date on
3 which the minor reaches 18 years of age.

4 (iii) Any individual who is disenrolled
5 by the Community for just cause (such as
6 dual enrollment or failure to meet the eligi-
7 bility requirements for enrollment).

8 (iv) Any individual who is determined
9 or certified by the Secretary to be eligible
10 to receive a per capita payment of funds
11 relating to a judgment—

12 (I) awarded to another commu-
13 nity, Indian tribe, or tribal entity; and

14 (II) appropriated on or before the
15 date of enactment of this Act.

16 (v) Any individual who is not enrolled
17 as a member of the Community on or be-
18 fore the date that is 90 days after the date
19 of enactment of this Act.

20 (c) NOTICE TO SECRETARY.—On approval by the
21 Community of the payment roll, the Community shall sub-
22 mit to the Secretary a notice that indicates the total num-
23 ber of individuals eligible to share in the per capita dis-
24 tribution under subsection (a), as expressed in subdivi-
25 sions that reflect—

1 (1) the number of shares that are attributable
2 to eligible living adult Community members; and

3 (2) the number of shares that are attributable
4 to deceased individuals, legally incompetent individ-
5 uals, and minors.

6 (d) INFORMATION PROVIDED TO SECRETARY.—The
7 Community shall provide to the Secretary enrollment in-
8 formation necessary to allow the Secretary to establish—

9 (1) estate accounts for deceased individuals de-
10 scribed in subsection (c)(2); and

11 (2) IIM accounts for legally incompetent indi-
12 viduals and minors described in subsection (c)(2).

13 (e) DISBURSEMENT OF FUNDS.—

14 (1) IN GENERAL.—Not later than 30 days after
15 the date on which the payment roll is approved by
16 the Community and the Community has reconciled
17 the number of shares that belong in each payment
18 subdivision described in subsection (c), the Secretary
19 shall disburse to the Community the funds necessary
20 to make the per capita distribution under subsection
21 (a) to eligible living adult members of the Commu-
22 nity described in subsection (c)(1).

23 (2) ADMINISTRATION AND DISTRIBUTION.—On
24 disbursement of the funds under paragraph (1), the

1 Community shall bear sole responsibility for admin-
2 istration and distribution of the funds.

3 (f) SHARES OF DECEASED INDIVIDUALS.—

4 (1) IN GENERAL.—The Secretary, in accord-
5 ance with regulations promulgated by the Secretary
6 and in effect as of the date of enactment of this Act,
7 shall distribute to the appropriate heirs and legatees
8 of deceased individuals described in subsection (c)(2)
9 the per capita shares of those deceased individuals.

10 (2) ABSENCE OF HEIRS AND LEGATEES.—If the
11 Secretary and the Community make a final deter-
12 mination that a deceased individual described in sub-
13 section (c)(2) has no heirs or legatees, the per capita
14 share of the deceased individual and the interest
15 earned on that share shall—

16 (A) revert to the Community; and

17 (B) be deposited into the general fund of
18 the Community.

19 (g) SHARES OF LEGALLY INCOMPETENT INDIVID-
20 UALS.—

21 (1) IN GENERAL.—The Secretary shall deposit
22 the shares of legally incompetent individuals de-
23 scribed in subsection (c)(2) in supervised IIM ac-
24 counts.

1 (2) ADMINISTRATION.—The IIM accounts de-
2 scribed in paragraph (1) shall be administered in ac-
3 cordance with regulations and procedures established
4 by the Secretary and in effect as of the date of en-
5 actment of this Act.

6 (h) SHARES OF MINORS.—

7 (1) IN GENERAL.—The Secretary shall deposit
8 the shares of minors described in subsection (c)(2)
9 in supervised IIM accounts.

10 (2) ADMINISTRATION.—

11 (A) IN GENERAL.—The Secretary shall
12 hold the per capita share of a minor described
13 in subsection (c)(2) in trust until such date as
14 the minor reaches 18 years of age.

15 (B) NONAPPLICABLE LAW.—Section
16 3(b)(3) of the Indian Tribal Judgment Funds
17 Use or Distribution Act (25 U.S.C. 1403(b)(3))
18 shall not apply to any per capita share of a
19 minor that is held by the Secretary under this
20 Act.

21 (C) DISBURSEMENT.—No judgment funds,
22 nor any interest earned on judgment funds,
23 shall be disbursed from the account of a minor
24 described in subsection (c)(2) until such date as
25 the minor reaches 18 years of age.

1 (i) PAYMENT OF ELIGIBLE INDIVIDUALS NOT LIST-
2 ED ON PAYMENT ROLL.—

3 (1) IN GENERAL.—An individual who is not
4 listed on the payment roll, but is eligible to receive
5 a payment under this Act, as determined by the
6 Community, may be paid from any remaining judg-
7 ment funds after the date on which—

8 (A) the Community makes the per capita
9 distribution under subsection (a); and

10 (B) all appropriate IIM accounts are es-
11 tablished under subsections (g) and (h).

12 (2) INSUFFICIENT FUNDS.—If insufficient judg-
13 ment funds remain to cover the cost of a payment
14 described in paragraph (1), the Community may use
15 Community-owned funds to make the payment.

16 (3) MINORS, LEGALLY INCOMPETENT INDIVID-
17 UALS, AND DECEASED INDIVIDUALS.—In a case in
18 which a payment described in paragraph (2) is to be
19 made to a minor, a legally incompetent individual, or
20 a deceased individual, the Secretary—

21 (A) is authorized to accept and deposit
22 funds from the payment in an IIM account or
23 estate account established for the minor, legally
24 incompetent individual, or deceased individual;
25 and

1 (B) shall invest those funds in accordance
2 with applicable law.

3 (j) USE OF RESIDUAL FUNDS.—On request by the
4 Community, any judgment funds remaining after the date
5 on which the Community completes the per capita dis-
6 tribution under subsection (a) and makes any appropriate
7 payments under subsection (i) shall be disbursed to, and
8 deposited in the general fund of, the Community.

9 (k) NONAPPLICABILITY OF CERTAIN LAW.—Notwith-
10 standing any other provision of law, the Indian Gaming
11 Regulatory Act (25 U.S.C. 2701 et seq.) shall not apply
12 to Community-owned funds used by the Community to
13 make payments under subsection (i).

14 **SEC. 102. RESPONSIBILITY OF SECRETARY; APPLICABLE**
15 **LAW.**

16 (a) RESPONSIBILITY FOR FUNDS—After the date on
17 which funds are disbursed to the Community under sec-
18 tion 101(e)(1), the United States and the Secretary shall
19 have no trust responsibility for the investment, super-
20 vision, administration, or expenditure of the funds dis-
21 bursed.

22 (b) DECEASED AND LEGALLY INCOMPETENT INDI-
23 VIDUALS.—Funds subject to subsections (f) and (g) of
24 section 101 shall continue to be held in trust by the Sec-

1 retary until the date on which those funds are disbursed
2 under this Act.

3 (c) APPLICABILITY OF OTHER LAW.—Except as oth-
4 erwise provided in this Act, all funds distributed under
5 this Act shall be subject to sections 7 and 8 of the Indian
6 Tribal Judgment Funds Use or Distribution Act (25
7 U.S.C. 1407, 1408).

8 **TITLE II—CONDITIONS RELAT-**
9 **ING TO COMMUNITY JUDG-**
10 **MENT FUND PLANS**

11 **SEC. 201. PLAN FOR USE AND DISTRIBUTION OF JUDG-**
12 **MENT FUNDS AWARDED IN DOCKET NO. 228.**

13 (a) DEFINITION OF PLAN.—In this section, the term
14 “plan” means the plan for the use and distribution of
15 judgment funds awarded to the Community in Docket No.
16 228 of the United States Claims Court (52 Fed. Reg.
17 6887 (March 5, 1987)), as modified in accordance with
18 Public Law 99–493 (100 Stat. 1241).

19 (b) CONDITIONS.—Notwithstanding any other provi-
20 sion of law, the Community shall modify the plan to in-
21 clude the following conditions with respect to funds dis-
22 tributed under the plan:

23 (1) APPLICABILITY OF OTHER LAW RELATING
24 TO MINORS.—Section 3(b)(3) of the Indian Tribal
25 Judgment Funds Use or Distribution Act (25

1 U.S.C. 1403(b)(3)) shall not apply to any per capita
 2 share of a minor that is held, as of the date of en-
 3 actment of this Act, by the Secretary.

4 (2) SHARE OF MINORS IN TRUST.—The Sec-
 5 retary shall hold a per capita share of a minor de-
 6 scribed in paragraph (1) in trust until such date as
 7 the minor reaches 18 years of age.

8 (3) DISBURSAL OF FUNDS FOR MINORS.—No
 9 judgment funds, nor any interest earned on judg-
 10 ment funds, shall be disbursed from the account of
 11 a minor described in paragraph (1) until such date
 12 as the minor reaches 18 years of age.

13 (4) USE OF REMAINING JUDGMENT FUNDS.—
 14 On request by the governing body of the Commu-
 15 nity, as manifested by the appropriate tribal council
 16 resolution, any judgment funds remaining after the
 17 date of completion of the per capita distribution
 18 under section 101(a) shall be disbursed to, and de-
 19 posited in the general fund of, the Community.

20 **SEC. 202. PLAN FOR USE AND DISTRIBUTION OF JUDG-**
 21 **MENT FUNDS AWARDED IN DOCKET NO. 236-**
 22 **N.**

23 (a) DEFINITION OF PLAN.—In this section, the term
 24 “plan” means the plan for the use and distribution of
 25 judgment funds awarded to the Community in Docket No.

1 236–N of the United States Court of Federal Claims (59
2 Fed. Reg. 31092 (June 16, 1994)).

3 (b) CONDITIONS.—

4 (1) PER CAPITA ASPECT.—Notwithstanding any
5 other provision of law, the Community shall modify
6 the last sentence of the paragraph under the heading
7 “Per Capita Aspect” in the plan to read as follows:
8 “Upon request from the Community, any residual
9 principal and interest funds remaining after the
10 Community has declared the per capita distribution
11 complete shall be disbursed to, and deposited in the
12 general fund of, the Community.”.

13 (2) GENERAL PROVISIONS.—Notwithstanding
14 any other provision of law, the Community shall—

15 (A) modify the third sentence of the first
16 paragraph under the heading “General Provi-
17 sions” of the plan to strike the word “minors”;
18 and

19 (B) insert between the first and second
20 paragraphs under that heading the following:

21 “Section 3(b)(3) of the Indian Tribal Judgment
22 Funds Use or Distribution Act (25 U.S.C.
23 1403(b)(3)) shall not apply to any per capita share
24 of a minor that is held, as of the date of enactment
25 of the Gila River Indian Community Judgment

1 Fund Distribution Act of 2002, by the Secretary.
2 The Secretary shall hold a per capita share of a
3 minor in trust until such date as the minor reaches
4 18 years of age. No judgment funds, or any interest
5 earned on judgment funds, shall be disbursed from
6 the account of a minor until such date as the minor
7 reaches 18 years of age.”.

8 **TITLE III—EXPERT ASSISTANCE**
9 **LOANS**

10 **SEC. 301. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE**

11 **LOANS TO CERTAIN INDIAN TRIBES.**

12 (a) GILA RIVER INDIAN COMMUNITY.—Notwith-
13 standing any other provision of law—

14 (1) the balance of all outstanding expert assist-
15 ance loans made to the Community under Public
16 Law 88–168 (77 Stat. 301) and relating to Gila
17 River Indian Community v. United States (United
18 States Court of Federal Claims Docket Nos. 228
19 and 236 and associated subdockets) are canceled;
20 and

21 (2) the Secretary shall take such action as is
22 necessary—

23 (A) to document the cancellation of loans
24 under paragraph (1); and

1 (B) to release the Community from any li-
2 ability associated with those loans.

3 (b) OGLALA SIOUX TRIBE.—Notwithstanding any
4 other provision of law—

5 (1) the balances of all outstanding expert as-
6 sistance loans made to the Oglala Sioux Tribe under
7 Public Law 88–168 (77 Stat. 301) and relating to
8 Oglala Sioux Tribe v. United States (United States
9 Court of Federal Claims Docket No. 117 and associ-
10 ated subdockets) are canceled; and

11 (2) the Secretary shall take such action as is
12 necessary—

13 (A) to document the cancellation of loans
14 under paragraph (1); and

15 (B) to release the Oglala Sioux Tribe from
16 any liability associated with those loans.

17 (c) SEMINOLE NATION OF OKLAHOMA.—Notwith-
18 standing any other provision of law—

19 (1) the balances of all outstanding expert as-
20 sistance loans made to the Seminole Nation of Okla-
21 homa under Public Law 88–168 (77 Stat. 301) and
22 relating to Seminole Nation v. United States (United
23 States Court of Federal Claims Docket No. 247) are
24 canceled; and

1 (2) the Secretary shall take such action as is
2 necessary—

3 (A) to document the cancellation of loans
4 under paragraph (1); and

5 (B) to release the Seminole Nation of
6 Oklahoma from any liability associated with
7 those loans.

○