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signed 12/31/75

APPROVED
DEC 31 1975

ACTION

THE WHITE HOUSE
WASHINGTON
December 30, 1975

Last Day: January 2

Posted
1/1
To archive
1/2

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: H.R. 4016 - Sac and Fox Indians Judgment Funds Distribution Act

Attached for your consideration is H.R. 4016, sponsored by Representative Steed and four others, which would provide for the disposition of funds appropriated to pay certain judgments in favor of the Sac and Fox Indians made by the Indian Claims Commission relating to payment for certain Indian lands.

A discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), Ted Marrs and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 4016 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 26 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4016 - Sac and Fox Indians
Judgment Funds Distribution Act
Sponsors - Rep. Steed (D) Oklahoma and 4 others

Last Day for Action

January 2, 1976 - Friday

Purpose

To provide for the disposition of funds appropriated to pay certain judgments in favor of the Sac and Fox Indians made by the Indian Claims Commission.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval (Informally)
Indian Claims Commission	No Recommendation (Informally)

Discussion

The Indian Judgment Funds Distribution Act of 1973 authorizes the Secretary of the Interior to cooperate with affected Indians in the development of plans for the use or distribution of payments on claims adjudicated by the Indian Claims Commission or the Court of Claims. The Act provides that such plans be submitted to Congress and if neither the Senate nor the House of Representatives disapproves the plan it becomes operative. Whenever major policy issues arise between the recipient group and the Secretary as to the content of the plan, the Act provides further that the Secretary may submit legislation to Congress providing for distribution.

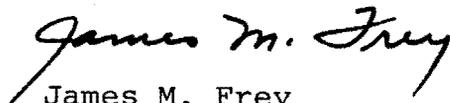


H.R. 4016 is necessitated by the inability of the Secretary of the Interior and the affected Sac and Fox Indian groups to agree upon a plan, pursuant to the Indian Judgment Funds Distribution Act.

The Sac and Fox Indian groups are the federally recognized successor entities to the Sac and Fox Nation as it existed at the time of its first treaty with the United States in 1804. From 1967 through 1974 the Indian Claims Commission approved monetary awards in favor of the Sac and Fox Indians relating to payment for certain Indian lands.

In addition to providing for the actual distribution of judgment funds, H.R. 4016 also provides for the division of funds between the Sac and Fox Tribes on the basis of numbers of members enrolled as of a certain date; provides for correcting the Tribal census rolls; permits utilization of judgment funds for purposes approved by Tribal councils and the Secretary of the Interior; and exempts per capita payments under the Act from Federal or State income taxes and from consideration as income or resources under the Social Security Act or any other federally assisted program, such as Food Stamps.

We are concerned about the exemption from the Food Stamp and other federally assisted programs. The Indian Judgment Funds Distribution Act referred to above contains no such exemption, and, since most Tribes have their plans approved under that Act, the Sac and Fox Tribes here are being accorded a special benefit not provided most other Indians receiving comparable payments. Nevertheless, we do not believe the exemption to be sufficiently objectionable to warrant disapproval of the bill, particularly given the one-time nature of these payments, the desirability of obtaining a final resolution of the protracted dispute between Interior and the Tribes, and the fact that there already exists a number of anomalies and inconsistencies in the way in which various benefits are treated in determining Food Stamp eligibility.


James M. Frey
Assistant Director for
Legislative Reference



Enclosures



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 29 1975

Dear Mr. Lynn:

This responds to your request for our views on the enrolled bill H.R. 4016, "To provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes."

We recommend that the President approve the enrolled bill.

On November 11, 1974, the Secretary of the Interior transmitted a proposed bill to the Congress to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission Dockets 219, 153 and 135. This proposal was transmitted pursuant to section 2(a) of the Act of October 19, 1973 (87 Stat. 446), the Indian Judgment Fund Use or Distribution Act. This Department later supplemented our proposed bill with a recommendation that when four judgments in favor of the Sac and Fox in Dockets 158, 231, 95 and 83 were appropriated, they be distributed in the same manner as provided in the legislation. As enrolled, H.R. 4016 contains our 1974 proposal and subsequent recommendation.

The awards to be distributed by the enrolled bill are based upon claims for the taking of lands by the United States from the Sac and Fox Nation as it existed during 1805 to 1859. There are three present day successor groups to that entity: the Sac and Fox of Oklahoma; the Sac and Fox of Iowa; and the Sac and Fox of Kansas and Nebraska.

With the exception of the award in docket 219, which is to be divided between the Oklahoma Group and the Iowa Group, all the other dockets affected by the enrolled bill--153, 135, 158, 83, and 95--are to be divided among all three groups. The division of the distribution is based upon the 1937 census rolls, which most accurately reflects the relative size of the respective Sac and Fox groups. The same criteria were used for all three groups in preparing these rolls. Under this division, the Oklahoma and Iowa groups would receive 66% and 33% respectively of the award in docket 219, and the other dockets would be divided into 62% to the Oklahoma Group, 30% to the Iowa Group and 8% to the Kansas/Nebraska Group.



The enrolled bill also provides that the responsibility for the utilization and distribution of these funds, once divided, would be vested in the tribal governing body of each group except that 20% of the share of each group be set aside for tribal programming purposes. In addition, H.R. 4016 would also protect the shares of minor and legal incompetents.

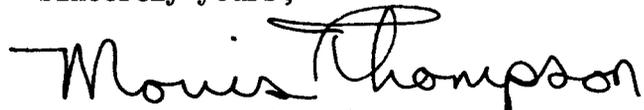
Section 6 of the enrolled bill would exempt funds distributed per capita or held in trust by this bill from Federal and State income taxation. Further, these funds shall not be considered as income or resources in the determination of an individual's eligibility for benefits under the Social Security Act and other Federal programs.

This section provides the normal tax exemption which applies to trust property and income from trust property.

With regard to the provision of section 6 which exempts these funds from eligibility determination for Federal benefits, recent statutes have provided precedent for such a provision. Similar sections are contained in the Act of December 22, 1974, "The Navajo-Hopi Act," (88 Stat. 1712), and the Act of October 19, 1975, "The Submarginal Lands Act," (89 Stat. 577). Further, insofar as this provision applies to the Social Security Act, it is consistent with section 7 of the Indian Judgment Fund Use or Distribution Act of 1973 (87 Stat. 468) which exempts these funds from eligibility consideration for Social Security Act benefits. We would further note that this distribution is only a one-time payment for the specific purpose of redressing a legal wrong by the United States. The theory behind such a payment is to make the Sac and Fox legally whole, not to provide an accession to wealth or on-going income.

We would also point out that the controversy among the three Sac and Fox successor groups entitled to share in these awards has been bitter and of long duration. There has been repeated legislative efforts since the 91st Congress to arrive at a distribution. As provided by enrolled bill H.R. 4016, the division of these awards is the result of extensive hearings held by the tribes, the Bureau of Indian Affairs and the Congress, and has been carefully and arduously worked out to insure an equitable distribution. It is the solution favored by this Department and the Administration. If this bill is disapproved because of the provisions of section 6 the whole process would have to begin anew, the bitter controversy would be rekindled, and distribution of the awards would be further delayed.

Sincerely yours,


Commissioner of Indian Affairs

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

To
J. Conroy
12-29-75
109.78.



DEC 29 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4016 - Sac and Fox Indians
Judgment Funds Distribution Act
Sponsors - Rep. Steed (D) Oklahoma and 4 others

Last Day for Action

January 2, 1976 - Friday

Purpose

To provide for the disposition of funds appropriated to pay certain judgments in favor of the Sac and Fox Indians made by the Indian Claims Commission.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior
Indian Claims Commission

Approval (Informally)
No Recommendation
(Informally)

Discussion

The Indian Judgment Funds Distribution Act of 1973 authorizes the Secretary of the Interior to cooperate with affected Indians in the development of plans for the use or distribution of payments on claims adjudicated by the Indian Claims Commission or the Court of Claims. The Act provides that such plans be submitted to Congress and if neither the Senate nor the House of Representatives disapproves the plan it becomes operative. Whenever major policy issues arise between the recipient group and the Secretary as to the content of the plan, the Act provides further that the Secretary may submit legislation to Congress providing for distribution.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1542

Date: December 29

Time: 1030am

FOR ACTION: Ted Marrs
George Humphreys
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 31

Time: 1100am

SUBJECT:

H.R. 4016 - Sac and Fox Indians Judgment Funds
Distribution Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS: *I recommend H.R. 4016 be approved.*
Please return to Judy Johnston, Ground Floor West Wing

AB

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Cavanaugh
For the President

THE WHITE HOUSE

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Distribution Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 12/30/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

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DUE: Date: Wednesday, December 31

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SUBJECT:

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Distribution Act

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

For Your Comments

___ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*Concur
Marrs*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Cavanaugh
For the President

THE WHITE HOUSE

WASHINGTON

December 30, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.F.*
SUBJECT: H.R. 4016 - Sac and Fox Indians Judgment
Funds Distribution Act

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1542

Date: December 29

Time: 1030am

FOR ACTION: Ted Marris *TM*
~~George Humphreys~~
Max Friedersdorf *MF*
Ken Lazarus *KL*
Dick Parsons

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, December 31

Time: 1100am

SUBJECT:

H.R. 4016 - Sac and Fox Indians Judgment Funds
Distribution Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



SAC AND FOX INDIANS JUDGMENT FUNDS
DISTRIBUTION ACT

DECEMBER 15, 1975.—Ordered to be printed

Mr. BARTLETT, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 1823]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 1823) to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1 delete lines 3 through 9, and on page 2, lines 1 through 3, and insert the following language:

That there shall be distributed as hereafter provided in this Act, the funds appropriated as follows (together with all interest earned thereon), less the amounts for payment of attorney fees and other litigation expenses;

(1) The funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198) for the judgment in Indian Claims Commission Docket 219 to the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa;

(2) The funds appropriated for awards to the Sac and Fox Tribe of Oklahoma, the Sac and Fox Tribe of the Mississippi in Iowa, and the Sac and Fox Tribe of the Missouri in Kansas and Nebraska in (i) the Act of July 6, 1970 (84 Stat. 376) for the Indian Claims Commission Docket 153, and (ii) the Act of March 21, 1972 (86 Stat. 86) for Indian Claims Commission Docket 135;

(3) Any funds now or hereafter appropriated for the awards in Indian Claims Commission Dockets 158, 231, and 83; and

(4) From the funds appropriated by the Act of June 12, 1975 (89 Stat. 173, 193-194) for the judgment in Indian Claims Commission Docket 95, the sum of \$20,421.78.

2. Amend section 2(a), page 2, lines 6 and 7, by deleting "funds in dockets 153 and 135" and inserting in lieu thereof "other funds described in section 1 of this Act".

3. Further amend section 2(a), page 2, lines 13 and 14, by deleting "are presently enrolled as members of their respective tribes, unless they are deceased" and insert in lieu thereof "met the qualifications for enrollment on the 1937 census rolls of their respective tribes".

4. Amend section 2(c), page 2, lines 22 and 23, by deleting "in dockets 219, 153, and 135," and inserting in lieu thereof "described in section 1 of this Act".

5. On page 4, line 8, after the word "taxes," delete the remainder of that line and all of lines 9, 10, and 11, and add the following:

"nor shall such funds or their availability be considered as income or other resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or Federally-assisted program."

6. Amend the title so as to read "To provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes."

PURPOSE OF THE MEASURE

The purpose of S. 1823, as amended, is to provide for the disposition of funds appropriated or to be appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets numbered 219, 153, 135, 158, 231, 83 and 95. The bill authorizes division of the funds among the Sac and Fox Tribe of the Mississippi in Iowa; the Sac and Fox Tribe in Oklahoma; and the Sac and Fox Tribe in Kansas and Nebraska. These groups are the federally recognized successor entities to the Sac and Fox Nation as it existed at the time of its first treaty with the United States in 1804.

BACKGROUND AND NEED

Beginning on September 29, 1967, through September 25, 1974, the Indian Claims Commission approved monetary awards in seven dockets in favor of the Sac and Fox Indians. The docket awards (before

deduction of attorneys' fees and expenses) which would be distributed under S. 1823, as amended, are summarized as follows:

Docket No. and nature of claim	Jointly to all 3 tribes	Jointly to Oklahoma and Iowa tribes	To Iowa tribe only
219—Land.....		\$899,408.54	
153—Land.....	\$10,601,282.66		
135—Land.....	965,560.39		
231—Land.....	943,779.79		
158—Land.....	3,530,578.21		
83—Land.....	1,969,585.00		
95—Accounting.....	20,421.78		\$23,083.34
Total.....	18,031,197.83	899,408.54	23,083.34

Funds have been appropriated to cover the awards in dockets 219, 153, 135 and the \$20,421.78 in docket 95; the remaining portion of that docket is covered by funds in the U.S. Treasury accounts involved and neither an appropriation nor any further legislative authority is required beyond prior Acts; and funds to cover the awards in dockets 231, 158 and 83 are to be appropriated at a future date. More detailed information concerning the above seven dockets is to be found in the Department of the Interior's legislative report under the Executive Communications section of this report.

The disposition of Indian judgment funds addressed in S. 1823 would ordinarily have been disposed of pursuant to Public Law 93-134, the Act of October 19, 1973 (87 Stat. 466), the Indian Judgment Funds Distribution Act. That Act authorizes the Secretary of the Interior to cooperate with affected Indians in the development of plans for the use or distribution of claims awarded to them by the Indian Claims Commission or the Court of Claims. The Act provides further that such plans be submitted to Congress and if neither the Senate nor the House of Representatives passes a resolution disapproving a plan it becomes operative.

Whenever major policy issues arise between the recipient group and the Secretary as to the contents of the plan, the Indian Judgment Funds Distribution Act provides that the Secretary may submit legislation to the Congress providing for distribution. Because of a prolonged controversy among the three successor entities entitled to share in the Sac and Fox award on the amount each such group should receive, the Secretary submitted proposed legislation to Congress which was introduced by Senator Bartlett as S. 1823.

While the three Sac and Fox groups generally agree that the judgment funds in the various dockets should be divided on the basis of the number of people in their respective groups, they are unable to agree on the base roll to be utilized for this purpose. The Oklahoma group previously argued in favor of using current membership rolls of all three groups as the basis for dividing the judgment funds; but

they currently endorse the use of their respective 1937 census rolls, as corrected, for this purpose as proposed in S. 1823. At the recent Subcommittee hearing on S. 1823 and a related measure, leaders of the Sac and Fox in Iowa and the Sac and Fox in Kansas and Nebraska testified that they support a division of the judgment funds on the basis of 1891 and 1892 allotment and annuity rolls, which were the basis for dividing earlier judgments among the three tribes.

In the 90th Congress, the Act of August 31, 1967 (81 Stat. 193) was enacted as Public Law 90-80 to divide funds among the three Sac and Fox groups in dockets 138 and 143 and the 1891 and 1892 allotment and annuity rolls were utilized as the basis for dividing such funds. However, the Oklahoma group contends that their agreement to use the 1891-1892 rolls for division of funds in dockets 138 and 143 was conditioned on 5 percent being withheld from each group's share until such time as the Secretary of the Interior determined how the final division would be made. With the exception of the Iowa group, this position was supported by the Sac and Fox groups.

The Indians' position was apparently rejected by both the Administration and the Congress in consideration of legislation enacted as Public Law 90-80. While that public law utilized the 1891-1892 rolls as the basis for division of the funds among the Sac and Fox groups in dockets 138 and 143, it did not provide for the 5 percent set aside of each group's share per their prior agreement. Since enactment of Public Law 90-80, the Oklahoma Sac and Fox group contend that had they known their conditioned agreement on the use of the 1891-1892 rolls was going to be ignored, they would have opposed enactment of that public law.

Although the Department of the Interior recommended enactment of legislation in the 90th Congress which incorporated the 1891-1892 rolls as the basis for dividing the funds among the Sac and Fox groups in dockets 138 and 143, the Department reversed its position in the 91st Congress and recommended against enactment of legislation which would have divided funds in docket 219 between the Sac and Fox of Iowa and the Sac and Fox of Oklahoma on the basis of the 1891-1892 rolls or current membership; as an alternative, the Department recommended enactment of a substitute bill which provided for division of the funds among the three groups on the basis of their respective 1937 census rolls, as corrected.

The Department of the Interior contends that division of the funds based on the 1937 census rolls, as corrected, is the most equitable method for division of such funds among the three Sac and Fox groups. To support their contention, the Department underscores that these census rolls are useful for three reasons: (1) they are the official base rolls for membership contained in the organizational documents of the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa; (2) the same criteria were used in preparing the 1937 census roll of all three Sac and Fox Tribes; and (3) the varying enrollment criteria of the respective Sac and Fox Tribes were developed subsequent to the preparation of the 1937 census rolls, except that the Iowa Sac and Fox continue to use a patrilineal membership system which is traditional with them.

The enactment of S. 1823, as amended, is necessitated by the inability of the Secretary of the Interior and the affected Sac and Fox groups to

agree upon a plan, pursuant to the Indian Distribution Act, to provide for the disposition of judgment funds awarded to those groups by the Indian Claims Commission.

LEGISLATIVE HISTORY

In addition to the legislation enacted in the 90th Congress, there have been repeated efforts since the 91st Congress to date to enact legislation that would provide for the disposition of funds awarded to the Sac and Fox Indians by the Indian Claims Commission in various dockets.

In the 91st Congress, Senator Harris sponsored S. 3244 which proposed to divide the funds in docket 219 between the Sac and Fox in Iowa and the Sac and Fox in Oklahoma on the basis of their current membership rolls, as corrected. No action was taken on the proposed measure and it died at the end of that Congress. Also, in the 91st Congress, the companion measure to S. 3245, H.R. 14827 was enacted as Public Law 91-404 (84 Stat. 84), and authorized disposition of funds awarded to the Sac and Fox in Oklahoma in docket 220.

Three bills were introduced in the 92d Congress which were addressed to Sac and Fox judgment funds. Senator Harris sponsored S. 1068 which was identical to S. 3244 in the 91st Congress. Senator Harris also sponsored S. 1069 which proposed to divide the funds in docket 153 among the three Sac and Fox groups on the basis of their respective current membership rolls, as corrected. Senator Miller sponsored S. 2905 which proposed to divide the funds in docket 153 among the groups as follows: 46 percent to the Sac and Fox in Oklahoma; 39 percent to the Sac and Fox in Iowa; 15 percent to the Sac and Fox in Kansas and Nebraska. None of the bills were considered by the Committee and they died at the end of the 92d Congress.

Only one measure addressed to Sac and Fox judgment funds was introduced in the 93d Congress. Senator Curtis sponsored S. 990 which was identical to S. 2905 from the previous Congress. S. 990 was never actively considered by the Committee and it died at the end of the Congress. Also the Indian Judgment Funds Distribution Act was approved in that Congress; and the Secretary of the Interior entered into negotiations with the leadership of the three Sac and Fox groups in an effort to develop a mutually acceptable plan for disposition of the funds in question.

Prior to adjournment of the 93d Congress, the Secretary of the Interior determined that he was unable to negotiate a mutually acceptable plan with the three Sac and Fox groups for disposition of their judgment funds. The Secretary, therefore, on November 11, 1974, transmitted a bill to Congress for that purpose. Senator Bartlett introduced the Administration's proposed bill as S. 1823 on May 22, 1975, in the 94th Congress. Senator Dole introduced S. 1953 on June 17, 1975, as an alternative method for disposition of the Sac and Fox judgment funds.

S. 1823 and S. 1953 were the subject of a hearing before the Subcommittee on Indian Affairs on September 18, 1975; Congressional, Administration and tribal witnesses testified in behalf of the proposed measures at that time. The Department of the Interior recommended enactment of S. 1823, if amended as suggested in their legislative report on the bill.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Interior and Insular Affairs, in open business session on December 12, 1975, by unanimous vote of a quorum present recommended that the Senate adopt S. 1823, if amended as described herein.

COMMITTEE AMENDMENTS

The Committee adopted five amendments to S. 1823 which were recommended by the Department of the Interior and an additional amendment to the bill proposed by Senator Bartlett.

With the exception of the Department's proposed amendment to section 1 of the bill, their remaining amendments are either conforming or technical in nature. As introduced, S. 1823 proposed to dispose of awards to the Sac and Fox Indians in dockets 219, 153, and 135. Subsequent to the introduction of S. 1823, four additional awards were made to the Sac and Fox Indians in Indian Claims Commission dockets 158, 231, 83 and 95. Section 1, therefore, was amended so that the awards in three of the four dockets, as they become final and appropriated, may be distributed in accordance with the provisions of S. 1823. This amendment will eliminate the need for future legislation concerning the division of these awards among the three Sac and Fox groups.

Senator Bartlett's amendment to section 6 extends the scope of exemptions to per capita payments made to individuals authorized to share in the Sac and Fox judgments to insure that such recipients participating in food stamp programs will not lose those benefits because of their receipt of per capita payments. This amendment is similar to that contained in the Act of December 22, 1974 (88 Stat. 1712), and the Act of October 19, 1975 (89 Stat. 577).

SECTION-BY-SECTION ANALYSIS

Section 1 provides that funds appropriated to pay judgments to the Sac and Fox Indians in certain Indian Claims Commission dockets, plus the interest earned thereon and minus allowable expenses, shall be distributed as provided in the Act.

Section 2(a) states that funds in docket 219 are to be divided *between* the Sac and Fox Tribe of Oklahoma and the Sac and Fox of the Mississippi in Iowa, and that the other funds described in section 1 are to be divided *among* those two tribes and the Sac and Fox Tribe of the Missouri in Kansas and Nebraska, based on the number of members in each tribe who were enrolled or who were entitled to be enrolled on their tribe's roll of January 1, 1937.

Section 2(b) provides a 90 day period after enactment for the three tribes to identify those eligible persons living or deceased who were omitted from their 1937 census rolls.

Section 2(c) states that section 2(a) applies only to divisions of judgment funds in the dockets described in section 1 between or among the respective Sac and Fox tribes and that nothing in section 2 will be applicable in the distribution of per capita payments within the tribes.

Section 3 provides that after the division of judgment funds as stated in section 2(a), \$5,000 plus appropriate interest be deducted from the share of the Sac and Fox Tribe of Kansas and Nebraska

in docket 153 and then be divided between the Sac and Fox Tribes of Iowa and of Oklahoma in accordance with section 2(a).

Section 4(a) provides that funds may be utilized for any purpose which is authorized by the tribal governing body and approved by the Secretary of the Interior, provided that not less than 20 percent of the total share from each tribe shall be used for programing purposes.

Section 4(b) provides that any portion of the funds of any of the three tribes that may be distributed in individual shares shall be paid to persons listed on the tribe's membership roll compiled in accordance with the membership criteria of the tribe's constitution and made current as of enactment of the Act.

Section 5 provides that sums payable to individuals or their heirs or legatees who are under 18 years of age or legally declared disabled be paid in accordance with certain procedures, including the establishment of trusts, as the Secretary sees fit in order to protect the best interest of the person.

Section 6 states that funds distributed per capita or held in trust shall be exempt from Federal and State income taxes, and that this payment will not affect a person's eligibility for assistance under the Social Security Act or any other Federal or federally assisted program.

Section 7 authorizes the Secretary of the Interior to promulgate rules and regulations to implement this Act.

COST AND BUDGETARY CONSIDERATIONS

The funds involved in S. 1823 are the result of a judgment against the United States. Accordingly, appropriations have been or will be made to satisfy this obligation.

EXECUTIVE COMMUNICATIONS

The legislative reports received by the Committee from the Office of Management and Budget and from the Department of the Interior setting forth executive agency recommendations relating to S. 1823 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 5, 1975.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our views on two bills: S. 1823, a bill "To provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes," and S. 1953, a bill "To provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets numbered 153 and 135, and for other purposes."

On November 11, 1974, the Secretary of the Interior transmitted a proposed bill to the Congress to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission Dockets 219, 153, and 135. This proposal was transmitted pursuant to section 2(a) of the Act of October 19, 1973 (87 Stat. 446), the Indian Judgment Fund Use or Distribution Act. S. 1823 is identical to the Department's proposal, and we recommend that it be enacted. We also recommend that S. 1823 be amended to provide that when four awards made subsequent to the awards for dockets 219, 153, and 135 are appropriated, they be distributed in the same manner as provided for under S. 1823. Further, we are offering some clarifying amendments to the bill. We recommend against enactment of S. 1953.

ANALYSIS OF S. 1823

Section 1 of S. 1823 provides for distribution of the funds appropriated to pay judgment awards in Indian Claims Commission Dockets 219, 153, and 135, respectively, together with interest thereon, after payment of attorney fees and other litigation expenses, to the various Sac and Fox Tribes in accordance with the provision of section 2 of the bill.

Section 2(a) of S. 1823 provides for the division of the funds awarded in docket 219 between the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa. It also provides for the division of the funds awarded in dockets 153 and 135 among the Sac and Fox Tribe of Oklahoma, the Sac and Fox Tribe of Iowa, and the Sac and Fox Tribe of Kansas and Nebraska on the basis of the relative numbers of members of each tribe who were enrolled or entitled to be enrolled on census rolls of each such tribe as of January 1, 1937, and who are presently enrolled members of their respective tribes, unless they are deceased.

Section 2(b) provides for a 90-day period from the date of the Act in which each Sac and Fox Tribe shall correct their respective 1937 census roll. Section 2(c) provides that nothing in section 2(a) applies to any per capita distribution of the judgment funds.

Section 3 of S. 1823 provides that, after the judgment funds in docket 153 are divided among the three beneficiary tribes, the sum of \$5,000 together with interest thereon for not less than one day, shall be deducted from the share of the judgment funds due the Sac and Fox Tribe of Kansas and Nebraska and shall be divided between the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa according to the formula to be used pursuant to section 2(a).

Section 4 of S. 1823 would permit the tribes to utilize the funds distributed under the provisions of the bill for any purposes that are authorized by their respective tribal governing bodies and approved by the Secretary of the Interior, except that not less than 20 percent (together with accrued interest thereon) of the share of each such tribe shall be used for programing purposes.

Section 5 of S. 1823 contains language to protect the shares of minors and legal incompetents; section 6 exempts any per capita payments made under the provisions of the bill from Federal or State income taxes and from consideration as income or resources under the Social

Security Act; and section 7 authorizes the issuance of rules and regulations.

ANALYSIS OF S. 1953

Section 1 of S. 1953 provides for the distribution of funds appropriated to pay judgments in Indian Claims Commission Dockets numbered 153 and 135.

Section 2 of S. 1953 proposes to divide the funds in docket 153 and 135 among the three tribal groups on a percentage basis as follows: 51.70 percent to the Sac and Fox of Oklahoma; 36.91 percent to the Sac and Fox of Iowa; and 11.39 percent to the Sac and Fox of Kansas and Nebraska.

Section 3 provides that the percentages authorized in section 2 are to be applicable to all future claims awarded jointly to the Sac and Fox Tribes.

Section 4 of S. 1953 is similar to section 3 of S. 1823. Section 5, 6, 7, and 8 of S. 1953 are, respectively, identical to sections 4, 5, 6, and 7 of S. 1823.

BACKGROUND

On September 29, 1967, the Sac and Fox Tribe of Iowa and the Sac and Fox Tribe of Oklahoma received an award of \$899,408.54 in Docket 219, as additional payment for 285,658.20 acres of land within these tribes' former reservation in Kansas that was sold by the United States pursuant to the Treaty of October 1, 1859, and for the cession of an additional 132,178 acres of reservation lands in Kansas under the Treaty of February 18, 1867. No offsets were allowed because they were stipulated and set off against a previous judgment rendered on a compromise settlement of March 2, 1965, in Dockets 138 and 232.

Funds to cover the award in Docket 219 were appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198). The Indian Claims Commission, on February 3, 1971, allowed attorney fees of \$89,940.85. On October 6, 1971, the Commission allowed attorney expenses of \$3,338.09.

On February 4, 1970, the Indian Claims Commission entered a final award of \$10,601,282.66 to the Sac and Fox Nation in Docket 153. The three modern Sac and Fox tribal entities in Iowa, Oklahoma, and Kansas and Nebraska are successors in interest to the Sac and Fox Nation. The award represents payment for 8,592,000 acres of land in Iowa that were ceded under the Treaties of October 21, 1837, and October 11, 1842. No offsets were claimed in this case, but the right was reserved to claim them in any other Sac and Fox case.

Funds to cover the award in Docket 153 were appropriated by the Act of July 6, 1970 (84 Stat. 376). On January 27, 1971, the Indian Claims Commission allowed attorney fees of \$1,060,128.27. Attorney expenses totaling \$168,664.73 were allowed by the Commission in 1973.

On May 7, 1965, the Indian Claims Commission entered on award of \$965,560.39 in favor of the Sac and Fox Nation, in Docket 135. An appeal to the United States Court of Claims resulted in an affirmation by that Court of the Commission's decisions. This award represents additional compensation for 1,241,700 acres of land in Missouri which were ceded under the Treaty of August 24, 1824, and the Sac

and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska are the successors in interest to the Sac and Fox Nation. No offsets were allowed because they had been stipulated and set off against a previous judgment rendered in the compromise settlement of March 2, 1965, in Docket 138.

Funds to cover the judgment in Docket 135 were appropriated by the Act of March 21, 1972 (86 Stat. 86). On July 12, 1972, the Indian Claims Commission allowed attorney fees of \$96,556.04. Subsequently, the Commission allowed attorney expenses totaling \$43,372.81.

S. 1823 proposes to divide the funds in the three dockets on the basis of the relative numbers of the members of the respective tribes who were enrolled or entitled to be enrolled on census rolls of each tribe as of January 1, 1937. We believe a division based on the 1937 census rolls, as corrected, is equitable to each of the Sac and Fox Tribes with respect to each of the judgments of which they are joint beneficiaries. These census rolls are useful for three reasons: (1) they are the official base rolls for membership contained in the organizational documents of the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa; (2) the same criteria were used in preparing the 1937 census roll of all three Sac and Fox Tribes; and (3) the varying enrollment criteria of the respective Sac and Fox Tribes were developed subsequent to the preparation of the 1937 census rolls, except that the Iowa Sac and Fox continue to use a patrilineal membership system which is traditional with them.

Although the Sac and Fox Tribe of Oklahoma for a number of years urged that the judgment funds be divided on the basis of current memberships of the Sac and Fox Tribes, and were adamantly opposed to a division by any other method, that tribe now agrees to a division based on the 1937 census rolls, as corrected, to include persons who should have been named on such rolls but whose names, for one reason or another, were not included on the rolls.

The Sac and Fox Tribes of Iowa and of Kansas and Nebraska, in the past, proposed that the judgment funds in Docket 153 and 135, and all subsequent judgments to the three tribes, be divided: 46 percent to the Sac and Fox Tribe of Oklahoma; 39 percent to the Sac and Fox of Iowa; and 15 percent to the Sac and Fox Tribe of Kansas and Nebraska. This proposed division reflected the vote of the Sac and Fox of Iowa and of Kansas and Nebraska at a meeting of representatives of all three tribes on July 24, 1971. The percentages are not based on relative memberships of the three tribes as shown by rolls prepared at any point in history or, to the best of our knowledge, on any other equitable ratio. Apparently, they simply represent the shares of the judgment funds which the Sac and Fox Tribes of Iowa and of Kansas and Nebraska feel are their due.

A few months ago, leaders of the Sac and Fox of Kansas and Nebraska indicated that they might support a division of the judgment funds on the basis of 1891 and 1892 allotment and annuity rolls, which were the basis for dividing earlier judgments among the three tribes. We do not know whether there is serious support of this division among the membership.

We have been unable to determine whether the Sac and Fox of Iowa will agree to and support any division but the 46-39-15 formula which was first presented at the 1971 meeting of all three Sac and Fox Tribes.

Several years ago the Sac and Fox of Iowa sought to have the funds in Docket 219 divided between themselves and the Oklahoma Sac and Fox on the basis of the 1891 and 1892 allotment and annuity rolls. The Sac and Fox of Oklahoma wanted these funds divided according to the current membership of the two tribes. Then the award in Docket 153 was made, and both tribes appeared to lose interest in their joint award in Docket 219. Recently, the Oklahoma Sac and Fox included it in the dockets they agreed to divide on the basis of the 1937 census rolls, as corrected. We do not know the position of the Iowa Sac and Fox on this question. They may still favor the 1891-92 allotment and annuity rolls as a division basis, since the percentages they favor for division of funds among the three tribes do not lend themselves to a division of funds in Docket 219 between two tribes, but this is only an assumption.

We are opposed to a division of any of the current Sac and Fox judgment funds on the basis of the 1891 and 1892 allotment and annuity rolls because the rolls are irrelevant to the land sales and cessions on which the claims in the several dockets are based, as well as to the political structures of the three Sac and Fox Tribes as they exist today. The Oklahoma Sac and Fox also are strongly opposed to a division of any of the current judgments on the basis of these allotment and annuity rolls.

We do not support a division of the current Sac and Fox judgment funds on the basis of current memberships because of the wide variances in the membership criteria of the three tribes.

Section 3 of S. 1823 provides for repayment by the Sac and Fox of Kansas and Nebraska of \$5,000 which was withdrawn for that tribe from judgment funds in Docket 153 immediately after the appropriation of covering funds, and prior to the investment of said funds, to cover legal and travel expenses of the tribe in connection with program planning.

Section 4 of S. 1823 is consistent with the provisions of the Act of October 19, 1973 (86 Stat. 446), in that at least 20 percent of the share of each Sac and Fox Tribe of judgment funds in the three dockets shall be used for programing purposes. The remaining funds of each tribal group would be available for additional programing or for a distribution per capita to the tribal memberships, whichever might be authorized by the respective tribal government bodies and approved by the Secretary of the Interior.

The Sac and Fox Tribe of Oklahoma is organized under the Oklahoma Welfare Act of June 26, 1936. The supreme governing body of the tribe is the Sac and Fox General Council composed of all tribal members who are 21 years of age or older. The tribe also has a business committee empowered to transact business and otherwise speak or act on its behalf concerning all matters on which the tribe is empowered to act, except that acts of the business committee with respect to claims or rights growing out of treaties between the tribe and the United States are not effective unless authorized or approved by the General Council.

The estimated current membership of the Sac and Fox Tribe of Oklahoma is 2,100 (a conservatively low estimate). An estimated 600 members live within the area of the former reservation in Oklahoma. The remainder live in other areas of Oklahoma and in other States.

We understand that the tribe plans to distribute 80 percent of its share of the current judgment funds to the tribal members, and to utilize 20 percent of its funds in long- and short-range program projects. Under consideration are such activities as land acquisition for income-producing programs; a tribal community building; a recreational and vehicle park; the establishment of an Industrial Development Authority; a hunting lodge; baseball camps; restaurant and service station; and museum and trading post complexes; and a loan program for both short-term personal loans and major business loans. These are but a few of the numerous projects that are being considered by the Sac and Fox of Oklahoma as suitable for financing with their judgment funds. Until the tribe has decided upon specific programs, it hopes to invest its funds earmarked for programing in United States Treasury notes.

The Sac and Fox Tribe of Iowa is organized under the Indian Reorganization Act of June 18, 1934, as amended, and is governed by a Tribal Council of seven members elected at large from the membership population of the settlement. The most recent official membership number we have for the tribe is 779. Of that number approximately 450 live in the settlement; about 65 live adjacent thereto; and the remainder live in areas away from the settlement.

The Sac and Fox Tribe of Iowa has adopted resolutions to reserve half of its share of funds from Docket 153 for programing, and to distribute the balance of its funds from that docket and all of its share of the funds from Docket 219 to the tribal members. We believe the tribe will wish to make a full distribution per capita of its share of the funds in Docket 135 as well. The tribe wishes to remain flexible in the use of its program funds, but has under consideration such projects as home improvements; education grants; new housing; emergency death benefits for members; certain maintenance costs and expenses; and funding of the tribal housing authority.

The Sac and Fox Tribe of Kansas and Nebraska is organized under the Indian Reorganization Act of 1934. Its governing body is a Tribal Council of five members elected annually on a staggered-term basis. The functions of the council are to represent the tribe on matters such as claims, tribal enrollment, and judgment distribution. The tribe has an estimated membership of 227. None of the members live on the reservation, and only about 20 live near it. The rest of the members are scattered throughout the United States. The tribe has adopted a resolution to program 10 percent of its share of the funds from Docket 153 for land acquisition and to cover tribal operational expenses. The balance of its share of the funds from Docket 153 would be distributed per capita to the tribal members. We do not know what plans the Sac and Fox of Kansas and Nebraska have with respect to their share of the funds in Docket 135. The share of this tribe from previous judgments to the Sac and Fox Nation was distributed per capita to the tribal members.

Four awards were made subsequent to the aforementioned judgments to the Sac and Fox Indians. They are Dockets 158, 231, 83 and 95.

In Docket 158, the Indian Claims Commission awarded \$3,530,578.21 to the Sac and Fox Nation on November 23, 1973. The award was appealed, and the Court of Claims affirmed the Commission's decisions of April 25, 1975. The Sac and Fox Tribes of Oklahoma, Iowa, and

Kansas and Nebraska are the beneficiaries of the judgment. The award in Docket 158 represents additional payment for 4,484,800 acres of land in eastern Iowa that were ceded under the Treaty of September 21, 1832. The United States waived claiming offsets in Docket 158.

On November 23, 1973, the Indian Claims Commission awarded \$943,779.79 to the Sac and Fox in Docket 231. The Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska are the beneficiaries of the award, which represents additional payment of 990,383.50 acres of land in eastern Iowa that were ceded under the Treaty of October 21, 1837. The award was appealed and the United States Court of Claims affirmed the Commission's decisions of April 25, 1975. Gratuitous offsets up to June 30, 1960, were disposed of in Docket 138, and the United States waived claiming offsets in Docket 231.

A judgment of \$1,969,585.00 was entered by the Indian Claims Commission on December 26, 1973, in favor of the Sac and Fox Nation, in Docket 83. The award was appealed, and on April 25, 1975, the Court of Claims affirmed the Commission's decisions. The judgment benefits the Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska. It represents additional payment for 1,638,724.39 acres of land in Missouri that were ceded under the Treaty of November 4, 1804.

On September 25, 1974, the Indian Claims Commission entered two final awards in Docket 95:

1. An award of \$20,421.78, was made jointly to the Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska. It represents the sum found due the Sac and Fox from an accounting of the Treaties of July 15, 1830, September 28, 1836, and October 21, 1837;

2. An award, in the amount of \$23,083.34, was made in favor of the Sac and Fox Tribe of the Mississippi in Iowa. It constitutes the balance to the credit of that tribe in Account No. 14X7085, "Sac and Fox of the Mississippi Fund, Iowa, Acts of March 3, 1909, and April 4, 1910," as of November 30, 1973, less the sum of the payments from the account from November 30, 1973, to the date of payment.

Funds were appropriated for the first of the above Docket 95 awards by the Act of June 12, 1975 (89 Stat. 173, 193-194). Funds for the second Docket 95 award remain available in the U.S. Treasury account involved and neither an appropriation nor any further legislative authority beyond the 1909 and 1910 Acts governing the use of funds is required.

The above docket awards (before deduction of attorneys' fees and expenses) which would be distributed under S. 1823 if amended as suggested herein may be summarized as follows:

Docket No.	Jointly to all 3 tribes	Jointly to Oklahoma and Iowa tribes
219.....		\$899, 408. 54
153.....	\$10, 601, 282. 66	
135.....	965, 560. 39	
231.....	943, 779. 79	
158.....	3, 530, 578. 21	
83.....	1, 969, 585. 00	
95.....	20, 421. 78	
Total.....	18, 031, 197. 83	899, 408. 54

RECOMMENDATIONS

To avoid the need for additional future legislation, we recommend that S. 1823 be amended so that the appropriations for awards in Dockets 231, 158, 83 and 95 will also be distributed in accordance with the provisions of S. 1823. In addition, we recommend technical amendments to the bill.

The amendments are as follows:

1. Amend the title of S. 1823 to read "To provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes."

2. Amend section 1 of S. 1823 (beginning after "That" on page 1, line 3 through page 2 line 3) to read as follows:

There shall be distributed as hereafter provided in this Act, the funds appropriated as follows (together with all interest earned thereon), less the amounts for payment of attorney fees and other litigation expenses:

(1) The funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198) for the judgment in Indian Claims Commission Docket 219 to the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa;

(2) The funds appropriated for awards to the Sac and Fox Tribe of Oklahoma, the Sac and Fox Tribe of the Mississippi in Iowa, and the Sac and Fox Tribe of the Missouri in Kansas and Nebraska in (i) the Act of July 6, 1970 (84 Stat. 376) for the Indian Claims Commission Docket 153, and (ii) the Act of March 21, 1972 (86 Stat. 86) for Indian Claims Commission Docket 135;

(3) Any funds now or hereafter appropriated for the awards in Indian Claims Commission Dockets 158, 231, and 83; and

(4) From the funds appropriated by the Act of June 12, 1975 (89 Stat. 173, 193-194) for the judgment in Indian Claims Commission Docket 95, the sum of \$20,421.78."

3. Amend section 2(a) (page 2 lines 6 and 7) by deleting "the funds in Dockets 153 and 135" and inserting in lieu thereof "the other funds described in section 1 of this Act."

4. Further amend section 2(a) (page 2 lines 13 and 14) by deleting "who are presently enrolled as members of their respective tribes, unless they are deceased" and insert in lieu thereof "who met the qualifications for enrollment on the 1937 census rolls of their respective tribes". This change is necessary to clarify the identity of the persons to be included in the totals to be used in dividing the judgment funds.

5. Amend section 2(c) (page 2 lines 22 and 23) by deleting "funds in dockets 219, 153, and 135," and inserting in lieu thereof "funds described in section 1 of this Act".

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 16, 1975.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your requests of August 7, 1975, for the views of the Office of Management and Budget on S. 1823 and S. 1953, two bills dealing with the distribution of funds appropriated to pay judgments in favor of the Sac and Fox Indians in various Indian Claims Commission dockets.

In its report to your Committee, the Department of the Interior recommends enactment of S. 1823 with several specified clarifying amendments, and opposes enactment of S. 1953.

The Office of Management and Budget agrees with the views of the Department of the Interior and, accordingly, also recommends enactment of S. 1823 with the amendments suggested in the Department's report.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, the Committee states that no change in existing law would be made by S. 1823.

○

PROVIDING FOR THE DISPOSITION OF FUNDS APPROPRIATED TO
PAY JUDGMENTS IN FAVOR OF THE SAC AND FOX INDIANS IN
INDIAN CLAIMS COMMISSION DOCKETS 219, 153, AND 135, AND FOR
OTHER PURPOSES

DECEMBER 11, 1975.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.R. 4016]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4016) to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, beginning on line 3, through Page 2, line 4, strike out all of section 1 and insert in lieu thereof the following:

That the following funds:

(1) The funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Mississippi and Iowa in Indian Claims Commission docket 219;

(2) The funds appropriated by the Acts of July 6, 1970 (84 Stat. 376), and March 21, 1972 (86 Stat. 86), to pay judgments to the Sac and Fox Nation in Indian Claims Commission dockets 153 and 135, respectively;

(3) Any funds which are now or which may hereafter be appropriated to satisfy any final award of the Indian Claims Commission to the Sac and Fox Nation in dockets 158, 231 and 83; and

(4) The amount of \$20,421.78 from funds appropriated by the Act of June 12, 1975 (89 Stat. 193, 194), to pay a judgment to the Sac and Fox Nation in Indian Claims Commission docket 95,

shall, together with interest earned thereon and after the payment of attorney fees and other litigation expenses, be distributed as hereinafter provided.

Page 2, line 8, strike out "135" and insert in lieu thereof "135, 158, 231, 83 and that portion of docket 95 as provided in paragraph (4) of section 1 hereof,".

Page 2, lines 12 through 15, strike the words "on, or who were inadvertently omitted from, census rolls as of January 1, 1937, and who are presently enrolled as members of their respective tribes, unless they are deceased." and insert in lieu thereof: "on or who were entitled to be enrolled on the census rolls of each tribe as of January 1, 1937."

Page 2, lines 23 and 24, strike the words "funds in dockets 219, 153, and 135," and insert in lieu thereof: "funds described in section 1 of this act,".

Page 4, lines 7 through 12, strike out all of Section 6 and insert in lieu thereof the following:

SEC. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, nor shall such funds or their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or Federally-assisted program.

Amend the title so as to read:

To provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes.

PURPOSE

The purpose of H.R. 4016, introduced by Mr. Steed for himself and Mr. English, Mr. Jarman, Mr. Jones of Oklahoma and Mr. Risenhoover, is to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in certain dockets before the Indian Claims Commission.

BACKGROUND

The Act of October 19, 1973 (87 Stat. 466), the Indian Judgment Fund Distribution Act, provides that the Secretary of the Interior may submit legislation in lieu of a plan for the use and distribution of judgment funds when he finds that circumstances are not conducive to the development of a plan. H.R. 4016, introduced by Mr. Steed for himself et al., to provide for the division of judgment funds awarded to the Sac and Fox Nation, is identical to the proposal submitted by the Secretary on November 11, 1974.

The controversy among the Sac and Fox successor groups entitled to share in these Sac and Fox awards is of long standing. It centers around which of several different rolls of the tribe most fairly reflects

the relative size of each group at the time of the taking of the lands. Bills were introduced in both the 92nd and the 93rd Congresses in an attempt to provide for the distribution of judgment funds among the Sac and Fox Indians. A prior distribution involving dockets 138 and 143 was also controversial (Public Law 90-80).

There are presently three successor entities to the Sac and Fox Nation as it existed during the period when these lands were ceded to the United States, 1804-1859: The Sac and Fox Tribe of Oklahoma, (the Oklahoma Group), the Sac and Fox Tribe of the Mississippi in Iowa, (the Iowa Group), and the Sac and Fox Tribe of Missouri in Kansas and Nebraska, (the Kansas/Nebraska Group).

With the exception of docket 219, which is to be divided between the Oklahoma Group and the Iowa Group, all dockets affected by the legislation are to be divided among all three groups.

In docket 219, on September 29, 1967, the Oklahoma Group and the Iowa Group were awarded \$899,408.54 as additional payment for 285,658.20 acres of land within the Sac and Fox former reservation in Kansas which were sold by the United States to non-Indians pursuant to the Treaty of October 1, 1859 and for the cession of an additional 132,178 acres of reservation lands in Kansas under the Treaty of February 18, 1867. Funds to cover the award were appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198).

In docket 153, on February 4, 1970, all three groups were awarded \$10,601,282.66 in a final award that represents payment for 8,592,000 acres of land in Iowa that were ceded under the Treaties of October 21, 1837, and October 11, 1842. Funds to cover this award were appropriated by the Act of July 6, 1970 (84 Stat. 376).

In docket 135, on May 7, 1965, all three groups received an award of \$965,560.39, that represents additional compensation for 1,241,700 acres in Missouri which were ceded under the Treaty of August 24, 1824. The Indian Claims Commission's decision on this docket was affirmed on appeal to the Court of Claims. Funds to cover this award were appropriated by the Act of March 21, 1972 (86 Stat. 86).

In addition, these three groups share an interest in the awards in dockets 231, 158, 83 and 95, which are either awaiting appeal time to expire or awaiting appropriation.

In docket 231, on November 23, 1973 the Indian Claims Commission awarded \$943,779.79 to all three groups as additional payment on 990,383.50 acres of land in eastern Iowa that were ceded under the Treaty of October 21, 1837.

In docket 158, the Indian Claims Commission awarded \$3,530,578.21 to the Sac and Fox Nation on November 23, 1973. This award represents additional payment for 4,484,800 acres of land in eastern Iowa that were ceded under the Treaty of September 21, 1832.

In docket 83, the Indian Claims Commission awarded \$1,969,585.00 to the Sac and Fox Nation on December 26, 1973, as additional payment for 1,638,724.39 acres of land in Missouri that were ceded under the Treaty of November 4, 1804.

In docket 95, the Indian Claims Commission entered two final awards. One award, in the amount of \$20,421.78, benefits all three groups and represents a sum found due the Sac and Fox Indians from an accounting of the Treaties of July 15, 1830, of September 28, 1836,

and October 21, 1837. The other award in this docket only benefits one group and is not affected by this legislation.

The total sum appropriated for dockets 219, 153 and 135 is \$12,466,251.59. The anticipated total sum for dockets 231, 158, 83 and 95 is \$6,464,364.78, which makes a possible total distribution of \$18,130,616.37 for the Sac and Fox Nation.

At the present, the Sac and Fox Tribe of Oklahoma is organized under the Oklahoma Welfare Act of 1936, is governed by a Tribal Council and has an estimated membership of 2,100, with approximately 600 members residing on the former reservation in Oklahoma.

The Sac and Fox Tribe of Iowa, organized under the Indian Reorganization Act of 1934, is also governed by a Tribal Council and has an estimated membership of 779 with approximately 500 residing on or near the settlement in Iowa.

The Sac and Fox Tribe of Kansas and Nebraska, also organized under the Act of 1934, is governed by a Tribal Council and has an estimated membership of 227 with only 20 residing near the reservation on the border between Kansas and Nebraska, while the rest of the tribe is widely scattered throughout several states.

None of the three groups have developed detailed plans for the utilization of these funds at this time.

Because of the frequent migration of the Sac and Fox tribes during the nineteenth century, accurate population counts of the three groups at the times of the lands were ceded have been hard to obtain. Several rolls were taken, but the enrollment criteria used varied from roll to roll, and group to group. At times the Indians resisted being enrolled for fear that enrollment would lead to further removal, while at other times members would gather to be able to share in annuity payments.

During the present, as well as during previous, Congressional efforts to resolve the matter of the division of judgment funds among the three Sac and Fox groups, basically three enrollments of the tribe were considered as a possible basis for the division. They are the 1891-92 allotment and annuity rolls, the 1937 census rolls, and the current membership rolls of the respective groups. The Department of the Interior recommended strongly against the use of the 1891-92 rolls, because they contain many inaccuracies and the fact that they are irrelevant to the land sales and the cessions on which the claims in the several dockets are based. A division on the basis of current membership, a position advanced by the Oklahoma group for a number of years, would unduly favor a group with more lenient membership requirements.

It is the custom to distribute the judgment awards on the basis of the most accurate roll closest to the dates of the taking of the land. In the opinion of the Committee, the 1937 census roll meets these criteria, because (1) they are the official base rolls for membership contained in the organizational documents of the Sac and Fox Tribe of Oklahoma and of the Sac and Fox Tribe of Iowa; (2) the same criteria were used in preparing the 1937 census rolls of all three groups; (3) the varying enrollment criteria of the respective Sac and Fox groups were developed subsequent to the preparation of the 1937 census rolls; and (4) they are recent enough to be corrected to include eligible

persons who were inadvertently omitted, despite the use of more modern enrollment techniques. The Committee also felt that over a 100 year period, the 1937 rolls most accurately reflect the relative size of the respective Sac and Fox groups.

H.R. 4016 provides for the division of the judgment funds in docket 219 between the Oklahoma Group and the Iowa Group and the funds in the remaining dockets among all three groups on the basis of the 1937 rolls. This would lead to a 66-34 percent division for docket 219, and to a 62-30-8 percent division for the remaining dockets.

H.R. 4016 also provides that the responsibility for the utilization and distribution of these funds once divided, be vested in the tribal governing body of each group with the reservation that 20 percent of the share of each group be set aside for tribal programming purposes.

SECTION-BY-SECTION ANALYSIS OF H.R. 4016

Section 1 provides that funds appropriated to pay judgments to the Sac and Fox Indians in certain Indian Claims Commission dockets, minus allowable expenses, shall be distributed as provided in the Act.

Section 2(a) requires that funds in docket 219 be divided between the Sac and Fox Tribes of Oklahoma and the Sac and Fox of the Mississippi in Iowa, and that funds in dockets 153, 135, 158, 231, 83 and the applicable portion of docket 95 be divided among the Sac and Fox tribes mentioned and the Sac and Fox Tribe of Missouri in Kansas and Nebraska, based on the number of members in each tribe who had enrolled or who were entitled to be enrolled on the Census roll of January 1, 1937.

Section 2(b) Provides for a 90 day period after enactment of the Act to identify those persons living or deceased who were omitted from 1937 rolls.

Section 2(c) limits application of section 2(a) to divisions of judgment funds in the dockets described in section 1 between or among the respective Sac and Fox tribes and provides that nothing in 2(a) will be applicable in the distribution of per capita payments within the tribes.

Section 3 provides that after the division of judgment funds as stated in section 2(a), \$5,000 plus appropriate interest be deducted from the share of the Sac and Fox tribe in Kansas and Nebraska in docket 153 and then be divided between the tribes in Iowa and in Oklahoma in accordance with section 2(a).

Section 4(a) permits utilization of funds for any purpose which is authorized by the tribal governing body and approved by the Secretary of the Interior, provided that no less than 20 percent of the total share from each tribe shall be used for programming purposes.

Section 4(b) provides that any portion of the funds that are distributed in individual shares be paid to that said person, if the person complies with the membership criteria of the tribe.

Section 5 provides that sums payable to individuals or their heirs or legatees who are under 18 years of age or legally declared disabled be paid in accordance with certain procedures, including the establishment of trusts, as the Secretary sees fit in order to protect the interest of the person.

Section 6 exempts funds distributed per capita or held in trust from Federal and State income taxes, and provides that payment of the funds will not affect a person's eligibility for assistance under the Social Security Act or any other Federal or Federally-assisted program.

Section 7 authorizes the Secretary of the Interior to promulgate rules and regulations to implement this Act.

COMMITTEE AMENDMENTS

The Committee adopted an amendment which struck all of section 1 and inserted in lieu thereof new language providing for inclusion of four judgment awards to the Sac and Fox Nation in addition to the awards in dockets 219, 153 and 135.

The Indian Claims Commission entered four awards to the Sac and Fox Nation subsequent to the introduction of H.R. 4016. To avoid the need for additional future legislation concerning the division of these awards among the three Sac and Fox entities, the Department of the Interior recommended that H.R. 4016 be amended to provide that the awards in dockets 158, 231, 83, and 95, as they are made final and are appropriated, may be divided and distributed in accordance with the provisions of H.R. 4016. This amendment responds to the Department's recommendation.

Upon the recommendation of the Department of the Interior, the Committee adopted a second amendment which struck all of section 6 and inserted new language. As introduced this section provided that per capita payments would be subject to the provision of section 7 of the Act of October 19, 1973 (87 Stat. 466), which excepts per capita payments from Federal and State income tax and from being considered as other income or resources for purposes of Federal assistance under the Social Security Act. The new section 6 restates the language of section 7 of the Act of October 19, 1973, but, in addition, exempts such payments from being considered as income or resources for the purposes of other Federal or Federally-assisted programs.

COST, INFLATIONARY IMPACT, AND BUDGET ACT COMPLIANCE

The funds involved in H.R. 4016 result from a judgment against the United States. Appropriations either have been or will be made to satisfy the judgment. H.R. 4016 itself authorizes no appropriation, but merely provides for the distribution of such funds or may be appropriated. Therefore the bill has no inflationary impact.

OVERSIGHT STATEMENT

Other than the normal oversight responsibilities exercised in conjunction with these legislative operations, no recommendations were submitted to the Committee pursuant to Rule X, Clause 2(b) (2).

DEPARTMENTAL REPORT

The favorable report of the Department of the Interior follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 23, 1976.

HON. JAMES A. HALEY,
Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 4016, a bill "To provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indians Claims Commission dockets 219, 153, and 135, and for other purposes."

On November 11, 1974, the Secretary of the Interior transmitted a proposed bill to the Congress to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission Dockets 219, 153 and 135. This proposal was transmitted pursuant to section 2(a) of the Act of October 19, 1973, (87 Stat. 446), the Indian Judgment Fund Use or Distribution Act. H.R. 4016 is identical to the Department's proposal, and we recommend that it be enacted. We also recommend that H.R. 4016 be amended to provide that when four awards made subsequent to Dockets 219, 153 and 135 are appropriated, they be distributed in the manner provided for under H.R. 4016.

On September 29, 1967, the Sac and Fox Tribe of Iowa, and the Sac and Fox Tribe of Oklahoma received an award of \$899,408.54 in Docket 219, as additional payment for 285,658.20 acres of land within these tribes' former reservation in Kansas that was sold by the United States pursuant to the Treaty of October 1, 1859, and for the cession of an additional 132,178 acres of reservation lands in Kansas under the Treaty of February 18, 1867. No offsets were allowed because they were stipulated and set off against a previous judgment rendered on a compromise settlement of March 2, 1965, in Dockets 138 and 232.

Funds to cover the award in Docket 219 were appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198). The Indian Claims Commission, on February 3, 1971, allowed attorney fees of \$89,940.85. On October 6, 1971, the Commission allowed attorney expenses of \$3,338.09.

On February 4, 1970, the Indian Claims Commission entered a final award of \$10,601,282.66 to the Sac and Fox Nation in Docket 153. The three modern Sac and Fox tribal entities in Iowa, Oklahoma, and Kansas and Nebraska are successors in interest to the Sac and Fox Nation. The award represents payment for 8,592,000 acres of land in Iowa that were ceded under the Treaties of October 21, 1837, and October 11, 1842. No offsets were claimed in this case, but the right was reserved to claim them in any other Sac and Fox case.

Funds to cover the award in Docket 153 were appropriated by the Act of July 6, 1970, 84 Stat. 376. On January 27, 1971, the Indian Claims Commission allowed attorney fees of \$1,060,128.27. Attorney expenses totaling \$168,664.73 were allowed by the Commission in 1973.

On May 7, 1965, the Indian Claims Commission entered on award of \$965,560.39 in favor of the Sac and Fox Nation, in Docket 135. An

appeal to the United States Court of Claims resulted in an affirmation by that Court compensation for 1,241,700 acres of land in Missouri which were ceded under the Treaty of August 24, 1824, and the Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska are the successors in interest to the Sac and Fox Nation. No offsets were allowed because they had been stipulated and set off against a previous judgment rendered in the compromise settlement of March 2, 1965, in Docket 138.

Funds to cover the judgment in Docket 135 were appropriated by the Act of March 21, 1972, 86 Stat. 86. On July 12, 1972, the Indian Claims Commission allowed attorney fees of \$96,556.04. Subsequently, the Commission allowed attorney expenses totaling \$43,372.81.

H.R. 4016 proposes to divide the funds in Docket 219 between the Sac and Fox of Oklahoma and Iowa, and the funds in the remaining dockets among the Sac and Fox Tribes of Oklahoma, Iowa, and Kansas and Nebraska, on the basis of the relative numbers of the members of the respective tribes who were enrolled or entitled to be enrolled on census rolls of each tribe as of January 1, 1937. We believe a division based on the 1937 census rolls, as corrected, is equitable to each of the Sac and Fox Tribes with respect to each of the judgments of which they are joint beneficiaries. These census rolls are useful for three reasons: (1) they are the official base rolls for membership contained in the organizational documents of the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa; (2) the same criteria were used in preparing the 1937 census roll of all three Sac and Fox Tribes; and (3) the varying enrollment criteria of the respective Sac and Fox Tribes were developed subsequent to the preparation of the 1937 census rolls, except that the Iowa Sac and Fox continue to use a patrilineal membership system which is traditional with them.

Although the Sac and Fox Tribe of Oklahoma for a number of years urged that the judgment funds be divided on the basis of current memberships of the Sac and Fox Tribes, and were adamantly opposed to a division by any other method, that tribe now agrees to a division based on the 1937 census rolls, as corrected, to include persons who should have been named on such rolls but whose names, for one reason or another, were not included on the rolls.

The Sac and Fox Tribes of Iowa and of Kansas and Nebraska, in the past, proposed that the judgment funds in Dockets 153 and 135, and all subsequent judgments to the three tribes, be divided: 46 percent to the Sac and Fox Tribe of Oklahoma; 39 percent to the Sac and Fox of Iowa; and 15 percent to the Sac and Fox Tribe of Kansas and Nebraska. This proposed division reflected the vote of the Sac and Fox of Iowa and of Kansas and Nebraska at a meeting of representatives of all three tribes on July 24, 1971. The percentages are not based on relative memberships of the three tribes as shown by rolls prepared at any point in history or, to the best of our knowledge, on any other equitable ratio. Apparently, they simply represent the shares of the judgment funds which the Sac and Fox Tribes of Iowa and of Kansas and Nebraska feel are their due.

A few months ago, leaders of the Sac and Fox of Kansas and Nebraska indicated that they might support a division of the judgment

funds on the basis of 1891 and 1892 allotment and annuity rolls, which were the basis for dividing earlier judgments among the three tribes. We do not know whether there is serious support of this division among the membership.

We have been unable to determine whether the Sac and Fox of Iowa will agree to and support any division but the 46-39-15 formula which was first presented at the 1971 meeting of all three Sac and Fox Tribes.

Several years ago the Sac and Fox of Iowa sought to have the funds in Docket 219 divided between themselves and the Oklahoma Sac and Fox on the basis of the 1891 and 1892 allotment and annuity rolls. The Sac and Fox of Oklahoma wanted these funds divided according to the current membership of the two tribes. Then award in Docket 153 was made, and both tribes appeared to lose interest in their joint award in Docket 219. Recently, the Oklahoma Sac and Fox included it in the dockets they agreed to divide on the basis of the 1937 census rolls, as corrected. We do not know the position of the Iowa Sac and Fox of this question. They may still favor the 1891-92 allotment and annuity rolls as a division basis, since the percentages they favor for division of funds among the three tribes do not lend themselves to a division of funds in Docket 219 between two tribes, but this is only an assumption.

We are opposed to a division of any of the current Sac and Fox judgment funds on the basis of the 1891 and 1892 allotment and annuity rolls because the rolls are irrelevant to the land sales and cessions on which the claims in the several dockets are based, as well as to the political structures of the three Sac and Fox Tribes as they exist today. The Oklahoma Sac and Fox also are strongly opposed to a division of any of the current judgments on the basis of these allotment and annuity rolls.

We do not support a division of the current Sac and Fox judgment funds on the basis of current memberships because of the wide variances in the membership criteria of the three tribes.

H.R. 4016 provides that, after the judgment funds in Docket 153 are divided among the three beneficiary tribes, the sum of \$5,000, together with interest thereon for not less than one day, shall be deducted from the share of the judgment funds payable to the Sac and Fox Tribe of Kansas and Nebraska and shall be divided between the Sac and Fox Tribes of Oklahoma and of Iowa according to the formula to be used in making an initial division of the judgment funds in that docket. This represents repayment by the Sac and Fox of Kansas and Nebraska of \$5,000 which was withdrawn for that tribe from judgment funds in Docket 153 immediately after the appropriation of covering funds, and prior to the investment of said funds, to cover legal and travel expenses of the tribe in connection with program planning.

Consistent with the provisions of the Act of October 19, 1973, 86 Stat. 446, H.R. 4016 contains a provision that at least 20 percent of the share of each Sac and Fox Tribe of judgment funds in Dockets 219, 153, and 135 shall be used for programming purposes. The remaining funds of each tribal group would be available for additional programming or for a distribution per capita to the tribal memberships, whichever might be authorized by the respective tribal government bodies and approved by the Secretary of the Interior.

The bill also contains language to protect the shares of minors and legal incompetents and to exempt per capita payments from Federal or State income taxes and from consideration as income or resources under the Social Security Act. This language is consistent with the provisions in section 3(b)(3) and section 7 of the Indian Judgment Fund Use or Distribution Act.

The Sac and Fox Tribe of Oklahoma is organized under the Oklahoma Welfare Act of June 26, 1936. The supreme governing body of the tribe is the Sac and Fox General Council composed of all tribal members who are 21 years of age or older. The tribe also has a business committee empowered to transact business and otherwise speak or act on its behalf concerning all matters on which the tribe is empowered to act, except that acts of the business committee with respect to claims or rights growing out of treaties between the tribe and the United States are not effective unless authorized or approved by the General Council.

The estimated current membership of the Sac and Fox Tribe of Oklahoma is 2,100 (a conservatively low estimate). An estimated 600 members live within the area of the former reservation in Oklahoma. The remainder live in other areas of Oklahoma and in other States.

We understand that the tribe plans to distribute 80 percent of its share of the current judgment funds to the tribal members, and to utilize 20 percent of its funds in long- and short-range program projects. Under consideration are such activities as land acquisition for income-producing programs; a tribal community building; a recreational and vehicle park; the establishment of an Industrial Development Authority; a hunting lodge; baseball camps; restaurant and service stations; and museum and trading post complexes; and a loan program for both short-term personal loans and major business loans. These are but a few of the numerous projects that are being considered by the Sac and Fox of Oklahoma as suitable for financing with their judgment funds. Until the tribe has decided upon specific programs, it hopes to invest its funds earmarked for programming in United States Treasury notes.

The Sac and Fox Tribe of Iowa is organized under the Indian Reorganization Act of June 18, 1934, as amended, and is governed by a Tribal Council of seven members elected at large from the membership population of the settlement. The most recent official membership number we have for the tribe is 779. Of that number, approximately 450 live in the settlement; about 65 live adjacent thereto; and the remainder live in areas away from the settlement.

The Sac and Fox Tribe of Iowa has adopted resolutions to reserve half of its share of funds from Docket 153 for programming, and to distribute the balance of its funds from that docket and all of its share of the funds from Docket 219 to the tribal members. We believe the tribe will wish to make a full distribution per capita of its share of the funds in Docket 135 as well. The tribe wishes to remain flexible in the use of its program funds, but has under consideration such projects as home improvements; education grants; new housing; emergency death benefits for members; certain maintenance costs and expenses; and funding of the tribal housing authority.

The Sac and Fox Tribe of Kansas and Nebraska is organized under the Indian Reorganization Act of 1934. Its governing body is a Tribal Council of five members elected annually on a staggered-term basis. The functions of the council are to represent the tribe on matters such as claims, tribal enrollment, and judgment distribution. The tribe has an estimated membership of 227. None of the members live on the reservation, and only about 20 live near it. The rest of the members are scattered throughout the United States. The tribe has adopted a resolution to program 10 percent of its share of the funds from Docket 153 for land acquisition and to cover tribal operational expenses. The balance of its share of the funds from Docket 153 would be distributed per capita to the tribal members. We do not know what plans the Sac and Fox of Kansas and Nebraska have with respect to their share of the funds in Docket 135. The share of this tribe from previous judgments to the Sac and Fox Nation was distributed per capita to the tribal members.

Four awards were made subsequent to the aforementioned judgments to the Sac and Fox Indians. They are Dockets 158, 231, 95 and 83.

On September 25, 1974, the Indian Claims Commission entered two final awards in Docket 95. One, an award of \$20,421.78, was made jointly to the Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska. It represents the sum found due the Sac and Fox from an accounting of the Treaties of July 15, 1830, September 28, 1836, and October 21, 1837. The other award, in the amount of \$23,083.34, was made in favor of the Sac and Fox Tribe of the Mississippi in Iowa. It constitutes the balance to the credit of that tribe in Account No. 14X7085, "Sac and Fox of the Mississippi Fund, Iowa, Acts of March 3, 1909, and April 4, 1910," as of November 30, 1973, less the sum of the payments from the account from November 30, 1973, to the date of payment.

On November 23, 1973, the Indian Claims Commission award \$943,779.79 to the Sac and Fox in Docket 231. The Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska are the beneficiaries of the award, which represents additional payment of 990,383.50 acres of land in eastern Iowa that were ceded under the Treaty of October 21, 1837. The award was appealed and the United States Court of Claims affirmed the Commission's decisions of April 25, 1975. Gratuitous offsets up to June 30, 1960, were disposed of in Docket 138, and the United States waived claiming offsets in Docket 231.

In Docket 158, the Indian Claims Commission awarded \$3,530,578.21 to the Sac and Fox Nation on November 23, 1973. The award was appealed, and the Court of Claims affirmed the Commission's decisions of April 25, 1975. The Sac and Fox Tribes of Oklahoma, Iowa, and Kansas and Nebraska are the beneficiaries of the judgment. The award in Docket 158 represents additional payment for 4,484,800 acres of land in eastern Iowa that were ceded under the Treaty of September 21, 1832. The United States waived claiming offsets in Docket 158.

A judgment of \$1,969,585 was entered by the Indian Claims Commission on December 26, 1973, in favor of the Sac and Fox Nation, in Docket 83. The award was appealed, and on April 25, 1975, the

Court of Claims affirmed the Commission's decisions. The judgment benefits the Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska. It represents additional payment for 1,638,724.39 acres of land in Missouri that were ceded under the Treaty of November 4, 1804.

Funds have not yet been appropriated to cover the awards in Dockets 158, 231, 95 and 83, nor has the Indian Claims Commission allowed attorney fees or expenses in any of these dockets.

We recommend that H.R. 4016 be amended to provide that the awards in Dockets 158, 231, 95 and 83, when appropriated, be distributed in accordance with the provisions of the bill.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

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Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following funds:

- (1) the funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Mississippi in Iowa in Indian Claims Commission docket 219;
- (2) the funds appropriated by the Acts of July 6, 1970 (84 Stat. 376), and March 21, 1972 (86 Stat. 86), to pay judgments to the Sac and Fox Nation in Indian Claims Commission dockets 153 and 135, respectively;
- (3) any funds which are now or which may hereafter be appropriated to satisfy any final award of the Indian Claims Commission to the Sac and Fox Nation in dockets 158, 231, and 83; and
- (4) the amount of \$20,421.78 from funds appropriated by the Act of June 12, 1975 (89 Stat. 193, 194), to pay a judgment to the Sac and Fox Nation in Indian Claims Commission docket 95, shall, together with interest earned thereon and after the payment of attorney fees and other litigation expenses, be distributed as hereinafter provided.

SEC. 2. (a) The funds in docket 219 shall be divided between the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa, and the funds in dockets 153 and 135, 158, 231, 83 and that portion of docket 95 as provided in paragraph (4) of section 1 hereof, shall be divided among the Sac and Fox Tribe of Oklahoma, the Sac and Fox Tribe of the Mississippi in Iowa, and the Sac and Fox Tribe of the Missouri in Kansas and Nebraska, on the basis of the relative numbers of members of each tribe who were enrolled on or who were entitled to be enrolled on the census rolls of each tribe as of January 1, 1937.

(b) For the purpose of carrying out the provisions of section 2(a) of this Act, each Sac and Fox Tribe shall have not to exceed ninety days from the date of this Act in which to identify those persons, living or deceased, who were inadvertently omitted from the January 1, 1937, census roll of the tribe.

(c) The provisions of section 2(a) of this Act shall apply only to the division of the judgment funds described in section 1 of this Act, between or among the respective Sac and Fox Tribes, as appropriate, and nothing in this section shall be construed as applicable to the payment per capita of any portion of the share of any Sac and Fox Tribe that may be so distributed.

SEC. 3. After the judgment funds are divided as provided in section 2(a) of this Act, the sum of \$5,000, together with appropriate interest thereon for not less than one day, shall be deducted from the share of the judgment funds that is due the Sac and Fox Tribe of Kansas and Nebraska from the judgment in docket 153, and shall be divided between the Sac and Fox Tribes of Iowa and of Oklahoma

according to the formula for division of the judgment funds as provided in section 2(a).

SEC. 4. (a) The funds, as divided under the provisions of this Act, may be utilized for any purposes that are authorized by the respective tribal governing bodies and approved by the Secretary of the Interior: *Provided*, That not less than 20 per centum, together with accrued interest thereon, of the share of each Sac and Fox Tribe shall be used for programing purposes.

(b) Any portion of the share of the judgment funds accruing to any Sac and Fox Tribe that may be distributed in individual shares shall be paid to persons whose names appear on the membership roll of said tribe compiled in accordance with the membership criteria of the tribe's constitution, made current as of the date of this Act.

SEC. 5. Sums payable to enrollees or their heirs or legatees who are less than eighteen years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

SEC. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, nor shall such funds or their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

SEC. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 22, 1975

Dear Mr. Director:

The following bills were received at the White House on December 22nd:

✓ H.J. Res. 749 ✓	✓ H.R. 8304 ✓	✓ H.R. 11184 ✓
✓ H.R. 4016 ✓	✓ H.R. 9968 ✓	✓ S.J. Res. 157 ✓
✓ H.R. 4287 ✓	✓ H.R. 10035 ✓	✓ S. 95 ✓
✓ H.R. 4573 ✓	✓ H.R. 10284 ✓	✓ S. 322 ✓
✓ H.R. 5900 ✓	✓ H.R. 10355 ✓	✓ S. 1469 ✓
✓ H.R. 6673 ✓	✓ H.R. 10727 ✓	✓ S. 2327 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.