JUDGMENT FUNDS OF THE OTTAWA AND CHIPPEWA INDIANS OF MICHIGAN

HEARING
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
FIRST SESSION
ON
H.R. 1604
TO PROVIDE FOR THE DIVISION, USE, AND DISTRIBUTION OF JUDGMENT FUNDS OF THE OTTAWA AND CHIPPEWA INDIANS OF MICHIGAN PURSUANT TO DOCKETS NUMBERED 18-E, 58, 364, AND 18-R BEFORE THE INDIAN CLAIMS COMMISSION

NOVEMBER 3, 1997
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U.S. Senate,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:57 a.m. in room 485, Senate Russell Building, Hon. Daniel K. Inouye (vice chairman of the committee) presiding.
Present: Senator Inouye.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator INOUYE. Good morning.
The committee meets today to receive testimony on H.R. 1604, the Ottawa and Chippewa Indians of Michigan Judgment Distribution Act.

H.R. 1604 was introduced on May 5, 1997 by Representative Kildee of Michigan to provide for the distribution of a judgment award that was entered by the Indian Claims Commission 25 years ago.

In 1971, the Claims Commission determined that the value of the land ceded to the United States was far in excess of the $0.15 an acre that was awarded to the tribes, and concluded that the consideration was unconscionable. The Claims Commission thus awarded the Ottawa and Chippewa Bands $10.3 million in further compensation. Today, the judgment award is now at $70 million.

After many years of attempting to draft a bill to distribute the funds, the parties have reached a consensus, and that compromise is embodied in the Kildee bill, H.R. 1604.

The tribal leaders are to be commended for their persistence and determination in seeking to assure that what was promised to the bands by the United States is finally delivered.

I also want to commend Congressman Kildee for his introduction of H.R. 1604 and for his efforts to see that this matter is finally resolved in a fair and just matter. This matter has been going on since 1836.

And so the committee looks forward to receiving the testimony of the witnesses we have this morning.

[Text of H.R. 1604 follows:]
To provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18–E, 58, 364, and 18–R before the Indian Claims Commission.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1997

Mr. KILDEE (for himself, Mr. HAYWORTH, and Mr. KENNEDY of Rhode Island) introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18–E, 58, 364, and 18–R before the Indian Claims Commission.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

Sec. 1. Table of contents.
Sec. 2. Findings; purpose.
Sec. 3. Definitions.
Sec. 4. Division of funds.
Sec. 5. Development of tribal plans for use or distribution of funds.
Sec. 6. Preparation of judgment distribution roll of descendants.
Sec. 7. Plan for use and distribution of bay mills Indian community funds.
SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Judgments were rendered in the Indian Claims Commission in dockets numbered 18–E, 58, and 364 in favor of the Ottawa and Chippewa Indians of Michigan and in docket numbered 18–R in favor of the Sault Ste. Marie Band of Chippewa Indians.

(2) The funds Congress appropriated to pay these judgments have been held by the Department of the Interior for the beneficiaries pending a division of the funds among the beneficiaries in a manner acceptable to the tribes and descendency group and pending development of plans for the use and distribution of the respective tribes' share.

(3) The 1836 treaty negotiations show that the United States concluded negotiations with the Chippewa concerning the cession of the upper peninsula and with the Ottawa with respect to the lower peninsula.

(4) A number of sites in both areas were used by both the Ottawa and Chippewa Indians. The Ot-
tawa and Chippewa Indians were intermarried and there were villages composed of members of both tribes.

(b) PURPOSE.—It is the purpose of this Act to provide for the fair and equitable division of the judgment funds among the beneficiaries and to provide the opportunity for the tribes to develop plans for the use or distribution of their share of the funds.

SEC. 3. DEFINITIONS.

For purposes of this Act the following definitions apply:

(1) The term ‘judgment funds’ means funds appropriated in full satisfaction of judgments made in the Indian Claims Commission—

(A) reduced by an amount for attorneys fees and litigation expenses; and

(B) increased by the amount of any interest accrued with respect to such funds.

(2) The term “dockets 18–E and 58 judgment funds” means judgment funds awarded in dockets numbered 18–E and 58 in favor of the Ottawa and Chippewa Indians of Michigan.

(3) The term “docket 364 judgment funds” means the judgment funds awarded in docket num-
bered 364 in favor of the Ottawa and Chippewa Indians of Michigan.


(5) The term "judgment distribution roll of descendants" means the roll prepared under section 6.

(6) The term "Secretary" means the Secretary of the Interior.

SEC. 4. DIVISION OF FUNDS.

(a) DOCKET 18-E AND 58 JUDGMENT FUNDS.—The Secretary shall divide the docket 18-E and 58 judgment funds as follows:

(1) The lesser of 13.5 percent or $9,141,974.94, for individuals on the judgment distribution roll of descendants.

(2) 34.6 percent to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan and the Bay Mills Indian Community, of which—

(A) the lesser of 35 percent of the principal and interest as of December 31, 1996, or $8,313,877 shall be for the Bay Mills Indian Community; and
(B) the remaining amount shall be for the
Sault Ste. Marie Tribe of Chippewa Indians of
Michigan.

(3) 17.3 percent to the Grand Traverse Band
of Ottawa and Chippewa Indians of Michigan.

(4) 17.3 percent to the Little Traverse Bay
Bands of Odawa Indians of Michigan.

(5) 17.3 percent to the Little River Band of Ot-
tawa Indians of Michigan.

(6) Any funds remaining after distribution pur-
suant to paragraphs (1) through (5) shall be divided
and distributed to each of the recognized tribes list-
ed in this subsection in an amount which bears the
same ratio to the distribution of judgment funds
pursuant to paragraphs (1) through (5).

(b) DOCKET 364 JUDGMENT FUNDS.—The Secretary
shall divide the docket 364 judgment funds as follows:

(1) The lesser of 20 percent or $25,026.79 for
individuals on the judgment distribution roll of de-
scendants.

(2) 32 percent to the Sault Ste. Marie Tribe of
Chippewa Indians of Michigan and the Bay Mills In-
dian Community, of which—

(A) 35 percent shall be for the Bay Mills
Indian Community; and
(B) the remaining amount shall be for the
Sault Ste. Marie Tribe of Chippewa Indians of
Michigan.

(3) 16 percent to the Grand Traverse Band of
Ottawa and Chippewa Indians of Michigan.

(4) 16 percent to the Little Traverse Bay
Bands of Odawa Indians of Michigan.

(5) 16 percent to the Little River Band of Ot-
tawa Indians of Michigan.

(6) Any funds remaining after distribution pur-
suant to paragraphs (1) through (5) shall be divided
and distributed to each of the recognized tribes list-
ed in this subsection in an amount which bears the
same ratio to the distribution of judgment funds
pursuant to paragraphs (1) through (5).

(c) DOCKET 18–R JUDGMENT FUNDS.—The Sec-

retary shall divide the docket 18–R judgment funds as fol-

lows:

(1) 65 percent to the Sault Ste. Marie Tribe of
Chippewa Indians of Michigan.

(2) 35 percent to the Bay Mills Indian Commu-
nity.

(d) AMOUNTS FOR JUDGMENT DISTRIBUTION ROLL
OF DESCENDANTS HELD IN TRUST.—The Secretary shall
hold amounts referred to in subsections (a)(1) and (b)(1)
for individuals on the judgment distribution roll of de-
sendants in trust pending distribution under section 6.

SEC. 5. DEVELOPMENT OF TRIBAL PLANS FOR USE OR DIS-
TRIBUTION OF FUNDS.

(a) DISBURSEMENT OF FUNDS.—(1) The Secretary
shall disburse the respective share of the judgment funds
described in section 4 to a tribe specified in subsection
(b) not later than 30 days after a plan for use and dis-
tribution of such funds has been approved in accordance
with this section. Disbursement of a tribe's share shall not
be dependent upon approval of any other tribe's plan.

(2) Section 7 shall be the plan for use and distribu-
tion of the judgment funds described in section 4(a)(2)(A).
Such plan shall be approved upon the enactment of this
Act and such funds shall be distributed by the Secretary
to the Bay Mills Indian Community not later than 90 days
after the date of the enactment of this Act to be used
and distributed in accordance with section 7.

(3) Section 8 shall be the plan for use and distribu-
tion of the judgment funds described in section
4(a)(2)(B). Such plan shall be approved upon the enact-
ment of this Act and such funds shall be distributed by
the Secretary to the Sault Ste. Marie Band of Chippewa
Indians of Michigan not later than 90 days after the date
of the enactment of this Act to be used and distributed
in accordance with section 8.

(b) ELIGIBLE TRIBES.—The tribes referred to in
subsection (a) are the Grand Traverse Band of Ottawa
and Chippewa Indians of Michigan, the Little Traverse
Bay Bands of Odawa Indians of Michigan, and the Little
River Band of Ottawa Indians of Michigan.

(c) APPROVAL OR COMMENT OF SECRETARY.—Not
later than 30 days after a tribe submits a plan for the
use and distribution of its respective share of the judg-
ment funds and a resolution of the governing body of the
tribe accepting such plan to the Secretary, the Secretary
shall—

(1) if the plan complies with the provisions of
section 3(b) of Public Law 93–134 (25 U.S.C.
1403(b)), approve the plan; or

(2) if the plan does not comply with the provi-
sions of section 3(b) of Public Law 93–134 (25
U.S.C. 1403(b)), return the plan to the tribe with
comments advising the tribe why the plan does not
comply with such provisions.

(d) RESPONSE BY TRIBE.—The tribe shall have 60
days after receipt of comments under subsection (c)(2),
or other time as the tribe and the Secretary agree upon,
in which to respond to such comments and make such re-
response by submitting a revised plan to the Secretary.

(e)(1) If the tribe does not submit a response pursu-
ant to subsection (d), the Secretary shall, not later than
45 days after the end of the response time for such a re-
response, approve a plan which complies with the provisions
of section 3(b) of Public Law 93-134 (25 U.S.C.

(2) If a tribe does not submit a plan to the Secretary
within 8 years of the date of enactment of this Act, the
Secretary shall approve a plan which complies with the
provisions of section 3(b) of Public Law 93-134 (25
U.S.C. 1403(b)).

(f) GOVERNING LAW AFTER APPROVAL BY SEC-
RETARY.—Once approved by the Secretary under this Act,
the effective date of the plan and other requisite action,
if any, is determined by the provisions of section 5 of Pub-

(g) HEARINGS NOT REQUIRED.—Notwithstanding
section 3 and section 4 of Public Law 93-134 (25 U.S.C.
1403 and 25 U.S.C. 1404), the Secretary shall not be re-
quired to hold hearings or submit transcripts of any hear-
ings held previously concerning the Indian judgments
which are related to the judgment funds. The Secretary's
submission of the plan pursuant to this Act shall comply

SEC. 6. PREPARATION OF JUDGMENT DISTRIBUTION ROLL

OF DESCENDANTS.

(a) PREPARATION.—Not later than 9 years after the
date of the enactment of this Act, the Secretary shall pre-
pare, in accordance with part 61 through part 65 of title
25, Code of Federal Regulations, a judgment distribution
roll of all citizens of the United States who—

(1) were born on or before the date of enactment
of this Act;

(2) were living on the date of the enactment of
this Act;

(3) are of at least one-quarter Michigan Ottawa
or Chippewa Indian blood, or a combination thereof;

(4) are not members of the tribal organizations
listed in section 4;

(5) are lineal descendants whose Michigan Ot-
tawa or Chippewa ancestry is derived from at least
one of the groups described in subsection (d); and

(6) are not described in subsection (e).

(b) APPLICATIONS.—Applications for inclusion on the
judgment distribution roll of descendants must be filed
with the superintendent, Michigan agency, Bureau of In-
dian Affairs, Sault Ste. Marie, Michigan, not later than 1 year after the date of enactment of this Act.

(c) **APPEALS.**—Appeals arising under this section shall be handled in accordance with part 61 through part 65 of title 25, Code of Federal Regulations.

(d) **GROUPS.**—The groups referred to in subsection (a)(5) are—

(1) the Ottawa Bands of Grand River, Traverse, Grand Traverse, Little Traverse, Maskigo, or L'Arbre Croche;

(2) the Chippewa Bands of Sault Ste. Marie, Michilmaci, or Cheboigan; and

(3) any Ottawa or Chippewa subdivisions of any groups referred to in paragraph (1) or (2).

(e) **INELIGIBLE INDIVIDUALS.**—An individual is not eligible under this section, if that individual—

(1) received funds pursuant to the Secretarial Plan effective July 17, 1983, for the use and distribution of Potawatomi judgment funds;

(2) received funds pursuant to the Secretarial Plan effective November 12, 1977, for the use and distribution of Saginaw Chippewa judgment funds;

(3) is a member of the Keweenaw Bay Chip-

pewa Indian Community of Michigan on the date of the enactment of this Act; or
(4) is a member of the Lac Vieux Desert Band of Lake Superior Chippewa Indians on the date of the enactment of this Act.

(f) Use of Horace B. Durant Roll.—In preparing the judgment distribution roll of descendants under this section, the Secretary shall refer to the Horace B. Durant Roll, approved February 18, 1910, of the Ottawa and Chippewa Tribe of Michigan, as qualified and corrected by other rolls and records acceptable to the Secretary, including the Durant Field Notes of 1908–1909 and the Annuity Payroll of the Ottawa and Chippewa Tribe of Michigan approved May 17, 1910. The Secretary may employ the services of the descendant group enrollment review committees.

SEC. 7. PLAN FOR USE AND DISTRIBUTION OF BAY MILLS INDIAN COMMUNITY FUNDS.

(a) Tribal Land Trust.—(1) The Executive Council of the Bay Mills Indian Community shall establish a nonexpendable trust to be known as the “Land Trust”. Not later than 60 days after receipt of the funds distributed to the Bay Mills Indian Community pursuant to this Act, the Executive Council of the Bay Mills Indian Community shall deposit 20 percent of the share of the Bay Mills Indian Community into the Land Trust.

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(2) The Executive Council shall be the trustee of the Land Trust and shall administer the Land Trust in accordance with this section. The Executive Council may retain or hire a professional trust manager and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the trust and charged against earnings of the current fiscal year.

(3) The earnings generated by the Land Trust shall be used annually and exclusively for the consolidation and enhancement of tribal landholdings through purchase or exchange. Any land so acquired shall be held in trust by the United States for the Bay Mills Indian Community.

(4) The principal of the Land Trust shall not be expended for any purpose, including but not limited to, per capita payment to members of the Bay Mills Indian Community.

(5) The Land Trust shall be maintained as a separate account, which shall be audited at least once during each fiscal year by a certified public accountant who shall prepare a report on the results of such audit. Such report shall be a public document, and shall be available for inspection by any member of the Bay Mills Indian Community.
(6) Notwithstanding any other provision of law, the
approval of the Secretary of any payment from the Land
Trust shall not be required and the Secretary shall have
no trust responsibility for the investment, supervision, ad-
ministration, or expenditure of funds from the Land
Trust.

(b) LAND CLAIMS DISTRIBUTION TRUST.—(1) The
Executive Council of the Bay Mills Indian Community
shall establish a nonexpendable to be known as the "Land
Claims Distribution Trust Fund". Not later than 60 days
after receipt of the funds distributed to the Bay Mills In-
dian Community pursuant to this Act, the Executive
Council of the Bay Mills Indian Community shall deposit
into the Land Claims Distribution Trust Fund the prin-
cipal funds which shall consist of—

(A) amounts remaining of the funds distributed
to the Bay Mills Indian Community after distribu-
tion pursuant to subsections (a) and (c);

(B) 10 percent of the annul earnings generated
by the Land Claims Distribution Trust Fund; and

(C) such other funds which the Executive Coun-
cil chooses to add to the Land Claims Distribution
Trust Fund.

(2) The Executive Council shall be the trustee of the
Land Claims Distribution Trust Fund and shall admin-
ister the Land Claims Distribution Trust Fund in accordance with this section. The Executive Council may retain or hire a professional trust manager and may pay for said services the prevailing market rate. Such payment for services shall be made from the current income accounts of the trust and charged against earnings of the current fiscal year.

(3) 90 percent of the annual earnings of the Land Claims Distribution Trust fund shall be distributed on October 1 of each year after the creation of the trust fund to any person who—

(A) is enrolled as a member of the Bay Mills Indian Community on the date of the enactment of this Act;

(B) is alive on the date of the enactment of this Act;

(C) is at least 55 years of age as of the annual distribution date; and

(D) has been enrolled as a member of the Bay Mills Indian Community for a minimum of 25 years as of the annual distribution date or was adopted as a member of the Bay Mills Indian Community on or before June 30, 1996.

(4) In the event that a member of the Bay Mills Indian Community who is eligible for payment under sub-
section (b)(3), should die after preparation of the annual distribution roll and prior to the October 1 distribution, that individual's share for that year shall be provided to the member's heirs at law.

(5) In the event that a member of the Bay Mills Indian Community who is at least 55 years of age and who is eligible for payment under subsection (b)(3), shall have a guardian appointed for said individual, such payment shall be made to the guardian.

(6) Under no circumstances shall any part of the principal of the Land Claims Distribution Trust fund be distributed as a per capita payment to members of the Bay Mills Indian Community, or used or expended for any other purpose by the Executive Council.

(7) The Land Claims Distribution Trust fund shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be a public document, and shall be available for inspection by any member of the Bay Mills Indian Community.

(8) Notwithstanding any other provision of law, the approval of the Secretary of any payment from the Land Claims Distribution Trust fund shall not be required and the Secretary shall have no trust responsibility for the in-
vestment, supervision, administration, or expenditure of
the fund.

(c) LAND CLAIMS INITIAL PAYMENT.—As compensa-
tion to the members of the Bay Mills Indian Community
for the delay in distribution of the judgment fund, pay-
ment shall be made by the Executive Council within 30
days of receipt of the Bay Mills Indian Community’s share
of the judgment fund from the Secretary, as follows:

(1) The sum of $3,000 to each enrolled member
of the Bay Mills Indian Community living on the
date of enactment of this legislation, who has at-
tained the age of 55 years, but is less than 62 years
of age if that individual was adopted into or a mem-
ber of the Bay Mills Indian Community on or before
June 30, 1996.

(2) The sum of $5,000 to each enrolled member
of the Bay Mills Indian Community living on the
date of enactment of this legislation, who is between
the ages of 62 and 69 years of age if that individual
was adopted into or a member of the Bay Mills In-
dian Community on or before June 30, 1996.

(3) The sum of $10,000 to each enrolled mem-
ber of the Bay Mills Indian Community living on the
date of enactment of this legislation, who is 70 years
of age or older if that individual was adopted into
or a member of the Bay Mills Indian Community on
or before June 30, 1996.

(d) ANNUAL PAYMENTS FROM LAND CLAIMS DIS-
TRIBUTION TRUST FUND.—The Executive Council shall
prepare the annual distribution roll and ensure its accu-

racy prior to August 30 of each year prior to distribution.
The distribution roll shall identify each member of the Bay
Mills Indian Community who has attained the minimum
age and membership duration required for distribution eli-
gibility, as specified in subsection (b)(3). The number of
eligible persons in each age category defined in this sub-
section, multiplied by the number of shares for which the
age category is entitled, added together for the 3 cat-
egories, shall constitute the total number of shares to be
distributed each year. On each October 1, the shares shall
be distributed as follows:

(1) Each member who is at least 55 years of
age and less than 62 years of age shall receive 1
share.

(2) Each member who is between the ages of 62
and 69 years shall receive 2 shares.

(3) Each member who is 70 years of age or
older shall receive 3 shares.
SEC. 8. PLAN FOR USE OF SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS OF MICHIGAN FUNDS.

(a) SELF-SUFFICIENCY FUND.

(1) The Sault Ste. Marie Tribe of Chippewa Indians of Michigan (referred to in this section as the "Sault Ste. Marie Tribe"), through its board of directors, shall establish a trust fund for the benefit of the Sault Ste. Marie Tribe which shall be known as the "Self-Sufficiency Fund". The principal of the Self-Sufficiency Fund shall consist of:

(A) the Sault Ste. Marie Tribe's share of the judgment funds transferred by the Secretary to the board of directors pursuant to subsection (e);

(B) such amounts of the interest and other income of the Self-Sufficiency Fund as the board of directors may choose to add to the principal; and

(C) any other funds that the board of directors of the Sault Ste. Marie Tribe choose to add to the principal.

(2) The board of directors shall be the trustee of the Self-Sufficiency Fund and shall administer the fund in accordance with the provisions of the section.

(b) USE OF PRINCIPAL.
(1) The principal of the Self-Sufficiency Fund shall be used exclusively for investments or expenditures which the board of directors determines—

(A) are reasonably related to—

(i) economic development beneficial to the tribe; or

(ii) development of tribal resources; or

(B) are otherwise financially beneficial to the tribe and its members.

(2) At least one-half of the principle of the Self-Sufficiency Fund at any given time shall be invested in investment instruments or funds calculated to produce a reasonable rate of return without undue speculation or risk, unless, for good cause shown by the Sault Ste. Marie Tribe, the Secretary determines that a lesser amount may be invested in that manner.

(3) No portion of the principal of the Self-Sufficiency Fund shall be distributed in the form of per capita payments.

(c) Use of Self-Sufficiency Fund Income.— The interest and other investment income of the Self-Sufficiency Fund shall be distributed—

(1) as an addition to the principal of the fund;

(2) as a dividend to tribal members;
as a per capita payment to some group or category of tribal members designated by the board of directors; or

(4) for educational, social welfare, health, cultural, or charitable purposes which benefit the members of the Sault Ste. Marie Tribe.

(d) GENERAL RULES AND PROCEDURES.—

(1) The Self-Sufficiency Fund shall be maintained as a separate account.

(2) The books and records of the Self-Sufficiency Fund shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be treated as a public document of the Sault Ste. Marie Tribe and a copy of the report shall be available for inspection by any enrolled member of the Sault Ste. Marie Tribe.

(e) TRANSFER OF JUDGMENT FUNDS TO SELF-SUFFICIENCY FUND.—

(1) The Secretary shall transfer to the Self-Sufficiency Fund the share of the funds which have been allocated to the Sault Ste. Marie Tribe pursuant to section 4.

(2) Notwithstanding any other provision of law, after the transfer required by paragraph (1) the ap-
proval of the Secretary for any payment or distribution from the principal or income of the Self-Sufficiency Fund shall not be required and the Secretary shall have no trust responsibility for the investment, administration, or expenditure of the principal or income of the Self-Sufficiency Fund.

SEC. 9. PAYMENT OF PER CAPITA SHARES.

Payment of a per capita share of funds—

(1) to which a living, competent adult is entitled under this Act shall be paid directly to that adult;

(2) to which a deceased individual is entitled under this Act shall be paid to that individual's heirs and legatees upon determination of such heirs and legatees in accordance with regulations prescribed by the Secretary; and

(3) to which a legally incompetent individual or an individual under 18 years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of that individual.

SEC. 10. NEWLY-RECOGNIZED TRIBES.

(a) DISTRIBUTION OF FUNDS ALLOTTED FOR MEMBERS OF NEWLY-RECOGNIZED TRIBES.—If, after the date
of the enactment of this Act and before approval by the Secretary of the judgment distribution roll of descendants prepared pursuant to section 6, Congress or the Secretary recognizes a tribe which includes an individual on the judgment distribution roll of descendants, the funds allotted for that individual shall be held in trust for the newly-recognized tribe in accordance with the provisions of this section.

(b) FUNDS SUBJECT TO PLAN.—Funds held in trust pursuant to subsection (a) shall be subject to a plan that is approved in accordance with this Act.

(c) DETERMINATION OF MEMBERSHIP IN NEWLY-RECOGNIZED TRIBES.—(1) For purposes of this section, the Secretary will use a newly-recognized tribe's most recent membership list provided to the Secretary.

(2) If a membership list was not provided—

(A) to the Secretary, the Secretary will use the tribe's most recent membership list provided to the Bureau of Indian Affairs in their petition for Federal acknowledgment filed under [part 83] of title 25, Code of Federal Regulations, unless otherwise provided in the statute which recognized the tribe;

(B) to the Bureau of Indian Affairs, the newly-recognized tribe shall submit a membership list before the judgment distribution roll of descendants is
approved by the Secretary, unless otherwise provided
in the statute which recognized the tribe; and

(C) before the judgment distribution roll of de-
scendants is approved, the judgment funds shall be
distributed per capita under section [6].

(d) NOTIFICATION TO INDIVIDUALS.—The Bureau of
Indian Affairs shall notify any individual that is listed on
the newly-recognized tribe's membership list and that the
funds to which the individual would be entitled under this
Act will be held in trust for the individual's newly-recog-
nized tribe unless, not later than 60 days after such notifi-
cation, the individual informs the Bureau of Indian Affairs
and the tribe, in writing, that the individual relinquishes
membership in the newly-recognized tribe.

SEC. 11. TREATMENT OF FUNDS IN RELATION TO OTHER
LAWS.

(a) PUBLIC LAW 93–134.—All funds distributed pur-
suant to this Act or to any plan approved in accordance
with this Act, including interest and investment income
accrued on such funds before or while such funds were
or are held in trust, shall be subject to the provisions of
section 7 of Public Law 93–134.

(b) TREATMENT RELATING TO FEDERAL ASSIST-
ANCE.—The eligibility for or receipt of distributions under
this Act by a tribe or individual shall not considered as
income, resources, or otherwise when determining the eligibility for or computation of any payment or other benefit to such tribe, individual, or household under—

(1) any financial aid program of the United States, including grants and contracts subject to the Indian Self-Determination Act; or

(2) any other benefit to which such tribe, household, or individual would otherwise be entitled under any Federal or federally assisted program.

SEC. 12. TREATIES NOT AFFECTED.

No provision of this Act shall be construed to constitute an amendment, modification, or interpretation of any treaty to which a tribe mentioned in this Act is a party nor to any right secured to such a tribe or to any other tribe by any treaty.
Senator INOUYE. This morning it is my pleasure and my great honor to call upon the Honorable Dale Kildee, Member of the United States House of Representatives from the State of Michigan. Congressman you are always welcome, sir.

STATEMENT OF HON. DALE KILDEE, U.S. REPRESENTATIVE FROM MICHIGAN

Mr. KILDEE. Thank you, Mr. Vice Chairman. Thank you also for the knowledge and inspiration that you have given to me on Indian issues through the years. There has been no greater advocate in the history of the Congress than Senator Daniel Inouye, and I appreciate what you have taught me and what I have learned from you.

Mr. Vice Chairman, I want to thank you and the members of the committee for scheduling a hearing on this bill today. For so many years, the members of this committee have been the leading advocates on behalf of Native American people, and I want you to know that we are all grateful for your work.

Mr. Vice Chairman, the legislation before us today, the Michigan Lands Claims Settlement Act, will resolve a longstanding injustice perpetrated against the Chippewa and Ottawa Indian Nations in Michigan. Over 150 years ago, in 1836, the Chippewa and Ottawa Indian Tribes signed a treaty in which the Michigan Indian Nations agreed to cede over 12 million acres of land in Michigan to the Federal Government in exchange for a series of annuities to be paid to the tribes.

This land encompassed most of the upper Lower Peninsula in Michigan and the eastern part of the Upper Peninsula. In 1855, the tribes signed another treaty that freed the U.S. Government from paying any further annuities to the tribes, and moved the Indians onto reservations to facilitate more European settlements.

The final compensation considered paid to the tribes was approximately $0.15 an acre. In 1948, the tribes filed suit with the Indian Claims Commission to examine the fairness of the two treaties signed by the Michigan tribes, and after a thorough and very exhaustive review, the Indian Claims Commission called the $0.15 an acre payment an unconscionable consideration and determined that the tribes should have been given 90 cents an acre for their land.

On December 29, 1971, the tribes were awarded over $10 million by the Congress to settle this land claim. These moneys were placed in a trust fund that has been administered by the BIA for the last 26 years. Today, the fund is worth over $74 million.

Last year I became involved in a series of discussions on how to reach an agreement that would allow these funds to be distributed. H.R. 1604 represents a negotiated compromise between the tribes to finally bring about the justice and closure they so rightfully deserve.

Mr. Vice Chairman, when the House Resources Committee considered this bill, we made a few changes in the bill that were suggested by the federally-recognized tribes, and those groups who are currently seeking Federal recognition. I have also reviewed the suggested technical changes by the BIA and I find them generally acceptable.
While this legislation is not perfect, we do—as you know, Senator Inouye—legislate on Capitol Hill and not Mount Sinai, so our work is not totally perfect. It is now supported by all of the federally-recognized tribes and descendancy groups. In fact, this bill is currently scheduled to be considered tomorrow by the House on the suspension calendar.

Mr. Vice Chairman, many of the elders who were originally part of the lawsuit in 1948, including Art LeBlanc of the Bay Mills Tribe who is here to testify, are still awaiting justice to be served. I believe the House will pass this bill tomorrow, and I would hope that the committee and the full Senate could consider this bill before the Congress adjourns this year.

I want to thank you again for holding these hearings today, and I will be happy to answer any questions you may have.

As a personal note, Mr. Vice Chairman, my grandfather was born in Ireland. My father was raised around Traverse City, MI, and when I was a child I used to visit some of the Indian Nations around Traverse City. My dad, who was born in 1883, recalls when the Indians had greater mobility, before they were pushed further and further into smaller and smaller areas.

My dad always had a great sense of justice. When I was a small child, he always told me that the Indians had been treated so unfairly in Michigan, and as his son, I hope that I can play some role in bringing a measure of justice to those Indians.

Thank you, Mr. Vice Chairman.

Senator Inouye. I thank you, Congressman. I am certain that the members of the tribes in Michigan are well aware of the work that you have done and continue to do, and this is an example of that type of work.

Before proceeding, I would like to once again commend you for this measure. As I have noted, this is a rather unique situation. We are considering a measure that has yet to be passed by the House of Representatives, but we consider that justice has been delayed too long, and therefore we intend to report this measure out as soon as you report yours, sir.

Mr. Kildee. Very good. I appreciate that, Mr. Vice Chairman.

Senator Inouye. Just for the record, Congressman, is it my understanding that all the parties involved are satisfied with the provisions in this measure?

Mr. Kildee. Yes; we have worked with all the parties. The recognized tribes—there are two tribes that are not federally-recognized. We put a provision in there that if they become federally-recognized, that the descendancy money which ordinarily would go to the descendancy groups would go to the tribal governments. We have worked with them and, to my understanding, everyone is satisfied with this very delicate distribution formula.

Senator Inouye. And I would presume that you would like to have this measure passed during this Congress?

Mr. Kildee. I certainly would. I think you and I both agree on the principle that justice delayed is justice denied, and they have waited a long time for this. My experience, particularly with the Indian tribes, is that the money will be used for the development of the tribe, for education, for health, for housing, for those things that you and I find so essential in any society.
Senator INOUYE. You can be assured that I will do my utmost to see that the Kildee measure becomes law.
Mr. KILDEE. Thank you, Mr. Vice Chairman.
Senator INOUYE. Thank you very much, sir.
Mr. KILDEE. Thank you, Mr. Vice Chairman.
Senator INOUYE. Our next witness is the Deputy Assistant Secretary for Indian Affairs of the Department of the Interior, Michael Anderson.

Once again, welcome, sir.

STATEMENT OF MICHAEL ANDERSON, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC, ACCOMPANIED BY BARBARA COEN, OFFICE OF THE SOLICITOR

Mr. ANDERSON. Good morning, Mr. Vice Chairman. Also joining me is Barbara Coen from the Office of the Solicitor, Department of the Interior.

Senator INOUYE. Welcome.

Ms. COEN. Thank you.

Mr. ANDERSON. Thank you for the opportunity to present the views of the Department of the Interior on H.R. 1604, a bill to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to Dockets No. 18-E, 58, 364, and 18-R before the Indian Claims Commission.

I will summarize the written testimony and note that our testimony today is directed toward the most recent version of H.R. 1604, which is to be presented on the House Floor tomorrow, as Congressman Kildee indicated, for a floor vote.

We also want to extend our appreciation both to this committee and also to Congressman Kildee for his outstanding efforts in negotiating a final solution to this longstanding issue.

We support the enactment of H.R. 1604 with certain technical and clarifying amendments, which are truly in the nature of technical amendments, which will be provided both to the House and the Senate staff for, hopefully, incorporation into the bill.

By way of background as Congressman Kildee has summarized, the Ottawa and Chippewa Indians were awarded approximately $10 million in Dockets 18-E and 58, and then $25 million in Dockets 364 before the Indian Claims Commission. Funds to satisfy the awards were appropriated on October 31, 1972 and March 13, 1978, respectively, and are held in trust for the beneficiaries. The awards in Dockets 18-E and 58 were made in 1972 to the Ottawa and Chippewa Indian Nations, who negotiated the treaties of July 6th, 1820 and March 28, 1836. The award represents additional payment for land of the St. Martin Islands ceded under the 1820 treaty, and tracts in Upper and Lower Michigan ceded under the 1836 treaty. Docket 364, awarded in 1977, is an accounting claim under Articles 1 and 2 of the treaty of July 31, 1855.

These funds have been held in trust since their appropriation. Although the Department has held hearings over the years and has attempted to achieve consensus among the beneficiaries on a division of the funds, successor recognized tribes and descendants have been unable to agree up until this point, until this week, to a division. Two of the affected tribes actually sued the Department last
year in order to compel submission of legislation to divide the funds.

During the consultation period held in the fall of 1996, there was tribal support for a plan in which the legislation would specify the proportionate share of the funds allocated to each of the tribes and the descendant groups. This approach has the benefit of dividing the award among the beneficiary tribes without the delay unavoidably caused by the preparation of a roll. This approach also minimizes the administrative costs of the BIA, and this is basically the approach that has been prepared for today.

The Department submitted two draft bills in March to Congress, and also has submitted comments on H.R. 1604, as introduced, to Chairman Don Young last summer, on July 15, 1997.

We are pleased to note that while most of the suggestions were incorporated within the latest version, that these basically were agreed to, and we now have basic agreement other than a couple of technical amendments.

With that, we want to state that we are in support of this bill, that we think it achieves a fair and adequate resolution to this longstanding problem, and we understand that this legislation has the support of the federally-recognized tribes affected by this bill, and also Burt Lake, as the Petitioner in this matter.

So with those strong endorsements from all the parties affected, and also from the House side, we are very pleased to support this amendment and bill.

That concludes my prepared statement, and we are prepared to answer any questions that the committee might have.

Thank you, Mr. Vice Chairman.

As you know, we have one representative of Indian Nations present this morning, but all the others who are not present have communicated with this committee to indicate their support of this measure.

Have you also received assurances from the other nations?

Mr. ANDERSON. Yes; we had communications on Friday to assure that they support this legislation.

Senator INOUYE. And you are satisfied with that?

Mr. ANDERSON. Yes; we are.

Senator INOUYE. Congressman Kildee, in order to expedite this matter, have you seen the technical amendments?

Mr. KILDEE. We have seen the amendments suggested by the BIA.

Senator INOUYE. And do you find them satisfactory?

Mr. KILDEE. Yes; we do, Mr. Vice Chairman.

Senator INOUYE. With that, Mr. Anderson, I thank you very much, sir.

Mr. ANDERSON. Thank you, sir.

Senator INOUYE. Oh, Mr. Anderson—the bill as it will pass the House eliminates a provision which describes the treatment of funds relating to Federal assistance programs. This provision is standard in all previous judgment acts. This provision is important because judgment funds have not been subject to legislation or con-
sidered for purposes of eligibility for assistance under Federal programs.

What is your position on the treatment of distributions of funds under this bill, not being considered as income or resources for eligibility for Federal programs?

Mr. ANDERSON. Right. That is a standard provision in judgment fund bills, to include a provision on funds held in trust by the United States. I defer to Counsel for the exact language.

[Audio equipment failure in committee hearing room.]

Ms. COEN. Existing law, 25 U.S.C. 1407 and 1408, applies to this judgment fund. Previous legislation passed on judgment funds include that language in order to clarify that that specifically applies to those judgment funds. If that language is included here, there will not be any ambiguity; if the language is not included here, then there will just be an issue out there. So the Department's preference would be that the language be included in this bill.

Senator INOUYE. Congressman, do you object to including that language?

Mr. KILDEE. I would be very happy if the Senate would add that in.

Senator INOUYE. Thank you very much, sir.

Thank you, Mr. Anderson.

Our final witness is Arthur LeBlanc, Tribal Elder of the Bay Mills Indian Community, Brimley, MI.

STATEMENT OF ARTHUR L. LeBLANC, TRIBAL ELDER, BAY MILLS INDIAN COMMUNITY, BRIMLEY, MI

Mr. LeBLANC. Thank you, Mr. Vice Chairman.

My name is Arthur LeBlanc, and I am a member of the Bay Mills Indian Community. For most of my life, I have lived on the tribe's reservation, which is located on the St. Mary's River in the Upper Peninsula of Michigan. I come before this hearing as the spokesman for the Bay Mills Indian Community, which filed claims against the United States in 1948 under the 1836 and 1855 treaties.

At that time, the Bay Mills Indian Community was the only federally-recognized tribe whose ancestors signed the treaties. I had just returned from serving in World War II, and participated in the efforts of my tribe to seek an attorney to represent us before the Indian Claims Commission. My uncle, who was then Chairman, organized fundraising efforts. We collected bottles, held raffles, and went door-to-door for donations in order to hire lawyers. I remember well the personal sacrifices that had to be made in order to start this case.

My father was Tribal Chairman when the cases were filed in 1948, and he also was one of three individual Plaintiffs named. Arthur William LeBlanc was his name. The people had no idea how long it would take for a decision to be reached by the Indian Claims Commission. We talked about what we would do with the Indian money and dreamed about how those funds would better the community.

By the mid-1950's the three individual plaintiffs had passed on, without knowing whether the claims would ever be honored by the Indian Claims Commission. I was asked by the people to take my
father’s place as a plaintiff—in 1957, I believe. My name was added to the case, and I provided testimony to the Commission about the Bay Mills Indian Community in 1958.

The wait for a decision continued through the 1960’s and into the 1970’s. Our lawyers kept us informed on the various stages of the case, and finally were able to tell us that a final judgment was entered in 1971. We were relieved that the long wait was over. We did not understand that even after Congress appropriated the money the following year, that actually getting the money could—and would—take longer. It has been 25 years since Congress honored the Claims Commission decision. We are still waiting.

I was an active participant in the efforts of the Bay Mills Indian Community to obtain distribution of the Indian money. I presented testimony on behalf of the tribe as Tribal Chairman at BIA hearings in 1975. Since then, I have participated in formal and informal meetings about the distribution with Federal officials, Members of Congress and their staff, and representatives of various Indian organizations. Bills have been introduced in the past, and not enacted. Judgment distribution plans have been proposed by the BIA, and not implemented. In the 50 years since the claims were filed, four generations of Indian people have passed on, and the Indian money is still in a BIA account.

The fight for just resolution of treaty-based claims was fought almost alone by the Bay Mills Indian Community for the first 25 years. All other descendants of the bands who signed the treaties were represented through a voluntary membership organization named the Northern Michigan Ottawa Association. However, it was not until the Bay Mills Indian Community filed suit against the Secretary of the Interior in 1995 for failing to develop a distribution plan, and winning that case, that an end finally was in sight to the waiting. The distribution plan contained in H.R. 1604 was the result of meetings held with the tribes and descendants, sponsored by the BIA, to develop a plan.

I am the last living plaintiff in the dockets to be distributed by H.R. 1604. I am honored to appear before you as the representative of generations of Michigan Chippewa and Ottawa people who have waited for justice to be done. Justice demands that H.R. 1604 be passed by the Congress as quickly as possible, and I ask each of you to vote in support. My request is made on behalf of my father, and the traditional chiefs and headmen who negotiated the treaties in 1836 and 1855. It is also made on behalf of my children, and grandchildren, and great-grandchildren, and the generations yet to come. All ask that the wait be ended.

Thank you for your attention. I will try to answer any questions that you may have for me.

[Prepared statement of Mr. LeBlanc appears in appendix.]

Senator INOUYE. Mr. LeBlanc, on behalf of the committee, I commend you for your patience, your perseverance, and especially your leadership in uniting the tribes and nations of your area in this cause. I can assure you that with Congressman Kildee carrying your banner, this measure will be passed this session.

May I ask one question? You are the only representative here of the Indian nations of your area. Are you satisfied that all the other Indian nations and tribes are in full accord with your proposal?
Mr. LeBLANC. Well, I certainly hope so, Mr. Vice Chairman. I hope that they are satisfied. We are satisfied.

Senator INOUYE. You have not received word of their dissatisfaction?

Mr. LeBLANC. No; I have not.

Senator INOUYE. With that, I thank you very much. The next time we meet we will be at the signing of the bill.

Mr. LeBLANC. Okay, thank you very much.

Senator INOUYE. Thank you, and with that we will stand in recess and we will keep the record open for 1 week for the submittal of any supplements or addendums. Until then, the committee stands adjourned.

[Whereupon, at 10:20 a.m., the committee was adjourned, to reconvene at the call of the Chair.]
APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF ARTHUR LEBLANC, TRIBAL LEADER, BAY MILLS INDIAN COMMUNITY, BRIMLEY, MI

My name is Arthur LeBlanc, and I am a member of the Bay Mills Indian Community. For most of my life, I have lived on the tribe's reservation which is located on the St. Mary's River in the Upper Peninsula of Michigan. I come before this hearing as the spokesman for the Bay Mills Indian Community, which filed claims against the United States in 1948 under the 1836 and 1855 treaties.

At that time, the Bay Mills Indian Community was the only federally recognized tribe whose ancestors signed the treaties. I had just returned from serving in World War II, and participated in the efforts of my tribe to seek an attorney to represent us before the Indian Claims Commission. My uncle, who was then Chairman, organized fund raising efforts; we collected bottles, held raffles and went door to door for donations in order to hire lawyers. I remember well the personal sacrifices that had to be made in order to start this case.

My father was Tribal Chairman when the cases were filed in 1948, and he also was one of three individual plaintiffs named. Arthur William LeBlanc was his name. The people had no idea how long it would take for a decision to be reached by the Indian Claims Commission. We talked about what we would do with the Indian money and dreamed about how those funds would better the community.

By the mid-1950's, the three individual plaintiffs had passed on without knowing whether the claims would ever be honored by the Indian Claims Commission. I was asked by the people to take my father's place as a plaintiff, in 1957, I believe. My name was added to the case, and I provided testimony to the Commission about the Bay Mills Indian Community in 1958.

The wait for a decision continued through the 1960's and into the 1970's. Our lawyers kept us informed on the various stages of the case, and finally were able to tell us that a final judgment was entered in 1971. We were relieved that the long wait was over. We did not understand that even after Congress appropriated the money the following year, that actually getting the money could, and would, take longer. It has been 25 years since Congress honored the Claims Commission decision. We are still waiting.

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The fight for just resolution of treaty based claims was fought almost alone by the Bay Mills Indian Community for the first 25 years. All other descendants of the
bands who signed the treaties were represented through a voluntary membership organization named the Northern Michigan Ottawa Association.

However, it was not until the Bay Mills Indian Community filed suit against the Secretary of the Interior in 1995 for failing to develop a distribution plan, and winning that case, that an end finally was in sight to the waiting. The distribution plan contained in H.R. 1604 was the result of meetings held with the Tribes and descendants, sponsored by the BIA to develop a plan.

I am the last living plaintiff in the Dockets to be distributed by H.R. 1604. I am honored to appear before you as the representative of generations of Michigan Chippewa and Ottawa people who have waited for justice to be done. Justice demands that H.R. 1604 be passed by the Congress as quickly as possible, and I ask each of you to vote in support. My request is made on behalf of my father, and the traditional chiefs and headmen who negotiated the treaties in 1836 and 1855; it is also made on behalf of my children and grandchildren, and great grandchildren, and the generations yet to come. All ask that the wait be ended.

Thank you for your attention. I will try to answer any questions that you may have for me.

PREPARED STATEMENT OF MICHAEL J. ANDERSON, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Good morning Mr. Vice Chairman and members of the committee. Thank you for the opportunity to present the views of the Department of the Interior on H.R. 1604, a bill to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18-E, 58, 364, and 18-R before the Indian Claims Commission.

We support the enactment of H.R. 1604 with certain technical and clarifying amendments.

On March 14, 1997, the Department of the Interior [Department] submitted to Congress two draft bills to provide for the distribution of the judgment funds in these Indian Claims Commission dockets. These funds currently total approximately $69.5 million. H.R. 1604 is an alternative approach to part of the Department's proposal. In addition, H.R. 1604 includes use and distribution plans for the respective shares of the Sault Ste. Marie Tribe and the Bay Mills Indian Community.

H.R. 1604 divides Docket 18-R between the Sault Ste. Marie Tribe and the Bay Mills Indian Community in the same ratio as recommended by the Department, which was based on the two tribes' agreements.

For background, the Ottawa and Chippewa Indians were awarded $10,109,003.56 in Dockets 18-E and 58 and $25,233.11 in Docket 364 before the Indian Claims Commission. Funds to satisfy the awards were appropriated on October 31, 1972 (86 Stat. 1518) and March 13, 1978 (92 Stat. 107) respectively and are held in trust for the beneficiaries.

The award in dockets 18-E and 58 was made in 1972 to the Ottawa and Chippewa Nations of Indians who negotiated the treaties of July 6, 1820, (7 Stat. 207) and March 28, 1836 (7 Stat. 491). The award represents additional payment for land of the St. Martin Islands ceded under the 1820 treaty and tracts in upper and lower Michigan ceded under the 1836 treaty. Docket 364, awarded in 1977, is an accounting claim under articles 1 and 2 of the treaty of July 31, 1855 (11 Stat. 621).

On July 15, 1997, the Department sent a letter to the Honorable Don Young that contained suggested technical amendments to H.R. 1604 as introduced. While most of the Department's suggestions were incorporated within the latest version of the bill, we suggest additional amendments to address our concerns with H.R. 1604. The suggested amendments, which are clarifying and technical, will be provided to the committee under separate cover following the hearing.

It is our understanding that this legislation has the support of the federally recognized tribes affected by this bill.

This concludes my prepared statement. I will be happy to respond to any questions the committee may have.

PREPARED STATEMENT OF CARL FraZIER, CHAIRMAN, BURT LAKE BAND OF OTTAWA AND CHIPPEWA INDIANS

Mr. Vice Chairman and members of the committee, as chairman of the Burt Lake Band of Ottawa and Chippewa Indians of Michigan I am pleased to provide our views on H.R. 1604. I apologize for not being able to present our testimony in person due to illness in my family.
The Burt Lake Band of Ottawa and Chippewa, then known as the Cheboigan Band, was one of the Bands of the Ottawa and Chippewa which were signatories to the 1836 treaty of Washington and the 1855 treaty of Detroit. Pursuant to the 1836 treaty, the bands, negotiating in three geographical groupings, collectively ceded title to approximately 3.8 million acres of land to the Federal Government. Three million acres of land were held in trust for the Bands of the Ottawa and Chippewa, then known as the Cheboigan Band, to the northern and western half of the lower peninsula of Michigan. The cession of this land formed the basis of the Indian Claims Commission awards in Dockets 18-E, 58 and 364. The Commission determined that the Bands were under compensated by the United States by nearly 700 percent based upon the then 1836 market value of the land.

The 1836 treaty provided for certain reservations of land for various of the bands including the Burt Lake (Cheboigan) Band. However, the Federal Government failed to ever survey and thus ever actually set aside the reservation provided for the Burt Lake Band pursuant to the 1836 treaty. The band used their own treaty annuity payments to repurchase lands to form a tribal land base and had those lands held in trust by the Governor of Michigan. The 1855 treaty also provided for the establishment of reservations for the Burt Lake and a number of other bands. The Burt Lake Band, skeptical that the Federal Government would not again fail to provide its promised reservation, initially refused to sign the 1855 treaty at the time the other bands signed the treaty. It was not until 1856, after the Federal Government finally agreed to identify a specific reservation for the band, that the band agreed to sign the 1856 treaty.

Virtually all of the Ottawa and Chippewa Bands that were parties to the 1836 and 1855 treaties lost their land holdings due to fraud and illegal tax sales. The Bay Mills Indian Community was the only band for which the Federal Government purchased subsequent lands to reestablish a land base for any of the bands. Following passage of the Indian Reorganization Act of 1934, all of the bands who were signatories to the treaties petitioned the Secretary of the Interior to reorganize under the provisions of the act. Initially, Federal officials indicated that the bands were eligible and would be permitted to reorganize under the IRA. However, by 1937-38, the BIA officials decided that they did not have sufficient appropriations to reacquire land for landless tribes and bands and therefore not permit them to reorganize. In effect, the BIA administratively terminated the bands, assuming a power which it did not then have and does not now have. In recent years many of the bands have been successful in reestablishing or reaffirming their respective status as federally recognized tribes. They include the Sault Ste. Marie Chippewa Tribe, the Grand River Band of Ottawa and Chippewa, the Little Traverse Band of Odawa and the Little River Band of Ottawa. Two other bands who were parties to the same treaties, are still in the arduous process of seeking to have their Federal status reaffirmed, the Burt Lake Band and the Grand River Band of Ottawa. I will refer to the latter two bands as the reaffirming bands. I point this out in that the bands who have not had their status reaffirmed would be governed by much different provisions under H.R. 1604 than those bands who have had their status reaffirmed.

When H.R. 1604 was the subject of hearings before the Committee on Resources on June 24, the Burt Lake Band raised serious concerns with the pending legislation as then drafted. Prior to the committee vote to report the bill out of committee, the band was assured that the bill would be amended in an effort to address its concerns prior to final consideration on the floor of the House. Based upon extensive negotiations and discussions between representatives of our band and Representative Kildee's Office in recent weeks, we have been provided a copy of a substitute bill which we are advised will be offered for passage on the House floor in lieu of the version of the bill reported out of the Resources Committee. With the several important changes now contained in the substitute version of the bill, the Burt Lake Band is now in a position to endorse and support enactment of the bill in this session of Congress.

A brief summary of some of the critical changes in the proposed substitute bill include the following:

No. 1, section 4. (a) and (b). Increasing the initial division of the $74,440,432.16 in Docket 18-E, 58 and 364 funds from $9,187,001.72 to $9,928,026.81 for distribution to reaffirming bands and non-tribal member descendants. This nominal increase for the descendants/reaffirming bands is only fair since the overall increased value of the judgment funds has increased in the past 9 months commencing January 1, 1997 from $68,764,850.33 to $74,440,432.16. The descendants/reaffirming bands division of the funds should receive its proportionate share of the overall increased value of the funds. Obviously, if the bill languishes and is not finally enacted in this session of Congress, the amount of the funds allocated to the descendants/reaffirming bands should be read-
justed to reflect its proportionate share of any increase in the overall value of the
judgment funds. Please understand, we are not suggesting nor advocating that there
needs to be any readjustment of the descendant/reaffirming bands division of the
funds if the bill is finally enacted in this session of Congress. Based upon the aver-
age annual performance of the judgment funds, it can be projected that the overall
value of the funds (excluding 18-R) will increase by about $528,000 per month of
which about $70,400 a month would be attributable to the funds allocated to the
descendants/reaffirming tribes. Any significant delay in enactment would result in
a significant loss of investment income to the descendant/reaffirming bands unless
its division of funds is also readjusted proportionately.

No. 2, section 4. (d). Provides for the Secretary, upon enactment of the legislation,
to segregate and hold in trust that portion of the judgment funds allocated to the
descendants/reaffirming bands.

This would ensure that, following enactment of the bill, all income generated by
the descendants/reaffirming bands division of the judgment funds would accrue to
the benefit of the descendants/reaffirming bands.

No. 3, section 6. (2) (A). Ensures that reaffirming bands have up to an 8 year win-
dow to secure reaffirmation of its federally recognized status before the Secretary
can make a final distribution of descendants/reaffirming bands division of the judg-
ment funds.

While those bands who have already been successful in reaffirming or reestablish-
ing their Federal status would be eligible to immediately get their respective alloca-
tions of the judgment funds, those bands who are still in the process of reaffirming or reestablishing their Federal status are not eligible to re-
ceive any distribution whatsoever under the bill, unless and until they have been
successful in getting their status as a federally recognized tribe reaffirmed or rees-
'tablished. This provision would afford such reaffirming bands up to 8 years to ac-
complish this task in order to qualify to get their tribal distribution of the judgment
funds.

No. 4, section 10. (b). This provision would direct the Secretary to distribute $3
million plus a proportionate share of accrued investment income to any reaffirming
band which is successful in securing reaffirmation or reestablishment of its federally
recognized status. Such distributed funds would be deducted from the judgment
funds initially allocated to the descendants/reaffirming bands under the bill.

This provision would ensure that successful reaffirming bands would get a portion
of their share of the funds reserved for the descendants/reaffirming bands shortly
after having their status reaffirmed.

No. 5, section 10. (c) and (d). This provision would ensure that successful reaffirm-
ing bands are treated the same as other already reaffirmed bands in that their trib-
als members' share would be distributed to the band rather than the individual and
then subsequently used and/or distributed by the band in accordance with the
band's Secretarial approved judgment fund use and distribution plan.

Newly reaffirmed bands should not be treated differently than the other bands.

No. 6, section 10. (e) (1) (C). This provision would permit a reaffirming band oppor-
tunities to update its membership rolls for a reasonable period of time prior to
the Secretary's final distribution of the judgment funds.

There is no restriction upon the currently recognized bands enrolling new mem-
bers who otherwise meet their enrollment criteria. The successful reaffirming bands
should be afforded a reasonable time to update their tribal rolls. Additions to the
membership rolls of newly reaffirmed bands would have no affect on the allocation
of judgment funds to already recognized bands.

In closing, I would just like to call to the attention of the committee that the Burt
Lake Band has legislation pending in the House (H.R. 948) and in the Senate (S.
746) which would reaffirm the Federal status of the band. H.R. 948 was unani-
mously ordered reported out of the Committee on Resources at the same time as
H.R. 1604 was ordered reported by the committee. We are advised that our House
bill will be brought up for consideration on the House floor at the same time as H.R.
1604 is considered. We would like to request that this committee schedule a hearing
on H.R. 948/S. 746 at its earliest possible convenience. Given our very similar his-
tories and treatment by the Federal Government, our legislation to reaffirm our
Federal status is very similar to legislation Congress has recently enacted reaffirm-
ing the status of other treaty signatory bands in Michigan. Given our contingent
participation under the judgment fund legislation, early reaffirmation of our Federal
status is all the more immediate and imperative.

This concludes my remarks concerning H.R. 1604. As long as any amendments
which the committee might consider to the proposed House version of the substitute
bill do not adversely affect the critical provisions we have discussed herein, the Burt
Lake Band of Ottawa and Chippewa supports the proposed substitute and strongly
urges its passage in this session of Congress. We would like to express our appreciation to Representative Kildee and his staff for working with us to derive at amendments to the legislation which takes into consideration issues of critical concern and importance to the future of the Burt Lake Band of Ottawa and Chippewa.

Thank you for an opportunity to express our views.

BURT LAKE BAND OF OTTAWA AND CHIPPEWA INDIANS, INC.
Brutus, MI, October 23, 1997.

Hon. DALE KILDEE,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN KILDEE: On behalf of the Burt Lake Band, I would like to thank you for your efforts in resolving our concerns regarding H.R. 1604, the judgment fund distribution legislation. As you are aware, we had expressed concerns over this legislation when a hearing was held in the House Resources Committee on June 24.

We appreciate your willingness to make changes in the legislation that would guarantee the Burt Lake Band a fair share of these funds upon reaffirmation. With these changes, we are now in a position to wholeheartedly support H.R. 1604 without qualification through both House and Senate consideration this year. We would be willing to express our support of this legislation at any congressional hearing that may occur this year.

We also appreciate your help on the reaffirmation legislation and look forward to swift passage of this bill during this Congress as well.

Sincerely,

CARL FRAZIER, Chairman.