

**The original documents are located in Box 65, folder “10/18/76 S1659 Judgement Funds for Grand River Band of Ottawa Indians” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library**

### **Copyright Notice**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

APPROVED  
OCT 18 1976

8 10/18/76

THE WHITE HOUSE  
WASHINGTON

ACTION

Last Day: October 19

October 16, 1976

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *Jim Cannon*

SUBJECT:

S. 1659 - Judgment Funds for Grand  
River Band of Ottawa Indians

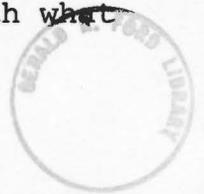
Attached for your consideration is S. 1659, sponsored by  
Senators Hart and Griffin.

The enrolled bill provides for the disposition of funds  
appropriated to pay a judgment in favor of the Grand River  
Band of Ottawa Indians made by the Indian Claims Commission.  
S. 1659 is necessitated by the inability of the Secretary  
of the Interior and the affected Grand River Band of Ottawa  
Indians to agree upon a plan, pursuant to the Indian Judgment  
Funds Distribution Act.

In addition to providing for the actual distribution of judgment  
funds, S. 1659 provides for:

- the division of funds among members of the Grand River  
Band of Ottawa Indians (one-fourth degree blood or more)  
enrolled as of a certain date or meeting other designated  
criteria;
- the Secretary of the Interior to determine the final  
eligibility of all applicants and to establish procedures  
for distribution of judgment funds to enrollees, their  
heirs or legatees; and
- exempts per capita payments under the Act from Federal and  
State income taxes and from consideration as income or  
resources under the Social Security Act or any other  
Federal or federally assisted program, such as food stamps.

Except for the blood quantum provision and the exclusion of  
per capita payments from eligibility criteria for any Federal  
or federally assisted program, the bill conforms with what  
Interior supported in committee.



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

Agency Recommendations

The Department of Agriculture recommends disapproval of S. 1659 on the grounds that the exemption of the per capita payments from eligibility tests concerning the food stamp program should not be allowed.

The Department of the Interior recommends approval of S. 1659.

OMB recommends approval because:

"Given the one-time nature of these payments, the desirability of obtaining a final resolution of the protracted dispute between Interior and the Grand River Ottawa Band, and the fact that there already exists a number of inconsistencies in the way in which various benefits are treated in determining eligibility for various Federally assisted programs, we do not believe that the bill contains sufficient objectionable features to recommend disapproval. Moreover, the provision that exempts these funds from eligibility determination for all Federal programs is identical to language in a similar Indian fund disposition bill which you approved on December 31, 1975."

Staff Recommendations

Max Friedersdorf, Counsel's Office (Kilberg), Bill Barody (Patterson) and I recommend approval of the enrolled bill.

Recommendation

That you sign S. 1659 at Tab B.



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

OCT 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1659 - Judgment funds for Grand  
River Band of Ottawa Indians  
Sponsor - Sen. Hart (D) Michigan and Sen. Griffin  
(R) Michigan

Last Day for Action

October 19, 1976 - Tuesday

Purpose

Provides for the disposition of funds appropriated to pay  
a judgment in favor of the Grand River Band of Ottawa  
Indians made by the Indian Claims Commission.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Health, Education and Welfare	Defers to Interior (Informally)
Indian Claims Commission	No recommendation
Department of Agriculture	Disapproval (Memoran- dum of Disapproval attached) (Informally)

Discussion

The Indian Judgment Funds Distribution Act of 1973 author-  
izes 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  
requires 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.

S. 1659 is necessitated by the inability of the Secretary of the Interior and the affected Grand River Band of Ottawa Indians to agree upon a plan, pursuant to the Indian Judgment Funds Distribution Act.

On March 27, 1967, the Indian Claims Commission approved a monetary award of \$932,620 to the Grand River Band of Ottawa Indians as payment for certain of their lands. Funds to pay the award were appropriated by the Congress in 1968. However, when the Secretary of the Interior submitted the plan for distribution of the Grand River Band funds to the Senate, a majority of the Band opposed it on the grounds that although Band descendants are not federally recognized and they have no formally organized political entity to receive funds, eligibility to share in the award should be strictly limited to those who have one-fourth Grand River Ottawa Indian blood. Following congressional inaction during the statutory 60-day review period, the Secretary withdrew the plan in order to accommodate those members of Congress who opposed it because it did not limit eligibility by blood quantum. In accordance with the Indian Judgment Funds Distribution Act, legislation similar to S. 1659 was introduced in the 92nd and 93rd Congresses by Senator Hart, but it expired at the end of those Congresses.

In addition to providing for the actual distribution of judgment funds, S. 1659 provides for the division of funds among members of the Grand River Band of Ottawa Indians (one-fourth degree blood or more) enrolled as of a certain date or meeting certain other designated criteria; provides for the Secretary of the Interior to determine the final eligibility of all applicants and

to establish procedures for distribution of judgment funds to enrollees, their heirs or legatees; and, exempts per capita payments under the Act from Federal and State income taxes and from consideration as income or resources under the Social Security Act or any other Federal or federally assisted program, such as food stamps.

Except for the blood quantum provision and the exclusion of per capita payments from eligibility criteria for any Federal or federally assisted program, the enrolled bill conforms with what Interior had supported in committee. These non-conforming features are discussed below.

#### Agency Comments

In its enrolled bill letter, Interior expresses regret that Congress did not delete the one-fourth Grand River Ottawa blood restriction from S. 1659, but states that "in light of the long delay in the distribution of funds and the insistence of the Indians and the Congress on the blood degree requirement, we do not believe this provision should prevent Presidential approval of the enrolled bill." Interior also notes:

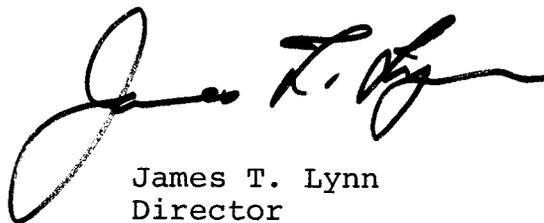
"With regard to the provision of section 6 which exempts these funds from eligibility determination for Federal benefits, recent statutes have provided precedent for such a provision ... Further, insofar as this provision applies to the Social Security Act, it is consistent with section 7 of the Indian Judgment Fund Distribution Act which exempts these funds from eligibility consideration for Social Security benefits... this distribution is only a one-time payment for the specific purpose of redressing a legal wrong by the United States. ... [and] not to provide an accession to wealth or on-going income."

HEW has advised us that they have no objection to the exemption of these per capita payments from eligibility tests concerning the food stamp and other federally assisted programs. Taking a different view, Agriculture recommends veto on the grounds that such exemptions should not be allowed with respect to the food stamp program.

Recommendation

Given the one-time nature of these payments, the desirability of obtaining a final resolution of the protracted dispute between Interior and the Grand River Ottawa Band, and the fact that there already exists a number of anomalies and inconsistencies in the way in which various benefits are treated in determining eligibility for various federally assisted programs, we do not believe that the bill contains sufficient objectionable features to warrant disapproval. Moreover, the provision that exempts these funds from eligibility determination for all Federal programs is identical to language in a similar Indian fund disposition bill which you approved on December 31, 1975 (P.L. 94-189). Accordingly, we concur in Interior's conclusion that:

"In our judgment the need for this legislation outweighs the reservations outlined ... and we recommend that the President approve the enrolled bill."

A handwritten signature in black ink, appearing to read "James T. Lynn", with a large, stylized flourish at the end.

James T. Lynn  
Director

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

10  
19

Date: October 13

Time: 900pm

FOR ACTION: George Humphreys *hw* cc (for information): Jack Marsh  
 Brad Patterson *sign* Ed Schmults  
 Max Friedersdorf *sign* Steve McConahey  
 Bobbie Kilberg *on* Robert Hartmann  
 Paul Leach

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 530pm

SUBJECT:

S.1659-Judgment funds for Grand River Band of  
Ottawa Indians

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> 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



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

**OCT 8 - 1976**

Dear Mr. Lynn:

This responds to your request for the views of this Department on the enrolled bill S. 1659, "To provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket No. 40-K and for other purposes."

We recommend that the President approve the enrolled bill.

As enrolled, S. 1659 concerns the disposition of judgment funds in Indian Claims Commission Docket numbered 40-K. The bill would direct that funds derived from this award, after the payment of attorneys fees and expenses, be paid per capita to all persons of Grand River Band of Ottawa Indian blood who: have 1/4 degree or more of Grand River Ottawa Blood; are United States citizens; and whose name or the name of a lineal ancestor from whom they claim eligibility appears as a Grand River Ottawa on the Roll of 1908, approved by the Secretary of the Interior, February 18, 1910, or on any available census roll or other records acceptable to the Secretary.

The Grand River Band of Ottawa Indians sought additional payment for 1,140,740 acres of land in southeastern Michigan that they had ceded to the United States under the Treaty of August 29, 1821. On March 27, 1968, the Indian Claims Commission entered a final award of \$932,620.01 in docket No. 40-K "on behalf of and for the benefit of the Grand River Band of Ottawa Indians as it was constituted on March 25, 1822, the effective date of the Treaty of August 29, 1821." Covering funds were appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198). After the payment of litigation costs, including attorney fees, and with interest earned since appropriation of the funds, there is now some \$1.4 million to be distributed.

The Grand River Band descendants have no reservation or other land base at the present time. They are not formally organized, nor are they recognized by the Federal Government as a political entity.



Approximately 1,000 persons who claim Grand River Band descent formed the Northern Michigan Ottawa Association, primarily for the purpose of pressing claims against the United States on behalf of its membership. The membership of this organization includes Chippewa and Potawatomi Indians as well as Ottawas. Although the Association is not a tribal entity and is not recognized as such, its members have been active in making plans concerning the funds in docket No. 40-K through the Grand River Ottawa Descendants' Committee, formed within the Association for that purpose.

On March 18, 1972, representatives of the Bureau of Indian Affairs met with the Grand River Ottawa Descendants' Committee at Muskegon, Michigan to discuss the disposition of the award funds. One point on which the Committee and the BIA did not reach agreement was whether eligibility to share in the judgment award should be limited to persons possessing at least one-fourth degree Grand River Band of Ottawa blood. S. 1659 as enrolled contains this requirement.

Pursuant to the Indian Judgment Funds Use and Distribution Act of 1973 (87 Stat. 466), a Hearing of Record was held on May 18, 1974, in Michigan, on a proposal for the use of the funds. It was attended by persons who believe they are Grand River Band descendants. The testimony was overwhelmingly in favor of restricting participation in the judgment funds by blood quantum.

This Department's general policy with respect to descendency situations involving judgment funds is that all descendants, regardless of their blood quantum, should be eligible to share in the award. However, the Grand River band descendants have strongly and consistently opposed this policy with respect to them, both at the 1972 meeting and 1974 hearing. Further, in resolutions dating back to 1952 they have supported this distribution limitation. They maintain that Federally-recognized tribes, who have blood degree requirements for membership, may distribute judgment awards on that basis. They feel that they deserve the same consideration in setting eligibility for participation as that given recognized tribes in similar judgment situations. The Grand River Band descendants estimate that distribution of the judgment funds to all lineal descendants without a blood quantum restriction could include as many as 15,000 persons, instead of the 3,000 individuals they estimate to be of one-quarter degree blood.

While we regret that Congress did not delete this requirement, we recognize that eight years have elapsed since Congress appropriated funds to pay the judgment awards and these funds have not yet been

distributed. In this connection, we would note that Congress requested the Secretary to withdraw the judgment distribution plan which he had submitted on October 30, 1974, because the plan did not require the blood quantum restriction. The Secretary withdrew the plan. In light of the long delay in the distribution of funds and the insistence of the Indians and the Congress on the blood degree requirement, we do not believe that this provision should prevent Presidential approval of the enrolled bill.

Under section 6 of the enrolled bill, none of the funds distributed per capita or held in trust would be subject to income taxes, nor considered as income or resources in determining eligibility for any Federal programs. This section provides the normal tax exemption which applies to judgment awards pursuant to section 7 of the Indian Judgment Funds Use and Distribution Act of 1973 (87 Stat. 468).

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), the Act of October 19, 1975, "The Submarginal Lands Act," (89 Stat. 577), and the Act of December 31, 1975, "The Sac and Fox Judgment Distribution Act," (89 Stat. 1093). Further, insofar as this provision applies to the Social Security Act, it is consistent with section 7 of the Indian Judgment Fund Distribution Act 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 Grand River Band of Ottawa Indians legally whole, not to provide an accession to wealth or on-going income.

If this bill is disapproved because of the provisions of section 6, the distribution of the award would be further delayed.

In our judgment, the need for this legislation outweighs the reservations outlined herein, and we recommend that the President approve the enrolled bill.

Sincerely yours,

A handwritten signature in cursive script that reads "Morris Thompson". The signature is written in dark ink and is positioned to the left of the typed name below it.

Commissioner of Indian Affairs

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



## INDIAN CLAIMS COMMISSION

RIDDELL BUILDING, 6TH FLOOR  
1730 K STREET NW.  
WASHINGTON, D.C. 20006

October 7, 1976

Mr. James Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503

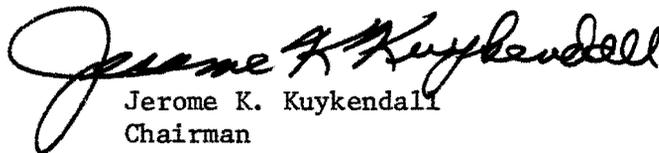
Re: S. 1659  
Enrolled Bill

Dear Mr. Frey:

This is in reply to your request dated October 6, 1976, regarding enrolled bill S. 1659, an act "To provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, and for other purposes."

This bill does not involve any matters now pending before, or over which this Commission has jurisdiction. Accordingly, we express no views or recommendations on the merits of this bill.

Sincerely yours,

  
Jerome K. Kuykendall  
Chairman

THE WHITE HOUSE  
WASHINGTON

October 14, 1976

MEMORANDUM FOR JAMES M. CANNON

I recommend that the  
President sign Enrolled Bill S 1659.

A handwritten signature in black ink, appearing to read "Brad Patterson". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Bradley H. Patterson, Jr.



*Johnston*  
*10-13-76*  
*5:00 PM*



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

OCT 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1659 - Judgment funds for Grand River Band of Ottawa Indians  
Sponsor - Sen. Hart (D) Michigan and Sen. Griffin (R) Michigan

Last Day for Action

October 19, 1976 - Tuesday

Purpose

Provides for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians made by the Indian Claims Commission.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Health, Education and Welfare	Defers to Interior (Informally)
Indian Claims Commission	No recommendation
Department of Agriculture	Disapproval (Memorandum of Disapproval attached) (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 requires that such plans be submitted to Congress and

October 13

Time: 900pm

FOR ACTION: George Humphreys  
 Brad Patterson  
 Max Friedersdorf  
 Bobbie Kilberg  
 Paul Leach

cc (for information): Jack Marsh  
 Ed Schmults  
 Steve McConahey

Robert Hartmann

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 530pm

SUBJECT:

S.1659-Judgment funds for Grand River Band of  
 Ottawa Indians

## 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*  
*K. Jezarus*  
*10/14*

**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 M. Cannon  
 For the President

Date: October 13

Time: 900pm

FOR ACTION: George Humphreys  
Brad Patterson  
Max Friedersdorf  
Bobbie Kilberg  
Paul Leach

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey

Robert Hartmann

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 530pm

SUBJECT:

S.1659-Judgment funds for Grand River Band of  
Ottawa Indians

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

*Recommend Approval*

*[Signature]*

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 M. Cannon  
For the President

THE WHITE HOUSE

10

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date:     ber 13

Time: 900pm

FOR ACTION: George Humphreys  
Brad Patterson  
Max Friedersdorf  
Bobbie Kilberg  
Paul Leach

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey  
Robert Hartmann

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 530pm

SUBJECT:

S.1659-Judgment funds for Grand River Band of  
Ottawa Indians

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

*I reviewed approval  
JWH*

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 M. Cannon  
For the President



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

October 14, 1976

Honorable James T. Lynn, Director  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

This is in reply to your request for a report on the enrolled bill S. 1659 which provides for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians.

The Department recommends that the President veto S. 1659 because we object to Section 6 of the bill. The Department has no comment on the other provisions of the bill since they are under the jurisdiction of the Department of the Interior.

Section 6 of this bill provides that sums payable to individuals or held in trust shall be disregarded in determining a person's eligibility for assistance under the Social Security Act or any other Federal or federally-assisted program. The legislative history clearly states that the per capita payments made to individuals are exempt from being considered income or resources for purposes of determining Food Stamp Program eligibility. This provision was added to the bill to insure that individuals participating in the Food Stamp Program will not lose benefits because of their receipt of per capita payments. (Senate Report No. 94-577, page 4.)

In the 1971 amendments to the Food Stamp Act, the Congress mandated that national eligibility standards be established for the Food Stamp Program. Such standards are based on the principle that all cash payments received by the household should be considered in determining its food stamp eligibility and level of benefits. By excluding the payments to the Grand River Band of Ottawa Indians, a special class of recipients would be created which would not have to meet the standards used for other households. Depending on the amount of the per capita payments, non-needy households could become eligible to participate.

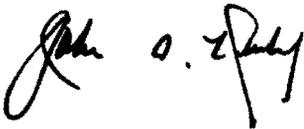
Further, the amendment could encourage other government programs to seek food stamp exclusions for their special payments. Although some disregards have already been enacted, the Department has consistently opposed them and continues to strongly oppose the expansion of this policy.

Honorable James T. Lynn, Director

2

S. 1659 can be expected to result in a slight increase of Food Stamp Program costs, because the disregard of the payments will allow some households with total resources over the program limitations to receive program benefits. Even though we estimate the cost of this bill to be minimal, we believe the policy set by approving disregards from income or resources has the potential of becoming costly if future judgments are awarded and disbursed in the same manner.

Sincerely,

A handwritten signature in cursive script, appearing to read "John A. Knebel".

John A. Knebel  
Acting Secretary

STATEMENT FOR THE PRESIDENT

ON DISAPPROVING S. 1659

Today I have refused to sign S. 1659, a bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians.

I oppose this bill because in addition to providing for the disposition of funds involved in the judgment, this bill also entitles the Grand River Band of Ottawa Indians to special consideration under Social Security Act programs and other Federal or federally-assisted programs. Section 6 of the bill exempts the per capita payments to the individual Indians from being considered as income or resources for purposes of determining food stamp or welfare assistance eligibility.

In effect this means the individual Indian households are entitled to welfare or food stamp benefits in addition to the cash received as a part of the judgment funds.

Provisions to disregard certain payments from being considered income or resources are contrary to the basic premise that eligibility for welfare or food stamps should be based on need. When disregards such as the one provided for in Section 6 of S. 1659 are allowed, non-needy households can be eligible for food stamps or welfare assistance even though the resources available to the household exceed the eligibility limits which have been determined appropriate for the program.

In addition, provisions to disregard certain payments result in increased cost to the taxpayers, since such disregards result in expanded program

participation of those households who have certain exempted income or resources.

I realize that the cost of S. 1659 is estimated to be minimal. Moreover, I realize that I have in the past approved bills which included disregard provisions similar to the provision in S. 1659. My administration, however, has consistently been opposed to such provisions and I believe the continued inclusion of such provisions in laws has the potential of becoming extremely costly if future judgments are awarded and disbursed in the same manner as the judgment handled in S. 1659.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

10  
10/14/76  
9:35 a.m.  
9

Date: October 13

Time: 900pm

FOR ACTION: George Humphreys  
Brad Patterson  
Max Friedersdorf  
Bobbie Kilberg  
Paul Leach

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey  
Robert Hartmann

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 530pm

SUBJECT:

S.1659-Judgment funds for Grand River Band of  
Ottawa Indians

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

*10/14 - Copy sent for researching. nm*

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 M. Cannon  
For the President

## GRAND RIVER BAND OF OTTAWA INDIANS DISPOSITION OF JUDGMENT FUNDS

DECEMBER 18 (legislative day, DECEMBER 15), 1975.—Ordered to be printed

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

### REPORT

[To accompany S. 1659]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 1659) to provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

### AMENDMENTS

The amendments are as follows:

(1) On page 1, lines 8 and 9, delete the words "and expenses of the Grand River Band of Ottawas Descendants Committee".

(2) On page 2, lines 15 through 19, strike the entire proviso, and place a period after "United States".

(3) On page 3, line 14, after the word "taxes" delete the remainder of that line and all of lines 15, 16, and 17, 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.

### PURPOSE OF THE MEASURE

The purpose of the measure is to provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K.

## BACKGROUND AND NEED

The Grand River Band of Ottawa Indians, through docket 40-K, claimed additional payment for over one million acres of land in southeastern Michigan that they had ceded to the United States under an 1821 treaty. On March 27, 1967, the Indian Claims Commission approved an award of \$932,620.01 in settlement of the claim. Funds to cover the award were appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198).

Under normal circumstances, the disposition of Indian judgment funds addressed in S. 1659 would 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 judgment funds 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.

On November 19, 1974, the Secretary of the Interior submitted to the Senate a plan to provide for the use and distribution of the judgment funds awarded in docket 40-K. However, at the hearing of record, pursuant to the Indian Judgment Funds Distribution Act, a majority of the Grand River Band of Ottawa Indians present opposed the plan offered by the Bureau of Indian Affairs, Department of the Interior. Notwithstanding the Indians' opposition to such plan, and without trying to accommodate the wishes of the Indians to the extent it could, the Secretary submitted its original plan to the Congress. Strenuous objections to the plan were raised by the Grand River Band of Ottawa Indians.

A resolution disapproving the plan was introduced in the Senate early in the 94th Congress. Because of the lengthy period of time required to organize the 94th Congress, the Senate was unable to consider the resolution prior to expiration of the 60-day review.

In order to accommodate Congressional action, the Secretary withdrew the proposed plan. In accordance with the Indian Judgment Funds Distribution Act, legislation was introduced providing for distribution of the subject funds.

The major point of contention over the disposition of the judgment funds in docket 40-K was the Secretary of the Interior's insistence that the funds be distributed to all persons who were born on or prior to and are living on the date of the Act, and whose name or the name of a lineal ancestor from who they claim eligibility appears on certain early rolls named in the bill or any available census rolls or other records acceptable to the Secretary. The Secretary argues that since the band descendants are not Federally-recognized they have no formally organized political entity to receive the funds.

The Grand River Band of Ottawas Descendants Committee argues in favor of S. 1659 which limits eligibility to share in the award to persons who possess Grand River Ottawa Indian blood of one-fourth degree or more and disqualifies individuals enrolled in any tribe other than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan.

In anticipation of the subject award, the Descendants Committee has been compiling a roll of Grand River Band descendants based on lineal descendency from person named on the Grand River Band portion of a roll approved by the Secretary of the Interior. For determining blood quantum, the Descendants Committee has assumed that all persons named on that roll were fullbloods.

Because the persons who claim Grand River Band descendency are members of a non-Federally recognized entity, they are ineligible to participate in programs and services administered by the Bureau of Indian Affairs for tribal groups under their jurisdiction. However, during the Subcommittee hearing on S. 1659, the Descendants Committee witnesses revealed that the Bureau of Indian Affairs had recognized their roll in identifying persons who possess Grand River Ottawa Indian blood of the degree of one-fourth or more and extended certain Bureau services to such individuals. In a later communication to the Committee, the Department confirmed this testimony.

## LEGISLATIVE HISTORY

Senator Hart (Michigan) introduced S. 1659 on May 6, 1975. The bill was the subject of a hearing before the Subcommittee on Indian Affairs on September 26, 1975. Departmental and Indian witnesses testified in behalf of the proposed measure at that time. The Department of the Interior recommended enactment of S. 1659, if amended as suggested in their legislative report.

Measures similar to S. 1659 were introduced in the 92nd and 93rd Congresses by Senator Hart; however, neither bill was considered and both died at the end of those Congresses.

## 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. 1659, if amended as described herein.

## COMMITTEE AMENDMENTS

The Committee adopted two of the four amendments recommended by the Department of the Interior, and a third amendment proposed by Senator Bartlett.

Section 1 was amended by striking language which would have authorized payment of expenses incurred by the Grand River Band of Ottawas Descendants Committee in connection with the claim in docket 40-K. There is no evidence of a contractual or other legal obligation to compensate the Descendants Committee for such expenses.

The Department's proposed amendment to section 2 which would have authorized the Secretary to utilize a 1910 payment roll in identifying potential beneficiaries to the claim was rejected by the Committee. The Departmental report failed to justify the use of this roll.

Based on the Subcommittee hearing record on S. 1659, as previously discussed, the Committee rejected the Department's proposed amendment to section 2 which would have removed the one-fourth degree blood quantum criteria required for eligible participants to share in the award. The Committee noted that the Act of September 17, 1967

Approximately 1,000 persons who claim Grand River Band descent formed the Northern Michigan Ottawa Association, primarily for the purpose of pressing claims against the United States on behalf of its membership. The membership of this organization includes Chippewa and Potawatomi Indians as well as Ottawas. Although the Association is not a tribal entity and is not recognized as such, its members have been active in making plans concerning the funds in docket No. 40-K through the Grand River Ottawa Descendants' Committee, formed within the Association for that purpose.

On March 18, 1972, representatives of the Bureau of Indian Affairs met with the Grand River Ottawa Descendants Committee and their attorney at Muskegon, Michigan to discuss the disposition of the award funds. The one point on which the Committee and the BIA did not reach agreement was whether eligibility to share in the judgment award should be limited to persons possessing at least one-fourth degree Grand River Band of Ottawa blood. The Descendants Committee insists on this blood quantum requirements but we can find no basis for determining blood quantum for descendants of the Grand River Band as a condition for sharing in the award.

The BIA did agree with the request of the Descendants Committee that the age of 18 years be established as the age of majority for purposes of the claims award distribution and that minors' shares be held in trust for them until the age of majority is reached.

It was also agreed that the Durant Roll of Ottawa and Chippewa Indians approved by the Secretary of the Interior on February 18, 1910, be established as a roll from which to trace lineal descendancy. This roll was prepared by BIA Special Agent H. D. Durant as a census roll of all persons and their descendants who were on a roll of the Ottawa and Chippewa Tribe of Michigan in 1870, and living on March 7, 1907. The BIA recommended that in establishing eligibility to share in the award other rolls or records acceptable to the Secretary of the Interior should also be used as the Durant Roll does not include the names of all persons of Grand River Band descent who were living at the time of the Roll's preparation. The Committee agreed.

Pursuant to the Indian Judgment Funds Use and Distribution Act of 1947 (87 Stat. 466), a Hearing of Record was held on May 18, 1974, in Michigan, on a proposal for the use of the funds. It was attended by persons who believe they are Grand River Band descendants. The testimony was overwhelmingly in favor of restricting participation in the judgment funds to persons of not less than one-fourth degree Grand River Band of Ottawa Indian blood.

The Department of the Interior does not support this position. Our long-standing policy with respect to all descendancy situations involving judgment funds is that all descendants, regardless of their blood quantum, should be eligible to share in the award. This is our position concerning the Grand River Band of Ottawa Indians, and their eligibility to share in the judgment in docket No. 40-K.

On January 25, 1910, one month before the Secretary approved the 1908 roll, Special Agent Durant wrote the Commissioner of Indian Affairs with regard to the issue of blood quantum. In his letter he stated:

"Under my instructions from you, the *degree of blood does not determine the right to enrollment* [emphasis added] \* \* \* To determine the degree of blood of members of this tribe will entail many more months of work, if, indeed, it can be accomplished at all. Certainly it cannot be done with accuracy, since there is not, to my knowledge any existing record upon which to base such determination and, if done at all, must be by oral testimony."

In compiling the roll Durant had found that many persons of little, if any, Indian blood on the 1870 roll had intermarried with the tribal members and had been enrolled by consent of the chiefs and headmen through friendship, sympathy or other influences. He reported to the Commissioner that within the same families some children of mixed blood were placed on the 1870 roll while others were not. He added that chiefs and headmen were willing to permit the enrollment on the 1908 roll of all those half-bloods and their children then living who had been enrolled in 1870, but not those half-bloods and their children who had been denied enrollment in 1870.

For the above reasons, we find no basis for establishing Grand River Band of Ottawa blood quantum as a condition for sharing in the award. All descendants should share in the judgment.

Section 1 of the bill would provide for payment of expenses of the Grand River Band of Ottawas Descendants Committee out of the award. This Committee is not recognized as a tribal entity. We cannot accept its roll as an official roll of Grand River Band of Ottawas descendants and can find no basis for compensating the Committee for its expenses or efforts in compiling a roll or for other activities with regard to eligibility to share in the claims award distribution.

Finally, under the proviso in section 2, no person would be eligible for enrollment as a descendant of the Grand River Band of Ottawa Indians if he is an enrolled member of any tribe other than Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan.

This proviso would eliminate all descendants of the Grand River Band of Ottawas from sharing in this award if they are members of another tribe. It is not an unusual circumstance for persons who are enrolled members of one tribe to share in a per capita distribution as descendants of a different aboriginal entity. The distribution of awards to the Kiowa, Comanche and Apache Tribes (82 Stat. 880; and 73 Stat. 598), permitted payment of per capita shares to persons who were eligible as descendants of one entity but were enrolled members of different tribes. A similar situation exists with the Mississippi Sioux and Otoe-Missouri judgment distribution, among others.

Based upon the above comments, we recommend the following amendments:

(1) On page 1, lines 8 and 9, we recommend the deletion of the words "and expenses of the Grand River Band of Ottawas Descendants Committee".

(2) On page 2, line 11, after the word "1910" we recommend striking the word "or" and inserting in lieu thereof "or on the payment roll derived therefrom approved May 17, 1910, or."

(3) On page 2, lines 13 and 14, we recommend the deletion of "(c) who possess Grand River Ottawa Indian blood of the degree of one-fourth or more; and (d)," and insert in lieu thereof "and (c)".

(4) On page 2, lines 15 thru 19, we suggest that the entire proviso be deleted and a period be placed after "United States".

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,

JOHN KYL,  
*Assistant Secretary of the Interior.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
*Washington, D.C., November 6, 1975.*

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

DEAR MR. CHAIRMAN: Reference is made to the Committee's request for the views of this Office on S. 1659, a bill "To provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket No. 40-K, and for other purposes."

In the report which it is submitting to your Committee on this bill, the Department of the Interior recommends the enactment of S. 1659 if amended in the manner proposed in the departmental report.

The Office of Management and Budget concurs in the views of the Department of the Interior and would support the enactment of S. 1659 if amended as recommended 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. 1659.

○

# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### An Act

To provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, together with any interest thereon, after payment of attorney fees and litigation expenses and such expenses as may be necessary in effecting the provisions of this Act, shall be distributed as provided herein.*

SEC. 2. The Secretary of the Interior shall prepare a roll of all persons of Grand River Band of Ottawa Indian blood who meet the following requirements for eligibility: (a) they were born on or prior to and were living on the date of this Act; and (b) their name or the name of a lineal ancestor from whom they claim eligibility appears as a Grand River Ottawa on the Ottawa and Chippewa Tribe of Michigan, Durant Roll of 1908, approved by the Secretary of the Interior, February 18, 1910, or on any available census rolls or other records acceptable to the Secretary of the Interior; (c) who possess Grand River Ottawa Indian blood of the degree of one-fourth or more; and (d) are citizens of the United States.

SEC. 3. Applications for enrollment must be filed with the Great Lakes Agency of the Bureau of Indian Affairs at Ashland, Wisconsin, in the manner and within the time limits prescribed for that purpose. The determination of the Secretary of the Interior regarding the eligibility of an applicant shall be final.

SEC. 4. The judgment funds shall be distributed per capita to the persons whose names appear on the roll prepared in accordance with section 2 of this Act.

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

S. 1659—2

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 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.

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.*