

PROVIDING FOR THE DISPOSITION OF A JUDGMENT AGAINST THE UNITED STATES RECOVERED BY THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF INDIANS OF THE FLATHEAD RESERVATION IN MONTANA

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MARCH 10, 1967.—Ordered to be printed

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

## R E P O R T

[To accompany S. 1177]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 1177) to provide for the disposition of a judgment against the United States recovered by the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

### PURPOSE

The purpose of S. 1177, introduced by Senators Metcalf and Mansfield, is to authorize the distribution of an award by the Indian Claims Commission to the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana.

The bill provides that the judgment funds awarded the Confederated Salish and Kootenai Tribes of the Flathead Reservation by the Indian Claims Commission in docket No. 61 may be used as authorized by the tribal governing body and approved by the Secretary of the Interior. It also exempts from Federal and State income taxes any funds distributed to tribal members.

The judgment funds appropriated by the act of October 27, 1966 (80 Stat. 1065), are on deposit in the U.S. Treasury to the credit of the tribes in an interest-bearing account. This bill authorizes the use of both the principal and the interest. The judgment was for \$4,431,622.18, and the payment of attorney fees and expenses will reduce the figure to about \$4 million. The interest earned to December 31, 1966, amounts to \$24,768.52.

## NEED

This legislation is necessary in order for the funds awarded to the tribes to be expended. The annual Appropriations Act for the Department of the Interior provides that judgments awarded to Indian tribes by the Indian Claims Commission or the Court of Claims shall not be available for advances until specific legislation has been enacted that sets forth the purposes for which said funds will be used.

There is attached to and made a part of this report correspondence from the Commissioner of Indian Affairs to Senator Jackson explaining the program under which these funds will be expended, together with a resolution adopted on January 25, 1967, by the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont.:

U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF INDIAN AFFAIRS,  
Washington, D.C., February 21, 1967.

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

DEAR SENATOR JACKSON: Enclosed is the Confederated Salish and Kootenai Tribes' request for moneys from claims case No. 61, which I have approved as per my letter to the Billings area director.

It is understood that the Bureau will work with the tribes in developing criteria and standards, but the tribes will assume full responsibility for distribution under a modified type of family-plan program. In our view, this program does not warrant the detailed administrative procedures which are usually followed in the distribution of family-plan funds. However, the tribes have indicated in Resolution 2160 that they will make every effort to assure that this distribution will provide significant economic and social benefits for their people.

Authority for distribution of this judgment fund is contained in the act of June 24, 1946 (60 Stat. 302), and therefore new legislation is not being sought. However, in order that the committees may be kept informed of the purposes for which we approve the use of judgment funds under existing legislation, we shall furnish the committees a full report of such programs.

I hope that your committee will concur in my action as I have conditioned the advance of the money upon such concurrence.

Sincerely yours,

ROBERT L. BENNETT, *Commissioner.*

U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF INDIAN AFFAIRS,  
Washington, D.C., February 21, 1967.

MR. JAMES F. CANAN,  
*Area Director, Billings, Mont.*

DEAR MR. CANAN: This is in reference to your letter of February 7 forwarding for approval consideration Resolution 2160 adopted January 25, 1967, by the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont.



Resolution 2160, adopted by the tribal council pursuant to the act of June 24, 1946 (60 Stat. 302), requests that a distribution of \$550 be made to each member of the tribes under a modified family-plan program. This distribution amounts to around three-fourths of the judgment funds awarded the tribes by the Indian Claims Commission in docket 61. The resolution further requests that the remaining one-fourth, totaling about \$1 million, be invested by the Secretary of the Interior for future developmental needs of the tribes.

I find that Resolution 2160 incorporates certain commitments with respect to the course of action to be followed in planning the use of tribal funds anticipated in the future and the gradual assumption of more responsibility for the management of tribal resources.

The request of the tribes for a \$550 payment to be distributed pursuant to a modified family plan is hereby approved. Copies of the tribes' requests, together with a copy of this letter of approval, are being forwarded to the congressional committees for concurrence. You will be immediately advised when the congressional committees concur in my approval, and at that time you are authorized to work out any detailed arrangements pertinent to this distribution. I agree with your conclusion that the amount to be distributed to each eligible member does not warrant the detailed administrative procedures usually followed in the distribution of family plan funds.

The Bureau's comments with respect to the tribes' proposed application format for family-plan funds are being submitted by separate communication.

The allotment of funds for this payment will be made upon your request following notification of the congressional committees' concurrence.

Sincerely yours,

ROBERT L. BENNETT, *Commissioner.*

JANUARY 27, 1967.

Memorandum to: Office of the area director, Billings.  
From: Superintendent, Flathead.  
Subject: Resolution 2160.

Attached hereto are an original and five copies of Resolution 2160 now requesting an approximate \$550 per capita payment from the proceeds of docket 61 claim.

In my letter of November 18, 1966, I recommend that positive efforts on the part of the tribal council be directed toward the development of long-range plans to improve the tribe's business management; to deposit the tribal budget in a commercial depository; to develop a plan to satisfy off-reservation members' desire for a larger return from tribal resources, and to prepare for gradual assumption of more responsibility for the management of the tribal resources.

The area office supported these views, and the Commissioner, in his telegram of December 12, 1966, made the approval of such per capita payment contingent upon the development of such plans.

Since that time, the tribe has had an opportunity to review the proposed omnibus bill which, if enacted, will have a great impact upon the long-range plans the tribe was requested to develop.



Accordingly, the tribe has agreed to actively pursue the formulation of long-range plans with a target date of 18 months from now to present the draft of such plans to the Bureau for further negotiations on implementation and phasing.

Considering the present situation and the possibility of new legislation which will institute different procedures, it is my personal feeling that the tribe is progressing as rapidly as can be expected in view of the complexity of the problems faced, and the unsettled conditions at present which could be radically altered by pending legislation.

In correspondence with the tribe's general counsel, I was informed that the tentative schedule of increased receipts from Kerr Dam and claims would indicate that the tribe would be the recipient of large sums of money in approximately 2 years from now.

The time schedule established by this resolution would indicate that the tribal council would have preliminary drafts of long-range plans prepared before the time additional moneys are anticipated.

In addition, the proposed legislation will probably have accumulated some legislative history by then, whereby the effects of such legislation, as it is finally passed, can be more accurately assessed.

Therefore, I recommend approval of this resolution and the release of the proposed per capita payment in accordance with the terms of the enclosed resolution.

—————, *Superintendent.*

RESOLUTION 2160 OF THE GOVERNING BODY OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, AN INDIAN CHARTERED CORPORATION

Resolution recommending distribution of Judgment Fund, docket No. 61, to be made part of the overall plan of development for the Confederated Salish and Kootenai Tribes

Whereas the Tribal Council of the Confederated Salish and Kootenai Tribes has made an extensive review of the many problems facing the Tribes, including the present status of off-reservation members and the problems faced by them and engendered by their situation, the need to increase the economic base of the Tribes, the need of tribal members for adequate housing, the need to foster economic development on the reservation by the Tribes as well as other parties and corporations, the employment situation on and off the reservation and the Immediate needs and wants of tribal members because of the foregoing problems; and

Whereas the Tribal Council, in an effort to assume more participation in solving tribal problems, is making a study and long-range plan to solve tribal problems in conjunction with the Bureau of Indian Affairs; and

Whereas there has now been appropriated the sum of \$4,431,622.18, in satisfaction of the award of the Indian Claims Commission in the aboriginal-lands claim of the Confederated Salish and Kootenai Tribes, from which must be reserved a portion, not to exceed 10 percent, for the payment of attorneys' fees, leaving a net judgment deposited in the United States Treasury of approximately \$4 million in the tribal account; and

Whereas the Secretary of the Interior and the Comptroller General of the United States have ruled that under the act of June 24, 1946



(60 Stat. 302), this Judgment fund is presently available for such purposes as may be designated by the Tribal Council and approved by the Secretary of the Interior, and without further legislation by Congress; and

Whereas the Tribes have pending before the Federal Power Commission a proposal for increase in the annual Indian charges for Kerr Dam, on which the hearing examiner has reported an increase from \$238,375 per annum to \$850,000 per annum, retroactive to May 1, 1959, under which present prospects are that the Tribes will, at some time in the future, probably within one or two years, receive an additional payment which could amount to more than \$6 million; and the Tribes have other claims pending in the Court of Claims and the Indian Claims Commission and under vigorous prosecution which are expected to yield *several million dollars in additional recoveries*; and

Whereas it is the opinion of the Tribal Council that to meet and solve the many problems facing the Confederated Tribes it is necessary to retain approximately one-fourth of the judgment awarded in the Indian Claims Commission in the aboriginal-lands claim, the sum so retained to be used specifically to fund whatever proposals may result from Tribal Council action designed to meet the foregoing problems, and to distribute immediately \$550 per capita pursuant to a family plan in order to meet the immediate needs of the tribal members, said distribution to be part of the Tribal Council's plan to solve the problems facing the Tribes; and

Whereas Commissioner Bennett and his representatives have informed the Tribal Council that the approximately \$1 million should be retained in the Treasury or invested in obligations of the United States paying a greater return of interest, to be available for future use in funding the programs to be proposed to meet the many tribal problems and in connection with studies now underway by the Bureau to increase the cash flow coming to tribal members from the tribal operations; and that the Bureau can entertain a proposal from the Tribes that the balance, or approximately \$3 million, be made available to tribal members who submit and have approved by representatives of the membership a plan for the expenditure or investment of the per capita shares of the family or individual for legitimate and worthwhile purposes; and

Whereas, the Tribal Council, as part of its comprehensive plan to meet tribal problems, has prepared a suggested form of family or individual plan which is being submitted to the Bureau of Indian Affairs for approval: Now, therefore, be it

*Resolved*, That the Tribal Council hereby requests a distribution from the judgment fund as soon as possible on a per capita basis, the amount of \$550,000 per individual member, approximately three-fourths of the net judgment fund and investment thereon; and be it further

*Resolved*, That a special committee of the Tribes is hereby established, to be known as the Judgment Distribution Committee, to consist of three members of the Tribal Council, named by the Chairman, and to have the duty of working out with the Department of the Interior the details of establishing family or individual plans; distributing forms and instructions therefor to the membership; and to review and, if acceptable under Department of the Interior standards to approve the plans submitted by the membership—per capita payment to follow such approval; and be it further



*Resolved*, That the Tribal Council of the Confederated Salish and Kootenai Tribes continue with increased emphasis its study of the problems facing the Tribes, with special emphasis on reaching what it considers workable solutions to these problems; i.e., those facing off-reservation members and the problems engendered by their status; deposit of tribal budget in a commercial bank and intensive study of the possibilities of gradual assumption of the management of tribal resources, and that in conjunction with its studies and recommendations concerning the same, it meet and confer with officials of the Bureau of Indian Affairs and attempt to present its conclusions and suggestions to the Bureau within eighteen months from the date of this resolution; and be it further

*Resolved*, That the Tribal Council hereby requests the Secretary of the Interior to approve the investment of that portion of the judgment fund not distributed, pending development by the Tribal Council of plans designed to meet tribal problems, and thereupon to invest the balance of the judgment fund being retained in trust for the benefit of the Tribes in such obligations of the United States, authorized for the investment of Indian moneys, as will return the greatest yield (above the 4 percent otherwise to be paid by the Treasury Department) which is available at the time of such investment.

#### *Certification*

The foregoing resolution was adopted by the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., organized under a constitution approved October 28, 1935, pursuant to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended, the authority for this resolution being found in article VI, section 1 (a) and (c) of the constitution by a vote of 10 for, 0 opposed, and 0 not voting, this 25th day of January 1967.

LYMAN L. TRAHAN, *Chairman.*

Attest:

KENNETH R. MARTIN, *Tribal Secretary.*

Recommended for Approval.

\_\_\_\_\_, *Superintendent.*

JANUARY 27, 1967.

COST

No expenditure of Federal funds is involved in this legislation.

#### DEPARTMENTAL REPORT

The report of the Department of the Interior, dated March 7, 1967, is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., March 7, 1967.*

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

DEAR SENATOR JACKSON: Your committee has requested a report on S. 1177, a bill to provide for the disposition of a judgment against

the United States recovered by the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana.

In the opinion of our Solicitor, the enactment of the bill is not necessary because specific legislation now on the books with respect to these Indian tribes provides adequate authority to use the judgment money. The Comptroller General concurred in this conclusion in a letter dated September 30, 1966, to Congressman Olsen. A copy of this letter was sent to you on February 23, 1967.

We have no objection, however, to the enactment of the bill. It provides substantially the same authority that presently exists for this group. It also parallels the legislation enacted in the 89th Congress for six tribes that did not have adequate authority to spend their judgment funds.

The bill provides that the judgment funds awarded the Confederated Salish and Kootenai Tribes of the Flathead Reservation by the Indian Claims Commission in docket No. 61 may be used as authorized by the tribal governing body and approved by the Secretary of the Interior. It also exempts from Federal and State income taxes any funds distributed to tribal members.

The judgment funds appropriated by the act of October 27, 1966 (80 Stat. 1065), are on deposit in the U.S. Treasury to the credit of the tribes in an interest-bearing account. This bill authorizes the use of both the principal and the interest. The judgment was for \$4,431,622.18, and the payment of attorney fees and expenses will reduce the figure to about \$4 million. The interest earned to December 31, 1966, amounts to \$24,768.52.

The general authority which this bill gives to the Secretary to approve tribal programs for the use of judgment funds is consistent with the authority granted by the 89th Congress in connection with awards to the Quinaielt Tribe (Public Law 89-28), the Quileute Tribe (Public Law 89-655), the Miami Tribe of Oklahoma (Public Law 89-659), the Otoe and Missouri Tribes (Public Law 89-661), the Skokomish Tribe (Public Law 89-663), and the Omaha Tribe (Public Law 89-717).

The socioeconomic data which we normally submit is not included in this report. We expect to be able to submit it to the committee by the end of this month.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

HARRY R. ANDERSON,  
*Assistant Secretary of the Interior.*

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