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REPORT
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COWLITZ INDIAN TRIBE DISTRIBUTION OF JUDGMENT FUNDS ACT

NOVEMBER 17, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 2489]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2489) to provide for the distribution of judgment funds to the Cowlitz Indian Tribe, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. COWLITZ INDIAN TRIBE DISTRIBUTION OF JUDGMENT FUNDS ACT.

This Act shall be known as the "Cowlitz Indian Tribe Distribution of Judgment Funds Act".

SEC. 2. DEFINITIONS.

For the purpose of this Act—

(1) The term "current judgment fund" means the funds awarded by the Indian Claims Commission Docket No. 218 and all interest accrued thereon as of the date of the enactment of this Act.

(2) The term "initial interest" means the interest on the funds awarded by the Indian Claims Commission Docket No. 218 during the time period from one year before the date of the enactment of this Act through the date of the enactment of this Act.

(3) The term "principal" means the funds awarded by the Indian Claims Commission Docket No. 218 and all interest accrued thereon as of one year before the date of the enactment of this Act.

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

(5) The term "tribe" means the Cowlitz Indian Tribe of Washington, which was extended Federal acknowledgment by the United States Department of the Interior on December 31, 2001, pursuant to part 83 of title 25, Code of Federal Regulations.

(6) The term "tribal member" means an individual who is an enrolled member of the Cowlitz Indian Tribe pursuant to tribal enrollment procedures and requirements.

(7) The term "tribe's governing body" means the Cowlitz Tribal Council, which is the tribe's governing body under the tribe's Constitution.

(8) The term "tribal elder" means any tribal member who was 62 years of age or older as of February 14, 2000.

SEC. 3. JUDGMENT DISTRIBUTION PLAN.

Notwithstanding the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401, et seq.), or any plan prepared or promulgated by the Secretary pursuant to that Act, the judgment funds awarded in Indian Claims Commission Docket No. 218 and interest accrued thereon as of the date of the enactment of this Act shall be distributed and used in accordance with this Act.

SEC. 4. DISTRIBUTION AND USE OF FUNDS.

(a) PRINCIPAL PRESERVED AFTER ELDERLY ASSISTANCE AND TRIBAL ADMINISTRATION PAYMENTS.—(1) Except as provided in subsection (b), the principal shall not be distributed under this Act. Only the interest earned on the undistributed principal may be used to fund such programs. There will be no distribution of any funds other than as specified in this Act.

(2) The Secretary shall—

(A) maintain undistributed current judgment funds in an interest-bearing account in trust for the tribe; and

(B) disburse principal or interest in accordance with this Act not later than 30 days after receipt by the Northwest Regional Director, Bureau of Indian Affairs, of a request by the tribe's governing body for such disbursement of funds.

(b) ELDERLY ASSISTANCE PROGRAM.—(1) From the current judgment fund, the Secretary shall set aside 20 percent for an elderly assistance payment. The Secretary shall provide one elderly assistance payment to each enrolled tribal elder not later than 30 days after all of the following have occurred:

(A) The tribe's governing body has compiled and reviewed for accuracy a list of all enrolled tribal members that are both a minimum of one-sixteenth Cowlitz blood and 62 years of age or older as of February 14, 2000.

(B) The Secretary has verified the blood quantum and age of the tribal members identified on the list prepared pursuant to subparagraph (A).

(C) The tribe's governing body has made a request for disbursement of judgment funds for the elderly assistance payment.

(2) If a tribal elder eligible for an elderly assistance payment dies before receiving payment under this subsection, the money which would have been paid to that individual shall be added to and distributed in accordance with the emergency assistance program under subsection (c).

(3) The Secretary shall pay all costs of distribution under this subsection out of the amount set aside under paragraph (1).

(c) EMERGENCY ASSISTANCE PROGRAM.—From the principal, the Secretary shall set aside 10 percent for the Emergency Assistance Program. Beginning the second year after the date of the enactment of this Act, interest earned on such sum shall be distributed annually in a lump sum to the tribe's governing body and will be used to provide emergency assistance for tribal members. 10 percent of the initial interest shall be available upon the date of the enactment of this Act to fund the program for the first year after the date of the enactment of this Act.

(d) EDUCATION, VOCATIONAL, AND CULTURAL TRAINING PROGRAM.—From the principal, the Secretary shall set aside 10 percent for an Education, Vocational and Cultural Training Program. Beginning the second year after the date of the enactment of this Act, interest earned on such sum shall be distributed annually in a lump sum to the tribe's governing body and will be used to provide scholarships to tribal members pursuing educational advancement, including cultural and vocational training. 10 percent of the initial interest shall be available upon the date of the enactment of this Act to fund the program for the first year after the date of the enactment of this Act.

(e) HOUSING ASSISTANCE PROGRAM.—From the principal, the Secretary shall set aside 5 percent for the Housing Assistance Program. Beginning the second year after the date of the enactment of this Act, interest earned on such sum shall be disbursed annually in a lump sum to the tribe's governing body and may be added to any existing tribal housing improvements programs to supplement them or it may be used in a separate Housing Assistance Program to be established by the tribe's governing body. 5 percent of the initial interest shall be available upon the date of the enactment of this Act to fund the program for the first year after the date of the enactment of this Act.

(f) ECONOMIC DEVELOPMENT, TRIBAL, AND CULTURAL CENTERS.—From the principal, the Secretary shall set aside 21.5 percent for economic development and, if other funding is not available or not adequate (as determined by the tribe), for the construction and maintenance of tribal and cultural centers. Beginning the second year after the date of the enactment of this Act, interest earned on such sum shall be disbursed annually in a lump sum to the tribe's governing body and shall be used for the following, with 21.5 percent of the initial interest available upon the date of the enactment of this Act to fund the program for the first year after the date of the enactment of this Act:

(1) Property acquisition for business or other activities which are likely to benefit the tribe economically or provide employment for tribal members.

(2) Business development for the tribe, including collateralization of loans for the purchase or operation of businesses, matching funds for economic development grants, joint venture partnerships, and other similar ventures, which are likely to produce profits for the tribe. All business loans shall pay principal and interest back to the Economic Development program for reinvestments and business profits shall go to the tribe's general fund for uses to be determined by the tribe's governing body.

(3) Design, construction, maintenance, and operation of tribal and cultural centers.

(g) NATURAL RESOURCES.—From the principal, the Secretary shall set aside 7.5 percent for natural resources. Beginning the second year after the date of the enactment of this Act, interest earned on such sum shall be disbursed annually in a lump sum to the tribe's governing body and may be added to any existing tribal natural resource program to enhance the tribe's use and enjoyment of existing and renewable natural resources within the tribe's lands. 7.5 percent of the initial interest shall be available upon the date of the enactment of this Act to fund the program for the first year after the date of the enactment of this Act.

(h) CULTURAL RESOURCES.—From the principal, the Secretary shall set aside 4 percent for cultural resources. Beginning the second year after the date of the enactment of this Act, interest earned on such sum shall be distributed annually in a lump sum to the tribe's governing body and shall be used to maintain artifacts, collect documents, archive, and identify cultural sites of tribal significance. 4 percent of the initial interest shall be available upon the date of the enactment of this Act to fund the program for the first year after the date of the enactment of this Act.

(i) HEALTH.—From the principal, the Secretary shall set aside 21 percent for health. Beginning the second year after the date of the enactment of this Act, interest earned on such sum shall be disbursed annually in a lump sum to the tribe's governing body and shall be used for the health needs of the tribe. 21 percent of the initial interest shall be available upon the date of the enactment of this Act to fund the program for the first year after the date of the enactment of this Act.

(j) TRIBAL ADMINISTRATION PROGRAM.—From the principal, the Secretary shall set aside 21 percent for tribal administration. 21 percent of the initial interest and such of the principal sum set aside for this program as required to fund the first year of this program at $150,000, the sum of $150,000 shall be immediately disbursed to the tribe for the purposes of funding tribal administration for the first year after the date of the enactment of this Act. Beginning the second year after the date of the enactment of this Act, interest earned on the remaining principal set aside under this subsection shall be disbursed annually in a lump sum to the tribe's governing body for operating costs of the tribe's governing body, including travel, telephone, cultural, and other expenses incurred in the conduct of the tribe's affairs, and legal fees as approved by the tribe's governing body.

(k) GENERAL CONDITIONS.—The following conditions will apply to the management and use of all funds available under this Act by the tribe's governing body:

(1) No amount greater than 10 percent of the interest earned on the principal designated for any program under this Act may be used for the administrative costs of any of that program, except those programs operated pursuant to subsections (i) and (j).

(2) No service area is implied or imposed under any program under this Act. If the costs of administering any program under this Act for the benefit of tribal members living outside the tribe's Indian Health Service area are greater than 10 percent of the interest earned on the principal designated for that program, the tribe's governing body may authorize the expenditure of such funds for that program.

(3) Before any expenditures, the tribe's governing body must approve all programs and shall publish in a publication of general circulation regulations which provide standards and priorities for programs established in this Act.

(4) Section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407) shall apply to funds available under this Act.

(5) Any tribal member who feels he or she has been unfairly denied the right to take part in any program under this Act may appeal to the tribal secretary. The tribal secretary shall bring the appeal to the tribe's governing body for resolution. The resolution shall be made in a timely manner and the tribal secretary at that time shall respond to the tribal member.

PURPOSE OF THE BILL

The purpose of H.R. 2489 is to provide for the distribution of judgment funds to the Cowlitz Indian Tribe.

BACKGROUND AND NEED FOR LEGISLATION

The Cowlitz Indian Tribe has lands in Western Washington and the over 1,000 enrolled members are commonly divided into two groups, the Taidnapam, or Upper Cowlitz, and the Lower Cowlitz.

Under current law, Congress has the express authority to disburse Tribal judgment funds. As trustee, it is the Department of the Interior's responsibility to ensure that any judgment award is distributed according to the terms of the settlement agreement between parties, and that the distribution follows the Court's order.

On March 23, 1973, the Indian Claims Commission ruled in favor of the Cowlitz Tribe of Indians, stating that their aboriginal title of lands had been taken from them and they deserved compensation for these lands. The Commission gave the Tribe compensation for the fair market value of their lands as delineated in 1855.

H.R. 2489 will create a judgment distribution plan that follows the Indian Tribal Judgment Funds Use or Distribution Act, which dictates the manner in which funds can be utilized. More precisely, H.R. 2489 creates a specific plan under which the Secretary of the Interior sets aside specific percentages of the judgment funds for a multitude of uses for the Tribe. These uses will include programs such as elderly assistance, scholarships, housing assistance, and economic development.

COMMITTEE ACTION

H.R. 2489 was introduced on June 17, 2003, by Congressman Brian Baird (D–WA). The bill was referred to the Committee on Resources. On October 29, 2003, the Full Resources Committee met to consider the bill. Congressman Richard Pombo offered an amendment to make technical corrections to the bill, including slightly changing the extent to which the percentages of the judgment funds were rounded. It was adopted by unanimous consent. The bill as amended was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Cowlitz Indian Tribe Distribution of Judgment Funds Act

This section provides short title of the bill.

Section 2. Definitions

This section defines multiple terms, including "initial interest," and "principal" to better differentiate the ways in which the fund will be utilized.

Section 3. Judgment distribution plan

This section states that the funds described in Indian Claims Commission Docket No. 218 will be distributed and used in accordance with the Indian Tribal Judgment Funds Use or Distribution Act.

Section 4. Distribution and use of funds

This section delineates the various uses of the funds as well as the percentage of the larger judgment fund that will apply. The programs created include: an elderly assistance program; an emergency assistance program; an education, vocational, and cultural program; a housing assistance program; an economic development, tribal and cultural centers funding stream; a natural resources use and enjoyment program; a cultural resources fund; a general tribal health fund; and a tribal administration program. This section also defines the conditions which will apply to the management and use of the funds available under the bill.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 6, 2003.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2489, the Cowlitz Indian Tribe Distribution of Judgment Funds Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 2489—Cowlitz Indian Tribe Distribution of Judgment Funds Act

H.R. 2489 would direct the Secretary of the Interior to distribute certain judgments awards held in trust funds on behalf of the Cowlitz Indian Tribe. About $1 million in judgments and accumulated interest is being held in trust funds on behalf of the tribe; however, the Secretary does not have the authority to distribute the funds without Congressional approval. H.R. 2489 would allow the tribe to withdraw 20 percent of the total fund to assist the elderly and also withdraw the interest on the fund for various other programs to benefit the tribe. (In total, about $12 million would be withdrawn.) About $1 million would remain in trust funds, and the interest that accrues on that amount could be withdrawn by the tribe in future years.

These trust funds are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes and are treated as nonfederal funds. As a result, outlays were recorded on the budget when the judgments were awarded to the tribes and paid into those trust funds. Consequently, there is no federal budget impact when the money is distributed to the individual members of the tribes. Therefore, CBO estimates that enacting H.R. 2489 would have no effect on the federal budget.

H.R. 2489 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enactment of this legislation would benefit the Cowlitz Indian Nation.

The CBO staff contact for this estimate is Lanette J. Walker. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

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