Section 427, act Feb. 9, 1903, ch. 531, 32 Stat. 820, which extended town-site laws to ceded lands in Minnesota, was transferred to section 731 of Title 43.

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SUBCHAPTER I—GENERAL PROVISIONS

§ 441. Repealed. Pub. L. 96–277, § 2, June 17, 1980, 94 Stat. 545

Section, act June 19, 1939, ch. 210, 53 Stat. 840, recognized right of Indian employees of the Federal Government to Indian benefits available under Acts of Congress, and under regulations of the Secretary of the Interior, to be members of Indian tribes, corporations, or cooperative associations organized by Indians and recipients of benefits by reason of membership.

EFFECTIVE DATE OF REPEAL

Section repealed sixty days after June 17, 1980, see section 4 of Pub. L. 96–277, set out as a note under section 68 of this title.

§ 442. Livestock loans; cash settlements

All acceptances of cash settlements by the Commissioner of Indian Affairs for livestock lent by the United States to any individual Indian, or to any tribe, association, corporation, or other group of Indians, and all sales and relending of livestock repaid in kind to the United States on account of such loans are authorized and ratified: *Provided*, That on and after May 24, 1950, the value of such livestock for the purposes of any such cash settlement shall be based on prevailing market prices in the area and shall be ascertained by a committee composed of three members, one of whom shall be selected by the superintendent of the particular agency, one of whom shall be selected by the chairman of the tribal council, and one of whom shall be selected by the other two members.

(May 24, 1950, ch. 197, § 1, 64 Stat. 190.)

§ 443. Disposition of cash settlements

Any moneys received on and after May 24, 1950, in settlement of such debts or from the sale of livestock so repaid to the United States shall be deposited in the revolving fund established pursuant to the Acts of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], and June 26, 1936 (49 Stat. 1967) [25 U.S.C. 501 et seq.], as amended and supplemented.

(May 24, 1950, ch. 197, § 2, 64 Stat. 190.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables. Provisions of the Act establishing the revolving fund are set out in section 470 of this title.

Act of June 26, 1936, referred to in text, popularly known as the Oklahoma Welfare Act, is classified gen-

erally to subchapter VIII (§ 501 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables. Provisions of the Act relating to the revolving fund appear in section 506 of this title.

Funds in the revolving fund authorized by these Acts, and certain other sums, to be administered after Apr. 12, 1974, as a single Indian Revolving Loan Fund, see section 1461 of this title.

§ 443a. Conveyance to Indian tribes of federally owned buildings, improvements, or facilities; disposition of property by Indians; forfeiture; "Indian" defined

The Secretary of the Interior at the request of any Indian tribe, band, or group is authorized to convey to such Indian tribe, band, or group, by such means as he may deem appropriate, title to any federally owned buildings, improvements, or facilities (including any personal property used in connection with such buildings, improvements, or facilities) that are situated on lands of such tribe, band, or group or on lands reserved for the administration of its affairs, and that are no longer required by the Secretary for the administration of Indian affairs. Any tribe, band, or group to which property is conveyed pursuant to this section may dispose of such property whenever its governing body determines that the property is no longer needed for its use. If, at any time while property conveyed pursuant to this section remains in the ownership of any Indian tribe, band, or group, the Secretary of the Interior determines that such property is not being adequately maintained or properly utilized by such tribe, band, or group or that the property creates a health or safety hazard or other undesirable condition, he may declare a forfeiture of the conveyance and the title to such property shall thereupon revert to the United States. Such determination by the Secretary shall be final.

For the purpose of this section, the term ''Indian'' shall include Eskimos and Aleuts.

(Aug. 6, 1956, ch. 979, 70 Stat. 1057.)

§ 443b. Indian goods and supplies

Payment for transportation of Indian goods and supplies shall include all Indian transportation lawfully due such land-grant railroads as have not received aid in Government bonds (to be adjusted in accordance with the decisions of the Supreme Court in cases decided under such land-grant Acts), but in no case shall more than 50 per centum of full amount of service be paid to said land-grant roads: *Provided*, That such compensation shall be computed upon the basis of the tariff or lower special rates for like transportation performed for the public at large, and shall be accepted as in full for all demands for such service: *Provided further*, That on and after April 30, 1908 in expending money appropriated for this purpose a railroad company which has not received aid in bonds of the United States, and which obtained a grant of public lands to aid in the construction of its railroad on condition that such railroad should be a post route and military road, subject to the use of the United States for postal, military, naval, and other Government services, and also subject to such regulations as Congress may impose, restricting the charge for such government transportation, having claims against the United States for transportation of Indian goods and supplies over such aided railroads, shall be paid out of the moneys appropriated for such purpose only on the basis of such rate for the transportation of such Indian goods and supplies as the Secretary of the Interior shall deem just and reasonable under the provisions set forth herein, such rate not to exceed 50 per centum of the compensation for such Government transportation as shall at that time be charged to and paid by private parties to any such company for like and similar transportation; and the amount so fixed to be paid shall be accepted as in full for all demands for such service.

(Apr. 30, 1908, ch. 153, 35 Stat. 73.)

CODIFICATION

Section was formerly classified to section 93 of Title 45, Railroads.

§§ 444 to 449. Repealed. Aug. 5, 1954, ch. 658, § 5, 68 Stat. 675

Sections, act Apr. 3, 1952, ch. 129, §§ 1–6, 66 Stat. 35, related to Indian hospital services and facilities. See section 2001 et seq. of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1959, see section 6 of act Aug. 5, 1954, set out as an Effective Date note under section 2001 of Title 42, The Public Health and Welfare.

SUBCHAPTER II—INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE

§ 450. Congressional statement of findings

(a) Findings respecting historical and special legal relationship, and resultant responsibilities

The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, American Indian people, finds that—

(1) the prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities; and

(2) the Indian people will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons.

(b) Further findings

The Congress further finds that—

(1) true self-determination in any society of people is dependent upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles;

(2) the Federal responsibility for and assistance to education of Indian children has not effected the desired level of educational

achievement or created the diverse opportunities and personal satisfaction which education can and should provide; and

(3) parental and community control of the educational process is of crucial importance to the Indian people.

(Pub. L. 93–638, §2, Jan. 4, 1975, 88 Stat. 2203.)

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–568, title VIII, §801, Dec. 27, 2000, 114 Stat. 2916, provided that: ''This title [amending sections 450*l*, 458cc, 1407, and 3207 of this title and sections 5604, 5608, and 5609 of Title 20, Education, and repealing section 84 of this title and sections 438 and 439 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Native American Laws Technical Corrections Act of 2000'.''

Pub. L. 106–568, title XIII, §1301, Dec. 27, 2000, 114 Stat. 2936, provided that: ''This title [enacting part F (§458bbb et seq.) of this subchapter] may be cited as the 'American Indian Education Foundation Act of 2000'.''

Pub. L. 106–260, §1, Aug. 18, 2000, 114 Stat. 711, provided that: ''This Act [enacting part E (§458aaa et seq.) of this subchapter, amending sections 450f, 450j, and 450j–1 of this title, enacting provisions set out as notes under sections 450f and 458aaa of this title, and repealing provisions set out as a note under section 450f of this title] may be cited as the 'Tribal Self-Governance Amendments of 2000'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–413, §1, Oct. 25, 1994, 108 Stat. 4250, provided that: ''This Act [enacting part D (§458aa et seq.) of this subchapter and section 450*l* of this title, amending sections 450b, 450c, 450e, 450f, 450j to 450k, 450m, and 450m–1 of this title, and enacting provisions set out as notes under this section and section 458aa of this title] may be cited as the 'Indian Self-Determination Act Amendments of 1994'.''

Pub. L. 103–413, title I, §101, Oct. 25, 1994, 108 Stat. 4250, provided that: ''This title [enacting section 450*l* of this title and amending sections 450b, 450c, 450e, 450f, 450j to 450k, 450m, and 450m–1 of this title] may be cited as the 'Indian Self-Determination Contract Reform Act of 1994'.''

Pub. L. 103–413, title II, §201, Oct. 25, 1994, 108 Stat. 4270, provided that: ''This title [enacting part D (§458aa et seq.) of this subchapter and provisions set out as notes under section 458aa of this title] may be cited as the 'Tribal Self-Governance Act of 1994'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–644, title II, §201, Nov. 29, 1990, 104 Stat. 4665, provided that: ''This title [amending sections 450b, 450c, 450f, 450h, 450j, 450j–1, and 450k of this title and enacting provisions set out as a note under section 450h of this title] may be cited as the 'Indian Self-Determination and Education Assistance Act Amendments of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–472, title I, §101, Oct. 5, 1988, 102 Stat. 2285, provided that: ''This Act [enacting sections 450j–1 and 450m–1 of this title, amending sections 13a, 450a to 450c, 450f to 450j, 450k, and 450n of this title, sections 3371 and 3372 of Title 5, Government Organization and Employees, sections 2004b and 4762 of Title 42, The Public Health and Welfare, and section 456 of the Appendix to Title 50, War and National Defense, transferring section 450*l* of this title to section 450c(f) of this title, and enacting provisions set out as notes under this section and section 450f of this title] may be cited as the 'Indian Self-Determination and Education Assistance Act Amendments of 1988'.''

SHORT TITLE

Section 1 of Pub. L. 93–638 provided: ''That this Act [enacting this subchapter, section 13a of this title, and section 2004b of Title 42, The Public Health and Welfare, amending section 3371 of Title 5, Government Organization and Employees, section 4762 of Title 42, and section 456 of Title 50, Appendix, War and National Defense, and enacting provisions set out as notes under sections 450f, 455, and 457 of this title] may be cited as the 'Indian Self-Determination and Education Assistance Act'.''

Section 101 of title I of Pub. L. 93–638 provided that: ''This title [enacting part A (§450f et seq.) of this subchapter and section 2004b of Title 42, The Public Health and Welfare, and amending section 3371 of Title 5, Government Organization and Employees, section 4762 of Title 42, and section 456 of the Appendix to Title 50, War and National Defense] may be cited as the 'Indian Self-Determination Act'.''

Section 201 of title II of Pub. L. 93–638 provided that: ''This title [enacting part C (§458 et seq.) of this subchapter, sections 455 to 457 of this title, and provisions set out as a note under section 457 of this title] may be cited as the 'Indian Education Assistance Act'.''

SAVINGS PROVISIONS

Pub. L. 100–472, title II, §210, Oct. 5, 1988, 102 Stat. 2298, provided that: ''Nothing in this Act [see Short Title of 1988 Amendment note above] shall be construed as—

''(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or

''(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indian people.''

SEVERABILITY

Pub. L. 100–472, title II, §211, Oct. 5, 1988, 102 Stat. 2298, provided that: ''If any provision of this Act [see Short Title of 1988 Amendment note above] or the application thereof to any Indian tribe, entity, person or circumstance is held invalid, neither the remainder of this Act, nor the application of any provisions herein to other Indian tribes, entities, persons, or circumstances, shall be affected thereby.''

CONSULTATION WITH ALASKA NATIVE CORPORATIONS

Pub. L. 108–199, div. H, §161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, §518, Dec. 8, 2004, 118 Stat. 3267, provided that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175 [set out below].''

EXECUTIVE ORDER NO. 13084

Ex. Ord. No. 13084, May 14, 1998, 63 F.R. 27655, which provided for agencies to establish regular and meaningful consultation and collaboration with Indian tribal governments in the development of regulatory practices on Federal matters that significantly or uniquely affect their communities, to reduce the imposition of unfunded mandates upon Indian tribal governments, and to streamline the application process for and increase the availability of waivers to Indian tribal governments, was revoked, effective 60 days after Nov. 6, 2000, by Ex. Ord. No. 13175, §9(c), Nov. 6, 2000, 65 F.R. 67251, set out below.

EX. ORD. NO. 13175. CONSULTATION AND COORDINATION WITH INDIAN TRIBAL GOVERNMENTS

Ex. Ord. No. 13175, Nov. 6, 2000, 65 F.R. 67249, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

SECTION 1. *Definitions*. For purposes of this order:

(a) ''Policies that have tribal implications'' refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) ''Indian tribe'' means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) ''Agency'' means any authority of the United States that is an ''agency'' under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) ''Tribal officials'' means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

SEC. 2. *Fundamental Principles*. In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

SEC. 3. *Policymaking Criteria*. In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

SEC. 4. *Special Requirements for Legislative Proposals*. Agencies shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in Section 3.

SEC. 5. *Consultation*. (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

SEC. 6. *Increasing Flexibility for Indian Tribal Waivers*.

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

SEC. 7. *Accountability*.

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993 [5 U.S.C. 601 note], each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

SEC. 8. *Independent Agencies*. Independent regulatory agencies are encouraged to comply with the provisions of this order.

SEC. 9. *General Provisions*. (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review) [5 U.S.C. 601 note], Executive Order 12988 (Civil Justice Reform) [28 U.S.C. 519 note], OMB Circular A–19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments [set out below].

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism) [5 U.S.C. 601 note].

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

SEC. 10. *Judicial Review*. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

WILLIAM J. CLINTON.

GOVERNMENT-TO-GOVERNMENT RELATIONS WITH NATIVE AMERICAN TRIBAL GOVERNMENTS

Memorandum of President of the United States, Apr. 29, 1994, 59 F.R. 22951, provided:

Memorandum for the Heads of Executive Departments and Agencies

The United States Government has a unique legal relationship with Native American tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty. Today, as part of an historic meeting, I am outlining principles that executive departments and agencies, including every component bureau and office, are to follow in their interactions with Native American tribal governments. The purpose of these principles is to clarify our responsibility to ensure that the Federal Government operates within a government-to-government relationship with federally recognized Native American tribes. I am strongly committed to building a more effective day-to-day working relationship reflecting respect for the rights of self-government due the sovereign tribal governments.

In order to ensure that the rights of sovereign tribal governments are fully respected, executive branch activities shall be guided by the following:

(a) The head of each executive department and agency shall be responsible for ensuring that the department or agency operates within a government-to-government relationship with federally recognized tribal governments.

(b) Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.

(c) Each executive department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities.

(d) Each executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that affect the trust property and/or governmental rights of the tribes.

(e) Each executive department and agency shall work cooperatively with other Federal departments and agencies to enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this memorandum.

(f) Each executive department and agency shall apply the requirements of Executive Orders Nos. 12875 (''Enhancing the Intergovernmental Partnership'') [former 5 U.S.C. 601 note] and 12866 (''Regulatory Planning and Review'') [5 U.S.C. 601 note] to design solutions and tailor Federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities.

The head of each executive department and agency shall ensure that the department or agency's bureaus and components are fully aware of this memorandum, through publication or other means, and that they are in compliance with its requirements.

This memorandum is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 450a. Congressional declaration of policy

(a) Recognition of obligation of United States

The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

(b) Declaration of commitment

The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with, and responsibility to, individual Indian tribes and to the Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the Federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. In accordance with this policy, the United States is committed to

supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities.

(c) Declaration of national goal

The Congress declares that a major national goal of the United States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

(Pub. L. 93–638, § 3, Jan. 4, 1975, 88 Stat. 2203; Pub. L. 100–472, title I, § 102, Oct. 5, 1988, 102 Stat. 2285.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–472 added subsec. (b) and struck out former subsec. (b) which read as follows: ''The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.''

§ 450a–1. Tribal and Federal advisory committees

Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund advisory committees or other advisory bodies composed of members of Indian tribes or members of Indian tribes and representatives of the Federal Government to ensure tribal participation in the implementation of the Indian Self-Determination and Education Assistance Act (Public Law 93–638) [25 U.S.C. 450 et seq.].

(Pub. L. 101–644, title II, § 204, as added Pub. L. 103–435, § 22(b), Nov. 2, 1994, 108 Stat. 4575.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in text, is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

CODIFICATION

Section was enacted as part of the Indian Self-Determination and Education Assistance Act Amendments of 1990, and not as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

§ 450b. Definitions

For purposes of this subchapter, the term—

(a) ''construction programs'' means programs for the planning, design, construction, repair, improvement, and expansion of buildings or facilities, including, but not limited to, housing, law enforcement and detention facilities, sanitation and water systems, roads, schools, administration and health facilities, irrigation and agricultural work, and water conservation, flood control, or port facilities;

(b) ''contract funding base'' means the base level from which contract funding needs are determined, including all contract costs;

(c) ''direct program costs'' means costs that can be identified specifically with a particular contract objective;

(d) ''Indian'' means a person who is a member of an Indian tribe;

(e) ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(f) ''indirect costs'' means costs incurred for a common or joint purpose benefiting more than one contract objective, or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved;

(g) ''indirect cost rate'' means the rate arrived at through negotiation between an Indian tribe or tribal organization and the appropriate Federal agency;

(h) ''mature contract'' means a self-determination contract that has been continuously operated by a tribal organization for three or more years, and for which there are no significant and material audit exceptions in the annual financial audit of the tribal organization: *Provided*, That upon the request of a tribal organization or the tribal organization's Indian tribe for purposes of section 450f(a) of this title, a contract of the tribal organization which meets this definition shall be considered to be a mature contract;

(i) ''Secretary'', unless otherwise designated, means either the Secretary of Health and Human Services or the Secretary of the Interior or both;

(j) ''self-determination contract'' means a contract (or grant or cooperative agreement utilized under section 450e–1 of this title) entered into under part A of this subchapter between a tribal organization and the appropriate Secretary for the planning, conduct and administration of programs or services which are otherwise provided to Indian tribes and their members pursuant to Federal law: *Provided*, That except as provided[1] the last proviso in section 450j(a)[2] of this title, no contract (or grant or cooperative agreement utilized under section 450e–1 of this title) entered into under part A of this subchapter shall be construed to be a procurement contract;

(k) ''State education agency'' means the State board of education or other agency or officer primarily responsible for supervision by the State of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law;

[1] So in original. Probably should be ''provided in''.

[2] See References in Text note below.

(*l*) ''tribal organization'' means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant; and

(m) ''construction contract'' means a fixed-price or cost-reimbursement self-determination contract for a construction project, except that such term does not include any contract—

(1) that is limited to providing planning services and construction management services (or a combination of such services);

(2) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

(3) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.

(Pub. L. 93–638, § 4, Jan. 4, 1975, 88 Stat. 2204; Pub. L. 100–472, title I, § 103, Oct. 5, 1988, 102 Stat. 2286; Pub. L. 100–581, title II, § 208, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 101–301, § 2(a)(1)–(3), May 24, 1990, 104 Stat. 206; Pub. L. 101–644, title II, § 202(1), (2), Nov. 29, 1990, 104 Stat. 4665; Pub. L. 103–413, title I, § 102(1), Oct. 25, 1994, 108 Stat. 4250.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (e), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43, and Tables.

Part A of this subchapter, referred to in subsec. (j), was in the original ''title I of this act'', meaning title I of Pub. L. 93–638, known as the Indian Self-Determination Act, which is classified principally to part A (§ 450f et seq.) of this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 450j(a) of this title, referred to in subsec. (j), was repealed and a new subsec. (a) of section 450j was added by Pub. L. 103–413, title I, § 102(10), Oct. 25, 1994, 108 Stat. 4253, which does not contain provisos.

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–413, § 102(1)(A), substituted ''indirect cost rate'' for ''indirect costs rate''.

Subsec. (m). Pub. L. 103–413, § 102(1)(B)–(D), added subsec. (m).

1990—Subsec. (e). Pub. L. 101–301, § 2(a)(1), inserted a comma before ''which is recognized''.

Subsec. (h). Pub. L. 101–644, § 202(1), struck out ''in existence on October 5, 1988,'' before ''which meets this definition''.

Subsec. (j). Pub. L. 101–644, § 202(2), substituted ''contract (or grant or cooperative agreement utilized under section 450e–1 of this title) entered'' for ''contract entered'' in two places.

Pub. L. 101–301, § 2(a)(2), (3), substituted ''under this subchapter'' for ''pursuant to this Act'' in two places and struck out ''the'' before ''Secretary''.

1988—Pub. L. 100–472 amended section generally, substituting subsecs. (a) to (*l*) for former subsecs. (a) to (d) and (f) which defined ''Indian'', ''Indian tribe'', ''Tribal organization'', ''Secretary'', and ''State education agency''.

Subsec. (h). Pub. L. 100–581, § 208(a)(1), substituted ''by a tribal organization'' for ''by tribal organization''.

Pub. L. 100–581, § 208(a)(2), which directed the amendment of subsec. (h) by substituting ''a tribal organization or the tribal organization's Indian tribe for purposes of section 450f(a) of this title'' for ''a tribal organization or a tribal governing body'' was executed by substituting the new language for ''a tribal organization or tribal governing body'' to reflect the probable intent of Congress.

Subsec. (j). Pub. L. 100–581, § 208(b), substituted ''the Secretary for the planning'' for ''Secretary the planning'' and ''except as provided the last proviso in section 450j(a) of this title, no contract'' for ''no contract''.

§ 450c. Reporting and audit requirements for recipients of Federal financial assistance

(a) Maintenance of records

(1) Each recipient of Federal financial assistance under this subchapter shall keep such records as the appropriate Secretary shall prescribe by regulation promulgated under sections 552 and 553 of title 5, including records which fully disclose—

(A) the amount and disposition by such recipient of the proceeds of such assistance,

(B) the cost of the project or undertaking in connection with which such assistance is given or used,

(C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and

(D) such other information as will facilitate an effective audit.

(2) For the purposes of this subsection, such records for a mature contract shall consist of quarterly financial statements for the purpose of accounting for Federal funds, the annual single-agency audit required by chapter 75 of title 31[1] and a brief annual program report.

(b) Access to books, documents, papers, and records for audit and examination by Comptroller General, etc.

The Comptroller General and the appropriate Secretary, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in the preceding subsection of this section, have access (for the purpose of audit and examination) to any books, documents, papers, and records of such recipients which in the opinion of the Comptroller General or the appropriate Secretary may be related or pertinent to the grants, contracts, subcontracts,

[1] So in original. Probably should be followed by a comma.

subgrants, or other arrangements referred to in the preceding subsection.

(c) Availability by recipient of required reports and information to Indian people served or represented

Each recipient of Federal financial assistance referred to in subsection (a) of this section shall make such reports and information available to the Indian people served or represented by such recipient as and in a manner determined to be adequate by the appropriate Secretary.

(d) Repayment to Treasury by recipient of unexpended or unused funds

Except as provided in section 13a or 450j–1(a)(3)[2] of this title, funds paid to a financial assistance recipient referred to in subsection (a) of this section and not expended or used for the purposes for which paid shall be repaid to the Treasury of the United States through the respective Secretary.

(e) Annual report to tribes

The Secretary shall report annually in writing to each tribe regarding projected and actual staffing levels, funding obligations, and expenditures for programs operated directly by the Secretary serving that tribe.

(f) Single-agency audit report; additional information; declination criteria and procedures

(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this subchapter, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of title 31.

(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in such paragraph shall submit such additional information concerning the conduct of the program, function, service, or activity carried out pursuant to the contract or grant that is the subject of the report as the tribal organization may negotiate with the Secretary.

(3) Any disagreement over reporting requirements shall be subject to the declination criteria and procedures set forth in section 450f of this title.

(Pub. L. 93–638, § 5, formerly § 5 and title I, § 108, Jan. 4, 1975, 88 Stat. 2204, 2212; renumbered and amended Pub. L. 100–472, title I, § 104, title II, § 208, Oct. 5, 1988, 102 Stat. 2287, 2296; Pub. L. 100–581, title II, § 209, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 101–301, § 2(a)(4), May 24, 1990, 104 Stat. 206; Pub. L. 101–644, title II, § 202(3), Nov. 29, 1990, 104 Stat. 4665; Pub. L. 103–413, title I, § 102(2), Oct. 25, 1994, 108 Stat. 4250.)

REFERENCES IN TEXT

Section 450j–1(a)(3) of this title, referred to in subsec. (d), was repealed and a new subsec. (a)(3) of section 450j–1 was added by Pub. L. 103–413, title I, § 102(14)(C), Oct. 25, 1994, 108 Stat. 4257. See section 450j–1(a)(4) of this title.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–413 added subsec. (f) and struck out former subsec. (f) which read as follows: ''For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract or grant under this subchapter, the Indian tribe which requested such contract or grant shall submit to the appropriate Secretary a report including, but not limited to, an accounting of the amounts and purposes for which Federal funds were expended, information on the conduct of the program or service involved, and such other information as the appropriate Secretary may request through regulations promulgated under sections 552 and 553 of title 5.''

1990—Subsec. (a)(2). Pub. L. 101–301 substituted ''chapter 75 of title 31'' for ''the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.),''.

Subsec. (d). Pub. L. 101–644 substituted ''Except as provided in section 13a or 450j–1(a)(3) of this title,'' for ''Any'' and inserted ''through the respective Secretary'' before period at end.

1988—Subsec. (a). Pub. L. 100–472, § 104(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Each recipient of Federal financial assistance from the Secretary of Interior or the Secretary of Health Education, and Welfare, under this Act, shall keep such records as the appropriate Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.''

Subsec. (e). Pub. L. 100–581 substituted ''to each tribe'' for ''to tribes''.

Pub. L. 100–472, § 104(b), added subsec. (e).

Subsec. (f). Pub. L. 100–472, § 208, redesignated section 450*l* of this title as subsec. (f) of this section and inserted ''through regulations promulgated under sections 552 and 553 of title 5''.

[2] See References in Text note below.

§ 450d. Criminal activities involving grants, contracts, etc.; penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of a contract, subcontract, grant, or subgrant pursuant to this subchapter or the Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 452 et seq.], embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds assets, or property which are the subject of such a grant, subgrant, contract, or subcontract, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 93–638, § 6, Jan. 4, 1975, 88 Stat. 2205.)

REFERENCES IN TEXT

Act of April 16, 1934, referred to in text, is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

§ 450e. Wage and labor standards

(a) Similar construction in locality

All laborers and mechanics employed by contractors or subcontractors (excluding tribes and tribal organizations) in the construction, alteration, or repair, including painting or decorating of buildings or other facilities in connection with contracts or grants entered into pursuant

to this subchapter, shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. With respect to construction, alteration, or repair work to which the Act of March 3, 1921[1] is applicable under the terms of this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14, of 1950, and section 3145 of title 40.

(b) Preference requirements for wages and grants

Any contract, subcontract, grant, or subgrant pursuant to this subchapter, the Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 452 et seq.], or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible—

(1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 1452 of this title.

(c) Self-determination contracts

Notwithstanding subsections (a) and (b) of this section, with respect to any self-determination contract, or portion of a self-determination contract, that is intended to benefit one tribe, the tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of the contract or portion of the contract.

(Pub. L. 93–638, § 7, Jan. 4, 1975, 88 Stat. 2205; Pub. L. 103–413, title I, § 102(3), (4), Oct. 25, 1994, 108 Stat. 4251.)

REFERENCES IN TEXT

Act of March 3, 1921, referred to in subsec. (a), probably means the act of March 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis Bacon Act, which was classified generally to sections 276a to 276a–5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141–3144, 3146, and 3147 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

Act of April 16, 1934, referred to in subsec. (b), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

CODIFICATION

In subsec. (a), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C. 276c)" on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–413, § 102(3), substituted "or subcontractors (excluding tribes and tribal organizations)" for "of subcontractors".

Subsec. (c). Pub. L. 103–413, § 102(4), added subsec. (c).

[1] See References in Text note below.

§ 450e–1. Grant and cooperative agreements

The provisions of this subchapter shall not be subject to the requirements of chapter 63 of title 31: *Provided*, That a grant agreement or a cooperative agreement may be utilized in lieu of a contract under sections 450f and 450g[1] of this title when mutually agreed to by the appropriate Secretary and the tribal organization involved.

(Pub. L. 93–638, § 9, as added Pub. L. 98–250, § 1, Apr. 3, 1984, 98 Stat. 118; amended Pub. L. 101–301, § 2(a)(5), May 24, 1990, 104 Stat. 206.)

REFERENCES IN TEXT

Section 450g of this title, referred to in text, was in the original "section 103 of this Act", meaning section 103 of Pub. L. 93–638, the Indian Self-Determination Act. Section 103(a) and (b) and the first sentence of section 103(c) of Pub. L. 93–638, were repealed, and the remainder of section 103(c) of Pub. L. 93–638, was redesignated as section 102(d) of Pub. L. 93–638 (section 450f(d) of this title), by Pub. L. 100–472, title II, § 201(b)(1), Oct. 5, 1988, 102 Stat. 2289. Section 104 of Pub. L. 93–638 was renumbered as section 103 of Pub. L. 93–638 by section 202(a) of Pub. L. 100–472, and is classified to section 450h of this title.

AMENDMENTS

1990—Pub. L. 101–301 substituted "chapter 63 of title 31" for "the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224; 92 Stat. 3)".

§ 450e–2. Use of excess funds

Beginning in fiscal year 1998 and thereafter, where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93–638, 103–413, or 100–297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

(Pub. L. 105–83, title III, § 310, Nov. 14, 1997, 111 Stat. 1590.)

REFERENCES IN TEXT

Public Law 93–638, referred to in text, is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Public Law 103–413, referred to in text, is Pub. L. 103–413, Oct. 25, 1994, 108 Stat. 4250, known as the Indian Self-Determination Act Amendments of 1994, which is classified principally to part D (§ 458aa et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 450 of this title and Tables.

Public Law 100–297, referred to in text, is Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, as amended, known as the Augustus F. Hawkins-Robert T. Stafford Ele-

[1] See References in Text note below.

mentary and Secondary School Improvement Amendments of 1988. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 6301 of Title 20, Education, and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1998, and not as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 104–208, div. A, title I, § 101(d) [title III, § 310], Sept. 30, 1996, 110 Stat. 3009–181, 3009–221.

Pub. L. 104–134, title I, § 101(c) [title III, § 310], Apr. 26, 1996, 110 Stat. 1321–156, 1321–197; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

§ 450e–3. Investment of advance payments; restrictions

Advance payments made by the Department of the Interior to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may on and after December 8, 2004, be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

(Pub. L. 108–447, div. E, title I, § 111, Dec. 8, 2004, 118 Stat. 3064.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in text, is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Tribally Controlled Schools Act of 1988, referred to in text, is part B (§§ 5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 2005, and also as part of the Consolidated Appropriations Act, 2005, and not as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–108, title I, § 111, Nov. 10, 2003, 117 Stat. 1266.

Pub. L. 108–7, div. F, title I, § 111, Feb. 20, 2003, 117 Stat. 239.

Pub. L. 107–63, title I, § 111, Nov. 5, 2001, 115 Stat. 438.

Pub. L. 106–291, title I, § 111, Oct. 11, 2000, 114 Stat. 942.

Pub. L. 106–113, div. B, § 1000(a)(3), [title I, § 111], Nov. 29, 1999, 113 Stat. 1535, 1501A–156.

Pub. L. 105–277, div. A, § 101(e), [title I, § 111], Oct. 21, 1998, 112 Stat. 2681–231, 2681–254.

Pub. L. 105–83, title I, § 112, Nov. 14, 1997, 111 Stat. 1562.

PART A—INDIAN SELF-DETERMINATION

§ 450f. Self-determination contracts

(a) Request by tribe; authorized programs

(1) The Secretary is directed, upon the request of any Indian tribe by tribal resolution, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs or portions thereof, including construction programs—

(A) provided for in the Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 452 et seq.];

(B) which the Secretary is authorized to administer for the benefit of Indians under the Act of November 2, 1921 (42 Stat. 208) [25 U.S.C. 13], and any Act subsequent thereto;

(C) provided by the Secretary of Health and Human Services under the Act of August 5, 1954 (68 Stat. 674), as amended [42 U.S.C. 2001 et seq.];

(D) administered by the Secretary for the benefit of Indians for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior; and

(E) for the benefit of Indians because of their status as Indians without regard to the agency or office of the Department of Health and Human Services or the Department of the Interior within which it is performed.

The programs, functions, services, or activities that are contracted under this paragraph shall include administrative functions of the Department of the Interior and the Department of Health and Human Services (whichever is applicable) that support the delivery of services to Indians, including those administrative activities supportive of, but not included as part of, the service delivery programs described in this paragraph that are otherwise contractable. The administrative functions referred to in the preceding sentence shall be contractable without regard to the organizational level within the Department that carries out such functions.

(2) If so authorized by an Indian tribe under paragraph (1) of this subsection, a tribal organization may submit a proposal for a self-determination contract, or a proposal to amend or renew a self-determination contract, to the Secretary for review. Subject to the provisions of paragraph (4), the Secretary shall, within ninety days after receipt of the proposal, approve the proposal and award the contract unless the Secretary provides written notification to the ap-

plicant that contains a specific finding that clearly demonstrates that, or that is supported by a controlling legal authority that—

(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted will not be satisfactory;

(B) adequate protection of trust resources is not assured;

(C) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract;

(D) the amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 450j–1(a) of this title; or

(E) the program, function, service, or activity (or portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services, or activities covered under paragraph (1) because the proposal includes activities that cannot lawfully be carried out by the contractor.

Notwithstanding any other provision of law, the Secretary may extend or otherwise alter the 90-day period specified in the second sentence of this subsection,[1] if before the expiration of such period, the Secretary obtains the voluntary and express written consent of the tribe or tribal organization to extend or otherwise alter such period. The contractor shall include in the proposal of the contractor the standards under which the tribal organization will operate the contracted program, service, function, or activity, including in the area of construction, provisions regarding the use of licensed and qualified architects, applicable health and safety standards, adherence to applicable Federal, State, local, or tribal building codes and engineering standards. The standards referred to in the preceding sentence shall ensure structural integrity, accountability of funds, adequate competition for subcontracting under tribal or other applicable law, the commencement, performance, and completion of the contract, adherence to project plans and specifications (including any applicable Federal construction guidelines and manuals), the use of proper materials and workmanship, necessary inspection and testing, and changes, modifications, stop work, and termination of the work when warranted.

(3) Upon the request of a tribal organization that operates two or more mature self-determination contracts, those contracts may be consolidated into one single contract.

(4) The Secretary shall approve any severable portion of a contract proposal that does not support a declination finding described in paragraph (2). If the Secretary determines under such paragraph that a contract proposal—

(A) proposes in part to plan, conduct, or administer a program, function, service, or activity that is beyond the scope of programs covered under paragraph (1), or

(B) proposes a level of funding that is in excess of the applicable level determined under section 450j–1(a) of this title,

subject to any alteration in the scope of the proposal that the Secretary and the tribal organization agree to, the Secretary shall, as appropriate, approve such portion of the program, function, service, or activity as is authorized under paragraph (1) or approve a level of funding authorized under section 450j–1(a) of this title. If a tribal organization elects to carry out a severable portion of a contract proposal pursuant to this paragraph, subsection (b) of this section shall only apply to the portion of the contract that is declined by the Secretary pursuant to this subsection.

(b) Procedure upon refusal of request to contract

Whenever the Secretary declines to enter into a self-determination contract or contracts pursuant to subsection (a) of this section, the Secretary shall—

(1) state any objections in writing to the tribal organization,

(2) provide assistance to the tribal organization to overcome the stated objections, and

(3) provide the tribal organization with a hearing on the record with the right to engage in full discovery relevant to any issue raised in the matter and the opportunity for appeal on the objections raised, under such rules and regulations as the Secretary may promulgate, except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 450m–1(a) of this title.

(c) Liability insurance; waiver of defense

(1) Beginning in 1990, the Secretary shall be responsible for obtaining or providing liability insurance or equivalent coverage, on the most cost-effective basis, for Indian tribes, tribal organizations, and tribal contractors carrying out contracts, grant agreements and cooperative agreements pursuant to this subchapter. In obtaining or providing such coverage, the Secretary shall take into consideration the extent to which liability under such contracts or agreements are covered by the Federal Tort Claims Act.

(2) In obtaining or providing such coverage, the Secretary shall, to the greatest extent practicable, give a preference to coverage underwritten by Indian-owned economic enterprises as defined in section 1452 of this title, except that, for the purposes of this subsection, such enterprises may include non-profit corporations.

(3)(A) Any policy of insurance obtained or provided by the Secretary pursuant to this subsection shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of an Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage or limits of the policy of insurance.

(B) No waiver of the sovereign immunity of an Indian tribe pursuant to this paragraph shall include a waiver to the extent of any potential liability for interest prior to judgment or for punitive damages or for any other limitation on liability imposed by the law of the State in which the alleged injury occurs.

[1] So in original. Probably should be ''paragraph,''.

(d) Tribal organizations and Indian contractors deemed part of Public Health Service

For purposes of section 233 of title 42, with respect to claims by any person, initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations for personal injury, including death, resulting from the performance prior to, including, or after December 22, 1987, of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, or for purposes of section 2679, title 28, with respect to claims by any such person, on or after November 29, 1990, for personal injury, including death, resulting from the operation of an emergency motor vehicle, an Indian tribe, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under sections[2] 450f or 450h of this title is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28 and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided*, That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor.

(e) Burden of proof at hearing or appeal declining contract; final agency action

(1) With respect to any hearing or appeal conducted pursuant to subsection (b)(3) of this section or any civil action conducted pursuant to section 450m–1(a) of this title, the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for declining the contract proposal (or portion thereof).

(2) Notwithstanding any other provision of law, a decision by an official of the Department of the Interior or the Department of Health and Human Services, as appropriate (referred to in this paragraph as the ''Department'') that constitutes final agency action and that relates to an appeal within the Department that is conducted under subsection (b)(3) of this section shall be made either—

(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency (such as the Indian Health Service or the Bureau of Indian Affairs) in which the decision that is the subject of the appeal was made; or

(B) by an administrative judge.

(Pub. L. 93–638, title I, § 102, formerly §§ 102 and 103(c), Jan. 4, 1975, 88 Stat. 2206; Pub. L. 100–202, § 101(g) [title II, § 201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–246; Pub. L. 100–446, title II, § 201, Sept. 27, 1988, 102 Stat. 1817; renumbered § 102 and amended Pub. L. 100–472, title II, § 201(a), (b)(1), Oct. 5, 1988, 102 Stat. 2288, 2289; Pub. L. 100–581, title II, § 210, Nov. 1, 1988, 102 Stat. 2941; Pub. L. 101–644, title II, § 203(b), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103–413, title I, § 102(5)–(9), Oct. 25, 1994, 108 Stat. 4251–4253; Pub. L. 106–260, § 6, Aug. 18, 2000, 114 Stat. 732.)

REFERENCES IN TEXT

Act of April 16, 1934, referred to in subsec. (a)(1)(A), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

Act of August 5, 1954, referred to in subsec. (a)(1)(C), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

This subchapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Federal Tort Claims Act, referred to in subsec. (c)(1), is title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (§§ 921, 922, 931–934, 941–946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

AMENDMENTS

2000—Subsec. (e)(1). Pub. L. 106–260 inserted ''or any civil action conducted pursuant to section 450m–1(a) of this title'' after ''subsection (b)(3) of this section''.

1994—Subsec. (a)(1). Pub. L. 103–413, § 102(5), inserted concluding provisions.

Subsec. (a)(2). Pub. L. 103–413, § 102(6)(A)(i), (ii), (vi), inserted '', or a proposal to amend or renew a self-determination contract,'' before ''to the Secretary for review'' in first sentence and, in second sentence, substituted ''Subject to the provisions of paragraph (4), the Secretary'' for ''The Secretary'', inserted ''and award the contract'' after ''approve the proposal'', substituted ''the Secretary provides written notification to the applicant that contains a specific finding that clearly demonstrates that, or that is supported by a controlling legal authority that'' for '', within sixty days of receipt of the proposal, a specific finding is made that'', and inserted concluding provisions.

Subsec. (a)(2)(D), (E). Pub. L. 103–413, § 102(6)(A)(iii)–(v), added subpars. (D) and (E).

[2] So in original. Probably should be ''section''.

Subsec. (a)(4). Pub. L. 103–413, § 102(6)(B), added par. (4).

Subsec. (b)(3). Pub. L. 103–413, § 102(7), inserted ''with the right to engage in full discovery relevant to any issue raised in the matter'' after ''record'' and '', except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 450m–1(a) of this title'' before period at end.

Subsec. (d). Pub. L. 103–413, § 102(8), substituted ''as provided in section 2671 of title 28 and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service)'' for ''as provided in section 2671 of title 28)''.

Subsec. (e). Pub. L. 103–413, § 102(9), added subsec. (e).

1990—Subsec. (d). Pub. L. 101–644 inserted ''or for purposes of section 2679, title 28, with respect to claims by any such person, on or after November 29, 1990, for personal injury, including death, resulting from the operation of an emergency motor vehicle,'' after ''investigations,''.

1988—Pub. L. 100–472, § 201(a), amended section generally, revising and restating provisions of subsecs. (a) to (c).

Subsec. (c)(2). Pub. L. 100–581 which directed amendment of par. (2) by substituting ''section 1452 of this title'' for ''section 1425 of title 25, United States Code'' was executed by making the substitution for ''section 1425, title 25, United States Code'' to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 100–472, § 201(b)(1), redesignated the last sentence of subsec. (c) of section 450g of this title as subsec. (d) of this section and substituted ''sections 450f or 450h of this title'' for ''sections 450g and 450h(b) of this title''.

Pub. L. 100–446 inserted into sentence beginning ''For purposes of'' the words ''by any person, initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations'' after ''claims'', ''prior to, including, or after December 22, 1987,'' after ''performance'', ''an Indian tribe,'' after ''investigations,'' and '': *Provided*, That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor'' after ''the contract or agreement''.

1987—Subsec. (d). Pub. L. 100–202 inserted sentence at end deeming a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement to be part of the Public Health Service while carrying out any such contract or agreement and its employees to be employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–184, § 1, Dec. 4, 1991, 105 Stat. 1278, provided that: ''This Act [amending provisions set out below] may be cited as the 'Tribal Self-Governance Demonstration Project Act'.''

SHORT TITLE

For short title of title I of Pub. L. 93–638, which is classified principally to this part, as the ''Indian Self-Determination Act'', see section 101 of Pub. L. 93–638, set out as a note under section 450 of this title.

SAVINGS PROVISION

Pub. L. 106–260, § 11, Aug. 18, 2000, 114 Stat. 734, provided that: ''Funds appropriated for title III of the Indian Self-Determination and Education Assistance Act ([Pub. L. 93–638, former] 25 U.S.C. 450f note) shall be available for use under title V of such Act [25 U.S.C. 458aaa et seq.].''

TRIBAL SELF-GOVERNANCE—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Title VI of Pub. L. 93–638, as added by Pub. L. 106–260, § 5, Aug. 18, 2000, 114 Stat. 731, provided that:

''SEC. 601. DEFINITIONS.

''(a) IN GENERAL.—In this title, the Secretary may apply the definitions contained in title V [25 U.S.C. 458aaa et seq.].

''(b) OTHER DEFINITIONS.—In this title:

''(1) AGENCY.—The term 'agency' means any agency or other organizational unit of the Department of Health and Human Services, other than the Indian Health Service.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''SEC. 602. DEMONSTRATION PROJECT FEASIBILITY.

''(a) STUDY.—The Secretary shall conduct a study to determine the feasibility of a tribal self-governance demonstration project for appropriate programs, services, functions, and activities (or portions thereof) of the agency.

''(b) CONSIDERATIONS.—In conducting the study, the Secretary shall consider—

''(1) the probable effects on specific programs and program beneficiaries of such a demonstration project;

''(2) statutory, regulatory, or other impediments to implementation of such a demonstration project;

''(3) strategies for implementing such a demonstration project;

''(4) probable costs or savings associated with such a demonstration project;

''(5) methods to assure quality and accountability in such a demonstration project; and

''(6) such other issues that may be determined by the Secretary or developed through consultation pursuant to section 603.

''(c) REPORT.—Not later than 18 months after the date of the enactment of this title [Aug. 18, 2000], the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives. The report shall contain—

''(1) the results of the study under this section;

''(2) a list of programs, services, functions, and activities (or portions thereof) within each agency with respect to which it would be feasible to include in a tribal self-governance demonstration project;

''(3) a list of programs, services, functions, and activities (or portions thereof) included in the list provided pursuant to paragraph (2) that could be included in a tribal self-governance demonstration project without amending statutes, or waiving regulations that the Secretary may not waive;

''(4) a list of legislative actions required in order to include those programs, services, functions, and activities (or portions thereof) included in the list provided pursuant to paragraph (2) but not included in the list provided pursuant to paragraph (3) in a tribal self-governance demonstration project; and

''(5) any separate views of tribes and other entities consulted pursuant to section 603 related to the information provided pursuant to paragraphs (1) through (4).

''SEC. 603. CONSULTATION.

''(a) STUDY PROTOCOL.—

''(1) CONSULTATION WITH INDIAN TRIBES.—The Secretary shall consult with Indian tribes to determine a protocol for consultation under subsection (b) prior to consultation under such subsection with the other entities described in such subsection.

''(2) REQUIREMENTS FOR PROTOCOL.—The protocol shall require, at a minimum, that—

''(A) the government-to-government relationship with Indian tribes forms the basis for the consultation process;

''(B) the Indian tribes and the Secretary jointly conduct the consultations required by this section; and

''(C) the consultation process allows for separate and direct recommendations from the Indian tribes and other entities described in subsection (b).

''(b) CONDUCTING STUDY.—In conducting the study under this title, the Secretary shall consult with Indian tribes, States, counties, municipalities, program beneficiaries, and interested public interest groups, and may consult with other entities as appropriate.

''SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary to carry out this title. Such sums shall remain available until expended.''

INDIAN TRIBAL TORT CLAIMS AND RISK MANAGEMENT

Pub. L. 105–277, div. A, § 101(e) [title VII], Oct. 21, 1998, 112 Stat. 2681–231, 2681–335, provided that:

''SEC. 701. SHORT TITLE.

''This title may be cited as the 'Indian Tribal Tort Claims and Risk Management Act of 1998'.''

''SEC. 702. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) Indian tribes have made significant achievements toward developing a foundation for economic self-sufficiency and self-determination, and that economic self-sufficiency and self-determination have increased opportunities for the Indian tribes and other entities and persons to interact more frequently in commerce and intergovernmental relationships;

''(2) although Indian tribes have sought and secured liability insurance coverage to meet their needs, many Indian tribes are faced with significant barriers to obtaining liability insurance because of the high cost or unavailability of such coverage in the private market;

''(3) as a result, Congress has extended liability coverage provided to Indian tribes to organizations to carry out activities under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

''(4) there is an emergent need for comprehensive and cost-efficient insurance that allows the economy of Indian tribes to continue to grow and provides compensation to persons that may suffer personal injury or loss of property.

''(b) PURPOSE.—The purpose of this title is to provide for a study to facilitate relief for a person who is injured as a result of an official action of a tribal government.

''SEC. 703. DEFINITIONS.

''In this title:

''(1) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(3) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given that term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).

''SEC. 704. STUDY AND REPORT TO CONGRESS.

''(a) IN GENERAL.—

''(1) STUDY.—In order to minimize and, if possible, eliminate redundant or duplicative liability insurance coverage and to ensure that the provision of insurance to Indian tribes is cost-effective, the Secretary shall conduct a comprehensive survey of the degree, type, and adequacy of liability insurance coverage of Indian tribes at the time of the study.

''(2) CONTENTS OF STUDY.—The study conducted under this subsection shall include—

''(A) an analysis of loss data;

''(B) risk assessments;

''(C) projected exposure to liability, and related matters; and

''(D) the category of risk and coverage involved, which may include—

''(i) general liability;

''(ii) automobile liability;

''(iii) the liability of officials of the Indian tribe;

''(iv) law enforcement liability;

''(v) workers' compensation; and

''(vi) other types of liability contingencies.

''(3) ASSESSMENT OF COVERAGE BY CATEGORIES OF RISK.—For each Indian tribe, for each category of risk identified under paragraph (2), the Secretary, in conducting the study, shall determine whether insurance coverage or coverage under chapter 171 of title 28, United States Code, applies to that Indian tribe for that activity.

''(b) REPORT.—Not later than June 1, 1999, and annually thereafter, the Secretary shall submit a report to Congress that contains legislative recommendations that the Secretary determines to—

''(1) be appropriate to improve the provision of insurance coverage to Indian tribes; or

''(2) otherwise achieve the purpose of providing relief to persons who are injured as a result of an official action of a tribal government.

''SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out this title.''

CLAIMS RESULTING FROM PERFORMANCE OF CONTRACT, GRANT AGREEMENT, OR COOPERATIVE AGREEMENT; CIVIL ACTION AGAINST TRIBE, TRIBAL ORGANIZATION, ETC., DEEMED ACTION AGAINST UNITED STATES; REIMBURSEMENT OF TREASURY FOR PAYMENT OF CLAIMS

Pub. L. 101–512, title III, § 314, Nov. 5, 1990, 104 Stat. 1959, as amended by Pub. L. 103–138, title III, § 308, Nov. 11, 1993, 107 Stat. 1416, provided that: ''With respect to claims resulting from the performance of functions during fiscal year 1991 and thereafter, or claims asserted after September 30, 1990, but resulting from the performance of functions prior to fiscal year 1991, under a contract, grant agreement, or any other agreement or compact authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) [Pub. L. 93–638, see Short Title note set out under section 450 of this title and Tables] or by title V, part B, Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed hereafter to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided*, That after September 30, 1990, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act [See Short Title note under section 2671 of Title 28, Judiciary and Judicial Procedure]: *Provided further*, That beginning with the fiscal year ending September 30, 1991, and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year

pursuant to the foregoing provisions: *Provided further*, That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) [25 U.S.C. 450f(d)].''

REFERENCE TO SECTION 450g(c) IN PUBLIC LAW 100–446

Section 201(b)(2) of Pub. L. 100–472 provided that: ''Any reference to section 103(c) [§ 103(c) of Pub. L. 93–638, formerly 25 U.S.C. 450g(c)] contained in an Act making appropriations for the Department of the Interior and Related Agencies for fiscal year 1989 [Pub. L. 100–446] shall be deemed to apply to section 102(d) of such Act [§ 102(d) of Pub. L. 93–638, 25 U.S.C. 450f(d)] as amended by this Act.''

TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

Title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296; amended by Pub. L. 102–184, §§ 2–6, Dec. 4, 1991, 105 Stat. 1278; Pub. L. 102–573, title VIII, § 814, Oct. 29, 1992, 106 Stat. 4590; Pub. L. 103–435, § 22(a)(2), (3), Nov. 2, 1994, 108 Stat. 4575; Pub. L. 103–437, § 10(c)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828, related to tribal self-governance research and demonstration project conducted by Secretary of the Interior and Secretary of Health and Human Services, prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

§ 450g. Repealed or Transferred. Pub. L. 100–472, title II, § 201(b)(1), Oct. 5, 1988, 102 Stat. 2289

Section, Pub. L. 93–638, title I, § 103, Jan. 4, 1975, 88 Stat. 2206; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100–202, § 101(g) [title II], Dec. 22, 1987, 101 Stat. 1329–213, 1329–246; Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1817, which related to contracts by Secretary of Health and Human Services with tribal organizations, was repealed except for the last sentence of subsec. (c), providing that tribal organizations and Indian contractors be deemed part of Public Health Service, which was redesignated subsec. (d) of section 450f of this title.

§ 450h. Grants to tribal organizations or tribes

(a) Request by tribe for contract or grant by Secretary of the Interior for improving, etc., tribal governmental, contracting, and program planning activities

The Secretary of the Interior is authorized, upon the request of any Indian tribe (from funds appropriated for the benefit of Indians pursuant to section 13 of this title, and any Act subsequent thereto) to contract with or make a grant or grants to any tribal organization for—

(1) the strengthening or improvement of tribal government (including, but not limited to, the development, improvement, and administration of planning, financial management, or merit personnel systems; the improvement of tribally funded programs or activities; or the development, construction, improvement, maintenance, preservation, or operation of tribal facilities or resources);

(2) the planning, training, evaluation of other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 450f of this title and the additional costs associated with the initial years of operation under such a contract or contracts; or

(3) the acquisition of land in connection with items (1) and (2) above: *Provided*, That in the case of land within Indian country (as defined in chapter 53 of title 18) or which adjoins on at least two sides lands held in trust by the United States for the tribe or for individual Indians, the Secretary of[1] Interior may (upon request of the tribe) acquire such land in trust for the tribe.

(b) Grants by Secretary of Health and Human Services for development, maintenance, etc., of health facilities or services and improvement of contract capabilities implementing hospital and health facility functions

The Secretary of Health and Human Services may, in accordance with regulations adopted pursuant to section 450k of this title, make grants to any Indian tribe or tribal organization for—

(1) the development, construction, operation, provision, or maintenance of adequate health facilities or services including the training of personnel for such work, from funds appropriated to the Indian Health Service for Indian health services or Indian health facilities; or

(2) planning, training, evaluation or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 450g[2] of this title.

(c) Use as matching shares for other similar Federal grant programs

The provisions of any other Act notwithstanding, any funds made available to a tribal organization under grants pursuant to this section may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made.

(d) Technical assistance

The Secretary is directed, upon the request of any tribal organization and subject to the availability of appropriations, to provide technical assistance on a nonreimbursable basis to such tribal organization—

(1) to develop any new self-determination contract authorized pursuant to this subchapter;

(2) to provide for the assumption by such tribal organization of any program, or portion thereof, provided for in section 450f(a)(1) of this title; or

(3) to develop modifications to any proposal for a self-determination contract which the Secretary has declined to approve pursuant to section 450f of this title.

(e) Grants for technical assistance and for planning, etc., Federal programs for tribe

The Secretary is authorized, upon the request of an Indian tribe, to make a grant to any tribal organization for—

(1) obtaining technical assistance from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purposes of program planning and evaluation, including the development of any management systems necessary

[1] So in original. Probably should be followed by ''the''.

[2] See References in Text note below.

for contract management, and the development of cost allocation plans for indirect cost rates; and

(2) the planning, designing, monitoring, and evaluating of Federal programs serving the tribe, including Federal administrative functions.

(Pub. L. 93–638, title I, § 103, formerly § 104, Jan. 4, 1975, 88 Stat. 2207; renumbered § 103 and amended Pub. L. 100–472, title II, § 202, Oct. 5, 1988, 102 Stat. 2289; Pub. L. 101–644, title II, § 203(g)(1), Nov. 29, 1990, 104 Stat. 4666.)

REFERENCES IN TEXT

Section 450g of this title, referred to in subsec. (b)(2), was in the original ''section 103 of this Act'', meaning section 103 of Pub. L. 93–638, the Indian Self-Determination Act. Section 103(a) and (b) and the first sentence of section 103(c) of Pub. L. 93–638 were repealed, and the remainder of section 103(c) of Pub. L. 93–638 was redesignated as section 102(d) of Pub. L. 93–638 (section 450f(d) of this title) by Pub. L. 100–472, title II, § 201(b)(1), Oct. 5, 1988, 102 Stat. 2289. Section 104 of Pub. L. 93–638 was renumbered as section 103 of Pub. L. 93–638 by section 202(a) of Pub. L. 100–472, and is classified to this section.

PRIOR PROVISIONS

A prior section 103 of Pub. L. 93–638 was classified to section 450g of this title and was repealed in part and transferred in part by section 201(b)(1) of Pub. L. 100–472.

AMENDMENTS

1990—Subsec. (a)(3). Pub. L. 101–644, which directed the substitution of ''Indian country (as defined in chapter 53 of title 18)'' for ''reservation boundaries'' in ''section 301(a)(3) of the Indian Self-Determination Act (25 U.S.C. 450h(a)(3))'', was executed to this section, section 103(a)(3) of that Act, to reflect the probable intent of Congress.

1988—Subsec. (a). Pub. L. 100–472, § 202(b), inserted ''or'' at end of par. (2), substituted a period for ''; or'' at end of par. (3), and struck out par. (4) which read as follows: ''the planning, designing, monitoring, and evaluating of Federal programs serving the tribe.''

Subsec. (b). Pub. L. 100–472, § 202(c), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsecs. (d), (e). Pub. L. 100–472, § 202(d), added subsecs. (d) and (e).

AUTHORITY OF SECRETARY TO ACQUIRE LANDS IN TRUST

Section 203(g)(2) of Pub. L. 101–644 provided that: ''The amendment made by paragraph (1) [amending this section] shall not alter or otherwise modify or affect existing prohibitions or limitations on the Secretary's authority to acquire lands in trust.''

§ 450i. Retention of Federal employee coverage, rights and benefits by employees of tribal organizations

(a) to (d) Omitted

(e) Eligible employees; Federal employee programs subject to retention

Notwithstanding the provisions of sections 8347(*o*), 8713, and 8914 of title 5, executive order, or administrative regulation, an employee serving under an appointment not limited to one year or less who leaves Federal employment to be employed by a tribal organization, the city of St. Paul, Alaska, the city of St. George, Alaska, upon incorporation, or the Village Corporations of St. Paul and St. George Islands established pursuant to section 1607 of title 43, in connection with governmental or other activities which are or have been performed by employees in or for Indian communities is entitled, if the employee and the tribal organization so elect, to the following:

(1) To retain coverage, rights, and benefits under subchapter I of chapter 81 (''Compensation for Work Injuries'') of title 5, and for this purpose his employment with the tribal organization shall be deemed employment by the United States. However, if an injured employee, or his dependents in case of his death, receives from the tribal organization any payment (including an allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the tribal organization, or other benefit of any kind) on account of the same injury or death, the amount of that payment shall be credited against any benefit payable under subchapter I of chapter 81 of title 5, as follows:

(A) payments on account of injury or disability shall be credited against disability compensation payable to the injured employee; and

(B) payments on account of death shall be credited against death compensation payable to dependents of the deceased employee.

(2) To retain coverage, rights, and benefits under chapter 83 (''Retirement'') or chapter 84 (''Federal Employees Retirement System'') of title 5, if necessary employee deductions and agency contributions in payment for coverage, rights, and benefits for the period of employment with the tribal organization are currently deposited in the Civil Service Retirement and Disability Fund (section 8348 of title 5); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under section 8332 of title 5. Days of unused sick leave to the credit of an employee under a formal leave system at the time the employee leaves Federal employment to be employed by a tribal organization remain to his credit for retirement purposes during covered service with the tribal organization.

(3) To retain coverage, rights, and benefits under chapter 89 (''Health Insurance'') of title 5, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal organization are currently deposited in the Employee's Health Benefit Fund (section 8909 of title 5); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 89 of title 5.

(4) To retain coverage, rights, and benefits under chapter 87 (''Life Insurance'') of title 5, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal organizations are currently deposited in the Employee's Life Insurance Fund (section 8714 of title 5); and the period during which coverage, rights, and bene-

fits are retained under this paragraph is deemed service as an employee under chapter 87 of title 5.

(f) Deposit by tribal organization of employee deductions and agency contributions in appropriate funds

During the period an employee is entitled to the coverage, rights, and benefits pursuant to the preceding subsection, the tribal organization employing such employee shall deposit currently in the appropriate funds the employee deductions and agency contributions required by paragraphs (2), (3), and (4) of such preceding subsection.

(g) Election for retention by employee and tribal organization before date of employment by tribal organization; transfer of employee to another tribal organization

An employee who is employed by a tribal organization under subsection (e) of this section and such tribal organization shall make the election to retain the coverages, rights, and benefits in paragraphs (1), (2), (3), and (4) of such subsection (e) before the date of his employment by a tribal organization. An employee who is employed by a tribal organization under subsection (e) of this section shall continue to be entitled to the benefits of such subsection if he is employed by another tribal organization to perform service in activities of the type described in such subsection.

(h) "Employee" defined

For the purposes of subsections (e), (f), and (g) of this section, the term ''employee'' means an employee as defined in section 2105 of title 5.

(i) Promulgation of implementation regulations by President

The President may prescribe regulations necessary to carry out the provisions of subsections (e), (f), (g), and (h) of this section and to protect and assure the compensation, retirement, insurance, leave, reemployment rights, and such other similar civil service employment rights as he finds appropriate.

(j) Additional employee employment rights

Anything in sections 205 and 207 of title 18 to the contrary notwithstanding, officers and employees of the United States assigned to an Indian tribe as authorized under section 3372 of title 5, or section 48 of this title and former officers and employees of the United States employed by Indian tribes may act as agents or attorneys for or appear on behalf of such tribes in connection wth[1] any matter pending before any department, agency, court, or commission, including any matter in which the United States is a party or has a direct and substantial interest: *Provided*, That each such officer or employee or former officer or employee must advise in writing the head of the department, agency, court, or commission with which he is dealing or appearing on behalf of the tribe of any personal and substantial involvement he may have had as an officer or employee of the United States in connection with the matter involved.

[1] So in original. Probably should be ''with''.

(k), (*l*) Omitted

(m) Conversion to career appointment

The status of an Indian (as defined in section 479 of this title) appointed (except temporary appointments) to the Federal service under an excepted appointment under the authority of section 472 of this title, or any other provision of law granting a preference to Indians in personnel actions, shall be converted to a career appointment in the competitive service after three years of continuous service and satisfactory performance. The conversion shall not alter the Indian's eligibility for preference in personnel actions.

(Pub. L. 93–638, title I, § 104, formerly § 105, Jan. 4, 1975, 88 Stat. 2208; Pub. L. 89–702, title II, § 210(a), as added Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 843; Pub. L. 99–221, § 3(a), Dec. 26, 1985, 99 Stat. 1735; renumbered § 104 and amended Pub. L. 100–472, title II, § 203, Oct. 5, 1988, 102 Stat. 2290; Pub. L. 101–301, § 2(a)(6), May 24, 1990, 104 Stat. 206.)

CODIFICATION

Section is comprised of section 104 of Pub. L. 93–638. Subsecs. (a) to (d) of section 104 of Pub. L. 93–638 are classified to section 3371 of Title 5, Government Organization and Employees, section 2004b of Title 42, The Public Health and Welfare, section 456 of Title 50, Appendix, War and National Defense, and section 4762 of Title 42, respectively. Subsecs. (k) and (*l*) of section 104 of Pub. L. 93–638 are classified to section 3372 of Title 5.

PRIOR PROVISIONS

A prior section 104 of Pub. L. 93–638 was renumbered section 103 by Pub. L. 100–472 and is classified to section 450h of this title.

AMENDMENTS

1990—Subsec. (m). Pub. L. 101–301 substituted ''an Indian (as defined in section 479 of this title) appointed (except temporary appointments)'' for ''an Indian appointed''.

1988—Subsecs. (a), (b). Pub. L. 100–472, § 203(b), (c), amended subsecs. (a) and (b). See Codification note above.

Subsec. (e). Pub. L. 100–472, § 203(d), (e), in introductory provisions, substituted ''Notwithstanding the provisions of sections 8347(*o*), 8713, and 8914 of title 5'' for ''Notwithstanding any other law'' and struck out ''on or before December 31, 1988'' after ''title 43'', and in par. (2), inserted ''or chapter 84 ('Federal Employees Retirement System')''. Notwithstanding directory language that the substitution of ''Notwithstanding the provisions of sections 8347(*o*), 8713, and 8914 of title 5'' be made in par. (2) of subsec. (e), the substitution was made in introductory provisions of subsec. (e) to reflect the probable intent of Congress because the language replaced appeared only in those introductory provisions.

Subsecs. (k), (*l*). Pub. L. 100–472, § 203(f), added subsecs. (k) and (*l*). See Codification note above.

Subsec. (m). Pub. L. 100–472, § 203(f), added subsec. (m).

1985—Subsec. (e). Pub. L. 99–221 substituted ''1988'' for ''1985''.

1983—Subsec. (e). Pub. L. 89–702, § 210(a), as added by Pub. L. 98–129, inserted '', the city of St. Paul, Alaska, the city of St. George, Alaska, upon incorporation, or the Village Corporations of St. Paul and St. George Islands established pursuant to section 1607 of title 43''.

PRIBILOF ISLAND NATIVES EMPLOYED BY FEDERAL GOVERNMENT ON OCTOBER 28, 1983

Pub. L. 89–702, title II, § 210(b), as added by Pub. L. 98–129, § 2, Oct. 14, 1983, 97 Stat. 844, provided that: ''Not-

withstanding any other provision of law, any Native of the Pribilof Islands employed by the Federal government on October 28, 1983, shall be deemed to have been covered under chapters 81, 83, 85 and 87 of title 5, United States Code, on such date for the purposes of determining eligibility for continuity of benefits under section 105(e) of the Act of January 4, 1975 (Public Law 93–638), known as the Indian Self-Determination and Education Assistance Act [subsec. (e) of this section].''

EX. ORD. NO. 11899. PROVIDING FOR PROTECTION OF CERTAIN CIVIL SERVICE EMPLOYMENT RIGHTS OF FEDERAL PERSONNEL WHO LEAVE FEDERAL EMPLOYMENT TO BE EMPLOYED BY TRIBAL ORGANIZATIONS

Ex. Ord. No. 11899, Jan. 26, 1976, 41 F.R. 3459, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 105(i) of the Indian Self-Determination and Education Assistance Act (88 Stat. 2210, 25 U.S.C. 450i), section 3301 of title 5 of the United States Code, section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Office of Personnel Management is hereby designated and empowered to exercise, without approval, ratification, or other action by the President, but after consultation with the Department of the Interior and the Department of Health and Human Services, the authority vested in the President by Section 105(i) of the Indian Self-Determination and Education Assistance Act [subsec. (i) of this section] (hereinafter referred to as the Act), to issue regulations necessary to carry out the provisions of subsections (e)(2), (e)(3), (e)(4), (f), (g) and (h) of section 105 of the act [subsecs. (e)(2), (3), (4), (f), (g), and (h) of this section], to carry out the provisions of subsection (e)(1) of section 105 of the act [subsec. (e)(1) of this section] pertains to section 8151 of title 5 of the United States Code, and to protect and assure any other civil service employment rights which it finds appropriate.

SEC. 2. The Office of Personnel Management shall, after consultation with the Department of the Interior and the Department of Health and Human Services, issue regulations, as it deems appropriate, providing for the establishment, granting, and exercise of reemployment rights for employees who leave Federal employment for employment by an Indian tribal organization under provisions of the act.

SEC. 3. The Secretary of Labor is hereby designated and empowered to exercise, without approval, ratification, or other action by the President, the authority vested in the President by section 105(i) of the act [subsec. (i) of this section] to issue regulations necessary to carry out the provisions of section 105(e)(1) of the act [subsec. (e)(1) of this section], except as provided in section 1 of this order.

§ 450j. Contract or grant provisions and administration

(a) Applicability of Federal contracting laws and regulations; waiver of requirements

(1) Notwithstanding any other provision of law, subject to paragraph (3), the contracts and cooperative agreements entered into with tribal organizations pursuant to section 450f of this title shall not be subject to Federal contracting or cooperative agreement laws (including any regulations), except to the extent that such laws expressly apply to Indian tribes.

(2) Program standards applicable to a nonconstruction self-determination contract shall be set forth in the contract proposal and the final contract of the tribe or tribal organization.

(3)(A) With respect to a construction contract (or a subcontract of such a construction contract), the provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the regulations relating to acquisitions promulgated under such Act shall apply only to the extent that the application of such provision to the construction contract (or subcontract) is—

(i) necessary to ensure that the contract may be carried out in a satisfactory manner;

(ii) directly related to the construction activity; and

(iii) not inconsistent with this subchapter.

(B) A list of the Federal requirements that meet the requirements of clauses (i) through (iii) of subparagraph (A) shall be included in an attachment to the contract pursuant to negotiations between the Secretary and the tribal organization.

(C)(i) Except as provided in subparagraph (B), no Federal law listed in clause (ii) or any other provision of Federal law (including an Executive order) relating to acquisition by the Federal Government shall apply to a construction contract that a tribe or tribal organization enters into under this subchapter, unless expressly provided in such law.

(ii) The laws listed in this paragraph are as follows:

(I) The Federal Property and Administrative Services Act of 1949.[1]

(II) Section 3709 of the Revised Statutes [41 U.S.C. 5].

(III) Section 9(c) of the Act of Aug. 2, 1946 (60 Stat. 809, chapter 744).

(IV) Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393 et seq., chapter 288) [41 U.S.C. 251 et seq.].

(V) Section 13 of the Act of Oct. 3, 1944 (58 Stat. 770; chapter 479) [50 U.S.C. App. 1622].

(VI) Chapters 21, 25, 27, 29, and 31 of title 44.

(VII) Section 3145 of title 40.

(VIII) Sections 1 through 12 of the Act of June 30, 1936 (49 Stat. 2036 et seq. chapter 881) [41 U.S.C. 35–45].

(IX) The Service Control Act of 1965 (41 U.S.C. 351 et seq.).

(X) The Small Business Act (15 U.S.C. 631 et seq.).

(XI) Executive Order Nos. 12138, 11246, 11701 and 11758.

(b) Payments; transfer of funds by Treasury for disbursement by tribal organization; accountability for interest accrued prior to disbursement

Payments of any grants or under any contracts pursuant to sections 450f and 450h of this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the appropriate Secretary deems necessary to carry out the purposes of this part. The transfer of funds shall be scheduled consistent with program requirements and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by the tribal organization, whether such disbursement occurs prior to or subsequent to such transfer of funds. Tribal organizations shall not be held accountable for in-

[1] See References in Text note below.

terest earned on such funds, pending their disbursement by such organization.

(c) Term of self-determination contracts; annual renegotiation

(1) A self-determination contract shall be—

(A) for a term not to exceed three years in the case of other than a mature contract, unless the appropriate Secretary and the tribe agree that a longer term would be advisable, and

(B) for a definite or an indefinite term, as requested by the tribe (or, to the extent not limited by tribal resolution, by the tribal organization), in the case of a mature contract.

The amounts of such contracts shall be subject to the availability of appropriations.

(2) The amounts of such contracts may be renegotiated annually to reflect changed circumstances and factors, including, but not limited to, cost increases beyond the control of the tribal organization.

(d) Calendar year basis for contracts

(1) Beginning in fiscal year 1990, upon the election of a tribal organization, the Secretary shall use the calendar year as the basis for any contracts or agreements under this subchapter, unless the Secretary and the Indian tribe or tribal organization agree on a different period.

(2) The Secretary shall, on or before April 1 of each year beginning in 1992, submit a report to the Congress on the amounts of any additional obligation authority needed to implement this subsection in the next following fiscal year.

(e) Effective date for retrocession of contract

If an Indian tribe, or a tribal organization authorized by a tribe, requests retrocession of the appropriate Secretary for any contract or portion of a contract entered into pursuant to this subchapter, unless the tribe or tribal organization rescinds the request for retrocession, such retrocession shall become effective on—

(1) the earlier of—

(A) the date that is 1 year after the date the Indian tribe or tribal organization submits such request; or

(B) the date on which the contract expires; or

(2) such date as may be mutually agreed by the Secretary and the Indian tribe.

(f) Use of existing school buildings, hospitals, and other facilities and equipment therein; acquisition and donation of excess or surplus Government personal property

In connection with any self-determination contract or grant made pursuant to section 450f or 450h of this title, the appropriate Secretary may—

(1) permit an Indian tribe or tribal organization in carrying out such contract or grant, to utilize existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance;

(2) donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that—

(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization;

(B) if property described in subparagraph (A) has a value in excess of $5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department of the Interior or the Department of Health and Human Services, as appropriate; and

(C) all property referred to in subparagraph (A) shall remain eligible for replacement on the same basis as if title to such property were vested in the United States; and

(3) acquire excess or surplus Government personal or real property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this subchapter.

(g) Performance of personal services

The contracts authorized under section 450f of this title and grants pursuant to section 450h of this title may include provisions for the performance of personal services which would otherwise be performed by Federal employees including, but in no way limited to, functions such as determination of eligibility of applicants for assistance, benefits, or services, and the extent or amount of such assistance, benefits, or services to be provided and the provisions of such assistance, benefits, or services, all in accordance with the terms of the contract or grant and applicable rules and regulations of the appropriate Secretary: *Provided*, That the Secretary shall not make any contract which would impair his ability to discharge his trust responsibilities to any Indian tribe or individuals.

(h) Fair and uniform provision by tribal organization of services and assistance to covered Indians

Contracts and grants with tribal organizations pursuant to sections 450f and 450h of this title shall include provisions to assure the fair and uniform provision by such tribal organizations of the services and assistance they provide to Indians under such contracts and grants.

(i) Division of administration of program

(1) If a self-determination contract requires the Secretary to divide the administration of a program that has previously been administered for the benefit of a greater number of tribes than are represented by the tribal organization

that is a party to the contract, the Secretary shall take such action as may be necessary to ensure that services are provided to the tribes not served by a self-determination contract, including program redesign in consultation with the tribal organization and all affected tribes.

(2) Nothing in this part shall be construed to limit or reduce in any way the funding for any program, project, or activity serving a tribe under this or other applicable Federal law. Any tribe or tribal organization that alleges that a self-determination contract is in violation of this section may apply the provisions of section 450m–1 of this title.

(j) Proposal to redesign program, activity, function, or service

Upon providing notice to the Secretary, a tribal organization that carries out a nonconstruction self-determination contract may propose a redesign of a program, activity, function, or service carried out by the tribal organization under the contract, including any nonstatutory program standard, in such manner as to best meet the local geographic, demographic, economic, cultural, health, and institutional needs of the Indian people and tribes served under the contract. The Secretary shall evaluate any proposal to redesign any program, activity, function, or service provided under the contract. With respect to declining to approve a redesigned program, activity, function, or service under this subsection, the Secretary shall apply the criteria and procedures set forth in section 450f of this title.

(k) Access to Federal sources of supply

For purposes of section 501 of title 40 (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a tribal organization carrying out a contract, grant, or cooperative agreement under this subchapter shall be deemed an executive agency and part of the Indian Health Service when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access. For purposes of carrying out such contract, grant, or agreement, the Secretary shall, at the request of an Indian tribe, enter into an agreement for the acquisition, on behalf of the Indian tribe, of any goods, services, or supplies available to the Secretary from the General Services Administration or other Federal agencies that are not directly available to the Indian tribe under this section or under any other Federal law, including acquisitions from prime vendors. All such acquisitions shall be undertaken through the most efficient and speedy means practicable, including electronic ordering arrangements.

(*l*) Lease of facility used for administration and delivery of services

(1) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into a lease with the Indian tribe or tribal organization that holds title to, a leasehold interest in, or a trust interest in, a facility used by the Indian tribe or tribal organization for the administration and delivery of services under this subchapter.

(2) The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in such paragraph. Such compensation may include rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other reasonable expenses that the Secretary determines, by regulation, to be allowable.

(m) Statutory requirements; technical assistance; precontract negotiation phase; fixed price construction contract

(1) Each construction contract requested, approved, or awarded under this subchapter, shall be subject to—

(A) except as otherwise provided in this subchapter, the provisions of this subchapter, other than sections 450f(a)(2), 450j–1(*l*), 450*l* and 450m of this title; and

(B) section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (104 Stat. 1959).

(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide, not later than 30 days after receiving a request from a tribe or tribal organization, all information available to the Secretary regarding the construction project, including construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments or environmental impact reports, and archaeological reports.

(3) Prior to finalizing a construction contract proposal pursuant to section 450f(a) of this title, and upon request of the tribe or tribal organization that submits the proposal, the Secretary shall provide for a precontract negotiation phase in the development of a contract proposal. Such phase shall include, at a minimum, the following elements:

(A) The provision of technical assistance pursuant to section 450h of this title and paragraph (2).

(B) A joint scoping session between the Secretary and the tribe or tribal organization to review all plans, specifications, engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying all areas of agreement and disagreement.

(C) An opportunity for the Secretary to revise the plans, designs, or cost estimates of the Secretary in response to concerns raised, or information provided by, the tribe or tribal organization.

(D) A negotiation session during which the Secretary and the tribe or tribal organization shall seek to develop a mutually agreeable contract proposal.

(E) Upon the request of the tribe or tribal organization, the use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant to the dispute resolution provisions under subchapter IV of chapter 5 of title 5.

(F) The submission to the Secretary by the tribe or tribal organization of a final contract

proposal pursuant to section 450f(a) of this title.

(4)(A) Subject to subparagraph (B), in funding a fixed-price construction contract pursuant to section 450j–1(a) of this title, the Secretary shall provide for the following:

(i) The reasonable costs to the tribe or tribal organization for general administration incurred in connection with the project that is the subject of the contract.

(ii) The ability of the contractor that carries out the construction contract to make a reasonable profit, taking into consideration the risks associated with carrying out the contract and other relevant considerations.

(B) In establishing a contract budget for a construction project, the Secretary shall not be required to separately identify the components described in clauses (i) and (ii) of subparagraph (A).

(C) The total amount awarded under a construction contract shall reflect an overall fair and reasonable price to the parties, including the following costs:

(i) The reasonable costs to the tribal organization of performing the contract, taking into consideration the terms of the contract and the requirements of this subchapter and any other applicable law.

(ii) The costs of preparing the contract proposal and supporting cost data.

(iii) The costs associated with auditing the general and administrative costs of the tribal organization associated with the management of the construction contract.

(iv) In the case of a fixed-price contract, a fair profit determined by taking into consideration the relevant risks and local market conditions.

(v) If the Secretary and the tribe or tribal organization are unable to develop a mutually agreeable construction contract proposal pursuant to the procedures set forth in this subsection, the tribe or tribal organization may submit a final contract proposal to the Secretary. Not later than 30 days after receiving such final contract proposal, the Secretary shall approve the contract proposal and award the contract, unless, during such period the Secretary declines the proposal pursuant to subsections (a)(2) and (b)[2] of section 450f of this title (including providing opportunity for an appeal pursuant to section 450f(b) of this title).

(n) Rental rates for housing for Government employees in Alaska

Notwithstanding any other provision of law, the rental rates for housing provided to an employee by the Federal Government in Alaska pursuant to a self-determination contract shall be determined on the basis of—

(1) the reasonable value of the quarters and facilities (as such terms are defined under section 5911 of title 5) to such employee, and

(2) the circumstances under which such quarters and facilities are provided to such employee,

as based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

(*o*) Patient records

(1) In general

At the option of an Indian tribe or tribal organization, patient records may be deemed to be Federal records under those provisions of title 44 that are commonly referred to as the ''Federal Records Act of 1950'' for the limited purposes of making such records eligible for storage by Federal Records Centers to the same extent and in the same manner as other Department of Health and Human Services patient records.

(2) Treatment of records

Patient records that are deemed to be Federal records under those provisions of title 44 that are commonly referred to as the ''Federal Records Act of 1950'' pursuant to this subsection shall not be considered Federal records for the purposes of chapter 5 of title 5.

(Pub. L. 93–638, title I, § 105, formerly § 106, Jan. 4, 1975, 88 Stat. 2210; renumbered § 105 and amended Pub. L. 100–472, title II, § 204, Oct. 5, 1988, 102 Stat. 2291; Pub. L. 101–301, § 2(a)(7), May 24, 1990, 104 Stat. 207; Pub. L. 101–644, title II, § 203(c)–(e), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103–413, title I, §§ 102(10)–(13), 106, Oct. 25, 1994, 108 Stat. 4253–4255, 4270; Pub. L. 104–109, § 7, Feb. 12, 1996, 110 Stat. 764; Pub. L. 106–260, §§ 7, 8, Aug. 18, 2000, 114 Stat. 732, 733.)

REFERENCES IN TEXT

The Office of Federal Procurement Policy Act, referred to in subsec. (a)(3)(A), is Pub. L. 93–400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§ 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(3)(C)(ii)(I), (IV), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

Section 9(c) of the Act of Aug. 2, 1946, referred to in subsec. (a)(3)(C)(ii)(III), is section 9(c) of act Aug. 2, 1946, ch. 744, 60 Stat. 809, which amended section 5 of Title 41.

The Service Control Act of 1965, referred to in subsec. (a)(3)(C)(ii)(IX), probably means the Service Contract Act of 1965, or Pub. L. 89–286, Oct. 22, 1965, 79 Stat. 1034, as amended, which is classified generally to chapter 6 (§ 351 et seq.) of Title 41. For complete classification of this Act to the Code, see Short Title note set out under section 351 of Title 41 and Tables.

The Small Business Act, referred to in subsec. (a)(3)(C)(ii)(X), is Pub. L. 85–536, July 18, 1958, 72 Stat. 384, as amended, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

Executive Order Nos. 12138, 11246, 11701 and 11758, referred to in subsec. (a)(3)(C)(ii)(XI), are Ex. Ord. No. 12138, May 18, 1979, 44 F.R. 29637, as amended, which is set out as a note under section 631 of Title 15, Ex. Ord.

[2] See References in Text note below.

No. 11246, Sept. 24, 1965, 30 F.R. 12319, as amended, which is set out as a note under section 2000e of Title 42, The Public Health and Welfare, Ex. Ord. No. 11701, Jan. 24, 1973, 38 F.R. 2675, which is set out as a note under section 4212 of Title 38, Veterans' Benefits, and Ex. Ord. No. 11758, Jan. 15, 1974, 39 F.R. 2075, as amended, which is set out as a note under section 701 of Title 29, Labor.

This part, referred to in subsecs. (b) and (i)(2), was in the original ''this title'', meaning title I of Pub. L. 93–638, known as the Indian Self-Determination Act, which is classified principally to this part (450f et seq.). For complete classification of title I to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991, referred to in subsec. (m)(1)(B), is section 314 of Pub. L. 101–512, which is set out as a note under section 450f of this title.

Subsections (a)(2) and (b) of section 450f of this title, referred to in subsec. (m)(4)(C)(v), was in the original ''sections 102(a)(2) and 102(b) of section 102'', and was translated as reading ''subsections (a)(2) and (b) of section 102'', meaning section 102 of Pub. L. 93–638, to reflect the probable intent of Congress.

The Federal Records Act of 1950, referred to in subsec. (*o*), was title V of act June 30, 1949, ch. 288, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, which was classified generally to sections 392 to 396 and 397 to 401 of former Title 44, Public Printing and Documents. Section 6(d) of act Sept. 5, 1950, was repealed by Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1238, the first section of which enacted Title 44, Public Printing and Documents. For disposition of sections of former Title 44, see Table at the beginning of Title 44. Title V of act June 30, 1949, was repealed by Pub. L. 107–217, § 4, Aug. 21, 2002, 116 Stat. 1303.

CODIFICATION

''Section 3145 of title 40'' substituted in subsec. (a)(3)(C)(ii)(VII) for ''Section 2 of the Act of June 13, 1934 (48 Stat 948, chapter 483 [meaning chapter 482])'' and ''section 501 of title 40'' substituted in subsec. (k) for ''section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a))'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

A prior section 105 of Pub. L. 93–638 was renumbered section 104 by Pub. L. 100–472 and is classified to section 450i of this title.

AMENDMENTS

2000—Subsec. (k). Pub. L. 106–260, § 7, substituted ''deemed an executive agency and part of the Indian Health Service'' for ''deemed an executive agency'' and inserted at end ''For purposes of carrying out such contract, grant, or agreement, the Secretary shall, at the request of an Indian tribe, enter into an agreement for the acquisition, on behalf of the Indian tribe, of any goods, services, or supplies available to the Secretary from the General Services Administration or other Federal agencies that are not directly available to the Indian tribe under this section or under any other Federal law, including acquisitions from prime vendors. All such acquisitions shall be undertaken through the most efficient and speedy means practicable, including electronic ordering arrangements.''

Subsec. (*o*). Pub. L. 106–260, § 8, added subsec. (*o*).

1996—Subsec. (e). Pub. L. 104–109 made technical amendment to directory language of Pub. L. 103–413, § 102(11). See 1994 Amendment note below.

1994—Subsec. (a). Pub. L. 103–413, § 102(10), added subsec. (a) and struck out former subsec. (a) which read as follows: ''Contracts with tribal organizations pursuant to section 450f of this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the appropriate Secretary, such contracts may be negotiated without advertising and need not conform with the provisions of sections 270a to 270d of title 40: *Provided*, That the appropriate Secretary may waive any provisions of such contracting laws or regulations which he determines are not appropriate for the purposes of the contract involved or inconsistent with the provisions of this Act: *Provided further*, That, except for construction contracts (or subcontracts of such a construction contract), the Office of Federal Procurement Policy Act (88 Stat. 796; 41 U.S.C. 401 et seq.) and Federal acquisition regulations promulgated thereunder shall not apply to self-determination contracts.''

Subsec. (e). Pub. L. 103–413, § 102(11), as amended by Pub. L. 104–109, added subsec. (e) and struck out former subsec. (e) which read as follows: ''Whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective one year from the date of the request by the Indian tribe or at such date as may be mutually agreed by the Secretary and the Indian tribe.''

Subsec. (f)(2). Pub. L. 103–413, § 102(12), added par. (2) and struck out former par. (2) which read as follows: ''donate to an Indian tribe or tribal organization the title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, including property and equipment purchased with funds under any self-determination contract or grant agreement; and''.

Subsec. (h). Pub. L. 103–413, § 106, struck out ''and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 450k of this title'' after ''sections 450f and 450h of this title''.

Subsecs. (i) to (n). Pub. L. 103–413, § 102(13), added subsecs. (i) to (n).

1990—Subsec. (a). Pub. L. 101–301 substituted ''subcontracts of such a construction contract'' for ''subcontracts in such cases where the tribal contractor has sub-contracted the activity''.

Subsec. (c)(1)(B). Pub. L. 101–644, § 203(c), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''for an indefinite term in the case of a mature contract.''

Subsec. (d). Pub. L. 101–644, § 203(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

''(1) No later than fiscal year 1990, the Secretary shall begin using the calendar year as the basis for contracts and agreements under this Act except for instances where the Secretary and the Indian tribe or tribal organization agree on a different period.

''(2) The Secretary shall submit a report to the Congress within ninety days of October 5, 1988, on the amounts of any additional obligational authority needed to implement this subsection in fiscal year 1989.''

Subsec. (f)(2), (3). Pub. L. 101–644, § 203(e), inserted ''or real'' after ''personal''.

1988—Subsec. (a). Pub. L. 100–472, § 204(b), (c), substituted ''section 450f'' for ''sections 450f and 450g'' and inserted proviso relating to nonapplication of Office of Federal Procurement Policy Act to self-determination contracts.

Subsec. (b). Pub. L. 100–472, § 204(d), which directed the amendment of subsec. (b) by substituting ''sections 450f and 450h'' for ''sections 450f, 450g, and 450h'' was executed by substituting the new language for ''section 450f, 450g, or 450h'' as the probable intent of Congress.

Subsec. (c). Pub. L. 100–472, § 204(e), added subsec. (c) and struck out former subsec. (c) which read as follows: ''Any contract requested by a tribe pursuant to sections 450f and 450g of this title shall be for a term not to exceed one year unless the appropriate Secretary determines that a longer term would be advisable: *Provided*, That such term may not exceed three years and shall be subject to the availability of appropriations: *Provided, further*, That the amounts of such contracts

may be renegotiated annually to reflect factors, including but not limited to cost increases beyond the control of a tribal organization.''

Subsec. (d). Pub. L. 100–472, § 204(e), added subsec. (d) and struck out former subsec. (d) which related to revision or amendment of contracts or grants at request or with consent of tribal organization and effective date for retrocession of contracts.

Subsec. (e). Pub. L. 100–472, § 204(e), added subsec. (e) and struck out former subsec. (e) which authorized the Secretary to permit tribal organizations to use existing school buildings, hospitals, and other facilities and equipment therein in carrying out grants or contracts.

Subsec. (f). Pub. L. 100–472, § 204(e), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 100–472, § 204(f), redesignated former subsec. (f) as (g) and substituted ''section 450f'' for ''sections 450f and 450g''. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 100–472, § 204(g), (h), redesignated former subsec. (g) as (h), substituted ''sections 450f and 450h'' for ''sections 450f, 450g, and 450h'', and ''Health and Human Services'' for ''Health, Education, and Welfare''. Former subsec. (h), which related to minimum amount of funds under terms of contracts, was struck out.

CONTINUED AVAILABILITY OF CERTAIN FUNDS

Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 105 Stat. 2681–231, 2681–246, provided in part that: ''hereafter funds made available to tribes and tribal organizations through contracts, compact agreements, or grants, as authorized by the Indian Self-Determination Act of 1975 [25 U.S.C. 450f et seq.] or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A [probably means prior versions of 25 U.S.C. 2001 and 2008a]) shall remain available until expended by the contractor or grantee''.

§ 450j–1. Contract funding and indirect costs

(a) Amount of funds provided

(1) The amount of funds provided under the terms of self-determination contracts entered into pursuant to this subchapter shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract, without regard to any organizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractable, is operated.

(2) There shall be added to the amount required by paragraph (1) contract support costs which shall consist of an amount for the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract and prudent management, but which—

(A) normally are not carried on by the respective Secretary in his direct operation of the program; or

(B) are provided by the Secretary in support of the contracted program from resources other than those under contract.

(3)(A) The contract support costs that are eligible costs for the purposes of receiving funding under this subchapter shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

(i) direct program expenses for the operation of the Federal program that is the subject of the contract, and

(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract,

except that such funding shall not duplicate any funding provided under subsection (a)(1) of this section.

(B) On an annual basis, during such period as a tribe or tribal organization operates a Federal program, function, service, or activity pursuant to a contract entered into under this subchapter, the tribe or tribal organization shall have the option to negotiate with the Secretary the amount of funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

(A) be used to provide additional services or benefits under the contract; or

(B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 13a of this title.

(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary—

(A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and

(B) to ensure compliance with the terms of the contract and prudent management.

(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.

(b) Reductions and increases in amount of funds provided

The amount of funds required by subsection (a) of this section—

(1) shall not be reduced to make funding available for contract monitoring or administration by the Secretary;

(2) shall not be reduced by the Secretary in subsequent years except pursuant to—

(A) a reduction in appropriations from the previous fiscal year for the program or function to be contracted;

(B) a directive in the statement of the managers accompanying a conference report on an appropriation bill or continuing resolution;

(C) a tribal authorization;

(D) a change in the amount of pass-through funds needed under a contract; or

(E) completion of a contracted project, activity, or program;

(3) shall not be reduced by the Secretary to pay for Federal functions, including, but not limited to, Federal pay costs, Federal employee retirement benefits, automated data processing, contract technical assistance or contract monitoring;

(4) shall not be reduced by the Secretary to pay for the costs of Federal personnel displaced by a self-determination contract; and

(5) may, at the request of the tribal organization, be increased by the Secretary if necessary to carry out this subchapter or as provided in section 450j(c) of this title.

Notwithstanding any other provision in this subchapter, the provision of funds under this subchapter is subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe to make funds available to another tribe or tribal organization under this subchapter.

(c) Annual reports

Not later than May 15 of each year, the Secretary shall prepare and submit to Congress an annual report on the implementation of this subchapter. Such report shall include—

(1) an accounting of the total amounts of funds provided for each program and the budget activity for direct program costs and contract support costs of tribal organizations under self-determination;

(2) an accounting of any deficiency in funds needed to provide required contract support costs to all contractors for the fiscal year for which the report is being submitted;

(3) the indirect cost rate and type of rate for each tribal organization that has been negotiated with the appropriate Secretary;

(4) the direct cost base and type of base from which the indirect cost rate is determined for each tribal organization;

(5) the indirect cost pool amounts and the types of costs included in the indirect cost pool; and

(6) an accounting of any deficiency in funds needed to maintain the preexisting level of services to any Indian tribes affected by contracting activities under this subchapter, and a statement of the amount of funds needed for transitional purposes to enable contractors to convert from a Federal fiscal year accounting cycle, as authorized by section 450j(d) of this title.

(d) Treatment of shortfalls in indirect cost recoveries

(1) Where a tribal organization's allowable indirect cost recoveries are below the level of indirect costs that the tribal organizations should have received for any given year pursuant to its approved indirect cost rate, and such shortfall is the result of lack of full indirect cost funding by any Federal, State, or other agency, such shortfall in recoveries shall not form the basis for any theoretical over-recovery or other adverse adjustment to any future years' indirect cost rate or amount for such tribal organization, nor shall any agency seek to collect such shortfall from the tribal organization.

(2) Nothing in this subsection shall be construed to authorize the Secretary to fund less than the full amount of need for indirect costs associated with a self-determination contract.

(e) Liability for indebtedness incurred before fiscal year 1992

Indian tribes and tribal organizations shall not be held liable for amounts of indebtedness attributable to theoretical or actual under-recoveries or theoretical over-recoveries of indirect costs, as defined in Office of Management and Budget Circular A–87, incurred for fiscal years prior to fiscal year 1992.

(f) Limitation on remedies relating to cost disallowances

Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or, for any period covered by law or regulation in force prior to October 19, 1984, any other required final audit report. Such notice shall set forth the right of appeal and hearing to the board of contract appeals pursuant to section 450m–1 of this title. For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31 or noncompliance with any other applicable law. Nothing in this subsection shall be deemed to enlarge the rights of the Secretary with respect to section 476 of this title.

(g) Addition to contract of full amount contractor entitled; adjustment

Upon the approval of a self-determination contract, the Secretary shall add to the contract the full amount of funds to which the contractor is entitled under subsection (a) of this section, subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.

(h) Indirect costs for contracts for construction programs

In calculating the indirect costs associated with a self-determination contract for a construction program, the Secretary shall take into consideration only those costs associated with the administration of the contract and shall not take into consideration those moneys actually passed on by the tribal organization to construction contractors and subcontractors.

(i) Indian Health Service and Bureau of Indian Affairs budget consultations

On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31).

(j) Use of funds for matching or cost participation requirements

Notwithstanding any other provision of law, a tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

(k) Allowable uses of funds without approval of Secretary

Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization.

(2) Publication and printing costs.

(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

(4) Automated data processing and similar equipment or services.

(5) Costs for capital assets and repairs.

(6) Management studies.

(7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.

(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

(9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

(11) Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under this subchapter.

(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

***(l)* Suspension, withholding, or delay in payment of funds**

(1) The Secretary may only suspend, withhold, or delay the payment of funds for a period of 30 days beginning on the date the Secretary makes a determination under this paragraph to a tribal organization under a self-determination contract, if the Secretary determines that the tribal organization has failed to substantially carry out the contract without good cause. In any such case, the Secretary shall provide the tribal organization with reasonable advance written notice, technical assistance (subject to available resources) to assist the tribal organization, a hearing on the record not later than 10 days after the date of such determination or such later date as the tribal organization shall approve, and promptly release any funds withheld upon subsequent compliance.

(2) With respect to any hearing or appeal conducted pursuant to this subsection, the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for suspending, withholding, or delaying payment of funds.

(m) Use of program income earned

The program income earned by a tribal organization in the course of carrying out a self-determination contract—

(1) shall be used by the tribal organization to further the general purposes of the contract; and

(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

(n) Reduction of administrative or other responsibilities of Secretary; use of savings

To the extent that programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered into under this subchapter reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of contract funds determined under subsection (a) of this section, the Secretary shall make such savings available for the provision of additional services to program beneficiaries, either directly or through contractors, in a manner equitable to both direct and contracted programs.

***(o)* Rebudgeting by tribal organization**

Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have an adverse effect on the performance of the contract.

(Pub. L. 93–638, title I, § 106, as added Pub. L. 100–472, title II, § 205, Oct. 5, 1988, 102 Stat. 2292; amended Pub. L. 101–301, § 2(a)(8), (9), May 24, 1990, 104 Stat. 207; Pub. L. 101–644, title II, § 203(a), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103–413, title I, § 102(14)–(19), Oct. 25, 1994, 108 Stat. 4257–4259; Pub. L. 105–362, title VIII, § 801(g), Nov. 10, 1998, 112 Stat. 3288; Pub. L. 106–260, § 9, Aug. 18, 2000, 114 Stat. 733.)

PRIOR PROVISIONS

A prior section 106 of Pub. L. 93–638 was renumbered section 105 by Pub. L. 100–472 and is classified to section 450j of this title.

AMENDMENTS

2000—Subsecs. (c) to (*o*). Pub. L. 106–260 added subsec. (c) and redesignated former subsecs. (c) to (n) as (d) to (*o*), respectively.

1998—Subsecs. (c) to (*o*). Pub. L. 105–362 redesignated subsecs. (d) to (*o*) as (c) to (n), respectively, and struck out former subsec. (c) which related to Secretary's annual report to Congress on implementation of this subchapter.

1994—Subsec. (a)(1). Pub. L. 103–413, § 102(14)(A), inserted before period at end ", without regard to any or-

ganizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractable, is operated''.

Subsec. (a)(2). Pub. L. 103–413, § 102(14)(B), inserted ''an amount for'' after ''consist of''.

Subsec. (a)(3). Pub. L. 103–413, § 102(14)(C), added par. (3) and struck out former par. (3) which read as follows: ''Any savings in operation under a self-determination contract shall be utilized to provide additional services or benefits under the contract or be expended in the succeeding fiscal year as provided in section 13a of this title.''

Subsec. (a)(4) to (6). Pub. L. 103–413, § 102(14)(C), added pars. (4) to (6).

Subsec. (c). Pub. L. 103–413, § 102(15)(A), substituted ''May 15'' for ''March 15'' in introductory provisions.

Subsec. (c)(1), (2). Pub. L. 103–413, § 102(15)(B), substituted ''contract support costs'' for ''indirect costs''.

Subsec. (c)(6). Pub. L. 103–413, § 102(15)(C)–(E), added par. (6).

Subsec. (f). Pub. L. 103–413, § 102(16), inserted after second sentence ''For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31 or noncompliance with any other applicable law.''

Subsec. (g). Pub. L. 103–413, § 102(17), added subsec. (g) and struck out former subsec. (g) which read as follows: ''Upon the approval of a self-determination contract and at the request of an Indian tribe or tribal organization, the Secretary shall add the indirect cost funding amount awarded for a self-determination contract to the amount awarded for direct program funding for the first year and, subject to adjustments in the amount of direct program costs for the contract, for each subsequent year that the program remains continuously under contract.''

Subsec. (i). Pub. L. 103–413, § 102(18), added subsec. (i) and struck out former subsec. (i) which read as follows: ''Within one month after October 5, 1988, the Secretary is mandated to establish a team in each area of the Bureau of Indian Affairs which consists of agency personnel (area personnel in the Navajo Area and in the case of Indian tribes not served by an agency) and tribal representatives for the purpose of analyzing the 'Indian Priority System' and other aspects of the budgeting and funding allocation process of the Bureau of Indian Affairs for the purpose of making a report to Congress with appropriate recommendations for changes and legislative actions to achieve greater tribal decision-making authority over the use of funds appropriated for the benefit of the tribes and their members. The report along with the analysis, findings and recommendations of the area teams shall be submitted to Congress within six months of October 5, 1988. The Secretary may submit to Congress separate comments on the information and recommendations on the report.''

Subsecs. (j) to (*o*). Pub. L. 103–413, § 102(19), added subsecs. (j) to (*o*).

1990—Subsec. (e). Pub. L. 101–644 substituted ''1992'' for ''1988''.

Subsec. (f). Pub. L. 101–301, § 2(a)(8), substituted ''prior to enactment of chapter 75 of title 31'' for ''prior to enactment of the Single Agency Audit Act of 1984 (chapter 75 of title 31)'', which for purposes of codification was translated as ''prior to October 19, 1984'', requiring no change in text.

Subsec. (i). Pub. L. 101–301, § 2(a)(9), substituted ''agency personnel (area personnel in the Navajo Area and in the case of Indian tribes not served by an agency)'' for ''agency personnel''.

§ 450j–2. Indian Health Service: availability of funds for Indian self-determination or self-governance contract or grant support costs

Before, on, and after October 21, 1998, and notwithstanding any other provision of law, funds available to the Indian Health Service in this Act or any other Act for Indian self-determination or self-governance contract or grant support costs may be expended only for costs directly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] and no funds appropriated by this or any other Act shall be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact, or funding agreement entered into between an Indian tribe or tribal organization and any entity other than the Indian Health Service.

(Pub. L. 105–277, div. A, § 101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–280.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to this part (§ 450f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 450j–3. Department of the Interior: availability of funds for Indian self-determination or self-governance contract or grant support costs

Notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended [25 U.S.C. 450f et seq.], on and after November 29, 1999, funds available to the Department of the Interior for Indian self-determination or self-governance contract or grant support costs may be expended only for costs directly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act of 1975 and on and after November 29, 1999, funds appropriated in this title[1] shall not be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact or funding agreement entered into between an Indian tribe or tribal organization and any entity other than an agency of the Department of the Interior.

(Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 113], Nov. 29, 1999, 113 Stat. 1535, 1501A–157.)

REFERENCES IN TEXT

The Indian Self-Determination Act of 1975, referred to in text, probably means the Indian Self-Determination Act, title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to this part (§ 450f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

This title, referred to in text, is title I of the Department of the Interior and Related Agencies Appropriations Act, 2000, as enacted by Pub. L. 106–113, div. B, § 1000(a)(3), Nov. 29, 1999, 113 Stat. 1535, 1501A–135. For complete classification of this title to the Code, see Tables.

[1] See References in Text note below.

SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 105–277, div. A, § 101(e) [title I, § 114], Oct. 21, 1998, 112 Stat. 2681–231, 2681–255.

§ 450k. Rules and regulations

(a) Authority of Secretaries of the Interior and of Health and Human Services to promulgate; time restriction

(1) Except as may be specifically authorized in this subsection, or in any other provision of this subchapter, the Secretary of the Interior and the Secretary of Health and Human Services may not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts or the approval, award, or declination of such contracts, except that the Secretary of the Interior and the Secretary of Health and Human Services may promulgate regulations under this subchapter relating to chapter 171 of title 28, commonly known as the ''Federal Tort Claims Act'', the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), declination and waiver procedures, appeal procedures, reassumption procedures, discretionary grant procedures for grants awarded under section 450h of this title, property donation procedures arising under section 450j(f) of this title, internal agency procedures relating to the implementation of this subchapter, retrocession and tribal organization relinquishment procedures, contract proposal contents, conflicts of interest, construction, programmatic reports and data requirements, procurement standards, property management standards, and financial management standards.

(2)(A) The regulations promulgated under this subchapter, including the regulations referred to in this subsection, shall be promulgated—

(i) in conformance with sections 552 and 553 of title 5 and subsections (c), (d), and (e) of this section; and

(ii) as a single set of regulations in title 25 of the Code of Federal Regulations.

(B) The authority to promulgate regulations set forth in this subchapter shall expire if final regulations are not promulgated within 20 months after October 25, 1994.

(b) Conflicting laws and regulations

The provisions of this subchapter shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before October 25, 1994, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this subchapter.

(c) Revisions and amendments; procedures applicable

The Secretary of the Interior and the Secretary of Health and Human Services are authorized, with the participation of Indian tribes and tribal organizations, to revise and amend any rules or regulations promulgated pursuant to this section: *Provided*, That prior to any revision or amendment to such rules or regulations, the respective Secretary or Secretaries shall present the proposed revision or amendment to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives and shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

(d) Consultation in drafting and promulgating; negotiation process; interagency committees; extension of deadlines

(1) In drafting and promulgating regulations as provided in subsection (a) of this section (including drafting and promulgating any revised regulations), the Secretary of the Interior and the Secretary of Health and Human Services shall confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members.

(2)(A) In carrying out rulemaking processes under this subchapter, the Secretary of the Interior and the Secretary of Health and Human Services shall follow the guidance of—

(i) subchapter III of chapter 5 of title 5, commonly known as the ''Negotiated Rulemaking Act of 1990''; and

(ii) the recommendations of the Administrative Conference of the United States numbered 82–4 and 85–5 entitled ''Procedures for Negotiating Proposed Regulations'' under sections 305.82–4 and 305.85–5 of title 1, Code of Federal Regulations, and any successor recommendation or law (including any successor regulation).

(B) The tribal participants in the negotiation process referred to in subparagraph (A) shall be nominated by and shall represent the groups described in this paragraph and shall include tribal representatives from all geographic regions.

(C) The negotiations referred to in subparagraph (B) shall be conducted in a timely manner. Proposed regulations to implement the amendments made by the Indian Self-Determination Contract Reform Act of 1994 shall be published in the Federal Register by the Secretary of the Interior and the Secretary of Health and Human Services not later than 180 days after October 25, 1994.

(D) Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this subchapter.

(E) If the Secretary determines that an extension of the deadlines under subsection (a)(2)(B) of this section and subparagraph (C) of this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

(e) Exceptions in or waiver of regulations

The Secretary may, with respect to a contract entered into under this subchapter, make exceptions in the regulations promulgated to carry out this subchapter, or waive such regulations, if the Secretary finds that such exception or

waiver is in the best interest of the Indians served by the contract or is consistent with the policies of this subchapter, and is not contrary to statutory law. In reviewing each request, the Secretary shall follow the timeline, findings, assistance, hearing, and appeal procedures set forth in section 450f of this title.

(Pub. L. 93–638, title I, § 107, Jan. 4, 1975, 88 Stat. 2212; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100–472, title II, § 207, Oct. 5, 1988, 102 Stat. 2295; Pub. L. 101–644, title II, § 203(f), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103–413, title I, § 105, Oct. 25, 1994, 108 Stat. 4269; Pub. L. 103–435, § 22(a)(1), Nov. 2, 1994, 108 Stat. 4575; Pub. L. 103–437, § 10(c)(2), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104–133, § 1, Apr. 25, 1996, 110 Stat. 1320; Pub. L. 104–287, § 6(e), Oct. 11, 1996, 110 Stat. 3399.)

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsec. (a)(1), is Pub. L. 95–563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (§ 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

The Indian Self-Determination Contract Reform Act of 1994, referred to in subsec. (d)(2)(C), is title I of Pub. L. 103–413, Oct. 25, 1994, 108 Stat. 4250, which enacted section 450*l* of this title, amended this section and sections 450b, 450c, 450e, 450f, 450j, 450j–1, 450m, and 450m–1 of this title, and enacted provisions set out as a note under section 450 of this title. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 450 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(2)(B). Pub. L. 104–133 substituted ''20 months'' for ''18 months''.

Subsec. (b). Pub. L. 104–287 repealed Pub. L. 103–437, § 10(c)(2)(A). See 1994 Amendment note below.

1994—Subsec. (a). Pub. L. 103–413, § 105(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Secretaries of the Interior and of Health and Human Services are each authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purposes of carrying out the provisions of this subchapter: *Provided*, *however*, That all Federal requirements for self-determination contracts and grants under this Act shall be promulgated as regulations in conformity with sections 552 and 553 of title 5.''

Subsec. (b). Pub. L. 103–437, § 10(c)(2)(A), which directed that subsec. (b) be repealed, was itself repealed by Pub. L. 104–287, § 6(e). See Effective Date and Construction of 1996 Amendment note below.

Pub. L. 103–435, which directed substitution of ''Committee on Natural Resources'' for ''Committee on Interior and Insular Affairs'' in par. (2), could not be executed because ''Committee on Interior and Insular Affairs'' did not appear in text subsequent to amendment by Pub. L. 103–413, § 105(1). See below.

Pub. L. 103–413, § 105(1), added subsec. (b) and struck out former subsec. (b) which read as follows:

''(b)(1) Within three months from October 5, 1988, the Secretary shall consider and formulate appropriate regulations to implement the provisions of this Act, with the participation of Indian tribes. Such proposed regulations shall contain all Federal requirements applicable to self-determination contracts and grants under this Act.

''(2) Within six months from October 5, 1988, the Secretary shall present the proposed regulations to the Select Committee on Indian Affairs of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

''(3) Within seven months from October 5, 1988, the Secretary shall publish proposed regulations in the Federal Register for the purpose of receiving comments from tribes and other interested parties.

''(4) Within ten months from October 5, 1988, the Secretary shall promulgate regulations to implement the provisions of such Act.''

Subsec. (c). Pub. L. 103–437, § 10(c)(2)(B), substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Senate and House of Representatives''.

Subsecs. (d), (e). Pub. L. 103–413, § 105(2), added subsecs. (d) and (e).

1990—Subsec. (c). Pub. L. 101–644 inserted '', with the participation of Indian tribes and tribal organizations,'' after ''authorized''.

1988—Subsec. (a). Pub. L. 100–472, § 207(a), substituted ''Health and Human Services'' for ''Health, Education, and Welfare'', and inserted proviso relating to promulgation of Federal requirements for self-determination contracts as regulations.

Subsec. (b). Pub. L. 100–472, § 207(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) Within six months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall each to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this subchapter.

''(2) Within seven months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall each present the proposed rules and regulations to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.

''(3) Within eight months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

''(4) Within ten months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall promulgate rules and regulations to implement the provisions of this subchapter.''

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (c), pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE AND CONSTRUCTION OF 1996 AMENDMENT

Section 6(e) of Pub. L. 104–287 provided that: ''Effective November 2, 1994, section 10(c)(2)(A) of the Act of November 2, 1994 (Public Law 103–437, 108 Stat. 4589) [amending this section], is repealed and section 107(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(b)), as amended by section 105(1) of the Indian Self-Determination Act (Public Law 103–413, 108 Stat. 4269), is revived and shall read as if section 10(c)(2)(A) of the Act of November 2, 1994 (Public Law 103–437, 108 Stat. 4589), had not been enacted.

§ 450*l*. Contract or grant specifications

(a) Terms

Each self-determination contract entered into under this subchapter shall—

(1) contain, or incorporate by reference, the provisions of the model agreement described in subsection (c) of this section (with modifications where indicated and the blanks appropriately filled in), and

(2) contain such other provisions as are agreed to by the parties.

(b) Payments; Federal records

Notwithstanding any other provision of law, the Secretary may make payments pursuant to section 1(b)(6) of such model agreement. As provided in section 1(b)(7) of the model agreement, the records of the tribal government or tribal organization specified in such section shall not be considered Federal records for purposes of chapter 5 of title 5.

(c) Model agreement

The model agreement referred to in subsection (a)(1) of this section reads as follows:

"SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE _____ TRIBAL GOVERNMENT.

''(a) AUTHORITY AND PURPOSE.—

''(1) AUTHORITY.—This agreement, denoted a Self-Determination Contract (referred to in this agreement as the 'Contract'), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the 'Secretary'), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the _____ tribal government or tribal organization (referred to in this agreement as the 'Contractor'). The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

''(2) PURPOSE.—Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractable under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor: (List functions, services, activities, and programs).

''(b) TERMS, PROVISIONS, AND CONDITIONS.—

''(1) TERM.—Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be ____ years. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection (f)(2).

''(2) EFFECTIVE DATE.—This Contract shall become effective upon the date of the approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

''(3) PROGRAM STANDARD.—The Contractor agrees to administer the program, services, functions and activities (or portions thereof) listed in subsection (a)(2) of the Contract in conformity with the following standards: (list standards).

''(4) FUNDING AMOUNT.—Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1).

''(5) LIMITATION OF COSTS.—The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this Contract or a specific activity conducted under this Contract would be greater than the amount of funds awarded under this Contract, the Contractor shall provide reasonable notice to the appropriate Secretary. If the appropriate Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

''(6) PAYMENT.—

''(A) IN GENERAL.—Payments to the Contractor under this Contract shall—

''(i) be made as expeditiously as practicable; and

''(ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

''(B) QUARTERLY, SEMIANNUAL, LUMP-SUM, AND OTHER METHODS OF PAYMENT.—

''(i) IN GENERAL.—Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the annual funding agreement incorporated by reference pursuant to subsection (f)(2) by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, in a lump-sum payment or as semiannual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the annual funding agreement.

''(ii) METHOD OF QUARTERLY PAYMENT.—If quarterly payments are specified in the annual funding agreement incorporated by reference pursuant to subsection (f)(2), each quarterly payment made pursuant to clause (i) shall be made on the first day of

each quarter of the fiscal year, except that in any case in which the Contract year coincides with the Federal fiscal year, payment for the first quarter shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, functions, and activities subject to this Contract.

''(iii) APPLICABILITY.—Chapter 39 of title 31, United States Code, shall apply to the payment of funds due under this Contract and the annual funding agreement referred to in clause (i).

''(7) RECORDS AND MONITORING.—

''(A) IN GENERAL.—Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior or the Department of Health and Human Services (or both), records of the Contractor shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

''(B) RECORDKEEPING SYSTEM.—The Contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

''(C) RESPONSIBILITIES OF CONTRACTOR.—The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the Contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the routine monitoring visits shall be limited to not more than one performance monitoring visit for this Contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless—

''(i) the Contractor agrees to one or more additional visits; or

''(ii) the appropriate official determines that there is reasonable cause to believe that grounds for reassumption of the Contract, suspension of Contract payments, or other serious Contract performance deficiency may exist.

No additional visit referred to in clause (ii) shall be made until such time as reasonable advance notice that includes a description of the nature of the problem that requires the additional visit has been given to the Contractor.

''(8) PROPERTY.—

''(A) IN GENERAL.—As provided in section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor, all reasonably divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared by the Secretary, with the concurrence of the Contractor, and periodically revised by the Secretary, with the concurrence of the Contractor.

''(B) RECORDS.—The Contractor shall maintain a record of all property referred to in subparagraph (A) or other property acquired by the Contractor under section 105(f)(2)(A) of such Act for purposes of replacement.

''(C) JOINT USE AGREEMENTS.—Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

''(D) ACQUISITION OF PROPERTY.—The Contractor is granted the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, services, functions, and activities operated pursuant to this Contract.

''(E) CONFISCATED OR EXCESS PROPERTY.—The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

''(F) SCREENER IDENTIFICATION CARD.—A screener identification card (General Services Administration form numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

''(G) CAPITAL EQUIPMENT.—The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Contractor.

''(9) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, any funds provided under this Contract—

''(A) shall remain available until expended; and

''(B) with respect to such funds, no further—

''(i) approval by the Secretary, or

''(ii) justifying documentation from the Contractor,

shall be required prior to the expenditure of such funds.

''(10) TRANSPORTATION.—Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

''(11) FEDERAL PROGRAM GUIDELINES, MANUALS, OR POLICY DIRECTIVES.—Except as specifi-

cally provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) the Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.

''(12) DISPUTES.—

''(A) THIRD-PARTY MEDIATION DEFINED.—For the purposes of this Contract, the term 'third-party mediation' means a form of mediation whereby the Secretary and the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.

''(B) ALTERNATIVE PROCEDURES.—In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m–1), the parties to this Contract may jointly—

''(i) submit disputes under this Contract to third-party mediation;

''(ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;

''(iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or

''(iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.

''(C) EFFECT OF DECISIONS.—The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States.

''(13) ADMINISTRATIVE PROCEDURES OF CONTRACTOR.—Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

''(14) SUCCESSOR ANNUAL FUNDING AGREEMENT.—

''(A) IN GENERAL.—Negotiations for a successor annual funding agreement, provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. Except as provided in section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(2)) the funding for each such successor annual funding agreement shall only be reduced pursuant to section 106(b) of such Act (25 U.S.C. 450j–1(b)).

''(B) INFORMATION.—The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor annual funding agreement, as provided for in subsection (f)(2) of this Contract.

''(15) CONTRACT REQUIREMENTS; APPROVAL BY SECRETARY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81), section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply to any contract entered into in connection with this Contract.

''(B) REQUIREMENTS.—Each Contract entered into by the Contractor with a third party in connection with performing the obligations of the Contractor under this Contract shall—

''(i) be in writing;

''(ii) identify the interested parties, the authorities of such parties, and purposes of the Contract;

''(iii) state the work to be performed under the Contract; and

''(iv) state the process for making any claim, the payments to be made, and the terms of the Contract, which shall be fixed.

''(c) OBLIGATION OF THE CONTRACTOR.—

''(1) CONTRACT PERFORMANCE.—Except as provided in subsection (d)(2), the Contractor shall perform the programs, services, functions, and activities as provided in the annual funding agreement under subsection (f)(2) of this Contract.

''(2) AMOUNT OF FUNDS.—The total amount of funds to be paid under this Contract pursuant to section 106(a) shall be determined in an annual funding agreement entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

''(3) CONTRACTED PROGRAMS.—Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified in this Contract and funded through the annual funding agreement under subsection (f)(2).

''(4) TRUST SERVICES FOR INDIVIDUAL INDIANS.—

''(A) IN GENERAL.—To the extent that the annual funding agreement provides funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

''(B) TRUST SERVICES TO INDIVIDUAL INDIANS.—For the purposes of this paragraph only, the term 'trust services for individual Indians' means only those services that pertain to land or financial management connected to individually held allotments.

''(5) FAIR AND UNIFORM SERVICES.—The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances

brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

''(d) OBLIGATION OF THE UNITED STATES.—

''(1) TRUST RESPONSIBILITY.—

''(A) IN GENERAL.—The United States reaffirms the trust responsibility of the United States to the _____ Indian tribe(s) to protect and conserve the trust resources of the Indian tribe(s) and the trust resources of individual Indians.

''(B) CONSTRUCTION OF CONTRACT.—Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribe(s) or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

''(2) GOOD FAITH.—To the extent that health programs are included in this Contract, and within available funds, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

''(3) PROGRAMS RETAINED.—As specified in the annual funding agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe(s) that are not specifically assumed by the Contractor in the annual funding agreement under subsection (f)(2).

''(e) OTHER PROVISIONS.—

''(1) DESIGNATED OFFICIALS.—Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

''(2) CONTRACT MODIFICATIONS OR AMENDMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.

''(B) EXCEPTION.—The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the annual funding agreement under subsection (f)(2), and the reduction of funds pursuant to section 106(b)(2), shall not be subject to subparagraph (A).

''(3) OFFICIALS NOT TO BENEFIT.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

''(4) COVENANT AGAINST CONTINGENT FEES.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

''(f) ATTACHMENTS.—

''(1) APPROVAL OF CONTRACT.—Unless previously furnished to the Secretary, the resolution of the _____ Indian tribe(s) authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as attachment 1.

''(2) ANNUAL FUNDING AGREEMENT.—

''(A) IN GENERAL.—The annual funding agreement under this Contract shall only contain—

''(i) terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and

''(ii) such other provisions, including a brief description of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), to which the parties agree.

''(B) INCORPORATION BY REFERENCE.—The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as attachment 2.''

(Pub. L. 93–638, title I, § 108, as added Pub. L. 103–413, title I, § 103, Oct. 25, 1994, 108 Stat. 4260; amended Pub. L. 106–568, title VIII, § 812(a), Dec. 27, 2000, 114 Stat. 2917.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in section 1(a), (b)(6)(B)(i), (11) of the provisions of subsec. (c) setting out the model agreement, is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to this subchapter (§ 450 et seq.). Title I of the Act is classified principally to this part (§ 450f et seq.). Section 102(a) of the Act is classified to section 450f(a) of this title. Section 108(b) of the Act is classified to subsec. (b) of this section. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Indian Civil Rights Act of 1968, referred to in section 1(b)(13) of the provisions of subsec. (c) setting out the model agreement, is title II of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 77, as amended, which is classified generally to subchapter I (§ 1301 et seq.) of chapter 15 of this title. For complete classification of this Act to the Code, see Tables.

The Act of July 3, 1952, referred to in section 1(b)(15)(A) of the provisions of subsec. (c) setting out the model agreement, is act July 3, 1952, ch. 549, 66 Stat. 323, which enacted section 82a of this title and provisions set out as a note under section 82a of this title.

The Indian Health Care Improvement Act, referred to in section 1(d)(2) of the provisions of subsec. (c) setting out the model agreement, is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see

Short Title note set out under section 1601 of this title and Tables.

PRIOR PROVISIONS

A prior section 450*l*, Pub. L. 93–638, title I, § 108, Jan. 4, 1975, 88 Stat. 2212, which related to report by tribe requesting contract or grant, was renumbered section 5(f) of Pub. L. 93–638, by Pub. L. 100–472, title II, § 208, Oct. 5, 1988, 102 Stat. 2296, and is classified to section 450c(f) of this title.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–568 substituted ", section 16 of the Act of June 18, 1934" for "and section 16 of the Act of June 18, 1934" and "and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply" for "shall not apply" in section 1(b)(15)(A) of the provisions setting out the model agreement.

QUARTERLY PAYMENTS OF FUNDS TO TRIBES

Pub. L. 105–83, title III, § 311, Nov. 14, 1997, 111 Stat. 1590, provided that: "Notwithstanding Public Law 103–413 [see Short Title of 1994 Amendment note set out under section 450 of this title], quarterly payments of funds to tribes and tribal organizations under annual funding agreements pursuant to section 108 of Public Law 93–638 [25 U.S.C. 450*l*], as amended, beginning in fiscal year 1998 and therafter, [sic] may be made on the first business day following the first day of a fiscal quarter."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–208, div. A, title I, § 101(d) [title III, § 311], Sept. 30, 1996, 110 Stat. 3009–181, 3009–221.

Pub. L. 104–134, title I, § 101(c) [title III, § 311], Apr. 26, 1996, 110 Stat. 1321–156, 1321–197; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

§ 450m. Rescission of contract or grant and assumption of control of program, etc.; authority; grounds; procedure; correction of violation as prerequisite to new contract or grant agreement; construction with occupational safety and health requirements

Each contract or grant agreement entered into pursuant to sections 450f, 450g, and 450h[1] of this title shall provide that in any case where the appropriate Secretary determines that the tribal organization's performance under such contract or grant agreement involves (1) the violation of the rights or endangerment of the health, safety, or welfare of any persons; or (2) gross negligence or mismanagement in the handling or use of funds provided to the tribal organization pursuant to such contract or grant agreement, or in the management of trust fund, trust lands or interests in such lands pursuant to such contract or grant agreement, such Secretary may, under regulations prescribed by him and after providing notice and a hearing on the record to such tribal organization, rescind such contract or grant agreement, in whole or in part, and assume or resume control or operation of the program, activity, or service involved if he determines that the tribal organization has not taken corrective action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant, in whole or in part, and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to trust funds, trust lands, or interests in such lands, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases, the Secretary shall provide the tribal organization with a hearing on the record within ten days or such later date as the tribal organization may approve. Such Secretary may decline to enter into a new contract or grant agreement and retain control of such program, activity, or service until such time as he is satisfied that the violations of rights or endangerment of health, safety, or welfare which necessitated the rescission has been corrected. In any hearing or appeal provided for under this section, the Secretary shall have the burden of proof to establish, by clearly demonstrating the validity of the grounds for rescinding, assuming, or reassuming the contract that is the subject of the hearing. Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970, as amended [29 U.S.C. 651 et seq.].

(Pub. L. 93–638, title I, § 109, Jan. 4, 1975, 88 Stat. 2212; Pub. L. 100–581, title II, § 211, Nov. 1, 1988, 102 Stat. 2941; Pub. L. 101–301, § 2(a)(10), May 24, 1990, 104 Stat. 207; Pub. L. 103–413, title I, § 104(1), Oct. 25, 1994, 108 Stat. 4268.)

REFERENCES IN TEXT

Sections 450g and 450h of this title, referred to in text, was in the original "sections 103 and 104 of this Act", meaning sections 103 and 104 of Pub. L. 93–638, the Indian Self-Determination Act. Section 103(a) and (b) and the first sentence of section 103(c) of Pub. L. 93–638 were repealed, and the remainder of section 103(c) of Pub. L. 93–638 was redesignated as section 102(d) of Pub. L. 93–638 (section 450f(d) of this title), by Pub. L. 100–472, title II, § 201(b)(1), Oct. 5, 1988, 102 Stat. 2289. Sections 104 and 105 of Pub. L. 93–638 were renumbered as sections 103 and 104, respectively, of Pub. L. 93–638 by sections 202(a) and 203(a) of Pub. L. 100–472, and are classified to sections 450h and 450i, respectively, of this title.

The Occupational Safety and Health Act of 1970, as amended, referred to in text, is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

AMENDMENTS

1994—Pub. L. 103–413 inserted "or in the management of trust fund, trust lands or interests in such lands pursuant to such contract or grant agreement," after "pursuant to such contract or grant agreement," and ", in whole or in part," after "rescind such contract or grant agreement", substituted "action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant, in whole or in part, and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to trust funds, trust lands, or interests in such lands, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases,

[1] See References in Text note below.

the Secretary'' for ''action as prescribed by him: *Provided*, That the appropriate Secretary may, upon notice to a tribal organization, immediately rescind a contract or grant and resume control or operation of a program, activity, or service if he finds that there is an immediate threat to safety and, in such cases, he'', struck out second period after ''the tribal organization may approve'', and inserted before last sentence ''In any hearing or appeal provided for under this section, the Secretary shall have the burden of proof to establish, by clearly demonstrating the validity of the grounds for rescinding, assuming, or reassuming the contract that is the subject of the hearing.''

1990—Pub. L. 101–301 substituted ''providing notice and a hearing'' for ''providing notice and hearing''.

1988—Pub. L. 100–581 inserted ''on the record'' after ''providing notice and hearing''.

Pub. L. 100–581 which directed amendment of this section by substituting ''in such cases, he shall provide the tribal organization with a hearing on the record within ten days or such later date as the tribal organization may approve.'' for ''in such cases, he shall hold a hearing within ten days thereof'' was executed by substituting the new language for ''in such cases, he shall hold a hearing on such action within ten days thereof'' to reflect the probable intent of Congress.

§ 450m–1. Contract disputes and claims

(a) Civil actions; concurrent jurisdiction; relief

The United States district courts shall have original jurisdiction over any civil action or claim against the appropriate Secretary arising under this subchapter and, subject to the provisions of subsection (d) of this section and concurrent with the United States Court of Claims, over any civil action or claim against the Secretary for money damages arising under contracts authorized by this subchapter. In an action brought under this paragraph, the district courts may order appropriate relief including money damages, injunctive relief against any action by an officer of the United States or any agency thereof contrary to this subchapter or regulations promulgated thereunder, or mandamus to compel an officer or employee of the United States, or any agency thereof, to perform a duty provided under this subchapter or regulations promulgated hereunder (including immediate injunctive relief to reverse a declination finding under section 450f(a)(2) of this title or to compel the Secretary to award and fund an approved self-determination contract).

(b) Revision of contracts

The Secretary shall not revise or amend a self-determination contract with a tribal organization without the tribal organization's consent.

(c) Application of laws to administrative appeals

The Equal Access to Justice Act (Publc[1] Law 96–481, Act of October 1,[1] 1980; 92[1] Stat. 2325, as amended), section 504 of title 5, and section 2412 of title 28 shall apply to administrative appeals pending on or filed after October 5, 1988, by tribal organizations regarding self-determination contracts.

(d) Application of Contract Disputes Act

The Contract Disputes Act (Public Law 95–563, Act of November 1, 1978; 92 Stat. 2383, as amended) [41 U.S.C. 601 et seq.] shall apply to self-determination contracts, except that all administrative appeals relating to such contracts shall be heard by the Interior Board of Contract Appeals established pursuant to section 8 of such Act (41 U.S.C. 607).

(e) Application of subsection (d)

Subsection (d) of this section shall apply to any case pending or commenced on or after March 17, 1986, before the Boards of Contract Appeals of the Department of the Interior or the Department of Health and Human Services except that in any such cases finally disposed of before October 5, 1988, the thirty-day period referred to in section 504(a)(2) of title 5 shall be deemed to commence on October 5, 1988.

(Pub. L. 93–638, title I, § 110, as added Pub. L. 100–472, title II, § 206(a), Oct. 5, 1988, 102 Stat. 2294; amended Pub. L. 100–581, title II, § 212, Nov. 1, 1988, 102 Stat. 2941; Pub. L. 101–301, §§ 1(a)(2), 2(b), May 24, 1990, 104 Stat. 206, 207; Pub. L. 103–413, title I, § 104(2), (3), Oct. 25, 1994, 108 Stat. 4268.)

REFERENCES IN TEXT

The Equal Access to Justice Act, referred to in subsec. (c), is Pub. L. 96–481, title II, Oct. 21, 1980, 94 Stat. 2325. For complete classification of this Act to the Code, see Short Title note set out under section 504 of Title 5, Government Organization and Employees, and Tables.

The Contract Disputes Act of 1978, referred to in subsec. (d), is Pub. L. 95–563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (§ 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

October 5, 1988, referred to in subsec. (e), was in the original ''the date of enactment of these amendments'' and ''the date of enactment of this subsection'', meaning the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, Pub. L. 100–472, which enacted this section.

PRIOR PROVISIONS

A prior section 110 of Pub. L. 93–638 was renumbered section 111 by Pub. L. 100–472 and is classified to section 450n of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–413, § 104(2), inserted before period at end ''(including immediate injunctive relief to reverse a declination finding under section 450f(a)(2) of this title or to compel the Secretary to award and fund an approved self-determination contract)''.

Subsec. (d). Pub. L. 103–413, § 104(3), inserted before period at end '', except that all administrative appeals relating to such contracts shall be heard by the Interior Board of Contract Appeals established pursuant to section 8 of such Act (41 U.S.C. 607)''.

1990—Subsec. (a). Pub. L. 101–301, § 1(a)(2), made technical correction to directory language of Pub. L. 100–581, § 212(a). See 1988 Amendment note below.

Subsec. (b). Pub. L. 101–301, § 2(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Unless otherwise agreed to by the resolution of tribal organization, the Secretary shall not revise or amend a self-determination contract with such tribal organization.''

Subsec. (c). Pub. L. 101–301, § 1(a)(2), made technical correction to directory language of Pub. L. 100–581, § 212(c). See 1988 Amendment note below.

1988—Subsec. (a). Pub. L. 100–581, § 212(a), as amended by Pub. L. 101–301, § 1(a)(2), substituted ''over any civil action'' for ''over civil action'' after ''Court of Claims,''.

[1] So in original. Probably should be ''Public'', ''21,'', and ''94'', respectively.

Subsec. (b). Pub. L. 100–581, § 212(b), substituted ''of tribal organization'' for ''of an Indian tribe'' and ''such tribal organization'' for ''such tribe''.

Subsec. (c). Pub. L. 100–581, § 212(c), as amended by Pub. L. 101–301, § 1(a)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Equal Access to Justice Act (Public Law 96–481, Act of October 1 [21], 1980; 94 Stat. 2325, as amended) shall apply to administrative appeals by tribal organizations regarding self-determination contracts.''

§ 450n. Sovereign immunity and trusteeship rights unaffected

Nothing in this subchapter shall be construed as—

(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or

(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

(Pub. L. 93–638, title I, § 111, formerly § 110, Jan. 4, 1975, 88 Stat. 2213; renumbered § 111, Pub. L. 100–472, title II, § 206(b), Oct. 5, 1988, 102 Stat. 2295.)

PART B—CONTRACTS WITH STATES

CODIFICATION

This part, consisting of sections 451 to 457 of this title, which was previously set out as part of former subchapter III of this chapter, was not enacted as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

§ 451. Donations for Indians; use of gifts; annual report to Congress

The Secretary of the Interior may accept donations of funds or other property for the advancement of the Indian race, and he may use the donated property in accordance with the terms of the donation in furtherance of any program authorized by other provision of law for the benefit of Indians. An annual report shall be made to the Congress on donations received and allocations made from such donations. This report shall include administrative costs and other pertinent data.

(Feb. 14, 1931, ch. 171, 46 Stat. 1106; Pub. L. 90–333, June 8, 1968, 82 Stat. 171.)

CODIFICATION

Section was not enacted as part of the Johnson-O'Malley Act which comprises this part, nor as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

AMENDMENTS

1968—Pub. L. 90–333 expanded area of permissible uses to which Secretary may put donated property by substituting provisions allowing inclusion of programs otherwise authorized by law intended to benefit Indians for provisions limiting permissible uses to programs otherwise authorized by law only if it could be shown that property would benefit a particular Indian institution or individual, and inserted provisions for an annual report to Congress on donations received and allocations made from such donations.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to making an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 113 of House Document No. 103–7.

§ 452. Contracts for education, medical attention, relief and social welfare of Indians

The Secretary of the Interior is authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory.

(Apr. 16, 1934, ch. 147, § 1, 48 Stat. 596; June 4, 1936, ch. 490, § 1, 49 Stat. 1458.)

AMENDMENTS

1936—Act June 4, 1936, substituted ''with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution'', ''through the agencies of the State or Territory or of the corporations and organizations hereinbefore named,'', and ''such State or Territory'' for ''any State or Territory having legal authority so to do,'', ''through the qualified agencies of such State or Territory,'', and ''such State'', respectively.

SHORT TITLE

Act April 16, 1934, ch. 147, 48 Stat. 596, which enacted sections 452 to 457 of this title, is popularly known as the ''Johnson-O'Malley Act''.

DISTRIBUTION OF PUBLIC SCHOOL ASSISTANCE

Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1795, provided that: ''notwithstanding any other provision of law, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the basis of the formula recommended by the Assistant Secretary of Indian Affairs in a letter to the Committees on Appropriations dated June 27, 1988, except that for the fiscal year ending September 30, 1989, the minimum weight factor shall be 1.1 rather than 1.3 and for the fiscal year ending September 30, 1990, the minimum weight factor shall be 1.2 rather than 1.3''.

Similar provisions were contained in the following prior appropriation act:

Pub. L. 100–202, § 101(g) [title I], Dec. 22, 1987, 101 Stat. 1329–213, 1329–228.

LIMITATION ON CONTRACT AUTHORITY

Pub. L. 99–190, § 101(d) [title I], Dec. 19, 1985, 99 Stat. 1224, 1235, provided that: ''notwithstanding any law or regulation, in allocating funds for aid to public schools under the Act of April 16, 1934, as amended [sections 452 to 457 of this title], the Secretary shall enter into contracts only for the provision of supplementary educational services for Indian children''.

§ 453. Use of Government property by States and Territories

The Secretary of the Interior, in making any contract authorized by sections 452 to 457 of this

title, may permit such contracting party to utilize, for the purposes of said sections, existing school buildings, hospitals, and other facilities, and all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance.

(Apr. 16, 1934, ch. 147, § 2, 48 Stat. 596; June 4, 1936, ch. 490, § 2, 49 Stat. 1459.)

AMENDMENTS

1936—Act June 4, 1936, substituted ", may permit such contracting party" for "with any State or Territory, may permit such State or Territory".

§ 454. Rules and regulations; minimum standards of service

The Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose of carrying the provisions of sections 452 to 457 of this title into effect: *Provided*, That such minimum standards of service are not less than the highest maintained by the States or Territories within which said contract or contracts, as herein provided, are to be effective.

(Apr. 16, 1934, ch. 147, § 3, 48 Stat. 596; June 4, 1936, ch. 490, § 3, 49 Stat. 1459.)

AMENDMENTS

1936—Act June 4, 1936, substituted "within which" for "with which".

§ 455. Contracts for education in public schools; submission of education plan by contractor as prerequisite; criteria for approval of plan by Secretary of the Interior; participation by non-Indian students

The Secretary of the Interior shall not enter into any contract for the education of Indians unless the prospective contractor has submitted to, and has had approved by the Secretary of the Interior, an education plan, which plan, in the determination of the Secretary, contains educational objectives which adequately address the educational needs of the Indian students who are to be beneficiaries of the contract and assures that the contract is capable of meeting such objectives: *Provided*, That where students other than Indian students participate in such programs, money expended under such contract shall be prorated to cover the participation of only the Indian students.

(Apr. 16, 1934, ch. 147, § 4, as added Pub. L. 93–638, title II, § 202, Jan. 4, 1975, 88 Stat. 2213.)

PRIOR PROVISIONS

A prior section 4 of act Apr. 16, 1934, ch. 147, 48 Stat. 596; June 4, 1936, ch. 490, 49 Stat. 1458, directed Secretary of the Interior to report to Congress any contracts made under provisions of sections 452 to 454 of this title, prior to repeal by Pub. L. 86–533, § 1(15), June 29, 1960, 74 Stat. 248.

§ 456. Local committee of Indian parents in school districts having school boards composed of non-Indian majority

(a) Election; functions

Whenever a school district affected by a contract or contracts for the education of Indians pursuant to sections 452 to 457 of this title has a local school board not composed of a majority of Indians, the parents of the Indian children enrolled in the school or schools affected by such contract or contracts shall elect a local committee from among their number. Such committee shall fully participate in the development of, and shall have the authority to approve or disapprove programs to be conducted under such contract or contracts, and shall carry out such other duties, and be so structured, as the Secretary of the Interior shall by regulation provide: *Provided*, *however*, That, whenever a local Indian committee or committees established pursuant to section 7424(c)(4) of title 20 or an Indian advisory school board or boards established pursuant to sections 452 to 457 of this title prior to January 4, 1975, exists in such school district, such committee or board may, in the discretion of the affected tribal governing body or bodies, be utilized for the purposes of this section.

(b) Revocation of contracts

The Secretary of the Interior may, in his discretion, revoke any contract if the contractor fails to permit a local committee to perform its duties pursuant to subsection (a) of this section.

(Apr. 16, 1934, ch. 147, § 5, as added Pub. L. 93–638, title II, § 202, Jan. 4, 1975, 88 Stat. 2213; amended Pub. L. 103–382, title III, § 393(d), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 107–110, title VII, § 702(e), Jan. 8, 2002, 115 Stat. 1947.)

PRIOR PROVISIONS

A prior section 5 of act Apr. 16, 1934, ch. 147, 48 Stat. 596, excluded Oklahoma from the application of contract provisions, and was omitted by act June 4, 1936, ch. 490, 49 Stat. 1458.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–110 substituted reference to section 7424(c)(4) of title 20 for reference to section 7814(c)(4) of title 20.

1994—Subsec. (a). Pub. L. 103–382 substituted reference to section 7814(c)(4) of title 20 for reference to section 241dd(b)(2)(B)(ii) of title 20.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

§ 457. Reimbursement to school districts for educating non-resident students

Any school district educating Indian students who are members of recognized Indian tribes, who do not normally reside in the State in which such school district is located, and who are residing in Federal boarding facilities for the purposes of attending public schools within such district may, in the discretion of the Secretary of the Interior, be reimbursed by him for the full per capita costs of educating such Indian students.

(Apr. 16, 1934, ch. 147, § 6, as added Pub. L. 93–638, title II, § 202, Jan. 4, 1975, 88 Stat. 2214.)

INDIAN EDUCATIONAL REPORT; SUBMISSION TO CONGRESSIONAL COMMITTEES; TIME OF SUBMISSION; SCOPE AND CONTENT OF REPORT

Section 203 of Pub. L. 93–638 provided for a report to be prepared and submitted not later than Oct. 1, 1975,

by the Secretary of the Interior to the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives after conferring with persons competent in the field of Indian education and consulting with the Secretary of Health, Education, and Welfare. The report was to include analysis of the act of Apr. 16, 1934, and a specific program to meet the special educational needs of Indian children who attend public schools.

PART C—INDIAN EDUCATION ASSISTANCE

§ 458. School construction, acquisition, or renovation contracts

(a) Authorization; prerequisites

The Secretary is authorized to enter into a contract or contracts with any State education agency or school district for the purpose of assisting such agency or district in the acquisition of sites for, or the construction, acquisition, or renovation of facilities (including all necessary equipment) in school districts on or adjacent to or in close proximity to any Indian reservation or other lands held in trust by the United States for Indians, if such facilities are necessary for the education of Indians residing on any such reservation or lands.

(b) Eligibility requirements for assistance in federally-affected areas; applicability to projects in determining maximum amount, allocation, of funds, etc.

The Secretary may expend not less than 75 per centum of such funds as are authorized and appropriated pursuant to this section on those projects which meet the eligibility requirements under subsections (a) and (b) of section 644[1] of title 20. Such funds shall be allocated on the basis of existing funding priorities, if any, established by the Secretary of Education under subsections (a) and (b) of section 644[1] of title 20. The Secretary of Education is directed to submit to the Secretary, at the beginning of each fiscal year, commencing with the first full fiscal year after January 4, 1975, a list of those projects eligible for funding under subsections (a) and (b) of section 644[1] of title 20.

(c) Eligibility of private schools to receive funds; maximum amount

The Secretary may expend not more than 25 per centum of such funds as may be authorized and appropriated pursuant to this section on any school eligible to receive funds under section 458d of this title.

(d) Duties of State education agencies pursuant to contracts

Any contract entered into by the Secretary pursuant to this section shall contain provisions requiring the relevant State educational agency to—

(1) provide Indian students attending any such facilities constructed, acquired, or renovated, in whole or in part, from funds made available pursuant to this section with standards of education not less than those provided non-Indian students in the school district in which the facilities are situated; and

(2) meet, with respect to such facilities, the requirements of the State and local building codes, and other building standards set by the State educational agency or school district for other public school facilities under its jurisdiction or control or by the local government in the jurisdiction within which the facilities are situated.

(e) Advisory consultations by Secretary with affected entities and governing bodies prior to contracts; applicability

The Secretary shall consult with the entity designated pursuant to section 456 of this title, and with the governing body of any Indian tribe or tribes the educational opportunity for the members of which will be significantly affected by any contract entered into pursuant to this section. Such consultation shall be advisory only, but shall occur prior to the entering into of any such contract. The foregoing provisions of this subsection shall not be applicable where the application for a contract pursuant to this section is submitted by an elected school board of which a majority of its members are Indians.

(f) Evaluation and report to Congress of effectiveness of construction, etc., programs; scope and content of report

Within ninety days following the expiration of the three year period following January 4, 1975, the Secretary shall evaluate the effectiveness of the program pursuant to this section and transmit a report of such evaluation to the Congress. Such report shall include—

(1) an analysis of construction costs and the impact on such costs of the provisions of subsection (f) of this section and the Act of March 3, 1921 (46 Stat. 1491), as amended;[1]

(2) a description of the working relationship between the Department of the Interior and the Department of Education including any memorandum of understanding in connection with the acquisition of data pursuant to subsection (b) of this section;

(3) projections of the Secretary of future construction needs of the public schools serving Indian children residing on or adjacent to Indian reservations;

(4) a description of the working relationship of the Department of the Interior with local or State educational agencies in connection with the contracting for construction, acquisition, or renovation of school facilities pursuant to this section; and

(5) the recommendations of the Secretary with respect to the transfer of the responsibility for administering subsections (a) and (b) of section 644[1] of title 20 from the Department of Education to the Department of the Interior.

(g) Authorization of appropriations

For the purpose of carrying out the provisions of this section, there is authorized to be appropriated the sum of $35,000,000 for the fiscal year ending June 30, 1974; $35,000,000 for each of the four succeeding fiscal years; and thereafter, such sums as may be necessary, all of such sums to remain available until expended.

(Pub. L. 93–638, title II, § 204, Jan. 4, 1975, 88 Stat. 2214; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 644 of title 20, referred to in subsecs. (b) and (f)(5), was repealed by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965.

Act of March 3, 1921, referred to in subsec. (f)(1), probably means the act of Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis-Bacon Act, which was classified generally to sections 276a to 276a–5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141–3144, 3146, and 3147 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''United States Commissioner of Education'' in subsec. (b), and ''Department of Education'' substituted for ''Department of Health, Education, and Welfare'' in subsec. (f)(2), (5), pursuant to sections 301 and 507 of Pub. L. 96–88, which is classified to sections 3441 and 3507 of Title 20, Education, and which transferred functions and offices (relating to education) of Commissioner of Education and Department of Health, Education, and Welfare to Secretary and Department of Education.

§ 458a. General education contract and grant provisions and requirements; school district quality and standards of excellence

No funds from any grant or contract pursuant to this part shall be made available to any school district unless the Secretary is satisfied that the quality and standard of education, including facilities and auxiliary services, for Indian students enrolled in the schools of such district are at least equal to that provided all other students from resources, other than resources provided in this part, available to the local school district.

(Pub. L. 93–638, title II, § 205, Jan. 4, 1975, 88 Stat. 2216.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 93–638, known as the Indian Education Assistance Act, which is classified principally to this part (§ 458 et seq.). For complete classification of title II to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 458b. Availability of funds to agencies, institutions, and organizations

No funds from any contract or grant pursuant to this part shall be made available by any Federal agency directly to other than public agencies and Indian tribes, institutions, and organizations: *Provided*, That school districts, State education agencies, and Indian tribes, institutions, and organizations assisted by this part may use funds provided herein to contract for necessary services with any appropriate individual, organization, or corporation.

(Pub. L. 93–638, title II, § 206, Jan. 4, 1975, 88 Stat. 2216.)

§ 458c. Rules and regulations

(a) Prerequisites for promulgation

(1) Within six months from January 4, 1975, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations with experiences in Indian education to consider and formulate appropriate rules and regulations to implement the provisions of this part.

(2) Within seven months from January 4, 1975, the Secretary shall present the proposed rules and regulations to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.

(3) Within eight months from January 4, 1975, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(4) Within ten months from January 4, 1975, the Secretary shall promulgate rules and regulations to implement the provisions of this part.

(b) Revision and amendment

The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to subsection (a) of this section: *Provided*, That prior to any revision or amendment to such rules or regulations the Secretary shall, to the extent practicable, consult with appropriate national and regional Indian organizations, and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

(Pub. L. 93–638, title II, § 207, Jan. 4, 1975, 88 Stat. 2216.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4, Ninety-fifth Congress (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977. Section 105 of Senate Resolution No. 4 established a temporary Select Committee on Indian Affairs having jurisdiction over matters relating to Indian affairs (such matters previously having been within the jurisdiction of the Committee on Interior and Insular Affairs). Senate Resolution No. 127, June 6, 1984, Ninety-eighth Congress, established the Select Committee on Indian Affairs as a permanent committee of the Senate, and section 25 of Senate Resolution No. 71, Feb. 25, 1993, One Hundred Third Congress, redesignated the Select Committee on Indian Affairs as the Committee on Indian Affairs.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress. Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 458d. Eligibility for funds of tribe or tribal organization controlling or managing private schools

The Secretary is authorized and directed to provide funds, pursuant to this subchapter; the the[1] Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 452 et seq.]; or any other authority granted to him to any tribe or tribal organiza-

[1] So in original.

tion which controls and manages any previously private school.

(Pub. L. 93–638, title II, § 208, Jan. 4, 1975, 88 Stat. 2216; Pub. L. 97–375, title I, § 108(d), Dec. 21, 1982, 96 Stat. 1820.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Act of April 16, 1934, referred to in text, is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

AMENDMENTS

1982—Pub. L. 97–375 struck out provisions relating to annual reporting requirements of Secretary to Congressional committees respecting educational assistance program conducted pursuant to this section.

§ 458e. Supplemental assistance to funds provided to local educational agencies

The assistance provided in this subchapter for the education of Indians in the public schools of any State is in addition and supplemental to assistance provided under title IX of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801 et seq.].

(Pub. L. 93–638, title II, § 209, Jan. 4, 1975, 88 Stat. 2217; Pub. L. 103–382, title III, § 393(c), Oct. 20, 1994, 108 Stat. 4027.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title IX of the Act is classified generally to subchapter IX (§ 7801 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

AMENDMENTS

1994—Pub. L. 103–382 substituted ''title IX of the Elementary and Secondary Education Act of 1965'' for ''title IV of the Act of June 23, 1972 (86 Stat. 235)''.

PART D—TRIBAL SELF-GOVERNANCE—DEPARTMENT OF THE INTERIOR

§ 458aa. Establishment

The Secretary of the Interior (hereinafter in this part referred to as the ''Secretary'') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (hereinafter in this part referred to as ''Self-Governance'') in accordance with this part.

(Pub. L. 93–638, title IV, § 401, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4271.)

SHORT TITLE

For short title of title II of Pub. L. 103–413, which enacted this part, as the ''Tribal Self-Governance Act of 1994'', see section 201 of Pub. L. 103–413, set out as a Short Title of 1994 Amendment note under section 450 of this title.

CONGRESSIONAL STATEMENT OF FINDINGS

Section 202 of Pub. L. 103–413 provided that: ''Congress finds that—

''(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

''(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

''(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

''(4) the Tribal Self-Governance Demonstration Project [established by title III of Pub. L. 93–638, formerly set out as a note under 25 U.S.C. 450f] was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

''(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

''(A) transferring control to tribal governments, upon tribal request, over funding and decision-making for Federal programs, services, functions, and activities, or portions thereof, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

''(B) transferring control to tribal governments, upon tribal request, over funding and decision-making for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.''

CONGRESSIONAL DECLARATION OF POLICY

Section 203 of title II of Pub. L. 103–413 provided that: ''It is the policy of this title [enacting this part] to permanently establish and implement tribal self-governance—

''(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

''(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

''(3) to coexist with the provisions of the Indian Self-Determination Act [title I of Pub. L. 93–638, see Short Title note set out under section 450 of this title] relating to the provision of Indian services by designated Federal agencies;

''(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

''(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

''(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.''

§ 458bb. Selection of participating Indian tribes

(a) Continuing participation

Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III[1] on October 25, 1994, shall thereafter participate in Self-Governance under this part and cease participation in the Tribal Self-Govern-

[1] See References in Text note below.

ance Demonstration Project under title III[1] with respect to the Department of the Interior.

(b) Additional participants

(1) In addition to those Indian tribes participating in self-governance under subsection (a) of this section, the Secretary, acting through the Director of the Office of Self-Governance, may select up to 50 new tribes per year from the applicant pool described in subsection (c) of this section to participate in self-governance.

(2) If each tribe requests, two or more otherwise eligible Indian tribes may be treated as a single Indian tribe for the purpose of participating in Self-Governance as a consortium.

(c) Applicant pool

The qualified applicant pool for Self-Governance shall consist of each tribe that—

(1) successfully completes the planning phase described in subsection (d) of this section;

(2) has requested participation in Self-Governance by resolution or other official action by the tribal governing body; and

(3) has demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

(d) Planning phase

Each Indian tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

(1) legal and budgetary research; and

(2) internal tribal government planning and organizational preparation.

(Pub. L. 93–638, title IV, § 402, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4272; amended Pub. L. 104–208, div. A, title I, § 101(d) [title I, § 117], Sept. 30, 1996, 110 Stat. 3009–181, 3009–201.)

REFERENCES IN TEXT

Title III, referred to in subsec. (a), means title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–208 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''In addition to those Indian tribes participating in Self-Governance under subsection (a) of this section, the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year from the applicant pool described in subsection (c) of this section to participate in Self-Governance.''

§ 458cc. Funding agreements

(a) Authorization

The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government in a manner consistent with the Federal Government's laws and trust relationship to and responsibility for the Indian people.

(b) Contents

Each funding agreement shall—

(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior through the Bureau of Indian Affairs, without regard to the agency or office of the Bureau of Indian Affairs within which the program, service, function, and activity, or portion thereof, is performed, including funding for agency, area, and central office functions in accordance with subsection (g)(3) of this section, and including any program, service, function, and activity, or portion thereof, administered under the authority of—

(A) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

(B) section 13 of this title; and

(C) programs, services, functions, and activities or portions thereof administered by the Secretary of the Interior that are otherwise available to Indian tribes or Indians for which appropriations are made to agencies other than the Department of the Interior;

(2) subject to such terms as may be negotiated, authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, that are otherwise available to Indian tribes or Indians, as identified in section 458ee(c) of this title, except that nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions thereof, unless such preference is otherwise provided for by law;

(3) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and reallocate funds for such programs, services, functions, and activities, or portions thereof, except that, with respect to the reallocation, consolidation, and redesign of programs described in paragraph (2), a joint agreement between the Secretary and the tribe shall be required;

(4) prohibit the inclusion of funds provided—

(A) pursuant to the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

(B) for elementary and secondary schools under the formula developed pursuant to section 2008 of this title; and

(C) the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 450f of this title;

(5) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

(6) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

(7) allow for retrocession of programs or portions of programs pursuant to section 450j(e) of this title;

(8) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

(A) shall not be entitled to contract with the Secretary for such funds under section 450f of this title, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

(9) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

(c) Additional activities

Each funding agreement negotiated pursuant to subsections (a) and (b) of this section may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

(d) Provisions relating to Secretary

Funding agreements negotiated between the Secretary and an Indian tribe shall include provisions—

(1) to monitor the performance of trust functions by the tribe through the annual trust evaluation, and

(2) for the Secretary to reassume a program, service, function, or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset, natural resources, or public health and safety.

(e) Construction projects

(1) Regarding construction programs or projects, the Secretary and Indian tribes may negotiate for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act [41 U.S.C. 401 et seq.] and Federal acquisition regulations in any funding agreement entered into under this subchapter. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

(2) In all construction projects performed pursuant to this part, the Secretary shall ensure that proper health and safety standards are provided for in the funding agreements.

(f) Submission for review

Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

(1) each Indian tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

(2) the Committee on Indian Affairs of the Senate; and

(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

(g) Payment

(1) At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

(2) The funding agreements authorized by this part and title III of this Act shall provide for advance payments to the tribes in the form of annual or semi-annual installments at the discretion of the tribes.

(3) Subject to paragraph (4) of this subsection and paragraphs (1) through (3) of subsection (b) of this section, the Secretary shall provide funds to the tribe under an agreement under this part for programs, services, functions, and activities, or portions thereof, in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this subchapter, including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members, without regard to the organization level within the Department where such functions are carried out.

(4) Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

(h) Civil actions

(1) Except as provided in paragraph (2), for the purposes of section 450m–1 of this title, the term ''contract'' shall include agreements entered into under this part.

(2) For the period that an agreement entered into under this part is in effect, the provisions of section 81 of this title, section 476 of this title, and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this part.

(i) Facilitation

(1) Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

(B) the implementation of agreements entered into under this section.

(2)(A) A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

(B) Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law. The Secretary's decision shall be final for the Department.

(j) Funds

All funds provided under funding agreements entered into pursuant to this subchapter, and all funds provided under contracts or grants made pursuant to this subchapter, shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

(k) Disclaimer

Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary so as to authorize the Secretary to enter into any agreement under subsection (b)(2) of this section and section 458ee(c)(1) of this title with respect to functions that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe: *Provided*, however an Indian tribe or tribes need not be identified in the authorizing statute in order for a program or element of a program to be included in a compact under subsection (b)(2) of this section.

***(l)* Incorporate self-determination provisions**

At the option of a participating tribe or tribes, any or all provisions of part A of this subchapter shall be made part of an agreement entered into under title III of this Act or this part. The Secretary is obligated to include such provisions at the option of the participating tribe or tribes. If such provision is incorporated it shall have the same force and effect as if set out in full in title III or this part.

(Pub. L. 93–638, title IV, § 403, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4272; amended Pub. L. 104–109, § 19, Feb. 12, 1996, 110 Stat. 766; Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 106–568, title VIII, § 812(b), Dec. 27, 2000, 114 Stat. 2917.)

REFERENCES IN TEXT

Act of April 16, 1934, referred to in subsec. (b)(1)(A), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (b)(4)(A), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Office of Federal Procurement Policy Act, referred to in subsec. (e)(1), is Pub. L. 93–400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§ 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

This subchapter, referred to in subsecs. (e)(1), (g)(3), and (j), was in the original ''this Act'', meaning Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Title III of this Act, referred to in subsecs. (g)(2) and (*l*), is title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

The Act of July 3, 1952, referred to in subsec. (h)(2), is act July 3, 1952, ch. 549, 66 Stat. 323, which enacted section 82a of this title and provisions set out as a note under section 82a of this title.

Part A of this subchapter, referred to in subsec. (*l*), was in the original ''title I of this Act'', meaning title I of Pub. L. 93–638, known as the Indian Self-Determination Act, which is classified principally to part A (§ 450f et seq.) of this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

2000—Subsec. (h)(2). Pub. L. 106–568 struck out ''and'' before ''section 476 of this title'' and substituted ''and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply'' for ''shall not apply''.

1998—Subsec. (b)(4)(A). Pub. L. 105–244 substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

1996—Subsec. (*l*). Pub. L. 104–109 added subsec. (*l*).

CHANGE OF NAME

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

§ 458dd. Budget request

The Secretary shall identify, in the annual budget request of the President to the Congress under section 1105 of title 31 any funds proposed to be included in agreements authorized under this part.

(Pub. L. 93–638, title IV, § 404, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4275.)

§ 458ee. Reports

(a) Requirement

The Secretary shall submit to Congress a written report on January 1 of each year following October 25, 1994, regarding the administration of this part.

(b) Contents

The report shall—

(1) identify the relative costs and benefits of Self-Governance;

(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;

(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

(4) include the separate views of the tribes; and

(5) include the funding formula for individual tribal shares of Central Office funds, together with the comments of affected Indian tribes, developed under subsection (d) of this section.

(c) Report on non-BIA programs

(1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs, services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this part, the Secretary shall—

(A) review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, without regard to the agency or office concerned; and

(B) not later than 90 days after October 25, 1994, provide to the appropriate committees of Congress a listing of all such programs, services, functions, and activities, or portions thereof, that the Secretary determines, with the concurrence of tribes participating in Self-Governance under this part, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

(2) The Secretary shall establish programmatic targets, after consultation with tribes participating in Self-Governance under this part, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated under section 458cc of this title.

(3) The listing and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in Self-Governance under this part. The list shall be published before January 1, 1995, and annually thereafter by January 1 preceding the fiscal year in which the targets are to be met.

(4) Thereafter, the Secretary shall annually review and publish in the Federal Register, after consultation with tribes participating in Self-Governance under this part, a revised listing and programmatic targets.

(d) Report on Central Office funds

Within 90 days after October 25, 1994, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central Office of the Bureau of Indian Affairs for inclusion in the Self-Governance compacts. The Secretary shall include such formula in the annual report submitted to the Congress under subsection (b) of this section, together with the views of the affected Indian tribes.

(Pub. L. 93–638, title IV, § 405, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4276.)

§ 458ff. Disclaimers

(a) Other services, contracts, and funds

Nothing in this part shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 450f of this title or any other applicable Federal law.

(b) Federal trust responsibilities

Nothing in this subchapter shall be construed to diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

(c) Application of other sections of subchapter

All provisions of sections 450c(d), 450d, 450f(c), 450i, 450j(f), 450m–1, and 450n of this title shall apply to agreements provided under this part.

(Pub. L. 93–638, title IV, § 406, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4277; amended Pub. L. 105–277, div. A, § 101(e) [title I, § 133], Oct. 21, 1998, 112 Stat. 2681–231, 2681–264.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–277 inserted ''450c(d),'' after ''sections''.

§ 458gg. Regulations

(a) In general

Not later than 90 days after October 25, 1994, at the request of a majority of the Indian tribes with agreements under this part, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this part.

(b) Committee

A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this part.

(c) Adaptation of procedures

The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

(d) Effect

The lack of promulgated regulations shall not limit the effect of this part.

(Pub. L. 93–638, title IV, § 407, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4277.)

§ 458hh. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this part.

(Pub. L. 93–638, title IV, § 408, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4278.)

PART E—TRIBAL SELF-GOVERNANCE—INDIAN HEALTH SERVICE

CODIFICATION

This part is comprised of title V of Pub. L. 93–638, as added by Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 712. Another title V of Pub. L. 93–638 was added by Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2936, and is classified to part F (§ 458bbb et seq.) of this subchapter.

§ 458aaa. Definitions

(a) In general

In this part:

(1) Construction project

The term ''construction project''—

(A) means an organized noncontinuous undertaking to complete a specific set of

predetermined objectives for the planning, environmental determination, design, construction, repair, improvement, or expansion of buildings or facilities, as described in a construction project agreement; and

(B) does not include construction program administration and activities described in paragraphs (1) through (3) of section 450b(m) of this title, that may otherwise be included in a funding agreement under this part.

(2) Construction project agreement

The term ''construction project agreement'' means a negotiated agreement between the Secretary and an Indian tribe, that at a minimum—

(A) establishes project phase start and completion dates;

(B) defines a specific scope of work and standards by which it will be accomplished;

(C) identifies the responsibilities of the Indian tribe and the Secretary;

(D) addresses environmental considerations;

(E) identifies the owner and operations and maintenance entity of the proposed work;

(F) provides a budget;

(G) provides a payment process; and

(H) establishes the duration of the agreement based on the time necessary to complete the specified scope of work, which may be 1 or more years.

(3) Gross mismanagement

The term ''gross mismanagement'' means a significant, clear, and convincing violation of a compact, funding agreement, or regulatory, or statutory requirements applicable to Federal funds transferred to an Indian tribe by a compact or funding agreement that results in a significant reduction of funds available for the programs, services, functions, or activities (or portions thereof) assumed by an Indian tribe.

(4) Inherent Federal functions

The term ''inherent Federal functions'' means those Federal functions which cannot legally be delegated to Indian tribes.

(5) Inter-tribal consortium

The term ''inter-tribal consortium'' means a coalition of two[1] more separate Indian tribes that join together for the purpose of participating in self-governance, including tribal organizations.

(6) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(7) Self-governance

The term ''self-governance'' means the program of self-governance established under section 458aaa–1 of this title.

(8) Tribal share

The term ''tribal share'' means an Indian tribe's portion of all funds and resources that support secretarial programs, services, functions, and activities (or portions thereof) that are not required by the Secretary for performance of inherent Federal functions.

(b) Indian tribe

In any case in which an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this part, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this part). In such event, the term ''Indian tribe'' as used in this part shall include such other authorized Indian tribe, inter-tribal consortium, or tribal organization.

(Pub. L. 93–638, title V, § 501, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 712.)

CODIFICATION

Another section 501 of Pub. L. 93–638, as added by Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2936, is classified to section 458bbb of this title.

EFFECTIVE DATE

Pub. L. 106–260, § 13, Aug. 18, 2000, 114 Stat. 734, provided that: ''Except as otherwise provided, the provisions of this Act [enacting this part, amending sections 450f, 450j, and 450j–1 of this title, enacting provisions set out as notes under this section and sections 450 and 450f of this title, and repealing provisions set out as a note under section 450f of this title] shall take effect on the date of the enactment of this Act [Aug. 18, 2000].''

FINDINGS

Pub. L. 106–260, § 2, Aug. 18, 2000, 114 Stat. 711, provided that: ''Congress finds that—

''(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

''(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the Indian tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

''(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

''(4) the Tribal Self-Governance Demonstration Project, established under title III of the Indian Self-Determination and Education Assistance Act ([Pub. L. 93–638, former] 25 U.S.C. 450f note) was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management;

''(5) although the Federal Government has made considerable strides in improving Indian health care, it has failed to fully meet its trust responsibilities and to satisfy its obligations to the Indian tribes under treaties and other laws; and

''(6) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that transferring full control and funding to tribal governments, upon tribal request, over decision making for Federal programs, services, functions, and activities (or portions thereof)—

''(A) is an appropriate and effective means of implementing the Federal policy of government-to-government relations with Indian tribes; and

''(B) strengthens the Federal policy of Indian self-determination.''

DECLARATION OF POLICY

Pub. L. 106–260, § 3, Aug. 18, 2000, 114 Stat. 712, provided that: ''It is the policy of Congress—

[1] So in original. Probably should be followed by ''or''.

''(1) to permanently establish and implement tribal self-governance within the Department of Health and Human Services;

''(2) to call for full cooperation from the Department of Health and Human Services and its constituent agencies in the implementation of tribal self-governance—

''(A) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

''(B) to permit each Indian tribe to choose the extent of its participation in self-governance in accordance with the provisions of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] relating to the provision of Federal services to Indian tribes;

''(C) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

''(D) to affirm and enable the United States to fulfill its obligations to the Indian tribes under treaties and other laws;

''(E) to strengthen the government-to-government relationship between the United States and Indian tribes through direct and meaningful consultation with all tribes;

''(F) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority, control, funding, and discretion to plan, conduct, redesign, and administer programs, services, functions, and activities (or portions thereof) that meet the needs of the individual tribal communities;

''(G) to provide for a measurable parallel reduction in the Federal bureaucracy as programs, services, functions, and activities (or portion thereof) are assumed by Indian tribes;

''(H) to encourage the Secretary to identify all programs, services, functions, and activities (or portions thereof) of the Department of Health and Human Services that may be managed by an Indian tribe under this Act [see Short Title of 2000 Amendments note set out under section 450 of this title] and to assist Indian tribes in assuming responsibility for such programs, services, functions, and activities (or portions thereof); and

''(I) to provide Indian tribes with the earliest opportunity to administer programs, services, functions, and activities (or portions thereof) from throughout the Department of Health and Human Services.''

§ 458aaa–1. Establishment

The Secretary shall establish and carry out a program within the Indian Health Service of the Department of Health and Human Services to be known as the ''Tribal Self-Governance Program'' in accordance with this part.

(Pub. L. 93–638, title V, § 502, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 714.)

CODIFICATION

Another section 502 of Pub. L. 93–638, as added by Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2938, is classified to section 458bbb–1 of this title.

§ 458aaa–2. Selection of participating Indian tribes

(a) Continuing participation

Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project under title III[1] on August 18, 2000, may elect to participate in self-governance under this part under existing authority as reflected in tribal resolution.

(b) Additional participants

(1) In general

In addition to those Indian tribes participating in self-governance under subsection (a) of this section, each year an additional 50 Indian tribes that meet the eligibility criteria specified in subsection (c) of this section shall be entitled to participate in self-governance.

(2) Treatment of certain Indian tribes

(A) In general

An Indian tribe that has withdrawn from participation in an inter-tribal consortium or tribal organization, in whole or in part, shall be entitled to participate in self-governance provided the Indian tribe meets the eligibility criteria specified in subsection (c) of this section.

(B) Effect of withdrawal

If an Indian tribe has withdrawn from participation in an inter-tribal consortium or tribal organization, that Indian tribe shall be entitled to its tribal share of funds supporting those programs, services, functions, and activities (or portions thereof) that the Indian tribe will be carrying out under the compact and funding agreement of the Indian tribe.

(C) Participation in self-governance

In no event shall the withdrawal of an Indian tribe from an inter-tribal consortium or tribal organization affect the eligibility of the inter-tribal consortium or tribal organization to participate in self-governance.

(c) Applicant pool

(1) In general

The qualified applicant pool for self-governance shall consist of each Indian tribe that—

(A) successfully completes the planning phase described in subsection (d) of this section;

(B) has requested participation in self-governance by resolution or other official action by the governing body of each Indian tribe to be served; and

(C) has demonstrated, for 3 fiscal years, financial stability and financial management capability.

(2) Criteria for determining financial stability and financial management capacity

For purposes of this subsection, evidence that, during the 3-year period referred to in paragraph (1)(C), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

(d) Planning phase

Each Indian tribe seeking participation in self-governance shall complete a planning phase. The planning phase shall be conducted to the satisfaction of the Indian tribe and shall include—

[1] See References in Text note below.

(1) legal and budgetary research; and

(2) internal tribal government planning and organizational preparation relating to the administration of health care programs.

(e) Grants

Subject to the availability of appropriations, any Indian tribe meeting the requirements of paragraph (1)(B) and (C) of subsection (c) of this section shall be eligible for grants—

(1) to plan for participation in self-governance; and

(2) to negotiate the terms of participation by the Indian tribe or tribal organization in self-governance, as set forth in a compact and a funding agreement.

(f) Receipt of grant not required

Receipt of a grant under subsection (e) of this section shall not be a requirement of participation in self-governance.

(Pub. L. 93–638, title V, § 503, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 714.)

REFERENCES IN TEXT

Title III, referred to in subsec. (a), means title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

CODIFICATION

Another section 503 of Pub. L. 93–638, as added by Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2938, is classified to section 458bbb–2 of this title.

§ 458aaa–3. Compacts

(a) Compact required

The Secretary shall negotiate and enter into a written compact with each Indian tribe participating in self-governance in a manner consistent with the Federal Government's trust responsibility, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

(b) Contents

Each compact required under subsection (a) of this section shall set forth the general terms of the government-to-government relationship between the Indian tribe and the Secretary, including such terms as the parties intend shall control year after year. Such compacts may only be amended by mutual agreement of the parties.

(c) Existing compacts

An Indian tribe participating in the Tribal Self-Governance Demonstration Project under title III[1] on August 18, 2000, shall have the option at any time after August 18, 2000, to—

(1) retain the Tribal Self-Governance Demonstration Project compact of that Indian tribe (in whole or in part) to the extent that the provisions of that funding agreement are not directly contrary to any express provision of this part; or

(2) instead of retaining a compact or portion thereof under paragraph (1), negotiate a new compact in a manner consistent with the requirements of this part.

[1] See References in Text note below.

(d) Term and effective date

The effective date of a compact shall be the date of the approval and execution by the Indian tribe or another date agreed upon by the parties, and shall remain in effect for so long as permitted by Federal law or until terminated by mutual written agreement, retrocession, or reassumption.

(Pub. L. 93–638, title V, § 504, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 715.)

REFERENCES IN TEXT

Title III, referred to in subsec. (c), means title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

§ 458aaa–4. Funding agreements

(a) Funding agreement required

The Secretary shall negotiate and enter into a written funding agreement with each Indian tribe participating in self-governance in a manner consistent with the Federal Government's trust responsibility, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

(b) Contents

(1) In general

Each funding agreement required under subsection (a) of this section shall, as determined by the Indian tribe, authorize the Indian tribe to plan, conduct, consolidate, administer, and receive full tribal share funding, including tribal shares of discretionary Indian Health Service competitive grants (excluding congressionally earmarked competitive grants), for all programs, services, functions, and activities (or portions thereof), that are carried out for the benefit of Indians because of their status as Indians without regard to the agency or office of the Indian Health Service within which the program, service, function, or activity (or portion thereof) is performed.

(2) Inclusion of certain programs, services, functions, and activities

Such programs, services, functions, or activities (or portions thereof) include all programs, services, functions, activities (or portions thereof), including grants (which may be added to a funding agreement after an award of such grants), with respect to which Indian tribes or Indians are primary or significant beneficiaries, administered by the Department of Health and Human Services through the Indian Health Service and all local, field, service unit, area, regional, and central headquarters or national office functions so administered under the authority of—

(A) section 13 of this title;

(B) the Act of April 16, 1934 (48 Stat. 596; chapter 147; 25 U.S.C. 452 et seq.);

(C) the Act of August 5, 1954 (68 Stat. 674; chapter 658) [42 U.S.C. 2001 et seq.];

(D) the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

(E) the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.);

(F) any other Act of Congress authorizing any agency of the Department of Health and Human Services to administer, carry out, or provide financial assistance to such a program, service, function or activity (or portions thereof) described in this section that is carried out for the benefit of Indians because of their status as Indians; or

(G) any other Act of Congress authorizing such a program, service, function, or activity (or portions thereof) carried out for the benefit of Indians under which appropriations are made available to any agency other than an agency within the Department of Health and Human Services, in any case in which the Secretary administers that program, service, function, or activity (or portion thereof).

(c) Inclusion in compact or funding agreement

It shall not be a requirement that an Indian tribe or Indians be identified in the authorizing statute for a program or element of a program to be eligible for inclusion in a compact or funding agreement under this part.

(d) Funding agreement terms

Each funding agreement under this part shall set forth—

(1) terms that generally identify the programs, services, functions, and activities (or portions thereof) to be performed or administered; and

(2) for the items identified in paragraph (1)—

(A) the general budget category assigned;

(B) the funds to be provided, including those funds to be provided on a recurring basis;

(C) the time and method of transfer of the funds;

(D) the responsibilities of the Secretary; and

(E) any other provision with respect to which the Indian tribe and the Secretary agree.

(e) Subsequent funding agreements

Absent notification from an Indian tribe that is withdrawing or retroceding the operation of one or more programs, services, functions, or activities (or portions thereof) identified in a funding agreement, or unless otherwise agreed to by the parties, each funding agreement shall remain in full force and effect until a subsequent funding agreement is executed, and the terms of the subsequent funding agreement shall be retroactive to the end of the term of the preceding funding agreement.

(f) Existing funding agreements

Each Indian tribe participating in the Tribal Self-Governance Demonstration Project established under title III[1] on August 18, 2000, shall have the option at any time thereafter to—

(1) retain the Tribal Self-Governance Demonstration Project funding agreement of that Indian tribe (in whole or in part) to the extent that the provisions of that funding agreement are not directly contrary to any express provision of this part; or

(2) instead of retaining a funding agreement or portion thereof under paragraph (1), negotiate a new funding agreement in a manner consistent with the requirements of this part.

(g) Stable base funding

At the option of an Indian tribe, a funding agreement may provide for a stable base budget specifying the recurring funds (including, for purposes of this provision, funds available under section 450j–1(a) of this title) to be transferred to such Indian tribe, for such period as may be specified in the funding agreement, subject to annual adjustment only to reflect changes in congressional appropriations by sub-sub activity excluding earmarks.

(Pub. L. 93–638, title V, § 505, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 716.)

REFERENCES IN TEXT

Act of April 16, 1934, referred to in subsec. (b)(2)(B), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

Act of August 5, 1954, referred to in subsec. (b)(2)(C), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

The Indian Health Care Improvement Act, referred to in subsec. (b)(2)(D), is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, referred to in subsec. (b)(2)(E), is subtitle C of title IV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–137, as amended, which is classified generally to chapter 26 (§ 2401 et seq.) of this title. For complete classification of subtitle C to the Code, see Short Title note set out under section 2401 of this title and Tables.

Title III, referred to in subsec. (f), means title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

§ 458aaa–5. General provisions

(a) Applicability

The provisions of this section shall apply to compacts and funding agreements negotiated under this part and an Indian tribe may, at its option, include provisions that reflect such requirements in a compact or funding agreement.

(b) Conflicts of interest

Indian tribes participating in self-governance under this part shall ensure that internal measures are in place to address conflicts of interest in the administration of self-governance programs, services, functions, or activities (or portions thereof).

(c) Audits

(1) Single Agency Audit Act

The provisions of chapter 75 of title 31 requiring a single agency audit report shall apply to funding agreements under this part.

[1] See References in Text note below.

(2) Cost principles

An Indian tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by section 450j–1 of this title[1] other provisions of law, or by any exemptions to applicable Office of Management and Budget circulars subsequently granted by the Office of Management and Budget. No other audit or accounting standards shall be required by the Secretary. Any claim by the Federal Government against the Indian tribe relating to funds received under a funding agreement based on any audit under this subsection shall be subject to the provisions of section 450j–1(f) of this title.

(d) Records

(1) In general

Unless an Indian tribe specifies otherwise in the compact or funding agreement, records of the Indian tribe shall not be considered Federal records for purposes of chapter 5 of title 5.

(2) Recordkeeping system

The Indian tribe shall maintain a recordkeeping system, and, after 30 days advance notice, provide the Secretary with reasonable access to such records to enable the Department of Health and Human Services to meet its minimum legal recordkeeping system requirements under sections 3101 through 3106 of title 44.

(e) Redesign and consolidation

An Indian tribe may redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a funding agreement under section 458aaa–4 of this title and reallocate or redirect funds for such programs, services, functions, and activities (or portions thereof) in any manner which the Indian tribe deems to be in the best interest of the health and welfare of the Indian community being served, only if the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under applicable Federal law.

(f) Retrocession

An Indian tribe may retrocede, fully or partially, to the Secretary programs, services, functions, or activities (or portions thereof) included in the compact or funding agreement. Unless the Indian tribe rescinds the request for retrocession, such retrocession will become effective within the timeframe specified by the parties in the compact or funding agreement. In the absence of such a specification, such retrocession shall become effective on—

(1) the earlier of—

(A) 1 year after the date of submission of such request; or

(B) the date on which the funding agreement expires; or

(2) such date as may be mutually agreed upon by the Secretary and the Indian tribe.

[1] So in original.

(g) Withdrawal

(1) Process

(A) In general

An Indian tribe may fully or partially withdraw from a participating inter-tribal consortium or tribal organization its share of any program, function, service, or activity (or portions thereof) included in a compact or funding agreement.

(B) Effective date

The withdrawal referred to in subparagraph (A) shall become effective within the timeframe specified in the resolution which authorizes transfer to the participating tribal organization or inter-tribal consortium. In the absence of a specific timeframe set forth in the resolution, such withdrawal shall become effective on—

(i) the earlier of—

(I) 1 year after the date of submission of such request; or

(II) the date on which the funding agreement expires; or

(ii) such date as may be mutually agreed upon by the Secretary, the withdrawing Indian tribe, and the participating tribal organization or inter-tribal consortium that has signed the compact or funding agreement on behalf of the withdrawing Indian tribe, inter-tribal consortium, or tribal organization.

(2) Distribution of funds

When an Indian tribe or tribal organization eligible to enter into a self-determination contract under part A of this subchapter or a compact or funding agreement under this part fully or partially withdraws from a participating inter-tribal consortium or tribal organization—

(A) the withdrawing Indian tribe or tribal organization shall be entitled to its tribal share of funds supporting those programs, services, functions, or activities (or portions thereof) that the Indian tribe will be carrying out under its own self-determination contract or compact and funding agreement (calculated on the same basis as the funds were initially allocated in the funding agreement of the inter-tribal consortium or tribal organization); and

(B) the funds referred to in subparagraph (A) shall be transferred from the funding agreement of the inter-tribal consortium or tribal organization, on the condition that the provisions of sections 450f and 450j(i) of this title, as appropriate, shall apply to that withdrawing Indian tribe.

(3) Regaining mature contract status

If an Indian tribe elects to operate all or some programs, services, functions, or activities (or portions thereof) carried out under a compact or funding agreement under this part through a self-determination contract under part A of this subchapter, at the option of the Indian tribe, the resulting self-determination contract shall be a mature self-determination contract.

(h) Nonduplication

For the period for which, and to the extent to which, funding is provided under this part or under the compact or funding agreement, the Indian tribe shall not be entitled to contract with the Secretary for such funds under section 450f of this title, except that such Indian tribe shall be eligible for new programs on the same basis as other Indian tribes.

(Pub. L. 93–638, title V, § 506, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 717.)

§ 458aaa–6. Provisions relating to the Secretary

(a) Mandatory provisions

(1) Health status reports

Compacts or funding agreements negotiated between the Secretary and an Indian tribe shall include a provision that requires the Indian tribe to report on health status and service delivery—

(A) to the extent such data is not otherwise available to the Secretary and specific funds for this purpose are provided by the Secretary under the funding agreement; and

(B) if such reporting shall impose minimal burdens on the participating Indian tribe and such requirements are promulgated under section 458aaa–16 of this title.

(2) Reassumption

(A) In general

Compacts or funding agreements negotiated between the Secretary and an Indian tribe shall include a provision authorizing the Secretary to reassume operation of a program, service, function, or activity (or portions thereof) and associated funding if there is a specific finding relative to that program, service, function, or activity (or portion thereof) of—

(i) imminent endangerment of the public health caused by an act or omission of the Indian tribe, and the imminent endangerment arises out of a failure to carry out the compact or funding agreement; or

(ii) gross mismanagement with respect to funds transferred to a tribe by a compact or funding agreement, as determined by the Secretary in consultation with the Inspector General, as appropriate.

(B) Prohibition

The Secretary shall not reassume operation of a program, service, function, or activity (or portions thereof) unless—

(i) the Secretary has first provided written notice and a hearing on the record to the Indian tribe; and

(ii) the Indian tribe has not taken corrective action to remedy the imminent endangerment to public health or gross mismanagement.

(C) Exception

(i) In general

Notwithstanding subparagraph (B), the Secretary may, upon written notification to the Indian tribe, immediately reassume operation of a program, service, function, or activity (or portion thereof) if—

(I) the Secretary makes a finding of imminent substantial and irreparable endangerment of the public health caused by an act or omission of the Indian tribe; and

(II) the endangerment arises out of a failure to carry out the compact or funding agreement.

(ii) Reassumption

If the Secretary reassumes operation of a program, service, function, or activity (or portion thereof) under this subparagraph, the Secretary shall provide the Indian tribe with a hearing on the record not later than 10 days after such reassumption.

(D) Hearings

In any hearing or appeal involving a decision to reassume operation of a program, service, function, or activity (or portion thereof), the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence the validity of the grounds for the reassumption.

(b) Final offer

In the event the Secretary and a participating Indian tribe are unable to agree, in whole or in part, on the terms of a compact or funding agreement (including funding levels), the Indian tribe may submit a final offer to the Secretary. Not more than 45 days after such submission, or within a longer time agreed upon by the Indian tribe, the Secretary shall review and make a determination with respect to such offer. In the absence of a timely rejection of the offer, in whole or in part, made in compliance with subsection (c) of this section, the offer shall be deemed agreed to by the Secretary.

(c) Rejection of final offers

(1) In general

If the Secretary rejects an offer made under subsection (b) of this section (or one or more provisions or funding levels in such offer), the Secretary shall provide—

(A) a timely written notification to the Indian tribe that contains a specific finding that clearly demonstrates, or that is supported by a controlling legal authority, that—

(i) the amount of funds proposed in the final offer exceeds the applicable funding level to which the Indian tribe is entitled under this part;

(ii) the program, function, service, or activity (or portion thereof) that is the subject of the final offer is an inherent Federal function that cannot legally be delegated to an Indian tribe;

(iii) the Indian tribe cannot carry out the program, function, service, or activity (or portion thereof) in a manner that would not result in significant danger or risk to the public health; or

(iv) the Indian tribe is not eligible to participate in self-governance under section 458aaa–2 of this title;

(B) technical assistance to overcome the objections stated in the notification required by subparagraph (A);

(C) the Indian tribe with a hearing on the record with the right to engage in full discovery relevant to any issue raised in the matter and the opportunity for appeal on the objections raised, except that the Indian tribe may, in lieu of filing such appeal, directly proceed to initiate an action in a Federal district court pursuant to section 450m–1(a) of this title; and

(D) the Indian tribe with the option of entering into the severable portions of a final proposed compact or funding agreement, or provision thereof, (including a lesser funding amount, if any), that the Secretary did not reject, subject to any additional alterations necessary to conform the compact or funding agreement to the severed provisions.

(2) Effect of exercising certain option

If an Indian tribe exercises the option specified in paragraph (1)(D), that Indian tribe shall retain the right to appeal the Secretary's rejection under this section, and subparagraphs (A), (B), and (C) of that paragraph shall only apply to that portion of the proposed final compact, funding agreement, or provision thereof that was rejected by the Secretary.

(d) Burden of proof

With respect to any hearing or appeal or civil action conducted pursuant to this section, the Secretary shall have the burden of demonstrating by clear and convincing evidence the validity of the grounds for rejecting the offer (or a provision thereof) made under subsection (b) of this section.

(e) Good faith

In the negotiation of compacts and funding agreements the Secretary shall at all times negotiate in good faith to maximize implementation of the self-governance policy. The Secretary shall carry out this part in a manner that maximizes the policy of tribal self-governance, in a manner consistent with the purposes specified in section 3 of the Tribal Self-Governance Amendments of 2000.

(f) Savings

To the extent that programs, functions, services, or activities (or portions thereof) carried out by Indian tribes under this part reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of tribal shares and other funds determined under section 458aaa–7(c) of this title, the Secretary shall make such savings available to the Indian tribes, inter-tribal consortia, or tribal organizations for the provision of additional services to program beneficiaries in a manner equitable to directly served, contracted, and compacted programs.

(g) Trust responsibility

The Secretary is prohibited from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions.

(h) Decisionmaker

A decision that constitutes final agency action and relates to an appeal within the Department of Health and Human Services conducted under subsection (c) of this section shall be made either—

(1) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

(2) by an administrative judge.

(Pub. L. 93–638, title V, § 507, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 719.)

REFERENCES IN TEXT

Section 3 of the Tribal Self-Governance Amendments of 2000, referred to in subsec. (e), is section 3 of Pub. L. 106–260, which is set out as a note under section 458aaa of this title.

§ 458aaa–7. Transfer of funds

(a) In general

Pursuant to the terms of any compact or funding agreement entered into under this part, the Secretary shall transfer to the Indian tribe all funds provided for in the funding agreement, pursuant to subsection (c) of this section, and provide funding for periods covered by joint resolution adopted by Congress making continuing appropriations, to the extent permitted by such resolutions. In any instance where a funding agreement requires an annual transfer of funding to be made at the beginning of a fiscal year, or requires semiannual or other periodic transfers of funding to be made commencing at the beginning of a fiscal year, the first such transfer shall be made not later than 10 days after the apportionment of such funds by the Office of Management and Budget to the Department, unless the funding agreement provides otherwise.

(b) Multiyear funding

The Secretary is authorized to employ, upon tribal request, multiyear funding agreements. References in this part to funding agreements shall include such multiyear funding agreements.

(c) Amount of funding

The Secretary shall provide funds under a funding agreement under this part in an amount equal to the amount that the Indian tribe would have been entitled to receive under self-determination contracts under this subchapter, including amounts for direct program costs specified under section 450j–1(a)(1) of this title and amounts for contract support costs specified under section 450j–1(a) (2), (3), (5), and (6) of this title, including any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian tribe or its members, all without regard to the organizational level within the Department where such functions are carried out.

(d) Prohibitions

(1) In general

Except as provided in paragraph (2), the Secretary is expressly prohibited from—

(A) failing or refusing to transfer to an Indian tribe its full share of any central, head-

quarters, regional, area, or service unit office or other funds due under this subchapter, except as required by Federal law;

(B) withholding portions of such funds for transfer over a period of years; and

(C) reducing the amount of funds required under this subchapter—

(i) to make funding available for self-governance monitoring or administration by the Secretary;

(ii) in subsequent years, except pursuant to—

(I) a reduction in appropriations from the previous fiscal year for the program or function to be included in a compact or funding agreement;

(II) a congressional directive in legislation or accompanying report;

(III) a tribal authorization;

(IV) a change in the amount of pass-through funds subject to the terms of the funding agreement; or

(V) completion of a project, activity, or program for which such funds were provided;

(iii) to pay for Federal functions, including Federal pay costs, Federal employee retirement benefits, automated data processing, technical assistance, and monitoring of activities under this subchapter; or

(iv) to pay for costs of Federal personnel displaced by self-determination contracts under this subchapter or self-governance;

(2) Exception

The funds described in paragraph (1)(C) may be increased by the Secretary if necessary to carry out this subchapter or as provided in section 450j(c)(2) of this title.

(e) Other resources

In the event an Indian tribe elects to carry out a compact or funding agreement with the use of Federal personnel, Federal supplies (including supplies available from Federal warehouse facilities), Federal supply sources (including lodging, airline transportation, and other means of transportation including the use of interagency motor pool vehicles) or other Federal resources (including supplies, services, and resources available to the Secretary under any procurement contracts in which the Department is eligible to participate), the Secretary shall acquire and transfer such personnel, supplies, or resources to the Indian tribe.

(f) Reimbursement to Indian Health Service

With respect to functions transferred by the Indian Health Service to an Indian tribe, the Indian Health Service shall provide goods and services to the Indian tribe, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received from those goods and services, along with the funds received from the Indian tribe pursuant to this part, may be credited to the same or subsequent appropriation account which provided the funding, such amounts to remain available until expended.

(g) Prompt Payment Act

Chapter 39 of title 31 shall apply to the transfer of funds due under a compact or funding agreement authorized under this part.

(h) Interest or other income on transfers

An Indian tribe is entitled to retain interest earned on any funds paid under a compact or funding agreement to carry out governmental or health purposes and such interest shall not diminish the amount of funds the Indian tribe is authorized to receive under its funding agreement in the year the interest is earned or in any subsequent fiscal year. Funds transferred under this part shall be managed using the prudent investment standard.

(i) Carryover of funds

All funds paid to an Indian tribe in accordance with a compact or funding agreement shall remain available until expended. In the event that an Indian tribe elects to carry over funding from 1 year to the next, such carryover shall not diminish the amount of funds the Indian tribe is authorized to receive under its funding agreement in that or any subsequent fiscal year.

(j) Program income

All Medicare, Medicaid, or other program income earned by an Indian tribe shall be treated as supplemental funding to that negotiated in the funding agreement. The Indian tribe may retain all such income and expend such funds in the current year or in future years except to the extent that the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) provides otherwise for Medicare and Medicaid receipts. Such funds shall not result in any offset or reduction in the amount of funds the Indian tribe is authorized to receive under its funding agreement in the year the program income is received or for any subsequent fiscal year.

(k) Limitation of costs

An Indian tribe shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds transferred under a compact or funding agreement. If at any time the Indian tribe has reason to believe that the total amount provided for a specific activity in the compact or funding agreement is insufficient the Indian tribe shall provide reasonable notice of such insufficiency to the Secretary. If the Secretary does not increase the amount of funds transferred under the funding agreement, the Indian tribe may suspend performance of the activity until such time as additional funds are transferred.

(Pub. L. 93–638, title V, § 508, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 722.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (c) and (d), was in the original ''this Act'', meaning Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (j), is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

§ 458aaa–8. Construction projects

(a) In general

Indian tribes participating in tribal self-governance may carry out construction projects under this part if they elect to assume all Federal responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and related provisions of law that would apply if the Secretary were to undertake a construction project, by adopting a resolution—

(1) designating a certifying officer to represent the Indian tribe and to assume the status of a responsible Federal official under such laws; and

(2) accepting the jurisdiction of the Federal court for the purpose of enforcement of the responsibilities of the responsible Federal official under such environmental laws.

(b) Negotiations

Construction project proposals shall be negotiated pursuant to the statutory process in section 450j(m) of this title and resulting construction project agreements shall be incorporated into funding agreements as addenda.

(c) Codes and standards

The Indian tribe and the Secretary shall agree upon and specify appropriate building codes and architectural and engineering standards (including health and safety) which shall be in conformity with nationally recognized standards for comparable projects.

(d) Responsibility for completion

The Indian tribe shall assume responsibility for the successful completion of the construction project in accordance with the negotiated construction project agreement.

(e) Funding

Funding for construction projects carried out under this part shall be included in funding agreements as annual advance payments, with semiannual payments at the option of the Indian tribe. Annual advance and semiannual payment amounts shall be determined based on mutually agreeable project schedules reflecting work to be accomplished within the advance payment period, work accomplished and funds expended in previous payment periods, and the total prior payments. The Secretary shall include associated project contingency funds with each advance payment installment. The Indian tribe shall be responsible for the management of the contingency funds included in funding agreements.

(f) Approval

The Secretary shall have at least one opportunity to approve project planning and design documents prepared by the Indian tribe in advance of construction of the facilities specified in the scope of work for each negotiated construction project agreement or amendment thereof which results in a significant change in the original scope of work. The Indian tribe shall provide the Secretary with project progress and financial reports not less than semiannually. The Secretary may conduct on-site project oversight visits semiannually or on an alternate schedule agreed to by the Secretary and the Indian tribe.

(g) Wages

All laborers and mechanics employed by contractors and subcontractors (excluding tribes and tribal organizations) in the construction, alteration, or repair, including painting or decorating of a building or other facilities in connection with construction projects funded by the United States under this subchapter shall be paid wages at not less than those prevailing wages on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. With respect to construction alteration, or repair work to which sections 3141–3144, 3146, and 3147 of title 40 are applicable under this section, the Secretary of Labor shall have the authority and functions set forth in the Reorganization Plan numbered 14, of 1950, and section 3145 of title 40.

(h) Application of other laws

Unless otherwise agreed to by the Indian tribe, no provision of the Office of Federal Procurement Policy Act [41 U.S.C. 401 et seq.], the Federal Acquisition Regulations issued pursuant thereto, or any other law or regulation pertaining to Federal procurement (including Executive orders) shall apply to any construction project conducted under this part.

(Pub. L. 93–638, title V, § 509, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 724.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The National Historic Preservation Act, referred to in subsec. (a), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of Title 16, Conservation. For complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

Reorganization Plan numbered 14, of 1950, referred to in subsec. (g), is set out in the Appendix to Title 5, Government Organization and Employees.

The Office of Federal Procurement Policy Act, referred to in subsec. (h), is Pub. L. 93–400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§ 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

CODIFICATION

In subsec. (g), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494)'', ''sections 3141–3144, 3146, and 3147 of title 40 are'' substituted for ''the Act of March 3, 1931, is'', and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934 (48 Stat. 948)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 458aaa–9. Federal procurement laws and regulations

Regarding construction programs or projects, the Secretary and Indian tribes may negotiate

for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act (41 U.S.C. 401 et seq.) and Federal acquisition regulations in any funding agreement entered into under this part. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

(Pub. L. 93–638, title V, § 510, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 726.)

REFERENCES IN TEXT

The Office of Federal Procurement and Policy Act, referred to in text, probably means the Office of Federal Procurement Policy Act, Pub. L. 93–400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§ 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

§ 458aaa–10. Civil actions

(a) Contract defined

For the purposes of section 450m–1 of this title, the term ''contract'' shall include compacts and funding agreements entered into under this part.

(b) Applicability of certain laws

Section 81 of this title and section 476 of this title, shall not apply to attorney and other professional contracts entered into by Indian tribes participating in self-governance under this part.

(c) References

All references in this subchapter to section 501 of this title are hereby deemed to include section 82a of this title.

(Pub. L. 93–638, title V, § 511, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 726.)

§ 458aaa–11. Facilitation

(a) Secretarial interpretation

Except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive orders, and regulations in a manner that will facilitate—

(1) the inclusion of programs, services, functions, and activities (or portions thereof) and funds associated therewith, in the agreements entered into under this section;

(2) the implementation of compacts and funding agreements entered into under this part; and

(3) the achievement of tribal health goals and objectives.

(b) Regulation waiver

(1) In general

An Indian tribe may submit a written request to waive application of a regulation promulgated under section 458aaa–16 of this title or the authorities specified in section 458aaa–4(b) of this title for a compact or funding agreement entered into with the Indian Health Service under this part, to the Secretary identifying the applicable Federal regulation sought to be waived and the basis for the request.

(2) Approval

Not later than 90 days after receipt by the Secretary of a written request by an Indian tribe to waive application of a regulation for a compact or funding agreement entered into under this part, the Secretary shall either approve or deny the requested waiver in writing. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law. A failure to approve or deny a waiver request not later than 90 days after receipt shall be deemed an approval of such request. The Secretary's decision shall be final for the Department.

(c) Access to Federal property

In connection with any compact or funding agreement executed pursuant to this part or an agreement negotiated under the Tribal Self-Governance Demonstration Project established under title III,[1] as in effect before August 18, 2000, upon the request of an Indian tribe, the Secretary—

(1) shall permit an Indian tribe to use existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon by the Secretary and the Indian tribe for their use and maintenance;

(2) may donate to an Indian tribe title to any personal or real property found to be excess to the needs of any agency of the Department, or the General Services Administration, except that—

(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the compact or funding agreement or purchased with funds under any compact or funding agreement shall, unless otherwise requested by the Indian tribe, vest in the appropriate Indian tribe;

(B) if property described in subparagraph (A) has a value in excess of $5,000 at the time of retrocession, withdrawal, or reassumption, at the option of the Secretary upon the retrocession, withdrawal, or reassumption, title to such property and equipment shall revert to the Department of Health and Human Services; and

(C) all property referred to in subparagraph (A) shall remain eligible for replacement, maintenance, and improvement on the same basis as if title to such property were vested in the United States; and

(3) shall acquire excess or surplus Government personal or real property for donation to an Indian tribe if the Secretary determines the property is appropriate for use by the Indian tribe for any purpose for which a compact or funding agreement is authorized under this part.

(d) Matching or cost-participation requirement

All funds provided under compacts, funding agreements, or grants made pursuant to this

[1] See References in Text note below.

subchapter, shall be treated as non-Federal funds for purposes of meeting matching or cost participation requirements under any other Federal or non-Federal program.

(e) State facilitation

States are hereby authorized and encouraged to enact legislation, and to enter into agreements with Indian tribes to facilitate and supplement the initiatives, programs, and policies authorized by this part and other Federal laws benefiting Indians and Indian tribes.

(f) Rules of construction

Each provision of this part and each provision of a compact or funding agreement shall be liberally construed for the benefit of the Indian tribe participating in self-governance and any ambiguity shall be resolved in favor of the Indian tribe.

(Pub. L. 93–638, title V, § 512, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 726.)

REFERENCES IN TEXT

Title III, referred to in subsec. (c), means title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

§ 458aaa–12. Budget request

(a) Requirement of annual budget request

(1) In general

The President shall identify in the annual budget request submitted to Congress under section 1105 of title 31 all funds necessary to fully fund all funding agreements authorized under this part, including funds specifically identified to fund tribal base budgets. All funds so appropriated shall be apportioned to the Indian Health Service. Such funds shall be provided to the Office of Tribal Self-Governance which shall be responsible for distribution of all funds provided under section 458aaa–4 of this title.

(2) Rule of construction

Nothing in this subsection shall be construed to authorize the Indian Health Service to reduce the amount of funds that a self-governance tribe is otherwise entitled to receive under its funding agreement or other applicable law, whether or not such funds are apportioned to the Office of Tribal Self-Governance under this section.

(b) Present funding; shortfalls

In such budget request, the President shall identify the level of need presently funded and any shortfall in funding (including direct program and contract support costs) for each Indian tribe, either directly by the Secretary of Health and Human Services, under self-determination contracts, or under compacts and funding agreements authorized under this part.

(Pub. L. 93–638, title V, § 513, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 727.)

§ 458aaa–13. Reports

(a) Annual report

(1) In general

Not later than January 1 of each year after August 18, 2000, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives a written report regarding the administration of this part.

(2) Analysis

The report under paragraph (1) shall include a detailed analysis of the level of need being presently funded or unfunded for each Indian tribe, either directly by the Secretary, under self-determination contracts under part A of this subchapter, or under compacts and funding agreements authorized under this subchapter. In compiling reports pursuant to this section, the Secretary may not impose any reporting requirements on participating Indian tribes or tribal organizations, not otherwise provided in this subchapter.

(b) Contents

The report under subsection (a) of this section shall—

(1) be compiled from information contained in funding agreements, annual audit reports, and data of the Secretary regarding the disposition of Federal funds; and

(2) identify—

(A) the relative costs and benefits of self-governance;

(B) with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to self-governance Indian tribes and their members;

(C) the funds transferred to each self-governance Indian tribe and the corresponding reduction in the Federal bureaucracy;

(D) the funding formula for individual tribal shares of all headquarters funds, together with the comments of affected Indian tribes or tribal organizations, developed under subsection (c) of this section; and

(E) amounts expended in the preceding fiscal year to carry out inherent Federal functions, including an identification of those functions by type and location;

(3) contain a description of the method or methods (or any revisions thereof) used to determine the individual tribal share of funds controlled by all components of the Indian Health Service (including funds assessed by any other Federal agency) for inclusion in self-governance compacts or funding agreements;

(4) before being submitted to Congress, be distributed to the Indian tribes for comment (with a comment period of no less than 30 days, beginning on the date of distribution); and

(5) include the separate views and comments of the Indian tribes or tribal organizations.

(c) Report on fund distribution method

Not later than 180 days after August 18, 2000, the Secretary shall, after consultation with Indian tribes, submit a written report to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate that describes the method or methods used to determine the individual tribal share of funds controlled by all components of the Indian Health Service (including funds assessed by any

other Federal agency) for inclusion in self-governance compacts or funding agreements.

(Pub. L. 93–638, title V, § 514, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 728.)

§ 458aaa–14. Disclaimers

(a) No funding reduction

Nothing in this part shall be construed to limit or reduce in any way the funding for any program, project, or activity serving an Indian tribe under this or other applicable Federal law. Any Indian tribe that alleges that a compact or funding agreement is in violation of this section may apply the provisions of section 450m–1 of this title.

(b) Federal trust and treaty responsibilities

Nothing in this subchapter shall be construed to diminish in any way the trust responsibility of the United States to Indian tribes and individual Indians that exists under treaties, Executive orders, or other laws and court decisions.

(c) Obligations of the United States

The Indian Health Service under this subchapter shall neither bill nor charge those Indians who may have the economic means to pay for services, nor require any Indian tribe to do so.

(Pub. L. 93–638, title V, § 515, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 729.)

§ 458aaa–15. Application of other sections of this subchapter

(a) Mandatory application

All provisions of sections 450c(b), 450d, 450e, 450f(c) and (d), 450i, 450j(k) and (*l*), 450j–1(a) through (k), and 450n of this title and section 314 of Public Law 101–512 (coverage under chapter 171 of title 28, commonly known as the ''Federal Tort Claims Act''), to the extent not in conflict with this part, shall apply to compacts and funding agreements authorized by this part.

(b) Discretionary application

At the request of a participating Indian tribe, any other provision of part A of this subchapter, to the extent such provision is not in conflict with this part, shall be made a part of a funding agreement or compact entered into under this part. The Secretary is obligated to include such provision at the option of the participating Indian tribe or tribes. If such provision is incorporated it shall have the same force and effect as if it were set out in full in this part. In the event an Indian tribe requests such incorporation at the negotiation stage of a compact or funding agreement, such incorporation shall be deemed effective immediately and shall control the negotiation and resulting compact and funding agreement.

(Pub. L. 93–638, title V, § 516, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 729.)

REFERENCES IN TEXT

Section 314 of Pub. L. 101–512, referred to in subsec. (a), is section 314 of Pub. L. 101–512, as amended, which is set out as a note under section 450f of this title.

§ 458aaa–16. Regulations

(a) In general

(1) Promulgation

Not later than 90 days after August 18, 2000, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this part.

(2) Publication of proposed regulations

Proposed regulations to implement this part shall be published in the Federal Register by the Secretary no later than 1 year after August 18, 2000.

(3) Expiration of authority

The authority to promulgate regulations under paragraph (1) shall expire 21 months after August 18, 2000.

(b) Committee

(1) In general

A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representatives of Indian tribes with funding agreements under this subchapter.

(2) Requirements

The committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

(c) Adaptation of procedures

The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

(d) Effect

The lack of promulgated regulations shall not limit the effect of this part.

(e) Effect of circulars, policies, manuals, guidances, and rules

Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Indian Health Service, except for the eligibility provisions of section 450j(g) of this title and regulations promulgated under this section.

(Pub. L. 93–638, title V, § 517, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 730.)

§ 458aaa–17. Appeals

In any appeal (including civil actions) involving decisions made by the Secretary under this part, the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence—

(1) the validity of the grounds for the decision made; and

(2) that the decision is fully consistent with provisions and policies of this part.

(Pub. L. 93–638, title V, § 518, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 730.)

§ 458aaa–18. Authorization of appropriations

(a) In general

There are authorized to be appropriated such sums as may be necessary to carry out this part.

(b) Availability of appropriations

Notwithstanding any other provision of this subchapter, the provision of funds under this subchapter shall be subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe in order to make funds available to another tribe or tribal organization under this subchapter.

(Pub. L. 93–638, title V, § 519, as added Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 731.)

PART F—NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION

CODIFICATION

This part is comprised of title V of Pub. L. 93–638, as added by Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2936, as amended. Another title V of Pub. L. 93–638 was added by Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 712, and is classified to part E (§ 458aaa et seq.) of this subchapter.

§ 458bbb. National Fund for Excellence in American Indian Education

(a) In general

As soon as practicable after December 27, 2000, the Secretary of the Interior shall establish, under the laws of the District of Columbia and in accordance with this part, a foundation to be known as the ''National Fund for Excellence in American Indian Education'' (hereinafter referred to as the ''Foundation'').

(b) Perpetual existence

Except as otherwise provided, the Foundation shall have perpetual existence.

(c) Nature of corporation

The Foundation shall be a charitable and nonprofit federally chartered corporation and shall not be an agency or instrumentality of the United States.

(d) Place of incorporation and domicile

The Foundation shall be incorporated and domiciled in the District of Columbia.

(e) Purposes

The purposes of the Foundation shall be—

(1) to encourage, accept, and administer private gifts of real and personal property or any income therefrom or other interest therein for the benefit of, or in support of, the mission of the Office of Indian Education Programs of the Bureau of Indian Affairs (or its successor office);

(2) to undertake and conduct such other activities as will further the educational opportunities of American Indians who attend a Bureau funded school; and

(3) to participate with, and otherwise assist, Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the educational opportunities of American Indians attending Bureau funded schools.

(f) Board of Directors

(1) In general

The Board of Directors shall be the governing body of the Foundation. The Board may exercise, or provide for the exercise of, the powers of the Foundation.

(2) Selection

The number of members of the Board, the manner of their selection (including the filling of vacancies), and their terms of office shall be as provided in the constitution and bylaws of the Foundation. However, the Board shall have at least 11 members, two of whom shall be the Secretary and the Assistant Secretary of the Interior for Indian Affairs, who shall serve as ex officio nonvoting members, and the initial voting members of the Board shall be appointed by the Secretary not later than 6 months after the date that the Foundation is established and shall have staggered terms (as determined by the Secretary).

(3) Qualification

The members of the Board shall be United States citizens who are knowledgeable or experienced in American Indian education and shall, to the extent practicable, represent diverse points of view relating to the education of American Indians.

(4) Compensation

Members of the Board shall not receive compensation for their services as members, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) Officers

(1) In general

The officers of the Foundation shall be a secretary, elected from among the members of the Board, and any other officers provided for in the constitution and bylaws of the Foundation.

(2) Secretary of Foundation

The secretary shall serve, at the direction of the Board, as its chief operating officer and shall be knowledgeable and experienced in matters relating to education in general and education of American Indians in particular.

(3) Election

The manner of election, term of office, and duties of the officers shall be as provided in the constitution and bylaws of the Foundation.

(h) Powers

The Foundation—

(1) shall adopt a constitution and bylaws for the management of its property and the regulation of its affairs, which may be amended;

(2) may adopt and alter a corporate seal;

(3) may make contracts, subject to the limitations of this subchapter;

(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real

or personal property as necessary or convenient to carry out the purposes of the Foundation;

(5) may sue and be sued; and

(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

(i) Principal office

The principal office of the Foundation shall be in the District of Columbia. However, the activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

(j) Service of process

The Foundation shall comply with the law on service of process of each State in which it is incorporated and of each State in which the Foundation carries on activities.

(k) Liability of officers and agents

The Foundation shall be liable for the acts of its officers and agents acting within the scope of their authority. Members of the Board are personally liable only for gross negligence in the performance of their duties.

(*l*) Restrictions

(1) Limitation on spending

Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation may not exceed 10 percent of the sum of—

(A) the amounts transferred to the Foundation under subsection (m) of this section during the preceding fiscal year; and

(B) donations received from private sources during the preceding fiscal year.

(2) Appointment and hiring

The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

(3) Status

Members of the Board, and the officers, employees, and agents of the Foundation are not, by reason of their association with the Foundation, officers, employees, or agents of the United States.

(m) Transfer of donated funds

The Secretary may transfer to the Foundation funds held by the Department of the Interior under section 451 of this title, if the transfer or use of such funds is not prohibited by any term under which the funds were donated.

(n) Audits

The Foundation shall comply with the audit requirements set forth in section 10101 of title 36, as if it were a corporation in part B of subtitle II of that title.

(Pub. L. 93–638, title V, § 501, as added Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2936; amended Pub. L. 108–267, § 1(a),(b)(2), July 2, 2004, 118 Stat. 797.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (h)(3), was in the original ''this Act'', meaning Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (§ 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

CODIFICATION

Another section 501 of Pub. L. 93–638, as added by Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 712, is classified to section 458aaa of this title.

AMENDMENTS

2004—Pub. L. 108–267, § 1(b)(2), substituted ''National Fund for Excellence in American Indian Education'' for ''American Indian Education Foundation'' in section catchline.

Subsec. (a). Pub. L. 108–267, § 1(a), substituted ''a foundation to be known as the 'National Fund for Excellence in American Indian Education' (hereinafter referred to as the 'Foundation')'' for ''the American Indian Education Foundation''.

§ 458bbb–1. Administrative services and support

(a) Provision of support by Secretary

Subject to subsection (b) of this section, during the 5-year period beginning on the date that the Foundation is established, the Secretary—

(1) may provide personnel, facilities, and other administrative support services to the Foundation;

(2) may provide funds to reimburse the travel expenses of the members of the Board under section 458bbb of this title; and

(3) shall require and accept reimbursements from the Foundation for any—

(A) services provided under paragraph (1); and

(B) funds provided under paragraph (2).

(b) Reimbursement

Reimbursements accepted under subsection (a)(3) of this section shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing services described in subsection (a)(1) of this section and the travel expenses described in subsection (a)(2) of this section.

(c) Continuation of certain services

Notwithstanding any other provision of this section, the Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) of this section, on a space available, reimbursable cost basis.

(Pub. L. 93–638, title V, § 502, as added Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2938.)

CODIFICATION

Another section 502 of Pub. L. 93–638, as added by Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 714, is classified to section 458aaa–1 of this title.

§ 458bbb–2. Definitions

For the purposes of this part—

(1) the term ''Bureau funded school'' has the meaning given that term in title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.];

(2) the term ''Foundation'' means the Foundation established by the Secretary pursuant to section 458bbb of this title; and

(3) the term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 93–638, title V, § 503, as added Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2938.)

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in par. (1), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§ 2000 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20, Education, and Tables.

CODIFICATION

Another section 503 of Pub. L. 93–638, as added by Pub. L. 106–260, § 4, Aug. 18, 2000, 114 Stat. 714, is classified to section 458aaa–2 of this title.

[SUBCHAPTER III—RESERVED]

SUBCHAPTER IV—CONVEYANCE OF SUBMARGINAL LAND

§ 459. Submarginal lands of United States held in trust for specified Indian tribes

(a) Declaration; addition to reservations

Except as hereinafter provided, all of the right, title, and interest of the United States of America in all of the land, and the improvements now thereon, that was acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now administered by the Secretary of the Interior for the use or benefit of the Indian tribes identified in section 459a(a) of this title, together with all minerals underlying any such land whether acquired pursuant to such Acts or otherwise owned by the United States, are hereby declared to be held by the United States in trust for each of said tribes, and (except in the case of the Cherokee Nation) shall be a part of the reservations heretofore established for each of said tribes.

(b) Imposition of conditions on conveyed lands; lands excepted from conveying authority

The property conveyed by this subchapter shall be subject to the appropriation or disposition of any of the lands, or interests therein, within the Pine Ridge Indian Reservation, South Dakota, as authorized by sections 441j to 441*o* of title 16, and subject to a reservation in the United States of a right to prohibit or restrict improvements or structures on, and to continuously or intermittently inundate or otherwise use, lands in sections 25 and 26, township 48 north, range 3 west, at Odanah, Wisconsin, in connection with the Bad River flood control project as authorized by section 203 of the Act of July 3, 1958 (72 Stat. 297, 311): *Provided*, That this subchapter shall not convey the title to any part of the lands or any interest therein that prior to October 17, 1975, have been included in the authorized water resources development projects in the Missouri River Basin as authorized by section 203 of the Act of July 3, 1958 (72 Stat. 297, 311), as amended and supplemented: *Provided further*, That such lands included in Missouri River Basin projects shall be treated as former trust lands are treated.

(c) Additional lands held in trust for specified Indian tribes

The right, title, and interest of the United States of America in all of the lands, including the improvements now thereon (title to which is in the United States), acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and any subsequent Emergency Relief Appropriation Acts, including but not limited to section 5 of the Emergency Relief Appropriation Act of 1939 (53 Stat. 927, 930) and section 4 of the Emergency Relief Appropriation Act, fiscal year 1941 (54 Stat. 611, 617), together with all minerals underlying any such land whether acquired pursuant to such Acts or otherwise owned by the United States, and which lands are now administered by the Secretary of the Interior for the use or benefit of (1) Ramah Navajo Indians, are hereby declared to be held in trust for the Ramah Band of the Navajo Tribe, and (2) Choctaw Indians of Mississippi, except lands subject to the Act of June 21, 1939 (53 Stat. 851), are hereby declared to be held in trust for the Mississippi Band of Choctaw Indians; excepting valid rights-of-way of record.

(Pub. L. 94–114, § 1, Oct. 17, 1975, 89 Stat. 577; Pub. L. 97–434, § 1(a), Jan. 8, 1983, 96 Stat. 2280.)

REFERENCES IN TEXT

The National Industrial Recovery Act, referred to in subsecs. (a) and (c), is act June 16, 1933, ch. 90, 48 Stat. 195, as amended. Title II of the Act was classified principally to subchapter I (§ 401 et seq.) of chapter 8 of former Title 40, Public Buildings, Property, and Works, and was terminated June 30, 1943 by act June 27, 1942, ch. 450, § 1, 56 Stat. 410. Provisions of title II of the Act which were classified to former Title 40 were repealed by Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304. For complete classification of this Act to the Code, see Tables.

Emergency Relief Appropriation Act of April 8, 1935, referred to in subsec. (a), is act Apr. 8, 1935, ch. 48, 49 Stat. 115, which was not classified to the Code but was listed in the Supplementary Legislation note under section 721 of Title 15, Commerce and Trade.

Section 55 of the Act of August 24, 1935, referred to in subsec. (a), is act Aug. 24, 1935, ch. 641, § 55, 49 Stat. 781, as amended, which was not classified to the Code but was listed in the Supplementary Legislation note under section 721 of Title 15.

Section 203 of the Act of July 3, 1958, referred to in subsec. (b), is section 203 of Pub. L. 85–500, July 3, 1958, 72 Stat. 311, which was not classified to the Code.

Section 5 of the Emergency Relief Appropriation Act of 1939, referred to in subsec. (c), is act June 30, 1939, ch. 252, § 5, 53 Stat. 930, which was not classified to the Code.

Section 4 of the Emergency Relief Appropriation Act, fiscal year 1941, referred to in subsec. (c), is act June 26, 1940, ch. 432, § 4, 54 Stat. 617, which was not classified to the Code.

Act of June 21, 1939, referred to in subsec. (c), is act June 21, 1939, ch. 235, 53 Stat. 851, which was not classified to the Code.

AMENDMENTS

1983—Subsec. (c). Pub. L. 97–434 added subsec. (c).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 1(c) of Pub. L. 97–434 provided that: ''The amendments made by this Act [amending this section

and section 459a of this title] shall be effective upon enactment of this Act [Jan. 8, 1983].''

§ 459a. Designation of tribes

(a) Description of lands

The lands, declared by section 459(a) of this title to be held in trust by the United States for the benefit of the Indian tribes named in this section, are generally described as follows:

Tribe	Reservation	Submarginal land project donated to said tribe or group	Approximate acreage
1. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.	Bad River	Bad River LI–WI–8	13,148.81
2. Blackfeet Tribe	Blackfeet	Blackfeet LI–MT–9	9,036.73
3. Cherokee Nation of Oklahoma		Delaware LI–OK–4	18,749.19
		Adair LI–OK–5	
4. Cheyenne River Sioux Tribe	Cheyenne River	Cheyenne Indian LI–SD–13	3,738.47
5. Crow Creek Sioux Tribe	Crow Creek	Crow Creek LI–SD–10	19,169.89
6. Lower Brule Sioux Tribe	Lower Brule	Lower Brule LI–SD–10	13,209.22
7. Devils Lake Sioux Tribe	Fort Totten	Fort Totten LI–ND–11	1,424.45
8. Fort Belknap Indian Community	Fort Belknap	Fort Belknap LI–MT–8	25,530.10
9. Assiniboine and Sioux Tribes	Fort Peck	Fort Peck LI–MT–6	85,835.52
10. Lac Courte Oreilles Band of Lake Superior Chippewa Indians	Lac Courte Oreilles	Lac Courte LI–WI–9	13,184.65
11. Keweenaw Bay Indian Community	L'Anse	L'Anse LI–MI–8	4,016.49
12. Minnesota Chippewa Tribe	White Earth	Twin Lakes LI–MN–6	28,544.80
		Flat Lake LI–MN–15	
13. Navajo Tribe	Navajo	Gallup-Two Wells LI–NM–18	69,947.24
14. Oglala Sioux Tribe	Pine Ridge	Pine Ridge LI–SD–7	18,064.48
15. Rosebud Sioux Tribe	Rosebud	Cutmeat LI–SD–8	28,734.59
		Antelope LI–SD–9	
16. Shoshone-Bannock Tribes	Fort Hall	Fort Hall LI–ID–2	8,711.00
17. Standing Rock Sioux Tribe	Standing Rock	Standing Rock LI–ND–10	10,255.50
		Standing Rock LI–SD–10	

(b) Publication in Federal Register of boundaries, etc.; estimation of acreages

The Secretary of the Interior shall cause to be published in the Federal Register the boundaries and descriptions of the lands conveyed by this subchapter. The acreages set out in the preceding subsection are estimates and shall not be construed as expanding or limiting the grant of the United States as defined in section 459 of this title.

(Pub. L. 94–114, § 2, Oct. 17, 1975, 89 Stat. 578; Pub. L. 97–434, § 1(b), Jan. 8, 1983, 96 Stat. 2280.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 97–434 substituted ''section 459(a) of this title'' for ''section 459 of this title''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–434 effective Jan. 8, 1983, see section 1(c) of Pub. L. 97–434, set out as a note under section 459 of this title.

§ 459b. Submarginal lands of United States held in trust for Stockbridge Munsee Indian Community

All of the right, title, and interest of the United States in all the minerals including gas and oil underlying the submarginal lands declared to be held in trust for the Stockbridge Munsee Indian Community by the Act of October 9, 1972 (86 Stat. 795), are hereby declared to be held by the United States in trust for the Stockbridge Munsee Indian Community.

(Pub. L. 94–114, § 3(a), Oct. 17, 1975, 89 Stat. 578.)

REFERENCES IN TEXT

Act of October 9, 1972, referred to in text, is Pub. L. 92–480, Oct. 9, 1972, 86 Stat. 795, which was not classified to the Code.

CODIFICATION

Section is comprised of section 3(a) of Pub. L. 94–114. Section 3(b) of Pub. L. 94–114 repealed section 2 of Pub. L. 92–480, which related to claims offset involving the Stockbridge Munsee Indian Community and was not classified to the Code. Section 3(c) of Pub. L. 94–114 amended section 5 of Pub. L. 92–488, which related to claims offset involving the Burns Indian Colony and was not classified to the Code.

§ 459c. Existing rights of possession, contract, interest, etc.

(a) Preservation; force and effect of mineral leases; rejection of pending applications for leases and return of advance rental payments

Nothing in this subchapter shall deprive any person of any existing valid right of possession, contract right, interest, or title he may have in the land involved, or of any existing right of access to public domain lands over and across the land involved, as determined by the Secretary of the Interior. All existing mineral leases, including oil and gas leases, which may have been issued or approved pursuant to section 5 of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (61 Stat. 913, 915) [30 U.S.C. 354], or the Mineral Leasing Act of 1920 (41 Stat. 437) [30 U.S.C. 181 et seq.], as amended prior to October 17, 1975, shall remain in force and effect in accordance with the provisions thereof. All applications for mineral leases, including oil and gas leases, pursuant to such Acts, pending on October 17, 1975, and covering any of the minerals conveyed by sections 459 and 459b of this title shall be rejected and the advance rental payments returned to the applicants.

(b) Administration of lands

Subject to the provisions of subsection (a) of this section, the property conveyed by this subchapter shall hereafter be administered in accordance with the laws and regulations applicable to property held in trust by the United States for Indian tribes, including but not limited to sections 396a to 396g of this title.

(Pub. L. 94–114, § 4, Oct. 17, 1975, 89 Stat. 578.)

REFERENCES IN TEXT

The Mineral Leasing Act of 1920, referred to in subsec. (a), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

§ 459d. Gross receipts from conveyed lands

(a) Deposit to credit of tribe; nonapplicability

Any and all gross receipts derived from, or which relate to, the property conveyed by this subchapter, the Act of July 20, 1956 (70 Stat. 581), the Act of August 2, 1956 (70 Stat. 941), the Act of October 9, 1972 (86 Stat. 795), and section 1 of the Act of October 13, 1972 (86 Stat. 806) which were received by the United States subsequent to its acquisition by the United States under the statutes cited in section 459 of this title and prior to such conveyance, from whatever source and for whatever purpose, including but not limited to the receipts in the special fund of the Treasury as required by section 6 of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (61 Stat. 913, 915) [30 U.S.C. 355], shall as of October 17, 1975, be deposited to the credit of the Indian tribe receiving such land and may be expended by the tribe for such beneficial programs as the tribal governing body may determine: *Provided*, That this section shall not apply to any such receipts received prior to October 17, 1975, from the leasing of public domain minerals which were subject to the Mineral Leasing Act of 1920 (41 Stat. 437) [30 U.S.C. 181 et seq.], as amended and supplemented.

(b) Administration of gross receipts

All gross receipts (including but not limited to bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit or lease referred to in section 459c(a) of this title, or otherwise, shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

(Pub. L. 94–114, § 5, Oct. 17, 1975, 89 Stat. 579.)

REFERENCES IN TEXT

Act of July 20, 1956, referred to in subsec. (a), is act July 20, 1956, ch. 645, 70 Stat. 581, as amended, which is set out as a note under section 465 of this title. For complete classification of this Act to the Code, see Tables.

Act of August 2, 1956, referred to in subsec. (a), is act Aug. 2, 1956, ch. 886, 70 Stat. 941, which was not classified to the Code.

Act of October 9, 1972, referred to in subsec. (a), is Pub. L. 92–480, Oct. 9, 1972, 86 Stat. 795, which was not classified to the Code.

Section 1 of the Act of October 13, 1972, referred to in subsec. (a), is section 1 of Pub. L. 92–488, Oct. 13, 1972, 86 Stat. 806, which was not classified to the Code.

For statutes cited in section 459 of this title, referred to in subsec. (a), see text of such section and References in Text note set out thereunder.

The Mineral Leasing Act of 1920, referred to in subsec. (a), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

§ 459e. Tax exemption for conveyed lands and gross receipts; distribution of gross receipts to tribal members

All property conveyed to tribes pursuant to this subchapter and all the receipts therefrom referred to in section 459d of this title, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income, resources, or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act [42 U.S.C. 301 et seq.] or any other Federal or federally assisted program.

(Pub. L. 94–114, § 6, Oct. 17, 1975, 89 Stat. 579.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SUBCHAPTER V—PROTECTION OF INDIANS AND CONSERVATION OF RESOURCES

§ 461. Allotment of land on Indian reservations

On and after June 18, 1934, no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severalty to any Indian.

(June 18, 1934, ch. 576, § 1, 48 Stat. 984.)

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–204, § 1(a), Mar. 2, 2004, 118 Stat. 542, provided that: "This Act [amending sections 476, 640d–24, and 712e of this title and provisions set out as notes under section 301 of Title 7, Agriculture, section 7420 of Title 10, Armed Forces, and section 431 of Title 16, Conservation] may be cited as the 'Native American Technical Corrections Act of 2004'."

SHORT TITLE

Act June 18, 1934, which enacted this section and sections 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478, and 479 of this title, is popularly known as the "Indian Reorganization Act".

§ 462. Existing periods of trust and restrictions on alienation extended

The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are extended and continued until otherwise directed by Congress.

(June 18, 1934, ch. 576, § 2, 48 Stat. 984.)

§ 462a. Omitted

CODIFICATION

Section, act Apr. 11, 1940, ch. 80, 54 Stat. 106, related to reimposition and extension of trust period on lands of Crow Reservation.

§ 463. Restoration of lands to tribal ownership

(a) Protection of existing rights

The Secretary of the Interior, if he shall find it to be in the public interest, is authorized to

restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: *Provided, however*, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: *Provided further*, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation.

(b) Papago Indians; permits for easements, etc.

(1), (2) Repealed. May 27, 1955, ch. 106, § 1, 69 Stat. 67.

(3) Water reservoirs, charcos, water holes, springs, wells, or any other form of water development by the United States or the Papago Indians shall not be used for mining purposes under the terms of this Act, except under permit from the Secretary of the Interior approved by the Papago Indian Council: *Provided*, That nothing herein shall be construed as interfering with or affecting the validity of the water rights of the Indians of this reservation: *Provided further*, That the appropriation of living water heretofore or hereafter affected, by the Papago Indians is recognized and validated subject to all the laws applicable thereto.

(4) Nothing herein contained shall restrict the granting or use of permits for easements or rights-of-way; or ingress or egress over the lands for all proper and lawful purposes.

(June 18, 1934, ch. 576, § 3, 48 Stat. 984; Aug. 28, 1937, ch. 866, 50 Stat. 862; May 27, 1955, ch. 106, § 1, 69 Stat. 67.)

REFERENCES IN TEXT

''Heretofore'', referred to in subsec. (a), means before June 18, 1934.

The public-land laws of the United States, referred to in subsec. (a), are classified generally to Title 43, Public Lands.

This Act, referred to in subsecs. (a) and (b)(3), is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

AMENDMENTS

1955—Subsec. (b)(1). Act May 27, 1955, repealed par. (1) which restored lands of Papago Indian Reservation to exploration and location.

Subsec. (b)(2). Act May 27, 1955, repealed par. (2) which required person desiring a mineral patent to pay $1 per acre in lieu of annual rental.

Subsec. (b)(4). Act May 27, 1955, struck out provisions relating to authority to issue or promulgate rules or regulations in conflict with Executive Order of Feb. 1, 1917 or act of Feb. 21, 1931 (46 Stat. 1202).

1937—Subsec. (a). Act Aug. 28, 1937, designated existing provisions of first par. as subsec. (a).

Subsec. (b)(1). Act Aug. 28, 1937, designated existing provisions of first par. as par. (1), substituted ''damages shall be paid to the superintendent or other officer in charge of the reservation for the credit of the owner thereof'' for ''damages shall be paid to the Papago Tribe'' and ''to be the fair and reasonable value of such improvement'' for ''but not to exceed the cost of said improvements'' and struck out ''and payments derived from damages or rentals shall be deposited in the Treasury of the United States to the credit of the Papago Tribe'' after ''mining operations,''.

Subsec. (b)(2). Act Aug. 28, 1937, designated existing provisions of first par. as par. (2), inserted ''pay to the superintendent or other officer in charge of the reservation, for'' before ''deposit'', substituted ''*Provided*, That an applicant for patent shall also pay to the Secretary or other officer in charge of the said reservation for the credit of the owner'' for ''*Provided further*, That patentee shall also pay into the Treasury of the United States to the credit of the Papago Tribe'' substituted ''but the sum thus deposited, except for a deduction of rental at the annual rate hereinbefore provided, shall be refunded to the applicant in the event that patent is not acquired'' for ''the payment of $1.00 per acre for surface use to be refunded to patentee in the event that patent is not acquired'' after ''determination by the Secretary of the Interior, but not to exceed the cost thereof''.

Subsec. (b)(3). Act Aug. 28, 1937, added par. (3).

Subsec. (b)(4). Act Aug. 28, 1937, designated second par. as par. (4).

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of the Interior and functions of all agencies and employees of Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of those officers, agencies, and employees, by Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

RESTORATION OF VACANT AND UNDISPOSED-OF CEDED LANDS IN CERTAIN INDIAN RESERVATIONS

Pub. L. 85–420, May 19, 1958, 72 Stat. 121, provided: ''That all lands now or hereafter classified as vacant and undisposed-of ceded lands (including townsite lots) on the following named Indian reservations are hereby restored to tribal ownership, subject to valid existing rights:

Reservation and State	*Approximate acreage*
Klamath River, California	159.57
Coeur d'Alene, Idaho	12,877.65
Crow, Montana	10,260.95
Fort Peck, Montana	41,450.13
Spokane, Washington	5,451.00

Provided, That such restoration shall not apply to any lands while they are within reclamation projects heretofore authorized.

''SEC. 2. Title to the lands restored to tribal ownership by this Act shall be held by the United States in trust for the respective tribe or tribes, and such lands are hereby added to and made a part of the existing reservations for such tribe or tribes.

''SEC. 3. The lands restored to tribal ownership by this Act may be sold or exchanged by the tribe, with the approval of the Secretary of the Interior.''

PAPAGO INDIAN RESERVATION

Section 1 of act May 27, 1955, provided: ''That the provisions with respect to subjection of mineral lands within the Papago Indian Reservation to exploration, location, and entry under the mining laws of the United States in the Executive order dated February 1, 1917, creating the Papago Indian Reservation, and in the third proviso in section 1 of the Act of February 21, 1931 (46 Stat. 1202), and the provisions of subsection (b)(1) and (2) and of the remainder, following the word 'purposes', of subsection (b)(4) of section 3 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461–479), as amended by the Act of August 28, 1937 (50 Stat. 862, 863; 25 U.S.C. 463) [this section], are hereby repealed, all tribal lands within the Papago Indian Reservation are hereby withdrawn from all forms of exploration, location, and entry under such laws, the minerals underlying such lands are hereby made a part of the reservation to be held in trust by the United States for the Papago Indian Tribe, and such minerals shall be subject to lease for mining purposes pursuant to the provisions of the

Act of May 11, 1938 (52 Stat. 347) [sections 396a to 396g of this title]: *Provided*, That the provisions of this Act shall not be applicable to lands within the Papago Indian Reservation for which a mineral patent has heretofore been issued or to a claim that has been validly initiated before the date of this Act and thereafter maintained under the mining laws of the United States.''

§ 463a. Extension of boundaries of Papago Indian Reservation

Whenever all privately owned lands except mining claims within the following-described area have been purchased and acquired as authorized in sections 463b and 463c of this title, the boundary of the Papago Indian Reservation in Arizona shall be extended to include the west half of section 4; west half of section 9, township 17 south, range 8 east; all of township 18 south, range 2 west, all of fractional township 19 south, range 2 west; and all of fractional townships 18 and 19 south, range 3 west, except sections 6, 7, 18, 19, 30, and 31 in township 18 south, range 3 west, Gila and Salt River meridian. This extension shall not affect any valid rights initiated prior to July 28, 1937, nor the reservation of a strip of land sixty feet wide along the United States-Mexico boundary made by proclamation of the President dated May 27, 1907 (35 Stat. 2136). The lands herein described when added to the Papago Indian Reservation as provided in sections 463a to 463c of this title shall become a part of said reservation in all respects and upon all the same terms as if said lands had been included in the Executive order issued by the President on February 1, 1917: *Provided*, That lands acquired under sections 463a to 463c of this title shall remain tribal lands and shall not be subject to allotment to individual Indians.

(July 28, 1937, ch. 527, § 1, 50 Stat. 536.)

§ 463b. Purchase of private lands; limitations

The Secretary of the Interior is authorized to purchase for the use and benefit of the Papago Indians with any available funds heretofore or hereafter appropriated, pursuant to authority contained in section 465 of this title, all privately owned lands, water rights, and reservoir site reserves within townships 18 and 19 south, ranges 2 and 3 west, together with all grazing privileges and including improvements upon public lands appurtenant to the so-called Menager Dam property, at the appraised value of $40,016.37.

(July 28, 1937, ch. 527, § 2, 50 Stat. 536.)

§ 463c. Gift of lands by Arizona

The State of Arizona may relinquish in favor of the Papago Indians such tracts within the townships referred to in section 463a of this title as it may see fit and shall have the right to select other unreserved and nonmineral public lands within the State of Arizona equal in area to those relinquished, said lieu selections to be made in the same manner as is provided for in the Enabling Act of June 20, 1910 (36 Stat. 558), or in the discretion of the State of Arizona under the provisions of section 315g of title 43. The payment of fees or commissions is waived in all lieu selections made pursuant to this section.

(July 28, 1937, ch. 527, § 3, 50 Stat. 536.)

REFERENCES IN TEXT

The Enabling Act of June 20, 1910, referred to in text, probably means act June 20, 1910, ch. 310, 36 Stat. 557, which provided that, subject to certain limitations, lieu selections of land in Arizona are to be made pursuant to sections 851 and 852 of Title 43, Public Lands.

Section 315g of title 43, referred to in text, was repealed by Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792.

§ 463d. Restoration of lands in Umatilla Indian Reservation to tribal ownership

The Secretary of the Interior is authorized in his discretion to restore to tribal ownership the undisposed of surplus lands of the Umatilla Indian Reservation, Oregon, heretofore opened to entry or other form of disposal under the public-land laws: *Provided*, That restoration shall be subject to any existing valid rights.

(Aug. 10, 1939, ch. 662, § 1, 53 Stat. 1351.)

REFERENCES IN TEXT

The public-land laws, referred to in text, are classified generally to Title 43, Public Lands.

INHERITANCE OF TRUST OR RESTRICTED LANDS

Pub. L. 95–264, Apr. 18, 1978, 92 Stat. 202, provided: ''That the right to inherit trust or restricted land on the Umatilla Indian Reservation, to the extent that the laws of descent of the State of Oregon are inconsistent herewith, shall be as provided herein.

''SEC. 2. When any Indian dies leaving any interest in trust or restricted land within the Umatilla Reservation and not having lawfully devised the same, such interest shall descend in equal shares to his or her children and to the issue of any deceased child by right of representation; and if there is no child of the decedent living at the time of his or her death, such interests shall descend to his or her other lineal descendants; and if such descendants are in the same degree of kindred to the intestate, they shall take such real property equally, or otherwise they shall take according to the right of representation. An interest taken hereunder shall be subject to the right of a surviving spouse as provided in section 3.

''SEC. 3. The surviving spouse of any Indian who dies leaving any interest in trust or restricted land within the Umatilla Reservation shall be entitled to obtain a one-half interest in all such trust or restricted interests in land during his or her lifetime.

''SEC. 4. If any Indian, who leaves any interest in trust or restricted land within the Umatilla Reservation, makes provisions for his or her surviving spouse by an approved will, such surviving spouse shall have an election whether to take the provisions as made in such will or to take the interest as set forth in section 3 of this Act, but such surviving spouse shall not be entitled to both unless it plainly appears by the will to have been so intended by the testator. When any surviving spouse is entitled to an election under this section, he or she shall be deemed to have elected to take the provisions as made in such will unless, at or prior to the first hearing to probate the will, he or she has elected to take under section 3 of this Act and not under the will.

''SEC. 5. The provisions of this Act shall apply to all estates of decedents who die on or after the date of enactment of this Act [Apr. 18, 1978].''

CONVEYANCE OF LANDS TO STIMULATE INDUSTRIAL DEVELOPMENT

Pub. L. 85–186, Aug. 28, 1957, 71 Stat. 468, provided: ''That, upon request of any Indian tribe, group, or corporate entity, and approval of the request by the Sec-

retary of the Interior as provided in this Act, the Administrator of the General Services Administration is authorized to transfer, without cost to such Indian tribe, group, or corporate entity, title to any property of the United States at the McNary Dam townsite, Umatilla, Oregon, or at Pickstown, South Dakota, that is declared surplus pursuant to the Federal Property and Administrative Services Act of 1949 (Act of June 30, 1949; 63 Stat. 378), as amended [now chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and title III of the Act of June 30, 1949 (41 U.S.C. 251 et seq.)]. Such property shall not be exempt from taxation because of the fact that title is held by the Indian tribe, group, or corporate entity.

''SEC. 2. The Secretary of the Interior shall approve a request for surplus property pursuant to this Act only if—

''(a) the Indian tribe, group, or corporate entity is organized under State or Federal law in a form satisfactory to the Secretary for the purpose of holding title to the property;

''(b) the surplus property is to be used to stimulate industrial development near the Indian tribe, band, group, or reservations;

''(c) the Indian tribe, group, or corporate entity has executed a contract with an industrial enterprise that is acceptable to the Secretary;

''(d) the contract between the Indian tribe, group, or corporate entity and the industrial enterprise contains such provisions as the Secretary deems desirable, including in substance the following:

''(1) Title to the property will remain in the Indian tribe, group, or corporate entity, and the property will be made available to the industrial enterprise at a rental fee commensurate with the purposes of this Act, which rental shall be paid to the United States Treasury.

''(2) The industrial enterprise will employ Indians in large enough numbers to justify, in the judgment of the Secretary, the purposes of this Act.

''(3) The industrial enterprise will agree to pay its employees fair and equitable wages commensurate with the general wage scale in the area.

''(4) The industrial enterprise will maintain the property in good repair, pay all taxes properly assessed against the property, and be responsible for the payment of all charges for utility services to the property.

''(5) At the end of the contract period the industry will have an option to purchase the property at its appraised price, as determined by the Secretary, the proceeds of such sale will revert to the United States Treasury.

''SEC. 3. Any transfer of title to surplus property pursuant to this Act shall provide for a reversion of title to the United States if the Secretary of the Interior finds that the property is not being used in accordance with the provisions of the Act.

''SEC. 4. The United States shall not be responsible for providing to the Indians who are employed in an industrial development pursuant to this Act community services that are normally furnished by State and local governments, such as school, health, welfare, and law-enforcement services.

''SEC. 5. The transfer of McNary Dam townsite shall be upon the express condition that persons or families occupying residential property on the date of the enactment of this Act [Aug. 28, 1957] shall be entitled to at least one hundred and eighty days' notice of termination of their occupancy.''

§ 463e. Exchanges of land

For the purpose of effecting land consolidations between Indians and non-Indians within the reservation, the Secretary of the Interior is authorized, under such rules and regulations as he may prescribe, to acquire through purchase, exchange, or relinquishment, any interest in lands, water rights, or surface rights to lands within said reservation. Exchanges of lands hereunder shall be made on the basis of equal value and the value of improvements on lands to be relinquished to the Indians or by Indians to non-Indians shall be given due consideration and allowance made therefor in the valuation of lieu lands. This section shall apply to tribal, trust, or otherwise restricted Indian allotments whether the allottee be living or deceased.

(Aug. 10, 1939, ch. 662, § 2, 53 Stat. 1351.)

§ 463f. Title to lands

Title to lands or any interest therein acquired pursuant to sections 463d to 463g of this title for Indian use shall be taken in the name of the United States of America in trust for the tribe or individual Indian for which acquired.

(Aug. 10, 1939, ch. 662, § 3, 53 Stat. 1351.)

§ 463g. Use of funds appropriated under section 465

For the purpose of carrying into effect the land-purchase provision of sections 463d to 463g of this title, the Secretary of the Interior is authorized to use so much as may be necessary of any funds heretofore or hereafter appropriated pursuant to section 465 of this title.

(Aug. 10, 1939, ch. 662, § 4, 53 Stat. 1351.)

§ 464. Transfer and exchange of restricted Indian lands and shares of Indian tribes and corporations

Except as provided in this Act, no sale, devise, gift, exchange, or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized under this Act shall be made or approved: *Provided*, That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived, or to a successor corporation: *Provided further*, That, subject to section 8(b) of the American Indian Probate Reform Act of 2004 (Public Law 108–374; 25 U.S.C. 2201 note), lands and shares described in the preceding proviso shall descend or be devised to any member of an Indian tribe or corporation described in that proviso or to an heir or lineal descendant of such a member in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), including a tribal probate code approved, or regulations promulgated under, that Act: *Provided further*, That the Secretary of the Interior may authorize any voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in the judgment of the Secretary, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.

(June 18, 1934, ch. 576, § 4, 48 Stat. 985; Pub. L. 96–363, § 1, Sept. 26, 1980, 94 Stat. 1207; Pub. L. 106–462, title I, § 106(c), Nov. 7, 2000, 114 Stat. 2007; Pub. L. 108–374, § 6(d), Oct. 27, 2004, 118 Stat. 1805; Pub. L. 109–157, § 8(b), Dec. 30, 2005, 119 Stat. 2952; Pub. L. 109–221, title V, § 501(b)(1), May 12, 2006, 120 Stat. 343.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

The Indian Land Consolidation Act, referred to in text, is title II of Pub. L. 97–459, Jan. 12, 1983, 96 Stat. 2517, as amended, which is classified generally to chapter 24 (§ 2201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

AMENDMENTS

2006—Pub. L. 109–221 amended section catchline and text generally. Prior to amendment, text related to transfer and exchange of restricted Indian land and shares of Indian tribes and corporations.

2005—Pub. L. 109–157 amended section catchline and text generally. Prior to amendment, text related to transfer of restricted Indian lands or shares in assets of Indian tribes or corporation and exchange of lands.

2004—Pub. L. 108–374, § 6(d)(1), (2), in first proviso, struck out ", in accordance with the then existing laws of the State, or Federal laws where applicable, in which said lands are located or in which the subject matter of the corporation is located," after "descend or be devised" and ", except as provided by the Indian Land Consolidation Act, any other Indian person for whom the Secretary of the Interior determines that the United States may hold land in trust:" after "lineal descendants of such member or".

Pub. L. 108–374, § 6(d)(3), which directed insertion of "in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):" in first proviso without specifying where the insertion was to be made, was executed by making the insertion at end of first proviso, to reflect the probable intent of Congress.

2000—Pub. L. 106–462, which directed the amendment of this section by substituting "member or, except as provided by the Indian Land Consolidation Act," for "member or:", was executed by making the substitution for "member or" before "any other Indian person" to reflect the probable intent of Congress because the phrase "member or:" did not appear in text.

1980—Pub. L. 96–363, which directed the amendment of the first proviso of this section by substituting "or any heirs or lineal descendants of such member or any other Indian person for whom the Secretary of the Interior determines that the United States may hold land in trust" for "or any heirs of such members", was executed by making the substitution for "or any heirs of such member" to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–221 effective as if included in the enactment of Pub. L. 108–374, see section 501(c) of Pub. L. 109–221, set out as a note under section 348 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–157, § 9, Dec. 30, 2005, 119 Stat. 2953, provided that: "The amendments made by this Act [amending this section, sections 2204 to 2206, 2212, 2214, and 2216 of this title and provisions set out as a note under section 2201 of this title] shall be effective as if included in the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374)."

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–374 applicable on and after the date that is 1 year after June 20, 2005, see section 8(b) of Pub. L. 108–374, as amended, set out as a Notice; Effective Date of 2004 Amendment note under section 2201 of this title.

§ 465. Acquisition of lands, water rights or surface rights; appropriation; title to lands; tax exemption

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in lands, water rights, and surface rights, and for expenses incident to such acquisition, there is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed $2,000,000 in any one fiscal year: *Provided*, That no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona, nor in New Mexico, in the event that legislation to define the exterior boundaries of the Navajo Indian Reservation in New Mexico, and for other purposes, or similar legislation, becomes law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

(June 18, 1934, ch. 576, § 5, 48 Stat. 985; Pub. L. 100–581, title II, § 214, Nov. 1, 1988, 102 Stat. 2941.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of July 28, 1955, referred to in text, is act July 28, 1955, ch. 423, 69 Stat. 392, as amended, which is classified to sections 608 to 608c of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1988—Pub. L. 100–581 inserted "or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.)" after "this Act".

PAYSON BAND, YAVAPAI-APACHE INDIAN RESERVATION

Pub. L. 92–470, Oct. 6, 1972, 86 Stat. 783, provided: "That (a) a suitable site (of not to exceed eighty-five acres) for a village for the Payson Community of Yavapai-Apache Indians shall be selected in the Tonto National Forest within Gila County, Arizona, by the leaders of the community, subject to approval by the Secretary of the Interior and the Secretary of Agriculture. The site so selected is hereby declared to be held by the United States in trust as an Indian reservation for the use and benefit of the Payson Community of Yavapai-Apache Indians.

"(b) The Payson Community of Yavapai-Apache Indians shall be recognized as a tribe of Indians within the purview of the Act of June 18, 1934, as amended (25 U.S.C. 461–479, relating to the protection of Indians and conservation of resources), and shall be subject to all of the provisions thereof."

ROCKY BOY'S INDIAN RESERVATION

Pub. L. 85–773, Aug. 27, 1958, 72 Stat. 931, provided: ''That the land acquired by the United States pursuant to section 5 of the Act of June 18, 1934 (48 Stat. 984) [this section], title to which was conveyed to the United States of America in trust for the Chippewa, Cree, and other Indians of Montana, and thereafter added to the Rocky Boy's Indian Reservation, Montana, by proclamation signed by the Assistant Secretary of the Interior on November 26, 1947, is hereby designated for the exclusive use of the members of the Chippewa Cree Tribe of the Rocky Boy's Reservation, Montana.''

SEMINOLE INDIAN RESERVATION

Act July 20, 1956, ch. 645, 70 Stat. 581, provided: ''That the equitable title to the lands and interests in lands together with the improvements thereon, acquired by the United States under authority of title II of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), and section 55 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (49 Stat. 750, 781), administrative jurisdiction over which was transferred from the Secretary of Agriculture to the Secretary of the Interior by Executive Order Numbered 7868, dated April 15, 1938, for the use of the Seminole Tribe, is hereby conveyed to the Seminole Tribe of Indians in the State of Florida, and such lands and interests are hereby declared to be held by the United States in trust for the Seminole Tribe of Indians in the State of Florida in the same manner and to the same extent as other land held in trust for such tribe.

''SEC. 2. The lands declared to be held in trust for the Seminole Tribe of Indians in the State of Florida under the first section of this Act and all lands which have been acquired by the United States for the Seminole Tribe of Indians in the State of Florida under authority of the Act entitled 'An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes' approved June 18, 1934 (48 Stat. 984) [sections 461, 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478 and 479 of this title], are hereby declared to be a reservation for the use and benefit of such Seminole Tribe in Florida.

''SEC. 3. Nothing in this Act shall deprive any Indian of any individual right, ownership, right of possession, or contract right he may have in any land or interest in land referred to in this Act.''

§ 465a. Receipt and purchase in trust by United States of land for Klamath Tribe Indians

The Secretary of the Interior is authorized to receive on behalf of the United States from individual members of the Klamath Tribe of Indians voluntarily executed deeds to such lands as said Indians may own in fee simple free from all encumbrances, said lands to be held in trust by the United States for said Indians and their heirs; and, whenever restricted funds are used for the purchase of lands for individual members of the Klamath Tribe of Indians, the Secretary of the Interior is authorized, in his discretion, to take title to said lands in the United States, the same to be held in trust for said individual Indians: *Provided*, *however*, That while any of the foregoing lands are held in trust by the United States for said Indians, the same shall be subject to the same restrictions, immunities, and exemptions as homesteads purchased out of trust or restricted funds of individual Indians pursuant to section 412a of this title, except the restrictions, immunities, or exemptions of the second proviso of said section.

(Feb. 24, 1942, ch. 113, § 1, 56 Stat. 121.)

§ 465b. "Klamath Tribe of Indians" defined

As used in this section and section 465a of this title the term ''Klamath Tribe of Indians'' includes the Klamath and Modoc Tribes, and the Yahooskin Band of Snake Indians.

(Feb. 24, 1942, ch. 113, § 2, 56 Stat. 121.)

§ 466. Indian forestry units; rules and regulations

The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained-yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range, and like purposes.

(June 18, 1934, ch. 576, § 6, 48 Stat. 986.)

§ 467. New Indian reservations

The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: *Provided*, That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservations.

(June 18, 1934, ch. 576, § 7, 48 Stat. 986.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 468. Allotments or holdings outside of reservations

Nothing contained in this Act shall be construed to relate to Indian holdings of allotments or homesteads upon the public domain outside of the geographic boundaries of any Indian reservation now existing or established hereafter.

(June 18, 1934, ch. 576, § 8, 48 Stat. 986.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 469. Indian corporations; appropriation for organizing

There is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary, but not to exceed $250,000 in any fiscal year, to be expended at the order of the Secretary of the Inte-

rior, in defraying the expenses of organizing Indian chartered corporations or other organizations created under this Act.

(June 18, 1934, ch. 576, § 9, 48 Stat. 986.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 470. Revolving fund; appropriation for loans

There is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $20,000,000 to be established as a revolving fund from which the Secretary of the Interior, under such rules and regulations as he may prescribe, may make loans to Indian chartered corporations for the purpose of promoting the economic development of such tribes and of their members, and may defray the expenses of administering such loans. Repayment of amounts loaned under this authorization shall be credited to the revolving fund and shall be available for the purposes for which the fund is established.

(June 18, 1934, ch. 576, § 10, 48 Stat. 986; Pub. L. 86–533, § 1(16), June 29, 1960, 74 Stat. 248; Pub. L. 87–250, Sept. 15, 1961, 75 Stat. 520.)

AMENDMENTS

1961—Pub. L. 87–250 substituted ''$20,000,000'' for ''$10,000,000''.

1960—Pub. L. 86–533 repealed provisions which required a report to be made annually to the Congress of transactions under the authorization.

REVOLVING FUND: INTEREST-FREE LOANS TO KLAMATH INDIANS; REFINANCING LENDING AGENCY LOANS

Use of Revolving Loan Fund for Indians to assist Klamath Indians during period for terminating Federal supervision, see note set out under section 564 of this title. Funds to be administered as a single Indian Revolving Loan Fund after Apr. 12, 1974, see section 1461 of this title.

§ 470a. Interest charges covered into revolving fund

Interest or other charges heretofore or hereafter collected on loans shall be credited to the revolving fund created by section 470 of this title and shall be available for the establishment of a revolving fund for the purpose of making and administering loans to Indian-chartered corporations in accordance with the Act of June 18, 1934 (48 Stat. 986) [25 U.S.C. 461 et seq.], and of making and administering loans to individual Indians and to associations or corporate groups of Indians of Oklahoma in accordance with the Act of June 26, 1936 (49 Stat. 1967) [25 U.S.C. 501 et seq.].

(June 28, 1941, ch. 259, § 1, 55 Stat. 316.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of June 26, 1936, referred to in text, popularly known as the Oklahoma Welfare Act, is classified generally to subchapter VIII (§ 501 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables.

§ 471. Vocational and trade schools; appropriation for tuition

There is authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed $250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools: *Provided*, That not more than $50,000 of such sum shall be available for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs.

(June 18, 1934, ch. 576, § 11, 48 Stat. 986.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 472. Standards for Indians appointed to Indian Office

The Secretary of the Interior is directed to establish standards of health, age, character, experience, knowledge, and ability for Indians who may be appointed, without regard to civil-service laws, to the various positions maintained, now or hereafter, by the Indian Office, in the administration of functions or services affecting any Indian tribe. Such qualified Indians shall hereafter have the preference to appointment to vacancies in any such positions.

(June 18, 1934, ch. 576, § 12, 48 Stat. 986.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CONVERSION TO CAREER APPOINTMENT

Status of Indian appointed to Federal service under excepted appointment to be converted to career appointment in competitive service after three years of continuous service and satisfactory performance, see section 450i(m) of this title.

§ 472a. Indian preference laws applicable to Bureau of Indian Affairs and Indian Health Service positions

(a) Establishment of retention categories for purposes of reduction-in-force procedures

For purposes of applying reduction-in-force procedures under subsection (a) of section 3502 of title 5 with respect to positions within the Bureau of Indian Affairs and the Indian Health Service, the competitive and excepted service

retention registers shall be combined, and any employee entitled to Indian preference who is within a retention category established under regulations prescribed under such subsection to provide due effect to military preference shall be entitled to be retained in preference to other employees not entitled to Indian preference who are within such retention category.

(b) Reassignment of employees other than to positions in higher grades; authority to make determinations respecting

(1) The Indian preference laws shall not apply in the case of any reassignment within the Bureau of Indian Affairs or within the Indian Health Service (other than to a position in a higher grade) of an employee not entitled to Indian preference if it is determined that under the circumstances such reassignment is necessary—

(A) to assure the health or safety of the employee or of any member of the employee's household;

(B) in the course of a reduction in force; or

(C) because the employee's working relationship with a tribe has so deteriorated that the employee cannot provide effective service for such tribe or the Federal Government.

(2) The authority to make any determination under subparagraph (A), (B), or (C) of paragraph (1) is vested in the Secretary of the Interior with respect to the Bureau of Indian Affairs and the Secretary of Health and Human Services with respect to the Indian Health Service, and, notwithstanding any other provision of law, the Secretary involved may not delegate such authority to any individual other than a Deputy Secretary or Assistant Secretary of the respective department.

(c) Waiver of applicability in personnel actions; scope, procedures, etc.

(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action.

(2) The provisions of section 8336(j) of title 5 shall not apply to any individual who has accepted a waiver with respect to a personnel action pursuant to paragraph (1) of this subsection or to section 2011(f)[1] of this title.

(d) Placement of non-Indian employees in other Federal positions; assistance of Office of Personnel Management; cooperation of other Federal agencies

The Office of Personnel Management shall provide all appropriate assistance to the Bureau of Indian Affairs and the Indian Health Service in placing non-Indian employees of such agencies in other Federal positions. All other Federal agencies shall cooperate to the fullest extent possible in such placement efforts.

(e) Definitions

For purposes of this section—

(1) The term ''tribal organization'' means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 1602(c) of title 43); or

(B) in connection with any personnel action referred to in subsection (c)(1) of this section, any legally established organization of Indians which is controlled, sanctioned, or chartered by a governing body referred to in subparagraph (A) of this paragraph and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(2) The term ''Indian preference laws'' means section 472 of this title or any other provision of law granting a preference to Indians in promotions and other personnel actions.

(3) The term ''Bureau of Indian Affairs'' means (A) the Bureau of Indian Affairs and (B) all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians and in which positions are filled in accordance with the Indian preference laws.

(Pub. L. 96–135, § 2, Dec. 5, 1979, 93 Stat. 1057; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100–581, title II, § 205, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 101–509, title V, § 529 [title I, § 112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 105–362, title VIII, § 801(e), title XIII, § 1302(d), Nov. 10, 1998, 112 Stat. 3288, 3294.)

REFERENCES IN TEXT

Section 2011(f) of this title, referred to in subsec. (c)(2), was in the original a reference to section 1131 of the Education Amendments of 1978, Pub. L. 95–561. Section 1131 of Pub. L. 95–561 was omitted in the general amendment of chapter 22 (§ 2001 et seq.) of this title by Pub. L. 103–382, title III, § 381, Oct. 20, 1994, 108 Stat. 3979. Pub. L. 103–382 enacted a new section 1131 of Pub. L. 95–561, relating to policy for Indian control of Indian education, which is classified to section 2011 of this title. Provisions relating to waivers of education personnel actions are now contained in section 2012(f) of this title.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–362, § 801(e)(3), struck out par. (1) designation and struck out par. (2) which read as follows: ''The Secretaries of the Interior and Health and Human Services, and the Director of the Office of Personnel Management shall each submit a report to Congress following the close of each fiscal year with respect to the actions which they took in such fiscal year to place non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service in other Federal positions.''

Pub. L. 105–362, § 801(e)(1), (2), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: ''The Secretaries of the Interior and Health and Human Services shall each submit to the Congress a report following the close of each fiscal year with respect to the actions which they took in such fiscal year to recruit and train Indians to qualify such Indians for positions which are subject to preference under the Indian preference laws. Such report shall also include information as to the grade levels and occupational classifications of Indian and non-Indian employees in the Bureau of Indian Affairs and the Indian Health Service.''

Subsec. (e). Pub. L. 105–362, § 1302(d), which directed the amendment of subsec. (e) by striking out par. (1)

[1] See References in Text note below.

designation after ''(e)'' and striking out par. (2), could not be executed because par. (1) designation did not immediately follow ''(e)'' subsequent to amendment by Pub. L. 105–362, § 801(e)(2). See above.

Pub. L. 105–362, § 801(e)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105–362, § 801(e)(2), redesignated subsec. (f) as (e).

1990—Subsec. (b)(2). Pub. L. 101–509 substituted ''a Deputy Secretary'' for ''an Under Secretary'' before ''or Assistant Secretary''.

1988—Subsec. (c)(1). Pub. L. 100–581 substituted ''an applicant or employee'' for ''an employee''.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (b)(2) pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of the Interior, see section 529 [title I, § 112(e)(1), (2)(B)] of Pub. L. 101–509, set out as a note under section 3404 of Title 20, Education.

§ 473. Application generally

The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16 [25 U.S.C. 469, 470, 471, 472, 476] shall apply to the Territory of Alaska: *Provided*, That sections 4, 7, 16, 17, and 18 of this Act [25 U.S.C. 464, 467, 476, 477, 478] shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomi, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act [25 U.S.C. 464] shall not apply to the Indians of the Klamath Reservation in Oregon.

(June 18, 1934, ch. 576, § 13, 48 Stat. 986; Pub. L. 101–301, § 3(b), May 24, 1990, 104 Stat. 207.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–301 substituted ''sections 4,'' for ''sections 2, 4,'' in proviso.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 473a. Application to Alaska

Sections 461, 465, 467, 468, 475, 477, and 479 of this title shall after May 1, 1936, apply to the Territory of Alaska: *Provided*, That groups of Indians in Alaska not recognized prior to May 1, 1936, as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and bylaws and to receive charters of incorporation and Federal loans under sections 470, 476, and 477 of this title.

(May 1, 1936, ch. 254, § 1, 49 Stat. 1250.)

CODIFICATION

Section was formerly classified to section 362 of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 474. Continuation of allowances

The Secretary of the Interior is directed to continue the allowance of the articles enumerated in section 17 of the Act of March 2, 1889 (23 Stat. L. 894), or their commuted cash value under the Act of June 10, 1896 (29 Stat. L. 334), to all Sioux Indians who would be eligible, but for the provisions of this Act, to receive allotments of lands in severalty under section 19 of the Act of May 29, 1908 (25 Stat. L. 451), or under any prior Act, and who have the prescribed status of the head of a family or single person over the age of eighteen years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive in his own right more than one allowance of the benefits, and application must be made and approved during the lifetime of the allottee or the right shall lapse. Such benefits shall continue to be paid upon such reservation until such such time as the lands available therein for allotment on June 18, 1934, would have been exhausted by the award to each person receiving such benefits of an allotment of eighty acres of such land.

(June 18, 1934, ch. 576, § 14, 48 Stat. 987.)

REFERENCES IN TEXT

Section 17 of the Act of March 2, 1889, referred to in text, probably means section 17 of act Mar. 2, 1889, ch. 405, 25 Stat. 894, which contains a proviso that each head of family or single person over the age of eighteen years of the Sioux Nation of Indians, ''who shall have or may hereafter take his or her allotment of land in severalty, shall be provided with two milch cows, one pair of oxen, with yoke and chain, or two mares and one set of harness in lieu of said oxen, yoke and chain, as the Secretary of the Interior may deem advisable, and they shall also receive one plow, one wagon, one harrow, one hoe, one axe, and one pitchfork, all suitable to the work they may have to do, and also fifty dollars in cash; to be expended under the direction of the Secretary of the Interior in aiding such Indians to erect a house and other buildings suitable for residence or the improvement of his allotment; no sales, barters or bargains shall be made by any person other than said Indians with each other, of any of the personal property hereinbefore provided for, and any violation of

this provision shall be deemed a misdemeanor and punished by fine not exceeding one hundred dollars, or imprisonment not exceeding one year or both in the discretion of the court.''

Act of June 10, 1896, referred to in text, is act June 10, 1896, ch. 398, 29 Stat. 334, which contains a provision directing the Secretary of the Interior to ascertain the number of Sioux and Ponca Indians in South Dakota and Nebraska who would not be benefited by the fulfillment of the proviso quoted above from the act of March 2, 1889, and who desire to have the articles of personal property, therein mentioned converted into money, and in lieu of such articles of personal property, or any part thereof he may think proper, to convert or commute the same, or so much thereof as he may think proper, into money, and to pay the amount thereof to such Indians.

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Section 19 of the Act of May 29, 1908, referred to in text, probably means section 19 of act May 29, 1908, ch. 216, 35 Stat. 451, which authorizes the Secretary of the Interior to cause allotments to be made under the provisions of act Mar. 2, 1889, ch. 405, 25 Stat. 888, to any living children of the Sioux tribe of Indians belonging on any of the Great Sioux reservations affected thereby and who had not prior to May 29, 1908, been allotted, so long as the tribe to which such Indian children belong is possessed of any unallotted tribal or reservation lands. The section further provides that where, for any reason, an Indian did not receive the quantity of land to which he was entitled under the provisions of said act March 2, 1889, the Secretary of the Interior shall cause to be allotted to him sufficient additional lands on the reservation to which he belongs to make, together with the quantity of land theretofore allotted to him, the acreage to which he is entitled under said act March 2, 1889; and in case of the death of any such Indian, the additional lands to which he is of right entitled may be allotted to his heirs: *Provided*, the tribe to which he belonged is possessed of any unallotted tribal or reservation lands.

APPROPRIATIONS

Section 2 of act June 26, 1934, ch. 756, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title ''Civilization of the Sioux (4x950)'' effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 475. Claims or suits of Indian tribes against United States; rights unimpaired

Nothing in this Act shall be construed to impair or prejudice any claim or suit of any Indian tribe against the United States. It is declared to be the intent of Congress that no expenditures for the benefit of Indians made out of appropriations authorized by said sections shall be considered as offsets in any suit brought to recover upon any claim of such Indians against the United States.

(June 18, 1934, ch. 576, § 15, 48 Stat. 987.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 475a. Offsets of gratuities

In all suits now pending in the United States Court of Federal Claims by an Indian tribe or band which have not been tried or submitted, and in any suit hereafter filed in the United States Court of Federal Claims by any such tribe or band, the United States Court of Federal Claims is directed to consider and to offset against any amount found due the said tribe or band all sums expended gratuitously by the United States for the benefit of the said tribe or band; and in all cases now pending or hereafter filed in the United States Court of Federal Claims in which an Indian tribe or band is party plaintiff, wherein the duty of the court is merely to report its findings of fact and conclusions to Congress, the said United States Court of Federal Claims is directed to include in its report a statement of the amount of money which has been expended by the United States gratuitously for the benefit of the said tribe or band: *Provided*, That expenditures made prior to the date of the law, treaty, agreement, or Executive order under which the claims arise shall not be offset against the claims or claim asserted; and expenditures under the Act of June 18, 1934 (48 Stat. L. 984) [25 U.S.C. 461 et seq.], except expenditures under appropriations made pursuant to section 5 of such Act [25 U.S.C. 465], shall not be charged as offsets against any claim on behalf of an Indian tribe or tribes now pending in the United States Court of Federal Claims or hereafter filed: *Provided further*, That funds appropriated and expended from tribal funds shall not be construed as gratuities; and this section shall not be deemed to amend or affect the various Acts granting jurisdiction to the United States Court of Federal Claims to hear and determine the claims listed on page 678 of the hearings before the subcommittee of the House Committee on Appropriations on the second deficiency appropriation bill for the fiscal year 1935: *And provided further*, That no expenditure under any emergency appropriation or allotment made subsequently to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public works and public projects for the relief of unemployment or to increase employment, and for work relief (including the civil-works program) shall be considered in connection with the operation of this section.

(Aug. 12, 1935, ch. 508, § 2, 49 Stat. 596; Pub. L. 97–164, title I, § 160(a)(8), Apr. 2, 1982, 96 Stat. 48; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' wherever appearing.

1982—Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims'' wherever appearing.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 476. Organization of Indian tribes; constitution and bylaws and amendment thereof; special election

(a) Adoption; effective date

Any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, and any amendments thereto, which shall become effective when—

(1) ratified by a majority vote of the adult members of the tribe or tribes at a special election authorized and called by the Secretary under such rules and regulations as the Secretary may prescribe; and

(2) approved by the Secretary pursuant to subsection (d) of this section.

(b) Revocation

Any constitution or bylaws ratified and approved by the Secretary shall be revocable by an election open to the same voters and conducted in the same manner as provided in subsection (a) of this section for the adoption of a constitution or bylaws.

(c) Election procedure; technical assistance; review of proposals; notification of contrary-to-applicable law findings

(1) The Secretary shall call and hold an election as required by subsection (a) of this section—

(A) within one hundred and eighty days after the receipt of a tribal request for an election to ratify a proposed constitution and bylaws, or to revoke such constitution and bylaws; or

(B) within ninety days after receipt of a tribal request for election to ratify an amendment to the constitution and bylaws.

(2) During the time periods established by paragraph (1), the Secretary shall—

(A) provide such technical advice and assistance as may be requested by the tribe or as the Secretary determines may be needed; and

(B) review the final draft of the constitution and bylaws, or amendments thereto to determine if any provision therein is contrary to applicable laws.

(3) After the review provided in paragraph (2) and at least thirty days prior to the calling of the election, the Secretary shall notify the tribe, in writing, whether and in what manner the Secretary has found the proposed constitution and bylaws or amendments thereto to be contrary to applicable laws.

(d) Approval or disapproval by Secretary; enforcement

(1) If an election called under subsection (a) of this section results in the adoption by the tribe of the proposed constitution and bylaws or amendments thereto, the Secretary shall approve the constitution and bylaws or amendments thereto within forty-five days after the election unless the Secretary finds that the proposed constitution and bylaws or any amendments are contrary to applicable laws.

(2) If the Secretary does not approve or disapprove the constitution and bylaws or amendments within the forty-five days, the Secretary's approval shall be considered as given. Actions to enforce the provisions of this section may be brought in the appropriate Federal district court.

(e) Vested rights and powers; advisement of presubmitted budget estimates

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local governments. The Secretary shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.

(f) Privileges and immunities of Indian tribes; prohibition on new regulations

Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

(g) Privileges and immunities of Indian tribes; existing regulations

Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on May 31, 1994, and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.

(h) Tribal sovereignty

Notwithstanding any other provision of this Act—

(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

(2) nothing in this Act invalidates any constitution or other governing document adopt-

ed by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).

(June 18, 1934, ch. 576, § 16, 48 Stat. 987; Pub. L. 100–581, title I, § 101, Nov. 1, 1988, 102 Stat. 2938; Pub. L. 103–263, § 5(b), May 31, 1994, 108 Stat. 709; Pub. L. 106–179, § 3, Mar. 14, 2000, 114 Stat. 47; Pub. L. 108–204, title I, § 103, Mar. 2, 2004, 118 Stat. 543.)

REFERENCES IN TEXT

Act of June 18, 1934, and this Act, referred to in subsecs. (f) and (h), is act of June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

CODIFICATION

May 31, 1994, referred to in subsec. (g), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 103–263, which enacted subsec. (g) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2004—Subsec. (h). Pub. L. 108–204 added subsec. (h).

2000—Subsec. (e). Pub. L. 106–179 struck out '', the choice of counsel and fixing of fees to be subject to the approval of the Secretary'' after ''To employ legal counsel''.

1994—Subsecs. (f), (g). Pub. L. 103–263 added subsecs. (f) and (g).

1988—Pub. L. 100–581 amended section generally, substituting subsecs. (a) to (e) for two former undesignated pars.

DEFINITIONS APPLICABLE

Section 102 of title I of Pub. L. 100–581 provided that: ''For the purpose of this Act [probably means title I of Pub. L. 100–581 which amended this section and enacted provisions set out below], the term—

''(1) 'applicable laws' means any treaty, Executive order or Act of Congress or any final decision of the Federal courts which are applicable to the tribe, and any other laws which are applicable to the tribe pursuant to an Act of Congress or by any final decision of the Federal courts;

''(2) 'appropriate tribal request' means receipt in the Area Office of the Bureau of Indian Affairs having administrative jurisdiction over the requesting tribe, of a duly enacted tribal resolution requesting a Secretarial election as well as a copy of the proposed tribal constitution and bylaws, amendment, or revocation action;

''(3) 'Secretary' means the Secretary of the Interior.''

AMENDMENT OF TRIBAL CONSTITUTION AND BYLAWS

Section 103 of title I of Pub. L. 100–581 provided that: ''Nothing in this Act [probably means title I of Pub. L. 100–581 which amended this section and enacted provisions set out above] is intended to amend, revoke, or affect any tribal constitution, bylaw, or amendment ratified and approved prior to this Act.''

§ 477. Incorporation of Indian tribes; charter; ratification by election

The Secretary of the Interior may, upon petition by any tribe, issue a charter of incorporation to such tribe: *Provided*, That such charter shall not become operative until ratified by the governing body of such tribe. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law; but no authority shall be granted to sell, mortgage, or lease for a period exceeding twenty-five years any trust or restricted lands included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

(June 18, 1934, ch. 576, § 17, 48 Stat. 988; Pub. L. 101–301, § 3(c), May 24, 1990, 104 Stat. 207.)

AMENDMENTS

1990—Pub. L. 101–301 substituted ''by any tribe'' for ''by at least one-third of the adult Indians'', ''by the governing body of such tribe'' for ''at a special election by a majority vote of the adult Indians living on the reservation'', and ''twenty-five years any trust or restricted lands'' for ''ten years any of the land''.

§ 478. Acceptance optional

This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after June 18, 1934, to call such an election, which election shall be held by secret ballot upon thirty days' notice.

(June 18, 1934, ch. 576, § 18, 48 Stat. 988.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

EXTENSIONS OF TIME

The time for holding an election under this section was extended to June 18, 1936, by act June 15, 1935, ch. 260, § 2, 49 Stat. 378.

Act June 15, 1935, ch. 260, § 3, 49 Stat. 378, provided that the periods of trust or the restrictions on alienation of Indian lands should be extended to Dec. 31, 1936, in case of a vote against the application of sections 461, 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478, and 479 of this title.

§ 478–1. Mandatory application of sections 462 and 477

Notwithstanding section 478 of this title, sections 462 and 477 of this title shall apply to—

(1) all Indian tribes,

(2) all lands held in trust by the United States for Indians, and

(3) all lands owned by Indians that are subject to a restriction imposed by the United States on alienation of the rights of the Indians in the lands.

(Pub. L. 101–301, § 3(a), May 24, 1990, 104 Stat. 207.)

§ 478a. Procedure

In any election heretofore or hereafter held under the Act of June 18, 1934 (48 Stat. 984) [25

U.S.C. 461 et seq.], on the question of excluding a reservation from the application of the said Act or on the question of adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such exclusion, adoption, or ratification, as the case may be: *Provided, however*, That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote.

(June 15, 1935, ch. 260, § 1, 49 Stat. 378.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 478b. Application of laws and treaties

All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where such tribe voted not to exclude itself from the application of said Act.

(June 15, 1935, ch. 260, § 4, 49 Stat. 378.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 479. Definitions

The term ''Indian'' as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term ''tribe'' wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words ''adult Indians'' wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.

(June 18, 1934, ch. 576, § 19, 48 Stat. 988.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 479a. Definitions

For the purposes of this title:[1]

(1) The term ''Secretary'' means the Secretary of the Interior.

(2) The term ''Indian tribe'' means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.

(3) The term ''list'' means the list of recognized tribes published by the Secretary pursuant to section 479a–1 of this title.

(Pub. L. 103–454, title I, § 102, Nov. 2, 1994, 108 Stat. 4791.)

REFERENCES IN TEXT

This title, referred to in introductory provisions, is title I of Pub. L. 103–454, Nov. 2, 1994, 108 Stat. 4791, which enacted this section, section 479a–1 of this title, and provisions set out as notes below. For complete classification of this title to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 101 of title I of Pub. L. 103–454 provided that: ''This title [enacting this section and section 479a–1 of this title and provisions set out below] may be cited as the 'Federally Recognized Indian Tribe List Act of 1994'.''

CONGRESSIONAL FINDINGS

Section 103 of Pub. L. 103–454 provided that: ''The Congress finds that—

''(1) the Constitution, as interpreted by Federal case law, invests Congress with plenary authority over Indian Affairs;

''(2) ancillary to that authority, the United States has a trust responsibility to recognized Indian tribes, maintains a government-to-government relationship with those tribes, and recognizes the sovereignty of those tribes;

''(3) Indian tribes presently may be recognized by Act of Congress; by the administrative procedures set forth in part 83 of the Code of Federal Regulations denominated 'Procedures for Establishing that an American Indian Group Exists as an Indian Tribe;' or by a decision of a United States court;

''(4) a tribe which has been recognized in one of these manners may not be terminated except by an Act of Congress;

''(5) Congress has expressly repudiated the policy of terminating recognized Indian tribes, and has actively sought to restore recognition to tribes that previously have been terminated;

''(6) the Secretary of the Interior is charged with the responsibility of keeping a list of all federally recognized tribes;

''(7) the list published by the Secretary should be accurate, regularly updated, and regularly published, since it is used by the various departments and agencies of the United States to determine the eligibility of certain groups to receive services from the United States; and

''(8) the list of federally recognized tribes which the Secretary publishes should reflect all of the federally recognized Indian tribes in the United States which are eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''

[1] See References in Text note below.

§ 479a–1. Publication of list of recognized tribes

(a) Publication of list

The Secretary shall publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(b) Frequency of publication

The list shall be published within 60 days of November 2, 1994, and annually on or before every January 30 thereafter.

(Pub. L. 103–454, title I, § 104, Nov. 2, 1994, 108 Stat. 4792.)

§ 480. Indians eligible for loans

On and after May 10, 1939, no individual of less than one-quarter degree of Indian blood shall be eligible for a loan from funds made available in accordance with the provisions of the Act of June 18, 1934 (48 Stat. 986) [25 U.S.C. 461 et seq.], and the Act of June 26, 1936 (49 Stat. 1967) [25 U.S.C. 501 et seq.].

(May 10, 1939, ch. 119, § 1, 53 Stat. 698.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of June 26, 1936, referred to in text, popularly known as the Oklahoma Welfare Act, is classified generally to subchapter VIII (§ 501 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables.

§ 481. Omitted

CODIFICATION

Section, act July 2, 1942, ch. 473, § 1, 56 Stat. 513, which related to an allowance to Indians traveling away from home involved in tribal organization work, was from the Interior Department Appropriation Act, 1943, and was not repeated in subsequent appropriations acts.

§ 482. Revolving fund; loans; regulations

The Secretary of the Interior, or his designated representative, is authorized, under such regulations as the Secretary may prescribe, to make loans from the revolving fund established pursuant to the Acts of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], and June 26, 1936 (49 Stat. 1967) [25 U.S.C. 501 et seq.], to tribes, bands, groups, and individual Indians, not otherwise eligible for loans under said Acts: *Provided*, That no portion of these funds shall be loaned to Indians of less than one-quarter Indian blood.

(May 7, 1948, ch. 266, 62 Stat. 211.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to this subchapter. Provisions of the Act establishing the revolving fund are set out in section 470 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of June 26, 1936, referred to in text, popularly known as the Oklahoma Welfare Act, is classified generally to subchapter VIII (§ 501 et seq.) of this chapter. Provisions of the Act relating to the revolving fund appear in section 506 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables.

Funds in the revolving fund authorized by these Acts, and certain other sums, to be administered after Apr. 12, 1974, as a single Indian Revolving Loan Fund, see section 1461 of this title.

§ 483. Sale of land by individual Indian owners

The Secretary of the Interior, or his duly authorized representative, is authorized in his discretion, and upon application of the Indian owners, to issue patents in fee, to remove restrictions against alienation, and to approve conveyances, with respect to lands or interests in lands held by individual Indians under the provisions of the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], or the Act of June 26, 1936 (49 Stat. 1967) [25 U.S.C. 501 et seq.].

(May 14, 1948, ch. 293, 62 Stat. 236.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of June 26, 1936, referred to in text, popularly known as the Oklahoma Welfare Act, is classified generally to subchapter VIII (§ 501 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables.

§ 483a. Mortgages and deeds of trust by individual Indian owners; removal from trust or restricted status; application to Secretary

(a) The individual Indian owners of any land which either is held by the United States in trust for them or is subject to a restriction against alienation imposed by the United States are authorized, subject to approval by the Secretary of the Interior, to execute a mortgage or deed of trust to such land. Such land shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the State or Territory in which the land is located. For the purpose of any foreclosure or sale proceeding the Indian owners shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the proceeding, and any conveyance of the land pursuant to the proceeding shall divest the United States of title to the land. All mortgages and deeds of trust to such land heretofore approved by the Secretary of the Interior are ratified and confirmed.

(b) In the event such land is acquired by an Indian or an Indian tribe, such land shall not be removed from trust or restricted status except upon application to the Secretary under existing law.

(Mar. 29, 1956, ch. 107, 70 Stat. 62; Pub. L. 98–608, § 2, Oct. 30, 1984, 98 Stat. 3173; Pub. L. 101–644, title III, § 301(c), Nov. 29, 1990, 104 Stat. 4667.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–644 inserted ''tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the'' before ''State'' in second sentence.

1984—Pub. L. 98–608 designated existing provisions as subsec. (a) and added subsec. (b).

§ 484. Conversion of exchange assignments of tribal lands on certain Sioux reservations into trust titles; trust and tax exemption

From and after July 14, 1954, each grant of exchange assignment of tribal lands on the Cheyenne River Sioux Reservation and the Standing Rock Sioux Reservation shall have the same force and effect, and shall confer the same rights, including all timber, mineral, and water rights now vested in or held by the Cheyenne River Sioux Tribe or the Standing Rock Sioux Tribe, upon the holder or holders thereof, that are conveyed by a trust patent issued pursuant to section 348 of this title, as supplemented, except that the period of trust and tax exemption shall continue until otherwise directed by Congress.

(July 14, 1954, ch. 472, § 1, 68 Stat. 467.)

§ 485. Payment to assignment holders of moneys collected for use of subsurface rights

The Cheyenne River Sioux Tribe and the Standing Rock Sioux Tribe are authorized to pay to each holder of an exchange assignment of tribal lands all moneys collected by the tribe for the lease or use of subsurface rights in such lands.

(July 14, 1954, ch. 472, § 2, 68 Stat. 468.)

§ 486. Regulations

The Secretary of the Interior is authorized to prescribe such regulations as may be necessary to carry out the provisions of sections 484 to 486 of this title.

(July 14, 1954, ch. 472, § 3, 68 Stat. 468.)

§ 487. Spokane Indian Reservation; consolidations of land

(a) Purchase, sale, and exchange

For the purpose of effecting consolidations of land situated within the Spokane Indian Reservation in the State of Washington into the ownership of the tribe and of individual tribal members and for the purpose of attaining and preserving an economic land base for Indian use, alleviating problems of Indian heirship and assisting in the productive leasing, disposition, and other use of tribal lands, the Secretary of the Interior is authorized in his discretion to:

(1) Purchase for the Spokane Tribe of Indians with any funds of such tribe and to otherwise acquire by gift, exchange, or relinquishment any lands or interest in lands or improvements thereon within the Spokane Indian Reservation.

(2) Sell or approve sales of any tribal trust lands, any interest therein or improvements thereon.

(3) Exchange any tribal trust lands, including interests therein or improvements thereon, for any lands situated within such reservation.

(b) Individual Indian trust lands

The Secretary of the Interior is authorized to sell and exchange individual Indian trust lands held in multiple ownership to the Spokane Tribe or to individual members thereof if the sale or exchange is authorized in writing by owners of at least a majority interest in such lands; except that no greater percentage of approval of individual Indians shall be required under this Act than in any other statute of general application approved by Congress.

(c) Nontaxability

Title to lands, or any interests therein, acquired pursuant to this Act for the Spokane Tribe or individual enrolled members thereof, shall be taken in the name of the United States of America in trust for the tribe or individual Indian, and shall be nontaxable as other tribal and allotted Indian trust lands of the Spokane Reservation.

(d) Lands held by mortgage or deed of trust

That any tribal land that may be sold pursuant to this Act may, with the approval of the Secretary of the Interior, be encumbered by a mortgage or deed of trust and shall be subject to foreclosure or sale pursuant to the terms of such a mortgage or deed of trust in accordance with the laws of the State of Washington. The United States shall be an indispensable party to any such proceeding with the right of removal of the clause to the United States district court for the district in which the land is located, following the procedure in section 1446 of title 28: *Provided*, That the United States shall have the right to appeal from any order of remand in the case.

(e) Acquisition and sale procedures; land purchase and consolidation program

The acquisition and sale of lands for the Spokane Tribe pursuant to this Act shall be upon request of the business council of the Spokane Tribe, evidenced by a resolution adopted in accordance with the constitution and bylaws of the tribe, and shall be in accordance with a land purchase and consolidation plan approved by the Secretary of the Interior, and except as it may otherwise be authorized or prescribed by the Secretary, shall be limited to lands situated within the boundary of the Spokane Reservation. Such acquisition by the Spokane Tribe, or individual members thereof, may be achieved by exchange of lands with Indians or non-Indians as well as outright purchase, with adjusting payments to approximate equal value. Moneys or credits received by the tribe in the sale of lands shall be used for the purchase of other lands, or for such other purpose as may be consistent with the land purchase and consolidation program, approved by the Secretary of the Interior.

(Pub. L. 90–335, § 1(a)–(e), June 10, 1968, 82 Stat. 174; Pub. L. 93–286, May 21, 1974, 88 Stat. 142.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (c), (d), and (e), is Pub. L. 90–335, June 10, 1968, 82 Stat. 174, as amended, which enacted this section and amended section 415 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of subsecs. (a) to (e) of section 1 of Pub. L. 90–335. Subsec. (f) of section 1 of Pub. L. 90–335 amended section 415 of this title.

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–286 substituted "for the Spokane Tribe or individual" for "by the Spokane Tribe or individual", and struck out proviso that the value on nontrust lands, or nontrust interests in land, acquired under this section by the Spokane Tribe during any twelve-month period shall not exceed the value of lands, or interests in land, that passed in any manner from a nontaxable trust status to a taxable fee status within the boundaries of the Spokane Reservation in Stevens County, Washington, during the twelve-month period preceding acquisition by the tribe.

§ 488. Agricultural loans to acquire land within reservations

The Secretary of Agriculture is authorized to make loans from the Farmers Home Administration Direct Loan Account created by section 1988(c)[1] of title 7, and to make and insure loans as provided in sections 1928[1] and 1929 of title 7, to any Indian tribe recognized by the Secretary of the Interior or tribal corporation established pursuant to the Indian Reorganization Act (25 U.S.C. 477), which does not have adequate uncommitted funds, to acquire lands or interests therein within the tribe's reservation as determined by the Secretary of the Interior, or within a community in Alaska incorporated by the Secretary pursuant to the Indian Reorganization Act [25 U.S.C. 461 et seq.], for use of the tribe or the corporation or the members of either. Such loans shall be limited to such Indian tribes or tribal corporations as have reasonable prospects of success in their proposed operations and as are unable to obtain sufficient credit elsewhere at reasonable rates and terms to finance the purposes authorized in sections 488 to 494 of this title.

(Pub. L. 91–229, § 1, Apr. 11, 1970, 84 Stat. 120.)

REFERENCES IN TEXT

Section 1988(c) of title 7, referred to in text, was repealed by Pub. L. 104–127, title VII, § 749(a)(1), Apr. 4, 1996, 110 Stat. 1129.

Section 1928 of title 7, referred to in text, was amended generally by Pub. L. 104–127, title VI, § 605, Apr. 4, 1996, 110 Stat. 1086, and, as so amended, no longer contains provisions relating to insurance of loans.

Tribal corporation established by the Indian Reorganization Act (25 U.S.C. 477), referred to in text, means a tribal corporation established under act June 18, 1934, ch. 576, § 17, 48 Stat. 988, which is classified to section 477 of this title.

The Indian Reorganization Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 489. Title in trust to United States

Title to land acquired by a tribe or tribal corporation with a loan made or insured pursuant to sections 488 to 494 of this title may, with the approval of the Secretary of the Interior, be taken by the United States in trust for the tribe or tribal corporation.

[1] See References in Text note below.

(Pub. L. 91–229, § 2, Apr. 11, 1970, 84 Stat. 120.)

§ 490. Tribal rights and privileges in connection with loans

A tribe or tribal corporation to which a loan is made or insured pursuant to sections 488 to 494 of this title (1) may waive in writing any immunity from suit or liability which it may possess, (2) may mortgage or otherwise hypothecate trust or restricted property if (a) authorized by its constitution or charter or by a tribal referendum, and (b) approved by the Secretary of the Interior, and (3) shall comply with rules and regulations prescribed by the Secretary of Agriculture in connection with such loans.

(Pub. L. 91–229, § 3, Apr. 11, 1970, 84 Stat. 120.)

§ 491. Mortgaged property governed by State law

Trust or restricted tribal or tribal corporation property mortgaged pursuant to sections 488 to 494 of this title shall be subject to foreclosure and sale or conveyance in lieu of foreclosure, free of such trust or restrictions, in accordance with the laws of the State in which the property is located.

(Pub. L. 91–229, § 4, Apr. 11, 1970, 84 Stat. 120.)

§ 492. Interest rates and taxes

Loans made or insured pursuant to sections 488 to 494 of this title will be subject to the interest rate provisions of section 307(a)(3)(B) of the Consolidated Farmers Home Administration Act of 1961, as amended [7 U.S.C. 1927(a)(3)(B)], and to the provisions of subtitle D of that Act [7 U.S.C. 1981 et seq.] except sections 340 [7 U.S.C. 1990], 341, 342 [7 U.S.C. 1013a], and 343 [7 U.S.C. 1991] thereof: *Provided*, That section 334 [7 U.S.C. 1984] thereof shall not be construed to subject to taxation any lands or interests therein while they are held by an Indian tribe or tribal corporation or by the United States in trust for such tribe or tribal corporation pursuant to sections 488 to 494 of this title.

(Pub. L. 91–229, § 5, Apr. 11, 1970, 84 Stat. 120; Pub. L. 101–624, title XVIII, § 1854(a), Nov. 28, 1990, 104 Stat. 3837.)

REFERENCES IN TEXT

The Consolidated Farmers Home Administration Act of 1961, referred to in text, is now the Consolidated Farm and Rural Development Act (Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 307, as amended). Subtitle D of the Consolidated Farm and Rural Development Act is classified principally to subchapter IV (§ 1981 et seq.) of chapter 50 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

Section 341 of that Act is set out as a note under section 1921 of Title 7.

AMENDMENTS

1990—Pub. L. 101–624 substituted "section 307(a)(3)(B)" for "section 307(a)".

§ 493. Reduction of unpaid principal

(a) In general

The Secretary of Agriculture may, on the application of the borrower of a loan or loans made under sections 488 to 494 of this title, reduce the

unpaid principal balance of such loan or loans to the current fair market value of the land purchased with the proceeds of the loan or loans if—

(1) the fair market value of the land has declined by at least 25 percent since such land was purchased by the borrower;

(2) the land has been held by the borrower for a period of at least 5 years; and

(3) the Secretary of the Interior finds that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

(b) Fair market value

(1) Appraisal

Current fair market value under subsection (a) of this section shall be determined through an appraisal by an independent qualified fee appraiser, selected by mutual agreement between the borrower and the Secretary of Agriculture.

(2) Costs

The cost of appraisals undertaken under paragraph (1) shall be paid by the borrower.

(c) Appeals

Decisions of the Secretary of Agriculture under this section shall be appealable in accordance with the provisions of section 333B[1] of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b).

(d) Future applications

A borrower that had a loan or loans reduced under this section shall not submit an application for another reduction on such loan or loans for a period of 5 years after the initial reduction.

(Pub. L. 91–229, § 6, as added Pub. L. 101–82, title III, § 303, Aug. 14, 1989, 103 Stat. 583.)

REFERENCES IN TEXT

Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b), referred to in subsec. (c), was repealed by Pub. L. 103–354, title II, § 281(c), Oct. 13, 1994, 108 Stat. 3233.

CODIFICATION

Another section 6 of Pub. L. 91–229 was added by Pub. L. 101–624, title XVIII, § 1854(b), Nov. 28, 1990, 104 Stat. 3837, and is classified to section 494 of this title.

§ 494. Authorization of appropriations

There are authorized to be appropriated to carry out sections 488 to 494 of this title $8,000,000 for each of the fiscal years 1991 through 1995.

(Pub. L. 91–229, § 6, as added Pub. L. 101–624, title XVIII, § 1854(b), Nov. 28, 1990, 104 Stat. 3837.)

CODIFICATION

Another section 6 of Pub. L. 91–229 was added by Pub. L. 101–82, title III, § 303, Aug. 14, 1989, 103 Stat. 583, and is classified to section 493 of this title.

§ 494a. Certification of rental proceeds

Notwithstanding any other provision of law, any actual rental proceeds from the lease of land acquired under section 488 of this title certified by the Secretary of the Interior shall be deemed—

(1) to constitute the rental value of that land; and

(2) to satisfy the requirement for appraisal of that land.

(Pub. L. 109–221, title II, § 203, May 12, 2006, 120 Stat. 341.)

[1] See References in Text note below.

SUBCHAPTER VI—INDIANS OF ALASKA

§ 495. Annette Islands reserved for Metlakahtla Indians

Until otherwise provided by law the body of lands known as Annette Islands, situated in Alexander Archipelago in southeastern Alaska on the north side of Dixon's entrance, is set apart as a reservation for the use of the Metlakahtla Indians, and those people known as Metlakahtlans who, on March 3, 1891, had recently emigrated from British Columbia to Alaska, and such other Alaskan natives as may join them, to be held and used by them in common, under such rules and regulations, and subject to such restrictions, as may be prescribed from time to time by the Secretary of the Interior.

(Mar. 3, 1891, ch. 561, § 15, 26 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 358 of Title 48, Territories and Insular Possessions.

§§ 496, 497. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section 496, act May 1, 1936, ch. 254, § 2, 49 Stat. 1250, authorized Secretary of the Interior to designate as an Indian reservation any area of land which has been reserved for use and occupancy of Indians or Eskimos under sections 280a or 495 of this title, executive order, etc. Section was formerly classified to section 358a of Title 48, Territories and Insular Possessions.

Section 497, act May 31, 1938, ch. 304, 52 Stat. 593, authorized Secretary of the Interior to reserve tracts for schools, hospitals, etc., in Alaska for Indians, Eskimos, and Aleuts. Section was formerly classified to section 353a of Title 48.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that the repeal is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94–579, set out as a note under section 1701 of Title 43, Public Lands.

SUBCHAPTER VII—REINDEER INDUSTRY

§ 500. Purpose

A necessity for providing means of subsistence for the Eskimos and other natives of Alaska is hereby declared to exist. It is also declared to be the policy of Congress, and the purpose of this subchapter, to establish and maintain for the said natives of Alaska a self-sustaining economy by acquiring and organizing for and on behalf of said natives a reindeer industry or business, by encouraging and developing native activity and responsibility in all branches of the said industry or business, and by preserving the native

character of the said industry or business thus established.

(Sept. 1, 1937, ch. 897, § 1, 50 Stat. 900.)

CODIFICATION

Section was formerly classified to section 250 of Title 48, Territories and Insular Possessions.

SHORT TITLE

Act Sept. 1, 1937, ch. 897, 500 Stat. 900, as amended, which enacted this subchapter, is popularly known as the "Reindeer Industry Act of 1937".

REPEALS

Section 17 of act Sept. 1, 1937, provided: "All Acts of Congress or parts thereof which are inconsistent with the provisions of this Act are hereby repealed."

AUTHORIZATION OF APPROPRIATIONS

Section 16 of act Sept. 1, 1937, authorized the appropriation of $2,000,000 for the use of the Secretary of the Interior in carrying out this subchapter.

§ 500a. Acquisition of reindeer and other property

The Secretary of the Interior is hereby authorized and directed, to acquire, in the name of the United States, by purchase or other lawful means, including exercise of the power of eminent domain, for and on behalf of the Eskimos and other natives of Alaska, reindeer, reindeer-range equipment, abattoirs, cold-storage plants, warehouses, and other property, real or personal, the acquisition of which he determines to be necessary to the effectuation of the purposes of this subchapter. Any condemnation proceedings undertaken by virtue of the authority granted in this section shall conform, as nearly as may be, to the procedure provided for the condemnation of real estate by section 3113 of title 40, or to that provided by sections 3114 to 3116 and 3118 of title 40: *Provided*, That nothing herein contained shall authorize the Secretary of the Interior to consolidate native-owned herds of reindeer with herds owned by others than natives prior to the purchase or acquisition of such herds of others than natives.

(Sept. 1, 1937, ch. 897, § 2, 50 Stat. 900.)

CODIFICATION

Section was formerly classified to section 250a of Title 48, Territories and Insular Possessions.

"Section 3113 of title 40" substituted in text for "the Act of August 1, 1888 (Chapter 728)" and "sections 3114 to 3116 and 3118 of title 40" substituted in text for "the Act of February 26, 1931 (Chapter 307)" on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 500b. Filing claim of title to reindeer by non-natives

All persons, other than natives of Alaska, who upon September 1, 1937, claim title to any Alaskan reindeer shall, within one year after September 1, 1937, file in Alaska, with the duly authorized agent or agents of the Secretary of the Interior, declarations of their ownership. Similar declarations concerning Alaskan reindeer acquired by any person not a native of Alaska by purchase or by gift at any time after September 1, 1937, shall be filed as aforesaid within thirty days after the date of such acquisition. Records of all declarations thus filed shall be made and kept open to public inspection in Alaska. If any owner of Alaskan reindeer, to whom the foregoing provisions of this section are applicable, shall fail to file the required declaration within the stated period, he shall be barred thereafter from asserting his claim of title.

(Sept. 1, 1937, ch. 897, § 3, 50 Stat. 900.)

CODIFICATION

Section was formerly classified to section 250b of Title 48, Territories and Insular Possessions.

§ 500c. Acceptance of gifts

The Secretary of the Interior is hereby authorized to receive, in the name of the United States, for and on behalf of said natives of Alaska, gifts made for the purposes of this subchapter.

(Sept. 1, 1937, ch. 897, § 4, 50 Stat. 900.)

CODIFICATION

Section was formerly classified to section 250c of Title 48, Territories and Insular Possessions.

§ 500d. Acceptance and expenditure of Federal funds

The Secretary of the Interior is hereby authorized to receive and expend, for the purposes of this subchapter, properly authorized loans, grants, or allocations made to him for said purposes by Federal agencies.

(Sept. 1, 1937, ch. 897, § 5, 50 Stat. 900.)

CODIFICATION

Section was formerly classified to section 250d of Title 48, Territories and Insular Possessions.

§ 500e. Revolving fund; moneys not to be covered into Treasury

Except as herein otherwise specially provided, none of the moneys collected or received by the Secretary of the Interior in his administration of this subchapter shall be paid into the Treasury, but all such moneys shall constitute a revolving fund to be administered by the Secretary of the Interior for the purposes of this subchapter.

(Sept. 1, 1937, ch. 897, § 6, 50 Stat. 900.)

REFERENCES IN TEXT

Herein, referred to in text, means act Sept. 1, 1937, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 250e of Title 48, Territories and Insular Possessions.

§ 500f. Management of industry by Secretary; aim of management

The Secretary of the Interior is authorized and directed to organize and manage the reindeer industry or business provided for by this subchapter in such manner as to establish and maintain for said natives of Alaska a complete and self-sustaining economy and to encourage and develop the activity and responsibility of

said natives in all branches of said industry or business.

(Sept. 1, 1937, ch. 897, § 7, 50 Stat. 900.)

CODIFICATION

Section was formerly classified to section 250f of Title 48, Territories and Insular Possessions.

§ 500g. Distribution of reindeer, property, and profits to natives

The Secretary of the Interior is authorized to distribute the reindeer and other property acquired by the United States under this subchapter among the Eskimos or other natives of Alaska, or to corporations, associations, or organizations of said natives, either in the form of gifts or under such conditions as the Secretary of the Interior may prescribe, and to execute and deliver appropriate instruments of title, or to hold and use the same in trust for the use and benefit of said natives, with a view of effecting the widest possible distribution of such reindeer and other property among those natives of Alaska who are in need thereof and who can make proper use of the same: *Provided*, That during the period of the trust, income derived directly from the sale of reindeer and reindeer products as provided in this subchapter shall be exempt from Federal income taxation. The Secretary of the Interior may from time to time, in such manner as he determines to be proper for effectuating the purposes of this subchapter, distribute among those of said natives or corporations, associations, or other organizations of said natives, who are engaged in said industry or business or for whose subsistence reindeer are necessary, whatever profits may be earned by that part of the industry or business which is owned by the United States and which may, in the judgment of the Secretary of the Interior, be distributed in accordance with sound business practice.

(Sept. 1, 1937, ch. 897, § 8, 50 Stat. 901; Pub. L. 99–514, title XVII, § 1709(a), Oct. 22, 1986, 100 Stat. 2783.)

CODIFICATION

Section was formerly classified to section 250g of Title 48, Territories and Insular Possessions.

AMENDMENTS

1986—Pub. L. 99–514 inserted proviso directing that during the period of the trust, income derived directly from the sale of reindeer and reindeer products as provided in this subchapter shall be exempt from Federal income taxation.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1709(b) of Pub. L. 99–514 provided that: ''The amendment made by this section [amending this section] shall take effect as if originally included in the provision of the Act of September 1, 1937, to which such amendment relates.''

§ 500h. Grant of administrative powers to organizations of natives

The Secretary of the Interior is hereby authorized to grant, in his discretion and subject to such terms as he may impose, to any corporations, associations, or other organizations of said natives any or all of the powers relating to the administration of the reindeer industry or business herein provided for, upon a finding by him as to each grant that it is in the interests of the said natives of Alaska and will serve the purposes of this subchapter.

(Sept. 1, 1937, ch. 897, § 9, 50 Stat. 901.)

REFERENCES IN TEXT

Herein, referred to in text, means act Sept. 1, 1937, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 250h of Title 48, Territories and Insular Possessions.

§ 500i. Alienation of reindeer or interests; penalty

Live reindeer in Alaska, and the increase thereof, acquired by the Secretary of the Interior pursuant to this subchapter, and live reindeer in Alaska, and the increase thereof, owned by the said natives of Alaska or corporations, associations, or other organizations of said natives, however acquired, shall not be sold or transferred, by descent, devise, or in any other manner whatsoever, to anyone other than the said natives of Alaska the United States for and on behalf of said natives, or corporations, associations, or other organizations of said natives, except with the consent in writing of the Secretary of the Interior or his duly authorized agent, stating that such consent is given upon the condition that the reindeer, and any increase thereof, sold or otherwise transferred with said consent, shall either be butchered in the Territory of Alaska within thirty days or shipped out of said Territory and never brought back alive into said Territory. Sales or other transfers of said reindeer, if made without the consent in writing herein required, or, although made with said consent, if followed by failure to comply with the condition therein required, shall be null and void, and shall not pass any title to or right to possession of any reindeer or increase thereof. No stock or other interest in any corporation, association, or other organization of said natives, engaged in or organized for the purposes of engaging in the reindeer industry or business, shall be transferred, by descent, devise, or in any other manner whatsoever, to anyone other than said natives of Alaska, the United States for and on behalf of said natives, or corporations, associations, or other organizations of said natives. Any willful violation of the provisions of this section by any vendee or other transferee shall be punishable by a fine of not more than $500: *Provided*, That no title to any reindeer, or reindeer products, owned by the United States for and on behalf of the said natives of Alaska, nor any title to reindeer, or reindeer products, owned by any of said natives or said corporations, associations, or other organizations of said natives, nor any stock or other interest in said corporations, associations, or other organizations of said natives, shall be transferred by descent, device,[1] or in any other manner whatsoever, except pursuant to regulations promulgated by the Secretary of the Interior for the purposes of preserving the native

[1] So in original. Probably should be ''devise,''.

character of the reindeer industry or business in Alaska and effectuating the other purposes of this subchapter: *Provided further*, That nothing herein contained shall prevent any native of Alaska who owns reindeer or any interest therein through stock ownership, or otherwise, in any corporation or association or other organization owning reindeer, from transferring his reindeer, or any interest therein, to his children or other native relatives by gift, sale, devise, or bequest, or prevent the same from being so transferred or passed by descent.

(Sept. 1, 1937, ch. 897, § 10, 50 Stat. 901.)

REFERENCES IN TEXT

Herein, referred to in text, means act Sept. 1, 1937, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 250i of Title 48, Territories and Insular Possessions.

§ 500j. "Reindeer" defined

''Reindeer'' as used in this subchapter shall be understood to include reindeer and such caribou as have been introduced into animal husbandry or have actually joined reindeer herds, and the increase thereof.

(Sept. 1, 1937, ch. 897, § 11, 50 Stat. 902.)

CODIFICATION

Section was formerly classified to section 250j of Title 48, Territories and Insular Possessions.

§ 500k. Rules and regulations

The Secretary of the Interior is hereby authorized to promulgate such rules and regulations as, in his judgment, are necessary to carry into effect the provisions of this subchapter.

(Sept. 1, 1937, ch. 897, § 12, 50 Stat. 902.)

CODIFICATION

Section was formerly classified to section 250k of Title 48, Territories and Insular Possessions.

§ 500*l*. Appointment of natives to administer industry

Whenever, in his judgment, it is practicable and to the best interests of the natives the Secretary shall appoint natives to the supervisory and other positions in the administration of such reindeer industry or business.

(Sept. 1, 1937, ch. 897, § 13, 50 Stat. 902.)

CODIFICATION

Section was formerly classified to section 250*l* of Title 48, Territories and Insular Possessions.

§ 500m. Use of public lands; violation

In order to coordinate the use of public lands in Alaska for grazing reindeer with the purposes of this subchapter, the Secretary of the Interior is hereby authorized to regulate the grazing of reindeer upon said lands. He may, in his discretion, define reindeer ranges and regulate the use thereof for grazing reindeer; issue grazing permits; regulate and control all round-ups, handlings, markings, and butcherings of reindeer upon said public lands; and may issue rules and regulations to carry into effect the provisions of this section. Any person who willfully violates any of the rules and regulations promulgated for the purpose of carrying into effect the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than one year or by a fine of not more than $500.

(Sept. 1, 1937, ch. 897, § 14, 50 Stat. 902.)

CODIFICATION

Section was formerly classified to section 250m of Title 48, Territories and Insular Possessions.

§ 500n. "Natives of Alaska" defined

The term ''natives of Alaska'' as used herein shall be deemed to mean the native Indians, Eskimos, and Aleuts of whole or part blood inhabiting Alaska at the time of the Treaty of Cession of Alaska to the United States and their descendants of whole or part blood, together with the Indians and Eskimos who, since the year 1867 and prior to September 1, 1937, have migrated into Alaska from the Dominion of Canada, and their descendants of the whole or part blood.

(Sept. 1, 1937, ch. 897, § 15, 50 Stat. 902.)

REFERENCES IN TEXT

Herein, referred to in text, means act Sept. 1, 1937, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 250n of Title 48, Territories and Insular Possessions.

SUBCHAPTER VIII—INDIANS IN OKLAHOMA: PROMOTION OF WELFARE

§ 501. Acquisition of agricultural and grazing lands for Indians; title to lands; tax exemption

The Secretary of the Interior is authorized, in his discretion, to acquire by purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing Indian reservations, including trust or otherwise restricted lands now in Indian ownership: *Provided*, That such lands shall be agricultural and grazing lands of good character and quality in proportion to the respective needs of the particular Indian or Indians for whom such purchases are made. Title to all lands so acquired shall be taken in the name of the United States, in trust for the tribe, band, group, or individual Indian for whose benefit such land is so acquired, and while the title thereto is held by the United States said lands shall be free from any and all taxes, save that the State of Oklahoma is authorized to levy and collect a gross-production tax, not in excess of the rate applied to production from lands in private ownership, upon all oil and gas produced from said lands, which said tax the Secretary of the Interior is authorized and directed to cause to be paid.

(June 26, 1936, ch. 831, § 1, 49 Stat. 1967.)

REFERENCES TO THIS SECTION

References to this section in subchapter II of chapter 14 of this title deemed to include section 82a of this title, see section 458aaa–10 of this title.

SHORT TITLE

Act June 26, 1936, ch. 831, 49 Stat. 1967, as amended, which enacted this subchapter, is popularly known as the "Oklahoma Welfare Act" and the "Oklahoma Indian Welfare Act".

§ 502. Purchase of restricted Indian lands; preference to Secretary of the Interior; waiver of preference

Whenever any restricted Indian land or interests in land, other than sales or leases of oil, gas, or other minerals therein, are offered for sale, pursuant to the terms of this subchapter or any other Act of Congress, the Secretary of the Interior shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians of the same or any other tribe, at a fair valuation to be fixed by the appraisement satisfactory to the Indian owner or owners, or if offered for sale at auction said Secretary shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians by meeting the highest bid otherwise offered therefor.

The preference right of the Secretary to purchase shall be considered as waived where notice of the pendency of sale is given in writing to the Superintendent of the Five Civilized Tribes for at least ten days prior to the date of sale and the Secretary does not within that time exercise the preferential right to purchase.

(June 26, 1936, ch. 831, § 2, 49 Stat. 1967; Aug. 4, 1947, ch. 458, § 10, 61 Stat. 734.)

AMENDMENTS

1947—Act Aug. 4, 1947, provided for waiver of preference by failure to purchase after notice.

§ 503. Organization of tribes or bands; constitution; charter; right to participate in revolving credit fund

Any recognized tribe or band of Indians residing in Oklahoma shall have the right to organize for its common welfare and to adopt a constitution and bylaws, under such rules and regulations as the Secretary of the Interior may prescribe. The Secretary of the Interior may issue to any such organized group a charter of incorporation, which shall become operative when ratified by a majority vote of the adult members of the organization voting: *Provided, however*, That such election shall be void unless the total vote cast be at least 30 per centum of those entitled to vote. Such charter may convey to the incorporated group, in addition to any powers which may properly be vested in a body corporate under the laws of the State of Oklahoma, the right to participate in the revolving credit fund and to enjoy any other rights or privileges secured to an organized Indian tribe under the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.]: *Provided*, That the corporate funds of any such chartered group may be deposited in any national bank within the State of Oklahoma or otherwise invested, utilized, or disbursed in accordance with the terms of the corporate charter.

(June 26, 1936, ch. 831, § 3, 49 Stat. 1967.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 504. Cooperative associations; charter; purposes; voting rights

Any ten or more Indians, as determined by the official tribal rolls, or Indian descendants of such enrolled members, or Indians as defined in the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], who reside within the State of Oklahoma in convenient proximity to each other may receive from the Secretary of the Interior a charter as a local cooperative association for any one or more of the following purposes: Credit administration, production, marketing, consumers' protection, or land management. The provisions of this subchapter, the regulations of the Secretary of the Interior, and the charters of the cooperative associations issued pursuant thereto shall govern such cooperative associations: *Provided*, That in those matters not covered by this subchapter, regulations, or charters, the laws of the State of Oklahoma, if applicable, shall govern. In any stock or nonstock cooperative association no one member shall have more than one vote, and membership therein shall be open to all Indians residing within the prescribed district.

(June 26, 1936, ch. 831, § 4, 49 Stat. 1967.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. Provisions of the Act defining "Indian" appear in section 479 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 505. Amendment or revocation of charters; suits by and against associations

The charters of any cooperative association organized pursuant to section 504 of this title shall not be amended or revoked by the Secretary except after a majority vote of the membership. Such cooperative associations may sue and be sued in any court of the State of Oklahoma or of the United States having jurisdiction of the cause of action, but a certified copy of all papers filed in any action against a cooperative association in a court of Oklahoma shall be served upon the Secretary of the Interior, or upon an employee duly authorized by him to receive such service. Within thirty days after such service or within such extended time as the trial court may permit, the Secretary of the Interior may intervene in such action or may remove such action to the United States district court.

(June 26, 1936, ch. 831, § 5, 49 Stat. 1968; June 25, 1948, ch. 646, § 29, 62 Stat. 991.)

AMENDMENTS

1948—Act June 25, 1948, struck out provisions relating to procedure for removal. See sections 1441 to 1450 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

§ 506. Loans to individuals and groups; appropriation

The Secretary is authorized to make loans to individual Indians and to associations or corporate groups organized pursuant to this subchapter. For the making of such loans and for expenses of the cooperative associations organized pursuant to this subchapter there shall be appropriated, out of the Treasury of the United States, the sum of $2,000,000.

(June 26, 1936, ch. 831, § 6, 49 Stat. 1968.)

REVOLVING FUND: INTEREST-FREE LOANS TO KLAMATH INDIANS; REFINANCING LENDING AGENCY LOANS

Use of Revolving Loan Fund for Indians to assist Klamath Indians during period for terminating Federal supervision, see note set out under section 564 of this title. Funds to be administered as a single Indian Revolving Loan Fund after Apr. 12, 1974, see section 1461 of this title.

§ 507. Availability and allocation of funds; royalties from mineral deposits

All funds appropriated under the several grants of authority contained in the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], are hereby made available for use under the provisions of this subchapter, and Oklahoma Indians shall be accorded and allocated a fair and just share of any and all funds appropriated after June 26, 1936, under the authorization herein set forth: *Provided*, That any royalties, bonuses, or other revenues derived from mineral deposits underlying lands purchased in Oklahoma under the authority granted by this subchapter, or by the Act of June 18, 1934, shall be deposited in the Treasury of the United States, and such revenues are made available for expenditure by the Secretary of the Interior for the acquisition of lands and for loans to Indians in Oklahoma as authorized by this subchapter and by the Act of June 18, 1934 (48 Stat. 984).

(June 26, 1936, ch. 831, § 7, 49 Stat. 1968.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 508. Application of provisions to Osage County

This subchapter shall not relate to or affect Osage County, Oklahoma.

(June 26, 1936, ch. 831, § 8, 49 Stat. 1968.)

§ 509. Rules and regulations; repeals

The Secretary of the Interior is authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this subchapter. All Acts or parts of Acts inconsistent with this subchapter are repealed.

(June 26, 1936, ch. 831, § 9, 49 Stat. 1968.)

§ 510. Payment of gross production taxes; method

Whenever restricted Indian lands in the State of Oklahoma are subject to gross production tax on minerals, including oil and gas, the Secretary of the Interior, in his discretion, may cause such tax or taxes due the State of Oklahoma to be paid in the manner provided for by the statutes of the State of Oklahoma.

(Aug. 25, 1937, ch. 772, 50 Stat. 806.)

CODIFICATION

This section was not enacted as part of act June 26, 1936, ch. 831, 49 Stat. 1967, which comprises this subchapter.

SUBCHAPTER IX—KLAMATH TRIBE: CAPITAL RESERVE FUND

§ 530. Capital reserve fund; interest for administrative expenses

The Secretary of the Interior shall cause to be established on the books of the Treasury, out of any unobligated tribal funds of the Indians of the Klamath Reservation in Oregon (hereinafter referred to as the ''Klamath Indians'') on deposit in the Treasury of the United States, a capital reserve fund for said Klamath Indians. Such fund shall be created by setting aside the sum of $50,000 for the fiscal year 1937, and shall be augmented by additions of $50,000 for each fiscal year thereafter. Such fund shall be held in the Treasury of the United States and shall bear interest as provided by law. The interest upon such fund shall be used, insofar as it is sufficient, for the payment of the expenses of administration of the Klamath Indian Reservation in Oregon.

(Aug. 28, 1937, ch. 874, § 1, 50 Stat. 872.)

§§ 531 to 535. Repealed. Aug. 13, 1954, ch. 732, § 12, 68 Stat. 721

Sections 531 to 535, act Aug. 28, 1937, ch. 874, §§ 2–6, 50 Stat. 872, 873, related to revolving loan fund. See section 564 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Section 12 of act Aug. 13, 1954, provided that the repeal is effective on the date of the transfer of title to tribal property to a trustee, corporation, or other legal entity pursuant to section 564e of this title.

SUBCHAPTER X—KLAMATH TRIBE: DISPOSITION OF CERTAIN TRIBAL FUNDS

§ 541. Creation of individual credits; authorized purchases

The Secretary of the Interior is authorized and directed from the judgment fund of the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians created as the result of the passage of the Act of June 25, 1938, and accrued interest thereon, to credit the sum of $2,000 upon the books of the Office of Indian Affairs, to each person determined by the Secretary of the Interior to be entitled to enrollment upon the annuity roll of said tribes of the Klamath Reservation, Oregon, living on August 7, 1939. The share of each adult member and not to exceed $1,500 of the share of any minor shall be available for expenditure, under such rules and regulations as

the Secretary of the Interior may prescribe, for the following purposes:

Purchase of land; improvement of lands acquired or already held by the Indian; erection and improvement of suitable homes; repayment of any loans received from the United States or from the Klamath tribal funds; purchase of building material, farming equipment, livestock, feed, food, seed, grain, tools, machinery, implements, household goods, bedding, clothing, and any other equipment or supplies necessary to enable the Indians to fit themselves for or to engage in farming, livestock, industry, or such other pursuits or vocations, including education, as will enable them to become self-supporting; and health purposes: *Provided, however*, That the funds of the aged, infirm, decrepit, and incapacitated members, and of minors, may be used for their proper maintenance and support. The remainder of the share of each minor Indian shall be held intact until such Indian reaches his majority, when it, together with interest at the rate of 4 per centum per annum, shall be available for expenditure for the purposes specified herein. As herein used, the term ''minor'' shall include all members of the tribe less than twenty-one years of age, except that minors eighteen years of age or over and who are married or have families of their own to support, shall be regarded as adults. On the death of any enrolled member, adult, or minor, the sum on deposit to his credit shall be distributed as personal property, and shall be available for expenditure by the distributees only for the purposes herein authorized: *Provided, however*, That of the aforesaid $2,000 to be prorated to each person, $100 shall be paid to each member of said tribes as a per capita payment, free from the aforesaid restrictions, under rules and regulations prescribed by the Secretary of the Interior.

(Aug. 7, 1939, ch. 552, § 1, 53 Stat. 1252.)

REFERENCES IN TEXT

Act of June 25, 1938, referred to in text, probably refers to the Second Deficiency Appropriation Act, fiscal year 1938, act June 25, 1938, ch. 681, § 203(a), 52 Stat. 1156. Section 203(a) of that act provided for an appropriation for payment of judgments rendered by the court of claims and reported to the 75th Congress in Senate Document Numbered 191, and House Documents Numbered 661 and 686. House Document No. 681 listed a judgment in favor of the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians in the sum of $5,313,347.32, with interest on a part thereof to date of payment, for the taking of land.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 542. Limitations on remainder of fund

After the segregation provided for in section 541 of this title shall have been made, the remainder of such judgment fund, including interest, shall be available for expenditure subject to the following limitations and conditions:

(a) Repealed. Aug. 13, 1954, ch. 732, § 12, 68 Stat. 721.

(b) Three hundred and seventy-five thousand dollars for immediate payment in a lump sum of $1,500 to each adult unallotted Indian found to be entitled to payment in lieu of allotment, as authorized in the Act of June 1, 1938 (52 Stat. 605) [25 U.S.C. 551 et seq.]: *Provided*, That the amount due any minor under the provisions of said subchapter shall be withheld until he becomes an adult, as herein defined, when it shall be paid to him in a lump sum from any funds, principal, or interest, on deposit to the credit of the Klamath Tribe, and section 2 of said Act of June 1, 1938 [25 U.S.C. 552], is amended accordingly.

(c) Such moneys as shall remain in the principal fund shall be transferred to and become a part of the capital reserve fund created by section 530 of this title.

(Aug. 7, 1939, ch. 552, § 2, 53 Stat. 1253; Aug. 13, 1954, ch. 732, § 12, 68 Stat. 721.)

REFERENCES IN TEXT

Act of June 1, 1938, referred to in subsec. (b), is act June 1, 1938, ch. 310, 52 Stat. 605, as amended, which is classified generally to subchapter XI (§ 551 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1954—Subsec. (a). Act Aug. 13, 1954, repealed subsec. (a) which related to transfer of funds.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 12 of act Aug. 13, 1954, provided that the amendment made by that section is effective on the date of the transfer of tribal property to a trustee, corporation, or other legal entity pursuant to section 564e of this title.

§ 543. Liability of judgment funds for debts

In no event shall any portion of the said judgment fund become liable, payable, or subject to any debt or debts contracted prior to the passage of this subchapter by any Indian of the Klamath Tribe except debts to the United States or to the tribe.

(Aug. 7, 1939, ch. 552, § 3, 53 Stat. 1253.)

§ 544. Creation of individual credits; authorized purchases

The Secretary of the Interior be, and he is authorized and directed, from the capital reserve fund deposited in the Treasury of the United States to the credit of the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians (hereinafter referred to as the ''Klamath Tribes''), said fund being established pursuant to the Act of August 28, 1937 (ch. 874, 50 Stat. 872) [25 U.S.C. 530 et seq.], as augmented by the proceeds of the judgment fund of the Klamath Indians as provided in the Act of August 7, 1939 (ch. 552, 53 Stat. 1252) [25 U.S.C. 541 et seq.], to credit the sum of $500 upon the books of the Office of Indian Affairs, to each person determined by the Secretary of the Interior to be entitled to enrollment upon the annuity roll of said tribes of the Klamath Reservation, Oregon, living upon March 29, 1948. The share of each adult member of the credit so established shall be available for expenditure, under such rules and regulations as the Secretary of the Interior may prescribe, for the following purposes:

Purchase of land or interests in land; improvement of lands acquired or already held by the Indian; erection and improvement of suitable homes including household equipment and furnishings; repayment of any loans received from the United States or from the Klamath tribal funds; purchase of building material, feed, seed, and grain; purchase or rehabilitation and repair of farming equipment, tools, trucks, tractors, machinery, and implements; and purchase of any other equipment or supplies necessary to enable the Indians to fit themselves for or to engage in farming, livestock, industry, or such other pursuits or vocations, including education and adult education, as will enable them to become self-supporting; and health, including dental work: *Provided, however*, That the funds of the aged, infirm, decrepit, and incapacitated members may be used for their proper maintenance and support: *Provided further*, That during minority the share of each minor Indian shall be available for expenditure only for his education and for health purposes, including dental work, except that in an emergency expenditure of a minor Indian's share may be made for any of the purposes specified in this section and section 545 of this title. As herein used, the term ''minor'' shall include all members of the tribe who have not attained the age of twenty-one years, except that minors eighteen years of age or over and who are married or have families of their own to support, shall be regarded as adults. On the death of any enrolled member, adult or minor, the sum on deposit to his credit shall be distributed as personal property, and shall be available for expenditure by the distributees only for the purposes herein authorized: *And provided further*, That each member of the Klamath Tribes honorably discharged from service to the United States in its armed forces shall, upon application to the Commissioner of Indian Affairs, be paid $200 in cash, free from the aforesaid restrictions and in addition to the $500 to be credited to such member as provided in this section.

(Mar. 29, 1948, ch. 160, § 2, 62 Stat. 92.)

REFERENCES IN TEXT

Act of August 28, 1937, referred to in text, is act Aug. 28, 1937, ch. 874, 50 Stat. 872, as amended, which is classified generally to subchapter IX (§ 530 et seq.) of this chapter.

Act of August 7, 1939, referred to in text, is act Aug. 7, 1939, ch. 552, 53 Stat. 1252, as amended, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

This section was not enacted as part of act Aug. 7, 1939, ch. 552, 53 Stat. 1252, which comprises this subchapter.

SHORT TITLE

Section 1 of act Mar. 29, 1948, provided: ''That this Act [enacting this section and section 545 of this title] shall be known as the 'Klamath Welfare Act'.''

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 545. Liability of judgment funds for debts

In no event shall any portion of the funds directed to be credited and paid become liable, payable, or subject to any debt or debts contracted prior to the passage of this section and section 544 of this title by any Indian of the Klamath Tribe, except debts to the United States or to the tribe.

(Mar. 29, 1948, ch. 160, § 3, 62 Stat. 93.)

CODIFICATION

This section was not enacted as part of act Aug. 7, 1939, ch. 552, 53 Stat. 1252, which comprises this subchapter.

SUBCHAPTER XI—KLAMATH TRIBE: PAYMENTS IN LIEU OF ALLOTMENTS; INHERITANCE OF RESTRICTED PROPERTY

§ 551. "Klamath Tribe" defined

As used in this subchapter the term ''Klamath Tribe'' includes the members of the Klamath and Modoc Tribes and the Yahooskin Band of Snakes and all other Indians having rights on the Klamath Indian Reservation in the State of Oregon.

(June 1, 1938, ch. 310, § 1, 52 Stat. 605.)

§ 552. Payments in lieu of allotments

Each enrolled member of the Klamath Tribe living on June 1, 1938, who has not received an allotment of land shall be paid the sum of $1,500 from unobligated Klamath tribal funds on deposit in the Treasury of the United States, under such rules and regulations as the Secretary of the Interior shall prescribe, in installments of not to exceed $300 per annum: *Provided*, That no member of the Klamath Tribe who shall not be enrolled within one year from June 1, 1938, shall receive a payment in lieu of allotment. No member of the Klamath Tribe born after June 1, 1938, shall be entitled to receive any allotment of land or money payment in lieu thereof.

(June 1, 1938, ch. 310, § 2, 52 Stat. 605.)

§ 553. Deposit and expenditure of payments

The payments herein authorized shall be deposited to the credit of the individual Indian money accounts of such Indians subject to expenditure by such Indians, under such rules and regulations as the Secretary of the Interior may prescribe for (1) industrial and agricultural assistance, and the construction and improvement of homes, including the purchase of land and interests in land, building material, farming equipment, industrial equipment, trucks, livestock, feed, food, seed, tools, machinery, implements, household goods, bedding, clothing, and any other equipment or supplies necessary to enable the Indians to fit themselves for or to engage in the farming, livestock industry, or such other industrial or agricultural pursuits or avocations as will enable them to become self-supporting; (2) the educational advancement of such Indians; (3) financial assistance in cases of illness, death, or other emergency; (4) the repayment of reimbursable debts previously contracted; or (5) security for or the repayment of

loans made to such Indians from any Klamath revolving loan fund now existent or which shall hereafter be created.

(June 1, 1938, ch. 310, § 3, 52 Stat. 605.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 1, 1938, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

§ 554. Disposition of payment on death of Indian

In the event of the death of any such Indian entitled to receive a payment in lieu of allotment after June 1, 1938, any unexpended balance of said $1,500 still due the decedent shall first be applied to the repayment of any loans received by such Indian from the United States or from the Klamath Tribal funds, and the balance thereafter shall be distributed as personal property.

(June 1, 1938, ch. 310, § 4, 52 Stat. 606.)

§ 555. Repealed. Aug. 13, 1954, ch. 732, § 9(c), 68 Stat. 721

Section, act June 1, 1938, ch. 310, § 5, 52 Stat. 606, related to devise of restricted or trust property and is now covered by section 564h of this title.

§ 556. Reversion of interest in property on death without heirs or devisees

If any enrolled member of the Klamath Tribe dies without lawful heirs or devises,[1] all interest which such member has in any restricted or trust property within the Klamath Reservation shall revert to and become part of the common tribal property.

(June 1, 1938, ch. 310, § 6, 52 Stat. 606.)

SUBCHAPTER XII—KLAMATH TRIBE: FEES AND CHARGES

§§ 561, 562. Omitted

CODIFICATION

Sections, which related to fees for general services and medical services, were from the Interior Department Appropriation Act, 1946, July 3, 1945, ch. 262, § 1, 59 Stat. 334, and were not repeated in the Interior Department Appropriation Act of 1947, July 1, 1946, ch. 529, 60 Stat. 348.

§ 563. Salaries and expenses for Klamath Tribe Officials

The Secretary of the Interior, or such official as may be designated by him, is authorized, until otherwise directed by Congress, to advance to the tribe or to pay out of any unobligated tribal funds of the Klamath Indians in the Treasury of the United States salaries and expenses of tribal officials or representatives (except the Klamath Loan Fund Board) at rates and/or limitations designated in advance by the Klamath General Council, or any governing body to which it may delegate such authority, and approved by the Secretary of the Interior: *Provided*, That the length of stay of representatives serving the tribe at the seat of government shall be determined by the Secretary of the Interior.

[1] So in original. Probably should be ''devisees,''.

(May 29, 1953, ch. 86, § 1, 67 Stat. 40.)

PRIOR PROVISIONS

A prior section 563, acts June 25, 1938, ch. 710, 52 Stat. 1207; Aug. 7, 1939, ch. 519, 53 Stat. 1244; May 15, 1945, ch. 123, 59 Stat. 167, provided for payment of salaries and expenses of Klamath Tribe officials out of tribal funds but limited the amount of such expenditures to $15,000 per annum, prior to repeal by act May 29, 1953, § 2, 67 Stat. 40.

SUBCHAPTER XIII—KLAMATH TRIBE: TERMINATION OF FEDERAL SUPERVISION

§ 564. Purpose

The purpose of this subchapter is to provide for the termination of Federal supervision over the trust and restricted property of the Klamath Tribe of Indians consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and of the individual members thereof, for the disposition of federally owned property acquired or withdrawn for the administration of the affairs of said Indians, and for a termination of Federal services furnished such Indians because of their status as Indians.

(Aug. 13, 1954, ch. 732, § 1, 68 Stat. 718.)

REVOLVING FUND: INTEREST-FREE LOANS TO KLAMATH INDIANS; REFINANCING LENDING AGENCY LOANS

Pub. L. 86–40, June 11, 1959, 73 Stat. 70, provided: ''That the Secretary of the Interior is authorized to make loans, without interest, from the revolving fund authorized by the Acts of June 18, 1934 (48 Stat. 986; 25 U.S.C. 470), and June 26, 1936 (49 Stat. 1968; 25 U.S.C. 506), as amended and supplemented, to members of the Klamath Tribe of Indians who elected to withdraw from the tribe pursuant to the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. 564), as amended, regardless of the degree of Indian blood of the borrower, and to collect such loans by setoff against funds payable to the borrower pursuant to said Act of August 13, 1954, as amended [this subchapter]. The Secretary is also authorized to refinance from such revolving fund any loan made by a lending agency to a withdrawing Klamath Indian that is secured by encumbrance of his beneficial interest in tribal property with the approval of the Secretary as required by section 4 of said 1954 Act [section 564c of this title], and to include therein a nonreimbursable grant equal to the interest charges incurred by the borrower prior to such refinancing. In the event adequate funds are not available from the revolving fund to refinance a loan by such lending agency, the Secretary is authorized to pay from the revolving fund, without reimbursement, the interest charged on such loan.''

INDIAN REVOLVING LOAN FUND

Certain funds to be administered as a single Indian Revolving Loan Fund after Apr. 12, 1974, see section 1461 of this title.

REPEALS; RECOUPMENT OF FUNDS EXPENDED FOR KLAMATH COUNTY SCHOOL BOARD

Section 24 of act Aug. 13, 1954, as amended by Pub. L. 85–72, June 29, 1957, 71 Stat. 243, provided that: ''All Acts or parts of Acts inconsistent with this Act [this subchapter] are hereby repealed insofar as they affect the tribe or its members. Effective on July 1, 1957, section 2 of the Act of August 19, 1949 (63 Stat. 621, ch. 488) shall become inapplicable to the unrecouped balance of funds expended in cooperation with the school board of Klamath County, Oregon, pursuant to said Act.''

SEPARABILITY

Section 25 of act Aug. 13, 1954, provided that: ''If any provision of this Act [this subchapter], or the applica-

tion thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.''

§ 564a. Definitions

For the purposes of this subchapter:

(a) ''Tribe'' means the Klamath Tribe of Indians consisting of the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians.

(b) ''Secretary'' means the Secretary of the Interior.

(c) ''Lands'' means real property, interests therein, or improvements thereon, and include water rights.

(d) ''Tribal property'' means any real or personal property, including water rights, or any interest in real or personal property, that belongs to the tribe and either is held by the United States in trust for the tribe or is subject to a restriction against alienation imposed by the United States.

(e) ''Adult'' means a person who is an adult according to the law of the place of his residence.

(Aug. 13, 1954, ch. 732, § 2, 68 Stat. 718; Pub. L. 85–132, § 1(f), Aug. 14, 1957, 71 Stat. 348.)

AMENDMENTS

1957—Subsec. (e). Pub. L. 85–132 substituted provision defining adult as a person who is an adult according to the law of the place of his residence, for provision defining adult as a member of the tribe who has attained the age of twenty-one years.

§ 564b. Membership roll; closure; preparation and initial publication; appeal from inclusion or omission from roll; finality of determination; final publication

At midnight of August 13, 1954, the roll of the tribe shall be closed and no child born thereafter shall be eligible for enrollment: *Provided*, That the tribe shall have a period of six months from August 13, 1954, in which to prepare and submit to the Secretary a proposed roll of the members of the tribe living on August 13, 1954, which shall be published in the Federal Register. If the tribe fails to submit such roll within the time specified in this section, the Secretary shall prepare a proposed roll for the tribe, which shall be published in the Federal Register. Any person claiming membership rights in the tribe or an interest in its assets, or a representative of the Secretary on behalf of any such person, may, within ninety days from the date of publication of the proposed roll, file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such roll. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals, the roll of the tribe shall be published in the Federal Register, and such roll shall be final for the purposes of this subchapter.

(Aug. 13, 1954, ch. 732, § 3, 68 Stat. 718.)

§ 564c. Personal property rights; restrictions; tax exemption

Upon publication in the Federal Register of the final roll as provided in section 564b of this title, the rights or beneficial interests in tribal property of each person whose name appears on the roll shall constitute personal property which may be inherited or bequeathed, but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such tribal property as provided in section 564e of this title without the approval of the Secretary. Any contract made in violation of this section shall be null and void. Property which this section makes subject to inheritance or bequest and which is inherited or bequeathed after August 13, 1954, and prior to the transfer of title to tribal property as provided in section 564e of this title shall not be subject to State or Federal inheritance, estate, legacy, or succession taxes.

(Aug. 13, 1954, ch. 732, § 4, 68 Stat. 718; Pub. L. 85–731, § 2, Aug. 23, 1958, 72 Stat. 818.)

AMENDMENTS

1958—Pub. L. 85–731 inserted provision that property which is inherited or bequeathed after Aug. 13, 1954, and prior to transfer of title to tribal property should not be subject to taxes.

REVOLVING FUND: INTEREST-FREE LOANS TO KLAMATH INDIANS; REFINANCING LENDING AGENCY LOANS

Use of Revolving Loan Fund for Indians to assist Klamath Indians during period for terminating Federal supervision, see note set out under section 564 of this title.

§ 564d. Management specialists

(a) Employment; duties

The Secretary is authorized and directed to select and retain by contract, at the earliest practicable time after August 13, 1954 and after consultation with the tribe at a general meeting called for that purpose, the services of qualified management specialists who shall—

(1) cause an appraisal to be made, within not more than twelve months after their employment, or as soon thereafter as practicable, of all tribal property showing its fair market value by practicable logging or other appropriate economic units;

(2) immediately after the appraisal of the tribal property and approval of the appraisal by the Secretary, give to each member whose name appears on the final roll of the tribe an opportunity to elect to withdraw from the tribe and have his interest in tribal property converted into money and paid to him, or to remain in the tribe and participate in the tribal management plan to be prepared pursuant to paragraph (5) of this subsection; in the case of members who are minors, persons declared incompetent by judicial proceedings, or deceased, the opportunity to make such election on their behalf shall be given to the person designated by the Secretary as the person best able to represent the interests of such member: *Provided, however*, That any member, or any heir or any devisee of any deceased member, for whom the Secretary has so designated a representative may (on his own behalf, through his natural guardian, or next friend) within one hundred and twenty days after receipt of written notice of such secretarial designation, contest the secretarial designation in any naturalization court for the area in which such member resides, by filing of a peti-

tion therein requesting designation of a named person other than the secretarial designee, and the burden shall thereupon devolve upon the Secretary to show cause why the member-designated representative should not represent the interests of such member, and the decision of such court shall be final and conclusive;

(3) determine and select the portion of the tribal property which if sold at the appraised value would provide sufficient funds to pay the members who elect to have their interests converted into money, arrange for the sale of such property, and distribute the proceeds of sale among the members entitled thereto: *Provided*, That any person whose name appears on the final roll of the tribe, or a guardian on behalf of any such person who is a minor or an incompetent, shall have the right to purchase, for his or its own account but not as an agent for others, any of such property in lots as offered for sale for not less than the highest offer received by competitive bid; any individual Indian purchaser who has elected to withdraw from the tribe may apply toward the purchase price up to 100 per centum of the amount estimated by the Secretary to be due him from the sale or taking of forest and marsh land pursuant to subsection (b), (d), and (f) of section 564w–1 of this title, and up to 75 per centum of the amount estimated by the Secretary to be due him from the conversion of his interest in other tribal property; and if more than one right is exercised to purchase the same property pursuant to this proviso the property shall be sold to one of such persons on the basis of competitive bids: *Provided further*, That when determining and selecting the portion of the tribal property to be sold, due consideration shall be given to the use of such property for grazing purposes by the members of both groups of the tribe;

(4) cause such studies and reports to be made as may be deemed necessary or desirable by the tribe or by the Secretary in connection with the termination of Federal supervision as provided for in this subchapter; and

(5) cause a plan to be prepared in form and content satisfactory to the members who elect to remain in the tribe and to the Secretary for the management of tribal property through a trustee, corporation, or other legal entity. If no plan that is satisfactory both to the members who elect to remain in the tribe and to the Secretary has been prepared six months before the time limit provided in section 564e(b) of this title the Secretary shall adopt a plan for managing the tribal property, subject to the provisions of section 564n of this title.

(b) Availability of funds for expenditures; reimbursement of tribal funds

Such amounts of Klamath tribal funds as may be required for the purposes of this section shall be available for expenditure by the Secretary. In order to reimburse the tribe, in part, for expenditure of such tribal funds as the Secretary deems necessary for the purposes of carrying out the requirements of this section, there is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, an amount equal to one-half of such expenditures from tribal funds, or the sum of $550,000, whichever is the lesser amount.

(Aug. 13, 1954, ch. 732, § 5, 68 Stat. 718; Pub. L. 85–132, § 1(b), (d), (e), (g), Aug. 14, 1957, 71 Stat. 347, 348; Pub. L. 85–731, §§ 6–8, Aug. 23, 1958, 72 Stat. 819.)

AMENDMENTS

1958—Subsec. (a)(3). Pub. L. 85–731, §§ 6, 7, struck out first proviso requiring that funds payable to the withdrawing members be distributed as each $200,000 accumulates, and substituted ''who has elected to withdraw from the tribe may apply toward the purchase price up to 100 per centum of the amount estimated by the Secretary to be due him from the sale or taking of forest and marsh lands pursuant to subsections (b), (d), and (f) of section 564w–1 of this title, and up to 75 per centum of the amount estimated by the Secretary to be due him from the conversion of his interest in other tribal property'' for ''may apply toward the purchase price all or any part of the sum due him from the conversion of his interest in tribal property'' in second proviso.

Subsec. (a)(5). Pub. L. 85–731, § 8, inserted sentence to provide that if no plan is satisfactory both to the members who elect to remain in the tribe and to the Secretary, the Secretary shall adopt a management plan.

1957—Subsec. (a)(2). Pub. L. 85–132, § 1(d), provided that the time of election to withdraw be given after the appraisal is approved by the Secretary, and provided for election on behalf of minors, incompetents, or deceased persons by designee of Secretary.

Subsec. (a)(3). Pub. L. 85–132, § 1(e), in second proviso provided that any person whose name appears on the final roll of the tribe, may purchase for his own account, but not as an agent for others, any such property in lots as offered for sale, and provided that if more than one right is exercised to purchase the same property, it be sold on the basis of competitive bids.

Subsec. (a)(5). Pub. L. 85–132, § 1(g), substituted ''members who elect to remain in the tribe'' for ''tribe''.

Subsec. (b). Pub. L. 85–132, § 1(b), provided for partial reimbursement of the tribe for expenditures of tribal funds under this section, authorization of appropriation of the lesser of amount equal to one-half of such expenditures, or $550,000, in lieu of former provisions which charged expenses incident to par. (3) to members who withdraw from tribe, charged expenses under pars. (4) and (5) to members who remain in tribe, and charged all other expenses under this section to interests of both groups of members.

COMPENSATION FOR SERVICES PERTAINING TO ENACTMENT PROHIBITED

Section 3 of Pub. L. 85–731 provided that: ''No funds distributed pursuant to section 5 of the Act of August 13, 1954, as amended [this section], to members who withdraw from the tribe shall be paid to any person as compensation for services pertaining to the enactment of said Act or amendments thereto [this subchapter] and any person making or receiving such payments shall be guilty of a misdemeanor and shall be imprisoned for not more than six months and fined not more than $500.''

TERMINATION OF CONTRACT WITH MANAGEMENT SPECIALISTS BY SECRETARY OF THE INTERIOR

Section 4 of Pub. L. 85–731 provided that: ''The Secretary of the Interior is directed to terminate the contract between him and the management specialists by giving immediately the sixty-day notice required by paragraph 18 of such contract. When the contract is terminated, all of the functions of the management specialists under section 5 of the Act of August 13, 1954,

as amended [this section], shall be performed by the Secretary.''

PROVISIONS REQUIRING ELECTION TO WITHDRAW OR REMAIN IN TRIBE FOLLOWING APPRAISAL AS UNAFFECTED

Section 5 of Pub. L. 85–731 provided that: ''Nothing in this Act shall in any way modify or repeal the provisions of subsection 5(a) of the Act of August 13, 1954, 68 Stat. 718), as amended [subsec. (a) of this section], providing for and requiring members of the Klamath Tribe to elect to withdraw from or remain in the tribe, following the appraisal of the tribal property.''

CEMETERIES WITHIN RESERVATION

Section 9 of Pub. L. 85–731 provided that: ''Except as provided below the provisions of the Act of August 13, 1954 (68 Stat. 718), as amended [this subchapter], shall not apply to cemeteries within the reservation. The Secretary is hereby authorized and directed to transfer title to such properties to any organization authorized by the tribe and approved by him. In the event such an organization is not formed by the tribe within eighteen months following enactment of this Act [August 23, 1958], the Secretary is directed to perfect the organization of a nonprofit entity empowered to accept title and maintain said cemeteries, any costs involved to be subject to the provisions of section 5(b) of said Act of August 13, 1954, as amended [subsec. (b) of this section].''

DEFERRAL OF TIME FOR SALES OF TRIBAL PROPERTY

Sales of tribal property made pursuant to subsec. (a)(3) of this section or section 564e of this title as deferred until the adjournment of the second session of the Eighty-fifth Congress, see note set out under section 564e of this title.

§ 564e. Sale of tribal property

(a) Transfer procedure

The Secretary is authorized and directed to execute any conveyancing instrument that is necessary or appropriate to convey title to tribal property to be sold in accordance with the provisions of paragraph (3) of subsection (a) of section 564d of this title, and to transfer title to all other tribal property to a trustee, corporation, or other legal entity in accordance with the plan prepared pursuant to paragraph (5) of subsection (a) of section 564d of this title.

(b) Time limitation

It is the intention of the Congress that all of the actions required by section 564d of this title and this section shall be completed at the earliest practicable time and in no event later than seven years from August 13, 1954.

(c) Effect on tribal members selling interests

Members of the tribe who receive the money value of their interests in tribal property shall thereupon cease to be members of the tribe: *Provided*, That nothing shall prevent them from sharing in the proceeds of tribal claims against the United States.

(Aug. 13, 1954, ch. 732, § 6, 68 Stat. 719; Pub. L. 85–132, § 1(c), Aug. 14, 1957, 71 Stat. 347; Pub. L. 85–731, § 10, Aug. 23, 1958, 72 Stat. 819.)

AMENDMENTS

1958—Subsec. (b). Pub. L. 85–731 substituted ''seven years'' for ''six years''.

1957—Subsec. (b). Pub. L. 85–132 substituted ''six years'' for ''four years''.

DEFERRAL OF TIME FOR SALES OF TRIBAL PROPERTY

Section 27 of act Aug. 13, 1954, ch. 732, as added by Pub. L. 85–132, § 1(a), provided that: ''Notwithstanding any other provisions of this Act [this subchapter], no sales of tribal property shall be made pursuant to paragraph (3) of subsection (a) of section 5, or section 6 of this Act [section 564d(a)(3) of this title or this section] prior to the adjournment of the second session of the Eighty-fifth Congress.''

§ 564f. Per capita payments to tribal members

The Secretary is authorized and directed, as soon as practicable after the passage of this subchapter, to pay from such funds as are deposited to the credit of the tribe in the Treasury of the United States, $250 to each member of the tribe on the rolls of the tribe on August 13, 1954. Any other person whose application for enrollment on the rolls of the tribe is subsequently approved, pursuant to the terms of section 564b of this title, shall, after enrollment, be paid a like sum of $250: *Provided*, That such payments shall be made first from the capital reserve fund created by section 530 of this title.

(Aug. 13, 1954, ch. 732, § 7, 68 Stat. 720.)

§ 564g. Individual property

(a) Transfer of unrestricted control

The Secretary is authorized and directed to transfer within four years from August 13, 1954, to each member of the tribe unrestricted control of funds or other personal property held in trust for such member by the United States.

(b) Removal of restrictions on sales or encumbrances; fee simple title

All restrictions on the sale or encumbrance of trust or restricted interests in land, wherever located, owned by members of the tribe (including allottees, purchasers, heirs, and devisees, either adult or minor), and on trust or restricted interests in land within the Klamath Indian Reservation, regardless of ownership, are removed four years after August 13, 1954, and the patents or deeds under which titles are then held shall pass the titles in fee simple, subject to any valid encumbrances. The titles to all interests in trust or restricted land acquired by members of the tribe by devise or inheritance four years or more after August 13, 1954, shall vest in such members in fee simple, subject to any valid encumbrance.

(c) Multiple land ownership; partition; sale; election to purchase; unlocated owners

Prior to the time provided in subsection (b) of this section for the removal of restrictions on land owned by one or by more than one member of a tribe, the Secretary may—

(1) upon request of any of the owners, partition the land and issue to each owner a patent or deed for his individual share that shall become unrestricted four years from August 13, 1954;

(2) upon request of any of the owners, and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That any one or more of the owners may elect before a sale to purchase the other

interests in the land at not less than the appraised value thereof, and the purchaser shall receive an unrestricted patent or deed to the land; and

(3) if the whereabouts of none of the owners can be ascertained, cause such lands to be sold and deposit the proceeds of sale in the Treasury of the United States for safekeeping.

(d) Approval of exchanges or sales by Secretary

The Secretary is authorized to approve—

(1) the exchange of trust or restricted land between the tribe and any of its members;

(2) the sale by the tribe of tribal property to individual members of the tribe; and

(3) the exchange of tribal property for real property in fee status. Title to all real property included in any sale or exchange as provided in this subsection shall be conveyed in fee simple.

(Aug. 13, 1954, ch. 732, § 8, 68 Stat. 720; Pub. L. 85–132, § 1(h), (i), Aug. 14, 1957, 71 Stat. 348; Pub. L. 85–731, § 11, Aug. 23, 1958, 72 Stat. 819.)

AMENDMENTS

1958—Subsec. (b). Pub. L. 85–731 struck out provision making subsection inapplicable to subsurface rights and directing Secretary to transfer subsurface rights to trustees for management for a period not less than ten years.

1957—Subsec. (b). Pub. L. 85–132, § 1(i), substituted ''interests in land, wherever located'' for ''land'', and inserted ''purchasers'' and ''and on trust or restricted interests in land within the Klamath Reservation regardless of ownership'' preceding proviso.

Subsec. (c). Pub. L. 85–132, § 1(h), inserted ''one or by'' after ''on land owned by''.

§ 564h. Property of deceased members

(a) Federal laws inapplicable to probate

The Act of June 25, 1910 (36 Stat. 855), the Act of February 14, 1913 (37 Stat. 678), and other Acts amendatory thereto shall not apply to the probate of the trust and restricted property of the members of the tribe who die six months or more after August 13, 1954.

(b) State, etc., laws applicable to probate

The laws of the several States, Territories, possessions, and the District of Columbia with respect to the probate of wills, the determination of heirs, and the administration of decedents' estates shall apply to the individual property of members of the tribe who die six months or more after August 13, 1954.

(Aug. 13, 1954, ch. 732, § 9(a), (b), 68 Stat. 720, 721.)

REFERENCES IN TEXT

Act of June 25, 1910, referred to in subsec. (a), is act June 25, 1910, ch. 431, 36 Stat. 855, as amended, which enacted sections 47, 93, 151, 202, 337, 344a, 351, 352, 353, 372, 403, 406, 407, and 408 of this title, sections 6a–1 and 16a of Title 41, Public Contracts, and section 148 of Title 43, Public Lands, and amended sections 191, 312, 331, 333, and 336 of this title and sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure. Sections 104 and 107 of former title 18 were repealed and reenacted as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. For complete classification of this Act to the Code, see Tables.

Act of February 14, 1913, referred to in subsec. (a), is act Feb. 14, 1913, ch. 55, 37 Stat. 678, which amended section 373 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of subsecs. (a) and (b) of section 9 of act Aug. 13, 1954. Subsection (c) of section 9 repealed section 555 of this title.

§ 564i. Transfer of federally owned property

The Secretary is authorized, in his discretion, to transfer to the tribe or any member or group of members thereof any federally owned property acquired, withdrawn, or used for the administration of the affairs of the tribe which he deems necessary for Indian use, or to transfer to a public or nonprofit body any such property which he deems necessary for public use and from which members of the tribe will derive benefit.

(Aug. 13, 1954, ch. 732, § 10, 68 Stat. 721.)

§ 564j. Taxes; initial exemption; taxes following distribution; valuation for capital gains or losses

No property distributed under the provisions of this subchapter shall at the time of distribution be subject to Federal or State income tax. Following any distribution of property made under the provisions of this subchapter, such property and any income derived therefrom by the individual, corporation, or other legal entity shall be subject to the same taxes, State and Federal, as in the case of non-Indians: *Provided*, That, for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation or other legal entity.

(Aug. 13, 1954, ch. 732, § 11, 68 Stat. 721.)

ALL AMOUNTS REALIZED FROM CONDEMNATION OF CERTAIN FOREST LANDS HELD IN TRUST

Pub. L. 94–81, § 1, Aug. 9, 1975, 89 Stat. 417, as amended by Pub. L. 96–596, § 5(a), Dec. 24, 1980, 94 Stat. 3476; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided: ''That, for purposes of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, Title 26, Internal Revenue Code], all amounts realized by the trust from the condemnation, pursuant to Public Law 93–102 [section 564w–2 of this title], of the Klamath Indian forest lands held by the trustee for the Klamath Indian Tribe—

''(1) shall be excluded from the gross income of the trust, and

''(2) on the distribution from the trust of the proceeds of such condemnation, shall be excluded from the gross income of each person receiving such distribution.''

Section 5(b) of Pub. L. 96–596 provided that: ''The amendment made by subsection (a) [amending section 1 of Pub. L. 94–81, set out above] shall apply to all amounts whether received before, on, or after the date of the enactment of this Act [Dec. 24, 1980].''

§ 564k. Loan transfers; collection by tribe

All loans made from the reimbursable loan fund established by section 531 of this title, and all other loans made from Klamath tribal funds, including loans of livestock made by the tribe repayable in kind, shall be transferred to the tribe for collection in accordance with the terms thereof.

(Aug. 13, 1954, ch. 732, § 12, 68 Stat. 721.)

REFERENCES IN TEXT

Section 531 of this title, referred to in text, was repealed by act Aug. 13, 1954, ch. 732, § 12, 68 Stat. 721.

CODIFICATION

Section is composed of second sentence of section 12 of act Aug. 13, 1954. The first sentence of said section 12 repealed sections 531 to 535 and 542(a) of this title.

§ 564*l*. Klamath irrigation works

(a) Transfer of operation and maintenance

That part of section 499 of title 43, which relates to the transfer of the care, operation, and maintenance of reclamation works to water users associations or irrigation districts shall be applicable to the irrigation works on the Klamath Reservation.

(b) Termination of construction costs deferment; recordation of lien

Effective on the first day of the calendar year beginning after the date of the proclamation provided for in section 564q of this title, the deferment of the assessment and collection of construction costs provided for in the first proviso of section 386a of this title, shall terminate with respect to any lands within irrigation projects on the Klamath Reservation. The Secretary shall cause the first lien against such lands created by section 387[1] of this title, to be filed of record in the appropriate county office.

(c) Appropriation authorization

There is authorized to be appropriated out of any funds in the Treasury not otherwise appropriated the sum of $89,212 for payment to the Klamath Tribe with interest at 4 per centum annually as reimbursement for tribal funds used for irrigation construction operation and maintenance benefiting nontribal lands on the Klamath Reservation, such interest being computed from the dates of disbursement of such funds from the United States Treasury.

(d) Adjustment of reimbursable irrigation costs

The Secretary is authorized to adjust, eliminate, or cancel all or any part of reimbursable irrigation operation and maintenance costs and reimbursable irrigation construction costs chargeable against Indian owned lands that are subject to the provisions of this subchapter, and all or any part of assessments heretofore or hereafter imposed on account of such costs, when he determines that the collection thereof would be inequitable or would result in undue hardship on the Indian owner of the land, or that the administrative costs of collection would probably equal or exceed the amount collected.

(e) Applicable irrigation laws

Nothing contained in any other section of this subchapter shall affect in any way the laws applicable to irrigation projects on the Klamath Reservation.

(Aug. 13, 1954, ch. 732, § 13, 68 Stat. 721.)

REFERENCES IN TEXT

Section 387 of this title, referred to in subsec. (b), was omitted after not being repeated in the Interior Department Appropriation Act of 1947, July 1, 1946, ch. 529, 60 Stat. 348.

[1] See References in Text note below.

§ 564m. Water and fishing rights

(a) Water rights; laws applicable to abandonment

Nothing in this subchapter shall abrogate any water rights of the tribe and its members, and the laws of the State of Oregon with respect to the abandonment of water rights by nonuse shall not apply to the tribe and its members until fifteen years after the date of the proclamation issued pursuant to section 564q of this title.

(b) Fishing rights or privileges

Nothing in this subchapter shall abrogate any fishing rights or privileges of the tribe or the members thereof enjoyed under Federal treaty.

(Aug. 13, 1954, ch. 732, § 14, 68 Stat. 722.)

§ 564n. Protection of minors, persons non compos mentis, and other members needing assistance; guardians; other adequate means; trusts; annuities; assistance factors; contests

Prior to the transfer of title to, or the removal of restrictions from, property in accordance with the provisions of this subchapter, the Secretary shall protect the rights of members of the tribe who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs, by causing the appointment of guardians for such members in courts of competent jurisdiction, or by such other means as he may deem adequate, without application from the member, including but not limited to the creation of a trust of such member's property with a trustee selected by the Secretary, or the purchase by the Secretary of an annuity for such member: *Provided, however*, That no member shall be declared to be in need of assistance in conducting his affairs unless the Secretary determines that such member does not have sufficient ability, knowledge, experience, and judgment to enable him to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to such member and the income and proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him from losing such property or the benefits thereof: *Provided further*, That any member determined by the Secretary to be in need of assistance in conducting his affairs may, within one hundred and twenty days after receipt of written notice of such secretarial determination, contest the secretarial determination in any naturalization court for the area in which said member resides by filing therein a petition having that purpose; the burden shall thereupon devolve upon the Secretary to show cause why such member should not conduct his own affairs, and the decision of such court shall be final and conclusive with respect to the affected member's conduct of his affairs.

(Aug. 13, 1954, ch. 732, § 15, 68 Stat. 722; Pub. L. 85–132, § 1(j), Aug. 14, 1957, 71 Stat. 348.)

AMENDMENTS

1957—Pub. L. 85–132 inserted provisions allowing Secretary to act without application from member to cre-

ate a trust or purchase an annuity for such member, by setting out factors for determination by Secretary before he declares a member to be in need of assistance, and by providing for contest of such secretarial determination by member.

§ 564*o*. Advances or expenditures from tribal funds

Pending the completion of the property dispositions provided for in this subchapter, the funds now on deposit, or hereafter deposited, in the United States Treasury to the credit of the tribe shall be available for advance to the tribe, or for expenditure, for such purposes as may be designated by the governing body of the tribe and approved by the Secretary.

(Aug. 13, 1954, ch. 732, § 16, 68 Stat. 722.)

§ 564p. Execution by Secretary of patents, deeds, etc.

The Secretary shall have authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments as may be necessary or appropriate to carry out the provisions of this subchapter, or to establish a marketable and recordable title to any property disposed of pursuant to this subchapter.

(Aug. 13, 1954, ch. 732, § 17, 68 Stat. 722.)

§ 564q. Termination of Federal trust

(a) Publication; termination of Federal services; application of Federal and State laws

Upon removal of Federal restrictions on the property of the tribe and individual members thereof, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to the affairs of the tribe and its members has terminated. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians and, except as otherwise provided in this subchapter, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

(b) Citizenship status unaffected

Nothing in this subchapter shall affect the status of the members of the tribe as citizens of the United States.

(Aug. 13, 1954, ch. 732, § 18, 68 Stat. 722.)

§ 564r. Termination of Federal powers over tribe

Effective on the date of the proclamation provided for in section 564q of this title, all powers of the Secretary or other officer of the United States to take, review, or approve any action under the constitution and bylaws of the tribe are terminated. Any powers conferred upon the tribe by such constitution which are inconsistent with the provisions of this subchapter are terminated. Such termination shall not affect the power of the tribe to take any action under its constitution and bylaws that is consistent with this subchapter without the participation of the Secretary or other officer of the United States.

(Aug. 13, 1954, ch. 732, § 19, 68 Stat. 722.)

§ 564s. Set off of individual indebtedness; credit

The Secretary is authorized to set off against any indebtedness payable to the tribe or to the United States by an individual member of the tribe or payable to the United States by the tribe, any funds payable to such individual or tribe under this subchapter and to deposit the amounts set off to the credit of the tribe or the United States as the case may be.

(Aug. 13, 1954, ch. 732, § 20, 68 Stat. 723.)

§ 564t. Indian claims unaffected

Nothing contained in this subchapter shall deprive the tribe or its constituent parts of any right, privilege, or benefit granted by the Act of August 13, 1946 (60 Stat. 1049) [25 U.S.C. 70 et seq.].

(Aug. 13, 1954, ch. 732, § 21, 68 Stat. 723.)

REFERENCES IN TEXT

Act of August 13, 1946, referred to in text, is act Aug. 13, 1946, ch. 959, 60 Stat. 1049, as amended, known as the Indian Claims Commission Act of 1946, which was classified generally to chapter 2A (§ 70 et seq.) of this title and was omitted in view of the termination of the Indian Claims Commission on Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 564u. Valid leases, permits, liens, etc., unaffected

Nothing in this subchapter shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved. Whenever any such instrument places in or reserves to the Secretary any powers, duties, or other functions with respect to the property subject thereto, the Secretary may transfer such functions, in whole or in part, to any Federal agency with the consent of such agency and may transfer such functions, in whole or in part to a State agency with the consent of such agency and the other party or parties to such instrument.

(Aug. 13, 1954, ch. 732, § 22, 68 Stat. 723.)

§ 564v. Rules and regulations; tribal referenda

The Secretary is authorized to issue rules or regulations necessary to effectuate the purposes of this subchapter, and may in his discretion provide for tribal referenda on matters pertaining to management or disposition of tribal assets.

(Aug. 13, 1954, ch. 732, § 23, 68 Stat. 723.)

§ 564w. Education and training program; purposes; subjects; transportation; subsistence; contracts; other education programs

Prior to the issuance of a proclamation in accordance with the provisions of section 564q of this title, the Secretary is authorized to undertake, within the limits of available appropriations, a special program of education and training designed to help the members of the tribe to

earn a livelihood, to conduct their own affairs, and to assume their responsibilities as citizens without special services because of their status as Indians. Such program may include language training, orientation in non-Indian community customs and living standards, vocational training and related subjects, transportation to the place of training or instruction, and subsistence during the course of training or instruction. For the purposes of such program the Secretary is authorized to enter into contracts or agreements with any Federal, State, or local governmental agency, corporation, association, or person. Nothing in this section shall preclude any Federal agency from undertaking any other program for the education and training of Indians with funds appropriated to it.

(Aug. 13, 1954, ch. 732, § 26, 68 Stat. 723.)

§ 564w–1. Klamath Indian Forest and Klamath Marsh

Notwithstanding the provisions of sections 564d and 564e of this title, and all Acts amendatory thereof—

(a) Designation of boundaries

The tribal lands that comprise the Klamath Indian Forest, and the tribal lands that comprise the Klamath Marsh, shall be designated by the Secretary of the Interior and the Secretary of Agriculture, jointly.

(b) Sales; terms and conditions

The portion of the Klamath Indian Forest that is selected for sale pursuant to section 564d(a)(3) of this title to pay members who withdraw from the tribe shall be offered for sale by the Secretary of the Interior in appropriate units, on the basis of competitive bids, to any purchaser or purchasers who agree to manage the forest lands as far as practicable according to sustained yield procedures so as to furnish a continuous supply of timber according to plans to be prepared and submitted by them for approval and inclusion in the conveyancing instruments in accordance with specifications and requirements referred to in the invitations for bids: *Provided*, That no sale shall be for a price that is less than the realization value of the units involved determined as provided in subsection (c) of this section. The terms and conditions of the sales shall be prescribed by the Secretary. The specifications and minimum requirements to be included in the invitations for bids, and the determination of appropriate units for sale, shall be developed and made jointly by the Secretary of the Interior and the Secretary of Agriculture. Such plans when prepared by the purchaser shall include provisions for the conservation of soil and water resources as well as for the management of the timber resources as hereinbefore set forth in this section. Such plans shall be satisfactory to and have the approval of the Secretary of Agriculture as complying with the minimum standards included in said specifications and requirements before the prospective purchaser shall be entitled to have his bid considered by the Secretary of the Interior and the failure on the part of the purchaser to prepare and submit a satisfactory plan to the Secretary of Agriculture shall constitute grounds for rejection of such bid. Such plans shall be incorporated as conditions in the conveyancing instruments executed by the Secretary and shall be binding on the grantee and all successors in interest. The conveyancing instruments shall provide for a forfeiture and a reversion of title to the lands to the United States, not in trust for or subject to Indian use, in the event of a breach of such conditions. The purchase price paid by the grantee shall be deemed to represent the full appraised fair market value of the lands, undiminished by the right of reversion retained by the United States in a nontrust status, and the retention of such right of reversion shall not be the basis for any claim against the United States. The Secretary of Agriculture shall be responsible for enforcing such conditions. Upon any reversion of title pursuant to this subsection, the lands shall become national forest lands subject to the laws that are applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended.

(c) Appraisals; notice to Congressional committees; appropriation; realization value; report to Congressional committees

Within sixty days after August 23, 1958 the Secretary of the Interior shall contract by negotiation with three qualified appraisers or three qualified appraisal organizations for a review of the appraisal approved by the Secretary pursuant to section 564d(a)(2) of this title. In such review full consideration shall be given to all reasonably ascertainable elements of land, forest, and mineral values. Not less than thirty days before executing such contracts the Secretary shall notify the chairman of the House Committee on Interior and Insular Affairs and the chairman of the Senate Committee on Interior and Insular Affairs of the names and addresses of the appraisers selected. The cost of the appraisal review shall be paid from tribal funds which are made available for such purpose, subject to full reimbursement by the United States, and the appropriation of funds for that purpose is authorized. Upon the basis of a review of the appraisal heretofore made of the forest units and marsh lands involved and such other materials as may be readily available, including additional market data since the date of the prior appraisal, but without making any new and independent appraisal, each appraiser shall estimate the fair market value of such forest units and marsh lands as if they had been offered for sale on a competitive market without limitation on use during the interval between the adjournment of the Eighty-fifth Congress and the termination date specified in section 564e(b) of this title. This value shall be known as the realization value. If the three appraisers are not able to agree on the realization value of such forest units and marsh lands, then such realization values shall be determined by averaging the values estimated by each appraiser. The Secretary shall report such realization values to the chairman of the House Committee on Interior and Insular Affairs and to the chairman of the Senate Com-

mittee on Interior and Insular Affairs not later than January 15, 1959. No sale of forest units that comprise the Klamath Indian Forest designated pursuant to subsection (a) of this section shall be made under the provisions of this subchapter prior to April 1, 1959.

(d) Unsold forest units and marsh lands; title after publication in Federal Register; aggregate realization value; appropriation

If all of the forest units offered for sale in accordance with subsection (b) of this section are not sold before April 1, 1961, the Secretary of Agriculture shall publish in the Federal Register a proclamation taking title in the name of the United States to as many of the unsold units or parts thereof as have, together with the Klamath Marsh lands acquired pursuant to subsection (f) of the section, an aggregate realization value of not to exceed $90,000,000, which shall be the maximum amount payable for lands acquired by the United States pursuant to this subchapter. Compensation for the forest lands so taken shall be the realization value of the lands determined as provided in subsection (c) of this section, unless a different amount is provided by law enacted prior to the proclamation of the Secretary of Agriculture. Appropriation of funds for that purpose is authorized. Payment shall be made as soon as possible after the proclamation of the Secretary of Agriculture. Such lands shall become national forest lands subject to the laws that are applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended. Any of the forest units that are offered for sale and that are not sold or taken pursuant to subsection (b) or (d) of this section shall be subject to sale without limitation on use in accordance with the provisions of section 564d of this title.

(e) Sale of retained lands to Secretary of Agriculture

If at any time any of the tribal lands that comprise the Klamath Indian Forest and that are retained by the tribe are offered for sale other than to members of the tribe, such lands shall first be offered for sale to the Secretary of Agriculture, who shall be given a period of twelve months after the date of each such offer within which to purchase such lands. No such lands shall be sold at a price below the price at which they have been offered for sale to the Secretary of Agriculture, and if such lands are reoffered for sale they shall first be reoffered to the Secretary of Agriculture. The Secretary of Agriculture is authorized to purchase such lands subject to such terms and conditions as to the use thereof as he may deem appropriate, and any lands so acquired shall thereupon become national forest lands subject to the laws that are applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended.

(f) Klamath Marsh National Wildlife Refuge; appropriation

The lands that comprise the Klamath Marsh shall be a part of the property selected for sale pursuant to section 564d(a)(3) of this title to pay members who withdraw from the tribe. Title to such lands is taken in the name of the United States, effective the earliest date after September 30, 1959, when the Secretary of the Interior determines that funds for the payment of the purchase price are available from the sale of stamps under the Migratory Bird Hunting Stamp Act of March 16, 1934, as amended [16 U.S.C. 718 et seq.]. Such lands are designated as the Klamath Marsh National Wildlife Refuge, which shall be administered in accordance with the law applicable to areas acquired pursuant to section 4 of the Act of March 16, 1934 (48 Stat. 451), as amended or supplemented [16 U.S.C. 718d]. Compensation for said taking shall be the realization value of the lands determined in accordance with subsection (c) of this section, and shall be paid out of funds in the Treasury of the United States, which are authorized to be appropriated for that purpose.

(g) Homesites

Any person whose name appears on the final roll of the tribe, and who has since December 31, 1956, continuously resided on any lands taken by the United States by subsections (d) and (f) of this section, shall be entitled to occupy and use as a homesite for his lifetime a reasonable acreage of such lands, as determined by the Secretary of Agriculture, subject to such regulations as the Secretary of Agriculture may issue to safeguard the administration of the national forest and as the Secretary of the Interior may issue to safeguard the administration of the Klamath Marsh National Wildlife Refuge.

(h) Administration of outstanding timber sales contracts

If title to any of the lands comprising the Klamath Indian Forest is taken by the United States, the administration of any outstanding timber sales contracts thereon entered into by the Secretary of the Interior as trustee for the Klamath Indians shall be administered by the Secretary of Agriculture.

(i) Right of United States to use roads

All sales of tribal lands pursuant to subsection (b) of this section or pursuant to section 564d of this title on which roads are located shall be made subject to the right of the United States and its assigns to maintain and use such roads.

(Aug. 13, 1954, ch. 732, § 28, as added Pub. L. 85–731, § 1, Aug. 23, 1958, 72 Stat. 816; amended Pub. L. 86–247, Sept. 9, 1959, 73 Stat. 477; Pub. L. 105–312, title II, § 205, Oct. 30, 1998, 112 Stat. 2957; Pub. L. 105–321, § 4(e), Oct. 30, 1998, 112 Stat. 3025.)

REFERENCES IN TEXT

Act of March 1, 1911, referred to in subsecs. (b), (d), and (e), is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables.

The adjournment of the Eighty-fifth Congress, referred to in subsec. (c) of this section, took place on Aug. 24, 1958.

The Migratory Bird Hunting Stamp Act, referred to in subsec. (f), subsequently renamed the Migratory Bird

Hunting and Conservation Stamp Act, is act Mar. 16, 1934, ch. 71, 48 Stat. 451, as amended, which is classified generally to subchapter IV (§ 718 et seq.) of chapter 7 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 718 of Title 16 and Tables.

AMENDMENTS

1998—Subsecs. (f), (g). Pub. L. 105–312 and Pub. L. 105–321 amended subsecs. (f) and (g) identically, substituting ''Klamath Marsh National Wildlife Refuge'' for ''Klamath Forest National Wildlife Refuge''.

1959—Subsec. (f). Pub. L. 86–247 changed date for Federal acquisition of Klamath Indian Marsh from April 1, 1961, to earliest date after September 30, 1959, that funds are available to pay for property from sale of stamps.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4, Ninety-fifth Congress (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977. Section 105 of Senate Resolution No. 4 established a temporary Select Committee on Indian Affairs having jurisdiction over matters relating to Indian affairs (such matters previously having been within the jurisdiction of the Committee on Interior and Insular Affairs). Senate Resolution No. 127, June 6, 1984, Ninety-eighth Congress, established the Select Committee on Indian Affairs as a permanent committee of the Senate, and section 25 of Senate Resolution No. 71, Feb. 25, 1993, One Hundred Third Congress, redesignated the Select Committee on Indian Affairs as the Committee on Indian Affairs.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress. Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 564w–2. Federal acquisition of tribal land

(a) Condemnation authority

The Secretary of Agriculture is authorized and directed to acquire by condemnation all of the Klamath Indian forest lands which the trustee for the Klamath Indian Tribe is required to sell by the terms of its trust agreement, and the lands so acquired shall become a part of the Winema National Forest.

(b) Initiation of action; authorization of appropriations

The condemnation action may be initiated either before or after the lands are offered for sale by the trustee, and for the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated not to exceed $70,000,000.

(c) Applicability of homesite provisions

The homesite provisions of section 564w–1(g) of this title shall apply to the lands acquired by the Secretary pursuant to this subchapter.

(Aug. 13, 1954, ch. 732, § 29, as added Pub. L. 93–102, Aug. 16, 1973, 87 Stat. 349.)

§ 564x. Timber sales

Nothing in this subchapter shall affect the authority to make timber sales otherwise authorized by law prior to the termination of Federal control over such timber.

(Pub. L. 85–132, § 2, Aug. 14, 1957, 71 Stat. 348.)

CODIFICATION

This section was not enacted as a part of act Aug. 13, 1954, ch. 732, 68 Stat. 718, which comprises this subchapter.

SUBCHAPTER XIV—KLAMATH TRIBE: DISTRIBUTION OF JUDGMENT FUND

§ 565. Authorization to distribute funds

The Secretary of the Interior is authorized and directed to distribute in accordance with the provisions of this subchapter the funds appropriated in satisfaction of a judgment obtained by the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians, hereinafter called the Klamath Tribe for the purposes of the administration of this subchapter, from the Indian Claims Commission against the United States in docket numbered 100, and all other funds heretofore or hereafter deposited in the United States Treasury to the credit of the Klamath Tribe or any of its constituent parts or groups, except the funds heretofore or hereafter set aside for the purpose of paying the usual and necessary expenses of prosecuting claims against the United States.

(Pub. L. 89–224, § 1, Oct. 1, 1965, 79 Stat. 897.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 565a. Distribution to persons on final roll; payment of shares due living adults, deceased enrollees, adults under legal disabilities, persons in need of assistance, and minors

(a) A distribution shall be made of the funds resulting from docket numbered 100, including interest, after deducting litigation expenses and estimated costs of distribution to all persons whose names appear on the final roll of the Klamath Tribe, which roll was closed and made final as of August 13, 1954 (68 Stat. 718). Except as provided in subsections (b), (c), (d), and (e) of this section, a share or portion of a share payable to a living adult shall be paid directly to such adult; (b) a share payable to a deceased enrollee shall be paid to his heirs or legatees upon the filing of proof of death and inheritance satisfactory to the Secretary of the Interior, whose findings and determinations upon such proof shall be final and conclusive: *Provided*, That amounts payable to deceased heirs amounting to $5 or less shall not be paid, and such amounts shall remain in the United States Treasury to the credit of the Klamath Tribe; (c) a share payable to an adult under legal disability shall be paid to his legal representative; (d) a share payable to a person previously found to be in need of assistance under the provisions of section 564n of this title, may be paid directly to the individual or, if the Secretary deems it in the best interest of the individual, it may be added to the trust now in force on behalf of the said individual, with concurrence of the trustee; and (e) a

share or portion of a share payable to a person under age of majority as determined by the laws of the State of residence shall be paid to a parent, legal guardian, or trustee of such minor.

(Pub. L. 89–224, § 2, Oct. 1, 1965, 79 Stat. 897.)

REFERENCES IN TEXT

August 13, 1954, referred to in text, is a reference to section 3 of act Aug. 13, 1954, ch. 732, 68 Stat. 718, which is classified to section 564b of this title.

§ 565b. Time of payment; claims for shares of deceased enrollees

Within sixty days of October 1, 1965, the Secretary of the Interior shall commence to pay the share due to each living person whose name appears on the final roll of August 13, 1954. As to members who have died since promulgation of the final roll of August 13, 1954, the Secretary shall mail a notice of distribution of funds and a form for presentation of a claim thereunder to all known heirs or legatees of such deceased enrollees. All such claims shall be filed with the area director of the Bureau of Indian Affairs, Portland, Oregon, within two years following October 1, 1965. From and after that date, all claims and the right to file claims for any distribution from the judgment in docket numbered 100 shall be forever barred.

(Pub. L. 89–224, § 3, Oct. 1, 1965, 79 Stat. 897.)

§ 565c. Disposition of funds remaining after distribution

Funds remaining in the United States Treasury to the credit of the said Klamath Tribe, or any of its constituent parts or groups, after the distribution of funds resulting from Indian Claims Commission docket numbered 100 as provided by sections 565a and 565b of this title, together with any other funds which may be deposited in the United States Treasury, including without limitation funds accruing from other judgments against the United States ([1] after payment of expenses, including attorney fees, payments for rights-of-way, trespass damages, or other revenues, together with any interest accrued thereon, shall, after deduction of the estimated cost of distribution, be distributed from time to time as determined by the Secretary to the members of the Klamath Tribe or to the members of any of its constituent parts or groups in the same manner as provided in sections 565a and 565b of this title.

(Pub. L. 89–224, § 4, Oct. 1, 1965, 79 Stat. 897.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 565d. Disposition of funds insufficient to justify further distribution

After all claims of the Klamath Tribe or any of its constituent parts or groups against the United States have been finally determined, appropriated, and distributed, as provided in sections 565a, 565b, and 565c of this title; and after all litigation expenses (including attorney fees) and costs of distributions have been paid, any funds remaining in the United States Treasury to the credit of the Klamath Tribe or any of its constituent parts or groups which, in the discretion of the Secretary of the Interior are insufficient to justify a further distribution, shall be deposited in the miscellaneous receipts of the Treasury of the United States.

(Pub. L. 89–224, § 5, Oct. 1, 1965, 79 Stat. 898.)

§ 565e. Costs

The costs of distribution may be paid out of the deductions authorized by sections 565a and 565c of this title. Any unused portion of such amounts shall remain in the United States Treasury to the credit of the Klamath Tribe.

(Pub. L. 89–224, § 6, Oct. 1, 1965, 79 Stat. 898.)

§ 565f. Taxes

None of the funds distributed pursuant to this subchapter shall be subject to Federal or State income tax.

(Pub. L. 89–224, § 7, Oct 1, 1965, 79 Stat. 898.)

§ 565g. Rules and regulations

The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this subchapter.

(Pub. L. 89–224, § 8, Oct. 1, 1965, 79 Stat. 898.)

SUBCHAPTER XIV–A—KLAMATH TRIBE: RESTORATION OF FEDERAL SUPERVISION

§ 566. Restoration of Federal recognition, rights, and privileges

(a) Federal recognition

Notwithstanding any provision of law, Federal recognition is hereby extended to the tribe and to members of the tribe. Except as otherwise provided in this subchapter, all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision of this subchapter shall be applicable to the tribe and its members.

(b) Restoration of rights and privileges

All rights and privileges of the tribe and the members of the tribe under any Federal treaty, Executive order, agreement, or statute, or any other Federal authority, which may have been diminished or lost under the Act entitled ''An Act to provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes'', approved August 13, 1954 (25 U.S.C. 564 et seq.), are restored, and the provisions of such Act, to the extent that they are inconsistent with this subchapter, shall be inapplicable to the tribe and to members of the tribe after August 27, 1986.

(c) Federal services and benefits

Notwithstanding any other provision of law, the tribe and its members shall be eligible, on and after August 27, 1986, for all Federal services

[1] So in original. No closing parenthesis was enacted.

and benefits furnished to federally recognized Indian tribes or their members without regard to the existence of a reservation for the tribe. In the case of Federal services available to members of federally recognized Indian tribes residing on or near a reservation, members of the tribe residing in Klamath County shall be deemed to be residing in or near a reservation. Any member residing in Klamath County shall continue to be eligible to receive any such Federal service notwithstanding the establishment of a reservation for the tribe in the future. Notwithstanding any other provision of law, the tribe shall be considered an Indian tribe for the purpose of the ''Indian Tribal Government Tax Status Act'' (Sec. 7871, I.R.C. 1986).

(d) Certain rights not altered

Nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

(e) Modoc Indian Tribe of Oklahoma

This subchapter does not apply to the members of the Modoc Indian Tribe of Oklahoma as recognized under section 861a(a) of this title and the Klamath Tribe of Indians does not (except for the purposes set out in section 861a(a)(1) of this title) include the members of the Modoc Indian Tribe of Oklahoma.

(Pub. L. 99–398, § 2, Aug. 27, 1986, 100 Stat. 849; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

Act approved August 13, 1954, referred to in subsec. (b), is act Aug. 13, 1954, ch. 732, 68 Stat. 718, as amended, which is classified generally to subchapter XIII (§ 564 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

The Indian Tribal Government Tax Status Act (Sec. 7871, I.R.C. 1986), referred to in subsec. (c), probably means the Indian Tribal Governmental Tax Status Act of 1982, which is title II of Pub. L. 97–473, Jan. 14, 1983, 96 Stat. 2607, as amended, and is classified principally to subchapter C (§ 7871) of chapter 80 of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see Short Title of 1983 Amendments note set out under section 1 of Title 26 and Tables.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514 substituted ''I.R.C. 1986'' meaning Internal Revenue Code of 1986 for ''I.R.C. 1954'' meaning Internal Revenue Code of 1954.

SHORT TITLE

Section 1 of Pub. L. 99–398 provided that: ''This Act [enacting this subchapter] may be cited as the 'Klamath Indian Tribe Restoration Act'.''

§ 566a. Tribe Constitution and Bylaws

The tribe's Constitution and Bylaws shall remain in full force and effect and nothing in this subchapter shall affect the power of the General Council to take any action under the Constitution and Bylaws.

(Pub. L. 99–398, § 3, Aug. 27, 1986, 100 Stat. 850.)

§ 566b. Conservation and development of lands

(a) In general

Notwithstanding the tribe's previous rejection of the Act of June 18, 1934 (25 U.S.C. 461 et seq.), upon written request of the General Council, the Secretary of the Interior shall conduct a special election pursuant to section 18 of such Act [25 U.S.C. 478] to determine if such Act should be applicable to the tribe.

(b) Adoption of constitution

Upon written request of the General Council, the Secretary shall conduct an election pursuant to section 16 of the Act approved on June 18, 1934 (43 Stat. 987; 25 U.S.C. 476), for the purpose of adopting a new constitution for the tribe.

(Pub. L. 99–398, § 4, Aug. 27, 1986, 100 Stat. 850.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 566c. Hunting, fishing, trapping, and water rights

Nothing in this subchapter shall affect in any manner any hunting, fishing, trapping, gathering, or water right of the tribe and its members.

(Pub. L. 99–398, § 5, Aug. 27, 1986, 100 Stat. 850.)

§ 566d. Transfer of land to be held in trust

The Secretary shall accept real property for the benefit of the tribe if conveyed or otherwise transferred to the Secretary. Such property shall be subject to all valid existing rights including liens, outstanding taxes (local and State), and mortgages. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be part of their reservation. The transfer of real property authorized by this section shall be exempt from all local, State, and Federal taxation as of the date of transfer.

(Pub. L. 99–398, § 6, Aug. 27, 1986, 100 Stat. 850.)

§ 566e. Criminal and civil jurisdiction

The State shall exercise criminal and civil jurisdiction within the boundaries of the reservation, in accordance with section 1162 of title 18 and section 1360 of title 28, respectively.

(Pub. L. 99–398, § 7, Aug. 27, 1986, 100 Stat. 850.)

§ 566f. Economic development

(a) Plan for economic self-sufficiency

The Secretary shall—

(1)(A) enter into negotiations with the Executive Committee of the General Council with respect to establishing a plan for economic development for the tribe; and

(B) in accordance with this section and not later than two years after August 27, 1986, develop such a plan.

(2) Upon the approval of such plan by the General Council (and after consultation with the State and local officials pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Congress.

(b) Consultation with State and local officials required

To assure that legitimate State and local interests are not prejudiced by the proposed eco-

nomic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) Restrictions to be contained in plan

Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax; and

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) Appendix to plan submitted to Congress

The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

(Pub. L. 99–398, § 8, Aug. 27, 1986, 100 Stat. 850.)

§ 566g. Definitions

For the purposes of this subchapter the following definitions apply:

(1) The term ''tribe'' means the Klamath Tribe consisting of the Klamath and Modoc Tribes of Oregon and the Yahooskin Band of Snake Indians.

(2) The term ''member'' means those persons eligible for enrollment under the Constitution and Bylaws of the Klamath Tribe.

(3) The term ''Secretary'' means the Secretary of the Interior or his designated representative.

(4) The term ''State'' means the State of Oregon.

(5) The term ''Constitution and Bylaws'' means the Constitution and Bylaws of the Klamath Tribe of Indians in effect on August 27, 1986.

(6) The term ''General Council'' means the governing body of the tribe under the Constitution and Bylaws.

(Pub. L. 99–398, § 9, Aug. 27, 1986, 100 Stat. 851.)

§ 566h. Regulations

The Secretary may make such rules and regulations as are necessary to carry out the purposes of this subchapter.

(Pub. L. 99–398, § 10, Aug. 27, 1986, 100 Stat. 852.)

SUBCHAPTER XV—SHOSHONE TRIBE: DISTRIBUTION OF JUDGMENT FUND

§ 571. Membership roll; preparation

The Secretary of the Interior is authorized and directed, with the advice and consent of the business council of the Shoshone Tribe of the Wind River Reservation in Wyoming, to prepare a roll showing the members of said tribe living on July 27, 1939, and such roll shall form the basis for the distribution of the judgment fund of said tribe created as the result of the passage of the Act of June 25, 1938 (52 Stat. 1114–1156), and accrued interest thereon.

(July 27, 1939, ch. 387, § 1, 53 Stat. 1128.)

REFERENCES IN TEXT

Act of June 25, 1938, referred to in text, provided for an appropriation for payment of judgments rendered by the court of claims and reported to the 75th Congress in Senate Document Numbered 191, and House Documents Numbered 661 and 686. House Document No. 661 listed a judgment in favor of the Shoshone Tribe of Indians of the Wind River Reservation in Wyoming, in the sum of $4,408,444.23, with interest on a part thereof to the date of payment, for the taking of land.

§ 572. Payments to individuals; expenditure of payments

There shall be credited on the books of the Office of Indian Affairs the sum of $2,450 to each member of said tribe whose name appears on the roll provided for in section 571 of this title, and out of such sum so credited the Secretary of the Interior is authorized to make available immediately to each individual member of the tribe the sum of $100; and, under such rules and regulations as he may prescribe, the sum of $1,350 to each adult and the sum of $500 to each minor for the following purposes: Purchase of land, improvement of lands to be acquired or already held by the Indian, for the erection and improvement of suitable homes, the purchase of building material, farming equipment, livestock, feed, food, seed, grain, tools, machinery, implements, household goods, bedding, clothing, and any other equipment or supplies necessary to enable the Indians to fit themselves for or to engage in farming, livestock, industry, or such other pursuits or vocations, including education, as will enable them to become self-supporting: *Provided, however*, That the funds of the aged, infirm, decrepit, and incapacitated members may be used for their proper maintenance and support in the discretion of the Secretary of the Interior. The remainder of the share of each adult individual Indian, including accrued interest, shall be made

available under such rules and regulations as the Secretary of the Interior may prescribe, and the remainder of the share of each minor Indian shall, with accrued interest, be held intact until such Indian reaches the age of eighteen years, when it shall be available under the same conditions as herein provided for adults. As herein used the term ''adult'' shall include the members of the tribe eighteen years of age or over, and the term ''minor'' shall include all members less than eighteen years of age. On the death of any enrolled member, adult or minor, the sum on deposit to his credit shall be available for expenditure for the benefit of his heirs for the purposes herein authorized.

(July 27, 1939, ch. 387, § 2, 53 Stat. 1128.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 573. Uses of judgment fund

(a) Purchase of lands

Not to exceed $1,000,000 of the said judgment fund, or interest thereon, shall be available for expenditure upon the request of the tribe and with the approval of the Secretary of the Interior, for the purchase of lands in the manner prescribed in section 576 of this title.

(b) Loan fund

The sum of $125,000 of said judgment fund, or interest thereon, shall, at the request of the tribe and with the approval of the Secretary of the Interior, be set aside as a loan fund for making loans to individual members, or groups of members, of said tribe under such rules and regulations as may be prescribed by the Secretary of the Interior.

(c) Productive enterprises

The remainder of said judgment fund, including interest thereon, after making the segregation provided for in section 572 of this title, and after setting aside the respective amounts authorized by this section, shall be available for appropriation, upon the recommendation of the Secretary of the Interior, and with the consent of the tribe, for purposes of benefit to the tribe, including the establishment and administration of productive enterprises for the benefit of said tribe, and any income derived from such enterprises shall be credited to the Shoshone tribal judgment fund: *Provided*, That should such enterprises also benefit the Arapaho Tribe repayment proportionate to the benefit to the Arapaho Tribe shall be made into the Shoshone judgment fund by the Arapaho Tribe out of such tribal income as the Arapaho Tribe may enjoy.

(July 27, 1939, ch. 387, § 3, 53 Stat. 1129.)

§ 574. Consolidation of lands

The Secretary of the Interior is authorized and directed to establish land-use districts within the diminished and ceded portions of the Wind River Indian Reservation, Wyoming, and, under such rules and regulations as he may prescribe, to effect the consolidation of Indian and privately owned lands within said districts through exchange, relinquishment, donation, assignment, or purchase of lands or interests therein, including water rights or surface rights to lands, improvements thereon and improvements on undisposed-of ceded lands, to the end that the respective Indian and non-Indian land holdings may be consolidated for more beneficial use. Exchanges of lands hereunder shall be made on the basis of equal value, and the value of improvements on lands to be relinquished to the Indians or by Indians, to non-Indians shall be given due consideration, and allowance made therefor in the valuation of lieu lands. This section shall apply to tribal land, and trust or otherwise restricted Indian allotments, whether the allottees be living or deceased. In all transactions involving tribal Indian land, the consent of the Shoshone and Arapaho Tribes shall first be obtained. Title to all lands or interests therein acquired by the Government through exchange of tribal land shall be taken in the name of the United States in trust for the Shoshone and Arapaho Tribes of Indians of the Wind River Reservation, Wyoming. Title to lands exchanged for individual Indian allotments, or purchased for individual Indians with restricted funds shall be taken by the United States in trust for the individual Indian allottee or heir. The right herein granted individual Indians to acquire lands by purchase with restricted funds or by exchange shall not extend to lands on the ceded or opened portion of the reservation.

(July 27, 1939, ch. 387, § 4, 53 Stat. 1129.)

§ 574a. Acquisition of lands on Wind River Reservation

(a) Authority to hold lands in trust for individual tribe

The Secretary of the Interior is hereby authorized to acquire individually in the name of the United States in trust for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation or the Northern Arapaho Tribe of the Wind River Reservation, as appropriate, lands or other rights when the individual assets of only one of the tribes is used to acquire such lands or other rights.

(b) Lands remain part of joint Reservation subject to exclusive tribal control

Any lands acquired under subsection (a) of this section within the exterior boundaries of the Wind River Reservation shall remain a part of the Reservation and subject to the joint tribal laws of the Reservation, except that the lands so acquired shall be subject to the exclusive use and control of the tribe for which such lands were acquired.

(c) Income

The income from lands acquired under subsection (a) of this section shall be credited to the tribe for which such lands were acquired.

(d) Savings provision

Nothing in this section shall be construed to prevent the joint acquisition of lands for the benefit of the Eastern Shoshone Tribe of the

Wind River Reservation and the Northern Arapaho Tribe of the Wind River Reservation.

(Pub. L. 103–435, § 15, Nov. 2, 1994, 108 Stat. 4573.)

§ 575. Restoration of lands

The Secretary of the Interior is directed to restore to tribal ownership all undisposed-of surplus or ceded lands within the land use districts which are not at present under lease or permit to non-Indians; and, further, to restore to tribal ownership the balance of said lands progressively as and when the non-Indian owned lands within a given land use district are acquired by the Government for Indian use pursuant to the provisions of sections 571 to 577 of this title. All such restorations shall be subject to valid existing rights and claims: *Provided*, That no restoration to tribal ownership shall be made of any lands within any reclamation project heretofore authorized within the diminished or ceded portions of the reservation.

(July 27, 1939, ch. 387, § 5, 53 Stat. 1129.)

LANDS CEDED FOR RIVERTON PROJECT

Act Aug. 15, 1953, ch. 509, § 4, 67 Stat. 613, set out as a note under section 611 of this title, provided that all lands of the Wind River Indian Reservation ceded for the Riverton reclamation project in Wyoming and not used for such project were restored to the ownership of the Arapaho and Shoshone Tribes.

§ 576. Purchase of lands; reimbursement of expenditures

The sum of $1,000,000 authorized in section 573 of this title for use in carrying out the land purchase and consolidation program hereinbefore authorized shall remain available until expended and any amount expended shall be reimbursed with interest at 4 per centum per annum to the Shoshone Tribe of Indians of the Wind River Reservation from joint funds to the credit of the Shoshone and Arapaho Tribes of the Wind River Reservation or from future accruals to said joint fund, as and when said funds accrue. Title to all land purchases made hereunder shall be taken in the name of the United States in trust for the Shoshone and Arapaho Tribes of Indians of the Wind River Reservation, Wyoming. All purchases of lands or interests therein made pursuant to this section shall receive the approval of the Shoshone and Arapaho Tribal Councils or of the business committees thereof.

(July 27, 1939, ch. 387, § 6, 53 Stat. 1130.)

§ 577. Liability of judgment funds for debts

In no event shall any portion of the Shoshone judgment fund become liable, payable, or subject to any debt or debts contracted prior to July 27, 1939, by any Indian of the Shoshone Tribe except debts to the United States or to the tribe.

(July 27, 1939, ch. 387, § 7, 53 Stat. 1130.)

§ 581. Disposition of funds

The funds on deposit in the Treasury of the United States to the credit of the Shoshone Nation or Tribe of Indians and the Shoshone-Bannock Tribes that were appropriated by the Act of June 19, 1968 (82 Stat. 239), to pay a judgment in the sum of $15,700,000 entered by the Indian Claims Commission in consolidated dockets numbered 326–D, 326–E, 326–F, 326–G, 326–H, 366, and 367, and the interest thereon, after deducting attorneys' fees, litigation expenses, and other appropriation deductions, shall be apportioned by the Secretary of the Interior to the Shoshone Tribe of the Wind River Reservation, Wyoming, the Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho, and the Northwest Band of Shoshone Indians (hereinafter the ''three groups''), as set forth in sections 581 to 590 of this title.

(Pub. L. 92–206, § 1, Dec. 18, 1971, 85 Stat. 737.)

REFERENCES IN TEXT

Act of June 19, 1968, referred to in text, is Pub. L. 90–352, June 19, 1968, 82 Stat. 239, which provided for supplemental appropriation for fiscal year ending June 30, 1968, and was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 582. Shoshone-Bannock Tribes of the Fort Hall Reservation; credit of funds

The sum of $500,000, and the interest thereon, less attorneys' fees and other appropriate deductions all in the proportion that the $500,000 bears to the $15,700,000, shall be credited to the Shoshone-Bannock Tribes of the Fort Hall Reservation for claims of the tribes enumerated in dockets numbered 326–D, 326–E, 326–F, 326–G, and 366.

(Pub. L. 92–206, § 2, Dec. 18, 1971, 85 Stat. 737.)

§ 583. Northwestern Bands of Shoshone Indians; credit of funds

The sum of $1,375,000 plus the earned interest thereon less $181,732 shall be credited to the Northwestern Bands of Shoshone Indians for claims of the bands enumerated in dockets numbered 326–H, and 367.

(Pub. L. 92–206, § 3, Dec. 18, 1971, 85 Stat. 737.)

§ 584. Apportionment of remaining funds; Shoshone-Bannock Tribes of the Fort Hall Reservation and the Shoshone Tribe of the Wind River Reservation

The remainder of the award shall be apportioned between the Shoshone-Bannock Tribes of the Fort Hall Reservation and the Shoshone Tribe of the Wind River Reservation in accordance with an agreement entered into between the Shoshone-Bannock Tribes and the Shoshone Tribe of the Wind River Reservation in May 1965, approved by the Associate Commissioner of Indian Affairs in December 1965.

(Pub. L. 92–206, § 4, Dec. 18, 1971, 85 Stat. 737.)

§ 585. Membership rolls; preparation; eligibility for enrollment; application; finality of determination

For the purpose of apportioning the award in accordance with sections 581 to 590 of this title, membership rolls, duly approved by the Secretary of the Interior, shall be prepared for each of the three groups, as follows:

(a) The governing body of the Shoshone Tribe of the Wind River Reservation and the govern-

ing body of the Shoshone-Bannock Tribes, each shall, with the assistance of the Secretary, bring current the membership rolls of their respective tribes, to include all persons born prior to and alive on December 18, 1971, who are enrolled or eligible to be enrolled in accordance with the membership requirements of their respective tribes.

(b) The proposed roll of the Northwestern Bands of Shoshone Indians entitled to participate in the distribution of the judgment funds shall be prepared by the governing officers of said Northwestern Bands, with the assistance of the Secretary of the Interior, within six months after December 18, 1971, authorizing distribution of said funds. The roll shall include all persons who meet all of the following requirements of eligibility:

(1) They were born prior to and alive on December 18, 1971;

(2) Either their names appear on one of the following Indian census rolls of the Washakie Sub-Agency of the Fort Hall jurisdiction:

(a) Roll dated January 1, 1937, by F. A. Gross, Superintendent of the Fort Hall Reservation.

(b) Roll dated January 1, 1940, by F. A. Gross, Superintendent of the Fort Hall Reservation.

(c) Roll dated March 10, 1954.

(d) Roll dated April 21, 1964.

or they possess one-quarter Shoshone Indian blood and they are descendants of those appearing on at least one of said rolls;

(3) They are not recognized as members of the Shoshone-Bannock Tribes of the Fort Hall Reservation, the Shoshone Tribe of the Wind River Reservation, or any other Indian Tribe; and

(4) They shall elect not to participate in any settlement of claims pending before the Indian Claims Commission in docket 326–J, Shoshone-Goshute, and docket 326–K, Western Shoshone.

The proposed roll shall be published in the Federal Register, and in a newspaper of general circulation in the State of Utah. Any person claiming membership rights in the Northwestern Bands of Shoshone Indians, or any interest in said judgment funds, or a representative of the Secretary on behalf of any such person, within sixty days from the date of publication in the Federal Register, or in the newspaper of general circulation, as hereinbefore provided, whichever publication date is last, may file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such proposed roll. The Secretary shall review such appeals, and his decision thereon shall be final and conclusive. After disposition of all such appeals to the Secretary, the roll of the Northwestern Bands of Shoshone Indians shall be published in the Federal Register and such roll shall be final.

(Pub. L. 92–206, § 5, Dec. 18, 1971, 85 Stat. 737.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in par. (4), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 586. Northwestern Band of Shoshone Indians; payment to enrollees; heirs or legatees; trust for minors and persons under legal disability

The funds apportioned to the Northwestern Band of Shoshone Indians, less attorney's fees, and expenses due the attorneys representing the Northwestern Band under an approved contract, effective March 1, 1968, shall be placed to its credit in the United States Treasury and shall be distributed equally to the members whose names appear on the final roll and in accordance with the provisions of sections 581 to 590 of this title.

(a) The per capita shares shall be determined on the basis of the number of persons listed on the proposed roll published as hereinbefore provided and the number of persons on whose behalf an appeal has been taken to the Secretary contesting omission from such proposed roll. The share of those persons excluded from the final roll by reason of the decision of the Secretary on appeal shall be distributed equally to the persons included on the final roll.

(b) The Secretary shall distribute a share payable to a living enrollee directly to such enrollee. The per capita share of a deceased enrollee shall be paid to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive. A share or interest therein payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines appropriate to protect the best interest of such persons.

(Pub. L. 92–206, § 6, Dec. 18, 1971, 85 Stat. 738.)

§ 587. Funds apportioned to Shoshone-Bannock Tribes of the Fort Hall Reservation

(a) Distribution to enrollees

The funds apportioned to the Shoshone-Bannock Tribes of the Fort Hall Reservation shall be placed to their credit in the United States Treasury. Seventy-five percent of such funds shall be distributed per capita to all persons born on or before and living on December 18, 1971, who are duly enrolled on the roll prepared in accordance with section 585(a) of this title.

(b) Determination of per capita share

The per capita shares shall be determined on the basis of the number of persons eligible for per capitas and the number of persons rejected for per capitas who have taken a timely appeal. The shares of those persons whose appeals are denied shall revert to the Shoshone-Bannock Tribes to be expended for any purpose designated by the tribal governing body and approved by the Secretary.

(c) Trust for minors and persons under legal disability

Sums payable to enrollees or their heirs or legatees who are less than twenty-one 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.

(d) Remaining funds

The funds remaining after provision is made for the per capita distribution may be used, advanced, expended, invested, or reinvested for any purpose authorized by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 92–206, § 7, Dec. 18, 1971, 85 Stat. 738.)

§ 588. Shoshone Tribe of the Wind River Reservation; distribution of funds

The funds apportioned to the Shoshone Tribe of the Wind River Reservation shall be placed to its credit in the United States Treasury and shall be distributed in accordance with the provisions of the Act of May 19, 1947, as amended (61 Stat. 102; 25 U.S.C. 611–613).

(Pub. L. 92–206, § 8, Dec. 18, 1971, 85 Stat. 739.)

REFERENCES IN TEXT

Act of May 19, 1947, referred to in text, is act May 19, 1947, ch. 80, 61 Stat. 102, as amended, which is classified generally to subchapter XIX (§ 611 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 589. Tax exemption

Any funds distributed per capita under provisions of sections 581 to 590 of this title shall not be subject to Federal or State income tax.

(Pub. L. 92–206, § 9, Dec. 18, 1971, 85 Stat. 739.)

§ 590. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of sections 581 to 590 of this title.

(Pub. L. 92–206, § 10, Dec. 18, 1971, 85 Stat. 739.)

§ 590a. Shoshone-Bannock Tribes of the Fort Hall Reservation; credit of funds

The funds on deposit in the United States Treasury to the credit of the Lemhi Tribe, represented by the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, appropriated by the Act of May 25, 1971 (Public Law 92–18), to pay a judgment of $4,500,000 entered by the Indian Claims Commission in docket numbered 326–I, and interest thereon less attorneys' fees and expenses shall be credited to the Shoshone-Bannock Tribes of the Fort Hall Reservation for the claims of said tribes enumerated in docket numbered 326–I.

(Pub. L. 92–442, § 1, Sept. 29, 1972, 86 Stat. 743.)

REFERENCES IN TEXT

Act of May 25, 1971, referred to in text, is Pub. L. 92–18, May 25, 1971, 85 Stat. 40, known as the Second Supplemental Appropriation Act, 1971, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 590b. Disposition of funds

The funds credited to the Shoshone-Bannock Tribes of the Fort Hall Reservation pursuant to section 590a of this title, may be advanced, deposited, expended, invested, or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 92–442, § 2, Sept. 29, 1972, 86 Stat. 744.)

§ 590c. Tax exemption; trusts for minors and persons under legal disability

None of the funds distributed per capita to members of the tribes under the provisions of sections 590a to 590c of this title shall be subject to Federal or State income taxes. A share or interest payable to enrollees less than eighteen years of age or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines appropriate to protect the best interest of such persons.

(Pub. L. 92–442, § 3, Sept. 29, 1972, 86 Stat. 744.)

SUBCHAPTER XVI—CHIPPEWA TRIBE OF MINNESOTA

§ 591. Reservation of Chippewa National Forest lands for Minnesota Chippewa Tribe

Subject to the payments prescribed by section 592 of this title the following-described lands are hereby eliminated from the Chippewa National Forest and permanently reserved for the use of the Minnesota Chippewa Tribe without in any manner affecting existing reserves for church, cemetery, and other purposes, or individual rights or interest in said lands: South half northwest quarter southwest quarter, southeast quarter southwest quarter, section 12; northwest quarter northwest quarter, west half northeast quarter northwest quarter, south half northwest quarter, west half southwest quarter, lots 2, 4, 5, and 6, section 13; northeast quarter southeast quarter, section 14; lots 11, 12, 13, 3, 4, 6, 7, 8, and 9, section 24, township 142 north, range 31 west, fifth principal meridian, Minnesota, excepting a tract containing approximately one and ninety one-hundredths acres, being that portion of lot 4, section 13, township 142 north, range 31 west, beginning at angle point 1, lot 5, section 13, township 142 north, range 31 west; thence north thirty-three degrees forty-two minutes east one hundred and twenty-nine and five-tenths feet; thence south eighty-nine degrees forty-eight minutes east two hundred and thirty-one and four-tenths feet; thence south one degree fifty-four minutes west eighty-five and two-tenths feet; thence south nine degrees thirty-one minutes east two hundred and five and two-tenths feet; thence south nine degrees no minutes west eighty and four-tenths feet; thence south forty-one degrees nineteen minutes west one hundred and nineteen and four-tenths feet to angle point 4, lot 5; thence along the boundary of lot 5, north fifty-one degrees no minutes west one hundred and twenty and one-tenth feet to angle point 5, lot 5, north thirty-seven degrees forty-five minutes east one hundred and twenty and one-tenth feet to angle point 6, lot 5, north fifty-one degrees no minutes west two hundred and eighty-seven and one-tenth feet to angle point 1, lot 5, and point of beginning.

(June 8, 1940, ch. 285, § 1, 54 Stat. 254.)

§ 592. Withdrawal of tribal funds to reimburse United States; consent of Minnesota Chippewa Tribe; disposition of receipts

The Secretary of the Interior is hereby authorized to withdraw from the Minnesota Chippewa tribal fund now held in trust in the Treasury of the United States a sufficient sum to reimburse the United States for the land and timber thereon, the value of the land to be calculated at $1.25 per acre, and the value of the timber to be ascertained by the Secretary of Agriculture after the same has been examined and appraised under his supervision: *Provided, however*, That the transaction contemplated in this section and section 591 of this title shall be effected only with the consent of the Minnesota Chippewa Tribe expressed through the body authorized to represent it: *And provided further*, That all money received by the United States under the authority of this subchapter shall be deposited in the Treasury of the United States, and the same is hereby appropriated for the acquisition of forest land within the Chippewa National Forest under the provisions of the Act approved March 1, 1911, as amended (U.S.C., title 16 secs. 513, 519, 521).

(June 8, 1940, ch. 285, § 2, 54 Stat. 254.)

REFERENCES IN TEXT

Act approved March 1, 1911, referred to in text, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, as amended, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables.

§ 593. Exchanges of allotted, restricted, and tribal lands for Chippewa National Forest lands

Exchanges of Indian allotted, restricted, and tribal lands for lands in the Chippewa National Forest are hereby authorized. In order to consummate exchanges involving allotted and restricted Indian lands, the Secretary of the Interior is hereby authorized to accept relinquishments or conveyances of Indian lands, which lands shall thereupon become a part of the Chippewa National Forest, and to issue trust patents to the Indians for the lands received by them in exchange: *Provided*, That with the consent of the Indians involved title to the lands received in any such exchange may be taken in the name of the tribe, in which case the transfer of title shall be evidenced by an order of the Secretary of Agriculture transferring the lands to the Secretary of the Interior in trust for the Minnesota Chippewa Tribe: *Provided further*, That exchanges involving tribal lands shall be made only with the consent of the Indians and shall be evidenced by appropriate orders of transfer executed by the Secretary of Agriculture and the Secretary of the Interior: *And provided further*, That the land exchanges authorized herein shall be made on the basis of lands of equal value, and no exchange shall be made unless it is first approved by the Secretary of Agriculture.

(June 8, 1940, ch. 285, § 3, 54 Stat. 255.)

§ 594. Distribution of judgment funds; Mississippi Bands; Pillager and Lake Winnibigoshish Bands

The funds on deposit in the Treasury of the United States to the credit of the Minnesota Chippewa Tribe of Indians on behalf of the Mississippi Bands and the Pillager and Lake Winnibigoshish Bands of Chippewa Indians that were appropriated by the Act of October 31, 1965, to pay a judgment by the Indian Claims Commission in docket 18–B, and the interest thereon, after payment of attorney fees and expenses, may be advanced or expended for any purpose that is authorized by the tribal governing bodies of the Minnesota Chippewa Tribe and the White Earth, Leech Lake, and Mille Lacs Reservations with whom the members of the Mississippi Bands and Pillager and Lake Winnibigoshish Bands of Chippewa Indians are affiliated, and approved by the Secretary of the Interior. Only those persons who are descendants of the Mississippi Bands and the Pillager and Lake Winnibigoshish Bands of Chippewa Indians who were born on or prior to and living on September 27, 1967 and who meet the requirements for membership in the Minnesota Chippewa Tribe shall be entitled to share in the use or distribution of the funds. Any part of such funds that may be distributed per capita to the members of the tribe shall not be subject to the Federal or State income tax.

(Pub. L. 90–94, § 1, Sept. 27, 1967, 81 Stat. 230.)

REFERENCES IN TEXT

Act of October 31, 1965, referred to in text, is Pub. L. 89–309, Oct. 31, 1965, 79 Stat. 1133. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, was terminated on Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

Section was not enacted as part of act June 8, 1940, ch. 285, 54 Stat. 254, which comprises this subchapter.

§ 594a. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this section and section 594 of this title.

(Pub. L. 90–94, § 2, Sept. 27, 1967, 81 Stat. 230.)

CODIFICATION

Section was not enacted as part of act June 8, 1940, ch. 285, 54 Stat. 254, which comprises this subchapter.

SUBCHAPTER XVII—YAKIMA TRIBES

§ 601. Membership roll; preparation; persons entitled to enrollment

The Secretary of the Interior is authorized and directed, with the advice and consent of the Yakima Tribal Council, to prepare a roll showing the members of the Yakima Tribes living on August 9, 1946, which roll shall be kept current and shall constitute the official membership roll of the Yakima Tribes for all purposes. No person who is enrolled with any other tribe of Indians or who has received an allotment of land on any

other reservation shall be enrolled under the provisions of this subchapter. The following shall be placed on the roll:

(a) All living persons who received allotments on the Yakima Reservation, except by fraud.

(b) All living persons who are of the blood of the fourteen original Yakima Tribes, parties to the treaty of June 9, 1855 (12 Stat. 951), and who have received allotments on the public domain within the area ceded to the United States by the Yakima Tribes by the treaty of 1855.

(c) All living persons who have maintained a domicile continuously from January 1, 1941, until August 9, 1946, on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855, (12 Stat. 951), and who are (1) descendants of persons who received allotments on the Yakima Reservation, except by fraud, or (2) descendants of persons of the blood of the fourteen original Yakima Tribes who received allotments on the public domain within the area ceded by the said treaty of 1855. All living children born after January 1, 1941, but prior to August 9, 1946, to a person entitled to enrollment under this subsection shall likewise be entitled to enrollment under this subsection.

(d) All children of one-fourth or more blood of the Yakima Tribes born after August 9, 1946, to a parent who is an enrolled member and maintains a domicile on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855, at the time of the birth of the child.

(Aug. 9, 1946, ch. 933, § 1, 60 Stat. 968.)

REDESIGNATION OF YAKIMA INDIAN NATION TO YAKAMA INDIAN NATION

Pub. L. 103–435, § 17, Nov. 2, 1994, 108 Stat. 4573, provided that:

''(a) REDESIGNATION.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the 'Confederated Tribes and Bands of the Yakama Indian Nation'.

''(b) REFERENCES.—Any reference in a law (including any regulation), map, document, paper, or other record of the United States to Confederated Tribes and Bands of the Yakima Indian Nation referred to in subsection (a) shall be deemed to be a reference to the 'Confederated Tribes and Bands of the Yakama Indian Nation'.''

§ 602. Application to Tribal Council on exclusion from roll; minors and incompetent persons

Any person of one-fourth or more of the blood of the Yakima Tribes who may be excluded from enrollment under the provisions of section 601 of this title may apply for membership at any time and be enrolled upon the approval of the application by a two-thirds vote of the Yakima Tribal Council. Applications for enrollment under this section on behalf of minors and persons mentally incompetent may be filed by any enrolled member of the Yakima Tribes.

(Aug. 9, 1946, ch. 933, § 2, 60 Stat. 969.)

§ 603. Correction of membership roll

Corrections in the roll prepared hereunder, by striking therefrom the name of any person erroneously placed on the roll or by adding to the roll the name of any person erroneously omitted therefrom, may be made at any time by the Yakima Tribal Council.

(Aug. 9, 1946, ch. 933, § 3, 60 Stat. 969.)

REFERENCES IN TEXT

Hereunder, referred to in text, means act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

§ 604. Loss of membership and removal from roll

Every person whose name appears on the roll prepared hereunder who holds no vested right, title, or interest in or to any restricted or trust land on the Yakima Reservation or within the area ceded by the treaty of June 9, 1855, and who has failed to maintain any tribal affiliations or a residence on the reservation or within the ceded area for a period of five consecutive years, shall no longer be considered a member of the Yakima Tribes, and his name shall be removed from the rolls. It shall be the duty of the Yakima Tribal Council to determine, subject to review by the Secretary of the Interior, loss of membership in each case.

(Aug. 9, 1946, ch. 933, § 4, 60 Stat. 969.)

REFERENCES IN TEXT

Hereunder, referred to in text, means act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

§ 605. Expulsion of members; review by Secretary

The Yakima Tribal Council may adopt and enforce ordinances, subject to review by the Secretary of the Interior, governing the expulsion of members for any cause deemed by the council to be sufficient.

(Aug. 9, 1946, ch. 933, § 5, 60 Stat. 969.)

§ 606. Back pay and annuities on enrollment of new members

No person whose name shall after August 9, 1946, be placed on the roll of the Yakima Tribes shall be entitled to any back annuities or per capita payments made to the members of the tribes out of tribal funds which were authorized to be paid to the members of the tribes before such person's name shall have been placed upon such roll.

(Aug. 9, 1946, ch. 933, § 6, 60 Stat. 969.)

§ 607. Divestment of inheritance of non-members

(a) Procedure

A person who is not an enrolled member of the Yakima Tribes with one-fourth degree or more blood of such tribes shall not be entitled to receive by devise or inheritance any interest in trust or restricted land within the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855 (12 Stat. 1951), if, while the decedent's estate is pending before the Examiner of Inheritance, the Yakima Tribes pay to the Secretary of the Interior, on behalf of such person, the fair market value of such interest as determined by the Secretary of the Interior after appraisal. The interest for which payment is made shall be held by the Secretary in Trust for the Yakima Tribes.

(b) Time of election

On request of the Yakima Tribes the Examiner of Inheritance shall keep an estate pending for

not less than two years from the date of decedent's death.

(c) Interest of surviving spouse

When a person who is prohibited by subsection (a) of this section from acquiring any interest by devise or inheritance is a surviving spouse of the decedent, a life estate in one-half of the interest acquired by the Yakima Tribes shall, on the request of such spouse, be reserved for that spouse and the value of such life estate so reserved shall be reflected in the Secretary's appraisal under subsection (a) of this section.

(Aug. 9, 1946, ch. 933, § 7, 60 Stat. 969; Pub. L. 91–627, § 1, Dec. 31, 1970, 84 Stat. 1874.)

AMENDMENTS

1970—Pub. L. 91–627 designated existing provisions as subsec. (a), substituted provisions authorizing the Yakima Tribes to pay to Secretary of the Interior the fair market value, as determined by the Secretary after appraisal, of any interest in trust or restricted land within the specified areas which a person not an enrolled member of the Yakima Tribes with one-fourth degree or more blood of such tribes was to receive by devise or inheritance, for provisions limiting the inheritance of trust land on the Yakima Reservation to enrolled members of the Yakima Tribes of one-fourth or more blood of such tribes and to surviving spouses who are enrolled members but possess less than one-fourth degree of Yakima blood, with such surviving spouses authorized to inherit a life estate in not more than one-half the property, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91–627 provided that: "The provisions of section 7 of the Act of August 9, 1946, as amended by this Act [this section], shall apply to all estates pending before the Examiner of Inheritance on the date of this Act [Dec. 31, 1970], and to all future estates, but shall not apply to any estate heretofore closed."

§ 608. Purchase, sale, and exchange of land

(a) Authority of Secretary; manner and place

The Secretary of the Interior is authorized in his discretion, to—

(1) purchase for the Yakima Tribes, with any funds of such tribes, and to otherwise acquire by gift, exchange, or relinquishment, any lands or interest in lands or improvements thereon within the Yakima Indian Reservation or within the area ceded to the United States by the Treaty of June 9, 1855;

(2) sell or approve sales of any tribal trust lands, any interest therein or improvements thereon, such sales being limited to agencies of the Federal, State, or local governments for recreational, educational, civic, or other public purposes, and to individual members of the tribes;

(3) exchange any tribal trust lands, including interests therein or improvements thereon, for any lands situated within such reservation or the area ceded to the United States by the treaty of June 9, 1855; and

(b) Multiple ownership of land

Where lands are held in multiple ownership, the Secretary is authorized to sell and exchange such lands to other Indians or the Yakima Tribes only if the sale or exchange is authorized in writing by the owners of at least a majority interest in such lands; except that no greater percentage of approval of individual Indians shall be required under sections 608 to 608c of this title than in any other statute of general application approved by Congress.

(c) Acquisitions to be held in trust

Lands and interests in lands acquired by the Secretary pursuant to subsection (a)(1) of this section and for the benefit of the Yakima Indian Nation pursuant to section 465 of this title shall be held in trust by the United States for the benefit of the Yakima Indian Nation.

(d) Terms and conditions

The Secretary shall obtain the advice and consent of the Yakima tribal council before entering into any of the above transactions involving the acquisition or disposition of tribal land. The terms and conditions of any such transaction, including the price at which any land is so purchased or sold and the valuation of any lands so exchanged, shall be mutually agreed upon by the Secretary, the Yakima tribal council, and the individual Indian or Indians concerned. Any such exchange of lands shall be effected on the basis of approximately equal consideration with due allowance for the value of improvements in determining the value of such lands.

(July 28, 1955, ch. 423, § 1, 69 Stat. 392; Pub. L. 88–540, § 1, Aug. 31, 1964, 78 Stat. 747; Pub. L. 100–581, title II, § 213, Nov. 1, 1988, 102 Stat. 2941; Pub. L. 101–301, § 1(a)(3), (b), May 24, 1990, 104 Stat. 206.)

CODIFICATION

Section was not enacted as part of act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–301, § 1(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "In all cases in which the Secretary is acquiring for the Yakima Tribes lands or interests in lands presently held in trust or under restrictions for the benefit of an individual Indian, title shall be taken in the name of the United States in trust for the Yakima Tribes. In all cases in which land being purchased is presently held by the grantor in fee simple, title shall be taken for and held by the Yakima Tribes in fee and such land shall not, by reason of its being owned by the tribes, be exempt from taxation in accordance with the laws of the State of Washington."

Pub. L. 101–301, § 1(a)(3), repealed Pub. L. 100–581, § 213. See 1988 Amendment note below.

1988—Subsec. (c). Pub. L. 100–581, § 213, which directed the general amendment of subsec. (c) of Pub. L. 88–540, cited as a credit to this section, was repealed by Pub. L. 101–301, § 1(a)(3).

1964—Pub. L. 88–540 amended section generally, and among other changes, permits acquisitions by gift or relinquishment, acquisition of any land within the reservation or area ceded to the United States by the treaty of June 9, 1855, sale of tribal land not only to tribe members, but also to Federal, State, or local government for recreational, educational, civic, or other public purposes, exchange of tribal land for any land within the reservation or the ceded area, lands held in multiple ownership to be sold or exchanged upon the written authorization of owners of at least a majority interest in the lands or any lesser percentage that may be provided in a statute of general application, and title to land in fee status acquired by the tribes to be taken in fee status.

§ 608a. Sale of tribal trust lands, etc.

(a) Title subsequent to sale

Title to tribal trust lands, interests, improvements, or rights sold by the Secretary to individual members of the Yakima Tribes or exchanged by the Secretary for lands held under trust patent or other restrictions against alienation by individual members of the tribes and other Indians or for lands in heirship status shall be held by the United States in trust for the individual Indian or Indians concerned.

(b) Credit of proceeds to tribal funds

Sums derived from the sale of tribal trust lands interests, improvements, and rights shall be credited to the tribal funds of the Yakima Tribes.

(July 28, 1955, ch. 423, § 2, 69 Stat. 393; Pub. L. 88–540, § 2, Aug. 31, 1964, 78 Stat. 748.)

CODIFICATION

Section was not enacted as part of act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88–540 struck out provisions that title to lands, interests, improvements, or rights acquired under section 608 of this title by the Secretary for the Yakima Tribes through purchase or exchange shall be held by the United States in trust for the Yakima Tribes.

§ 608b. Rights of lessee

(a) No transaction entered into under sections 608 to 608c of this title shall affect, without the consent of the lessee, any lease of lands, interests, improvements, or rights involved in such transaction, or any right of the lessee with respect to extension or renewal of such lease, which is in existence at the time such transaction is entered into.

(b) Repealed, Pub. L. 88–540, § 3, Aug. 31, 1964, 78 Stat. 748.

(July 28, 1955, ch. 423, § 3, 69 Stat. 393; Pub. L. 88–540, § 3, Aug. 31, 1964, 78 Stat. 748.)

CODIFICATION

Section was not enacted as part of act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter.

AMENDMENTS

1964—Subsec. (b). Pub. L. 88–540 repealed subsec. (b) which provided: ''Nothing in sections 608–608c of this title shall affect the existing status of any lands, interests, improvements, or rights with respect to taxation.''

§ 608c. Regulations

The Secretary is authorized to prescribe such regulations as may be necessary to carry out the purposes of sections 608 to 608c of this title.

(July 28, 1955, ch. 423, § 4, 69 Stat. 393.)

CODIFICATION

Section was not enacted as part of act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter.

§ 609. Action to determine title to judgment fund; claim of Confederated Tribes of the Colville Reservation; jurisdiction of Court of Claims

The Confederated Tribes of the Colville Reservation, acting through the chairman of its business council, and the Yakima Tribes of Indians of the Yakima Reservation, acting through the chairman of its tribal council, for and on behalf of said tribes and each and all their constituent tribal groups, are each hereby authorized to commence or defend in the United States Court of Claims an action against each other making claims to a share in the funds that are on deposit in the Treasury of the United States to pay a judgment of the Indian Claims Commission dated April 5, 1965, in dockets numbered 161, 222, and 224, and the interest on said funds; and jurisdiction is hereby conferred upon said court to hear such claims and to render judgment and decree thereon making such division of such funds and the interest on such funds, as may be just and fair in law and equity, between the Confederated Tribes of the Colville Reservation and its constituent tribal groups on the one hand, and the Yakima Tribes of Indians of the Yakima Reservation and its constituent tribal groups on the other hand.

(Pub. L. 90–278, § 1, Mar. 30, 1968, 82 Stat. 69.)

REFERENCES IN TEXT

The United States Court of Claims, referred to in text, and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

The Indian Claims Commission, referred to in text, was terminated on Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

Section was not enacted as part of act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter.

§ 609a. Tax exemption

Any part of such funds that may be distributed per capita to the members of the tribes shall not be subject to Federal or State income tax.

(Pub. L. 90–278, § 2, Mar. 30, 1968, 82 Stat. 69.)

CODIFICATION

Section was not enacted as part of act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter.

§ 609b. Disposition of judgment fund; deductions; advances, expenditures, investments, or reinvestments for authorized purposes

The funds appropriated by the Act of October 31, 1965 (79 Stat. 1133, 1152), to pay judgments to the Yakima Tribes of the Yakima Reservation in Indian Claims Commission docket numbered 47–A and 162, and by the Act of July 22, 1969 (83 Stat. 49), in consolidated dockets 47 and 164, together with interests thereon, after payment of attorney fees and litigation expenses, may be advanced, expended, invested, or reinvested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 91–413, § 1, Sept. 25, 1970, 84 Stat. 865.)

REFERENCES IN TEXT

Act of October 31, 1965, referred to in text, is Pub. L. 89–309, Oct. 31, 1965, 79 Stat. 1133, 1152. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Act of July 22, 1969, referred to in text, is Pub. L. 91–47, July 22, 1969, 83 Stat. 49. That portion of the act which appropriated the funds referred to was not classified to the Code.

CODIFICATION

Section was not enacted as part of act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter.

§ 609b–1. Tax exemption; trusts and other procedures for protection of minors and persons under legal disability

Any part of such funds that may be distributed per capita under the provisions of section 609b of this title and this section shall not be subject to Federal or State income tax; and any per capita share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines will adequately protect the best interest of such persons.

(Pub. L. 91–413, § 2, Sept. 25, 1970, 84 Stat. 865.)

CODIFICATION

Section was not enacted as part of act Aug. 9, 1946, ch. 933, 60 Stat. 968, which comprises this subchapter.

§ 609c. Disbursement of minor's share of judgment funds

(a) Definitions

For purposes of this section and section 609c–1 of this title, the term—

(1) ''tribe'' means the Confederated Tribes and Bands of the Yakama Indian Nation or the Apache Tribe of the Mescalero Reservation;

(2) ''tribal governing body'' means the governing body of a tribe or a committee of the members of such body designated by such body for purposes of this section and section 609c–1 of this title;

(3) ''Secretary'' means the Secretary of the Interior acting through (unless otherwise determined by the Secretary) the Superintendent of the Bureau of Indian Affairs Agency serving the tribe involved;

(4) ''minor'' means a member of a tribe, or descendant of a member of a tribe, who has not attained the age of eighteen years and who has a minor's share;

(5) ''minor's share'' means the per capita share of a judgment award, and the investment income accruing thereto, which is held in trust by the Secretary for a minor; and

(6) ''parent'' means the biological or adoptive parent or parents, or other legal guardian, of a minor.

(b) Disbursement to parent of minor

Notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466) [25 U.S.C. 1401 et seq.], the Act of March 12, 1968 (82 Stat. 47), or any other law, or any regulation or plan promulgated pursuant thereto, the minor's share of judgment funds heretofore or hereafter awarded by the Indian Claims Commission or the United States Court of Claims to a tribe may be disbursed to a parent of such minor pursuant to this section and section 609c–1 of this title.

(c) Disbursements under plan for best interest of minor

The minor's share of judgment funds may be disbursed in such amounts deemed necessary by such parent for the best interest of the minor for the minor's health, education, welfare, and emergencies under a plan governing such funds for each minor (or a plan governing funds of all minors in a family) approved by the Secretary and the tribal governing body of the minor's tribe.

(d) Monthly reports

The Secretary shall provide a monthly report to each tribal governing body which has approved one or more plans pursuant to subsection (c) of this section. Each such report shall include the amount and purpose of every disbursement made during each month under such plans.

(Pub. L. 95–433, § 1, Oct. 10, 1978, 92 Stat. 1047; Pub. L. 103–435, § 17(b), Nov. 2, 1994, 108 Stat. 4573.)

REFERENCES IN TEXT

Act of October 19, 1973, referred to in subsec. (b), is Pub. L. 93–134, Oct. 19, 1973, 87 Stat. 466, as amended, known as the Indian Tribal Judgment Funds Use or Distribution Act, which is classified generally to chapter 16 (§ 1401 et seq.) of this title. For complete classification of this Act to the Code, see section 1401(c) of this title and Tables.

Act of March 12, 1968, referred to in subsec. (b), is Pub. L. 90–266, which authorized the consolidation and use of funds in favor of the Apache Tribe of the Mescalero Reservation, and was not classified to the Code.

The Indian Claims Commission, referred to in subsec. (b), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

The United States Court of Claims, referred to in subsec. (b), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–435 substituted ''Confederated Tribes and Bands of the Yakama Indian Nation'' for ''Confederated Tribes and Bands of the Yakima Indian Nation''.

§ 609c–1. Tax exemption; eligibility for Federal assistance without regard to payments

Any part of any of the judgment funds referred to in section 609c of this title that may be distributed per capita to, or held in trust for the benefit of, the members of a tribe, including minor's shares, shall not be subject to Federal or State income tax, and the per capita payment shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act [42

U.S.C. 301 et seq.], or any other Federal or federally assisted program.

(Pub. L. 95–433, § 2, Oct. 10, 1978, 92 Stat. 1047.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SUBCHAPTER XVIII—SWINOMISH TRIBE

§ 610. Purchase of lands within, adjacent to, or in close proximity to boundaries of Swinomish Indian Reservation

The Secretary of the Interior is authorized to purchase with funds made available by the Swinomish Indian Tribal Community any land or interest in land within, adjacent to, or in close proximity to the boundaries of the Swinomish Indian Reservation.

(Pub. L. 90–534, § 1, Sept. 28, 1968, 82 Stat. 884.)

§ 610a. Sale or exchange of lands; money equalization payments

Any land or interest in land now owned or hereafter acquired by or in trust for the Swinomish Indian Tribal Community may be sold or exchanged for other land or interest in land within, adjacent to, or in close proximity to the boundaries of the Swinomish Indian Reservation, and the land values involved in an exchange must be equal or be equalized by the payment of money.

(Pub. L. 90–534, § 2, Sept. 28, 1968, 82 Stat. 884.)

§ 610b. Title to lands; tax exemption; prohibition of restrictions

Title to any land acquired pursuant to this subchapter shall be taken in the name of the United States in trust for the Swinomish Indian Tribal Community and shall be nontaxable if the land is within the boundaries of the Swinomish Indian Reservation, and title shall be taken in the name of the Community subject to no restrictions on alienation, taxation, management, or use if the land is outside such boundaries.

(Pub. L. 90–534, § 3, Sept. 28, 1968, 82 Stat. 884.)

§ 610c. Mortgages or deeds in trust; law governing mortgage foreclosure or sale; United States as party; removal of cases: appeals

The Swinomish Indian Tribal Community may, with the approval of the Secretary of the Interior, execute mortgages or deeds of trust to land the title to which is held by the community, or by the United States in trust for the community. Such land shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State of Washington. The United States shall be an indispensable party to, and may be joined in, any such proceeding involving trust land with the right to remove the action to the United States district court for the district in which the land is situated, according to the procedure in section 1446 of title 28, and the United States shall have the right to appeal from any order of remand entered in such action.

(Pub. L. 90–534, § 4, Sept. 28, 1968, 82 Stat. 884.)

§ 610d. Moneys or credits for tribal purposes

Any moneys or credits received or credited to the Swinomish Indian Tribal Community from the sale, exchange, mortgage, or granting of any security interest in any tribal land may be used for tribal purposes.

(Pub. L. 90–534, § 5, Sept. 28, 1968, 82 Stat. 884.)

§ 610e. Assignment of income

The Swinomish Indian Tribal Community may assign any income due it, subject to approval of the Secretary of the Interior. Such approval may be given in general terms or may be limited to specified assignments.

(Pub. L. 90–534, § 7, Sept. 28, 1968, 82 Stat. 884.)

SUBCHAPTER XIX—SHOSHONE AND ARAPAHO TRIBES OF WYOMING

§ 611. Division of trust fund on deposit in United States Treasury to joint credit of both tribes

The Secretary of the Interior is authorized and directed to divide the trust funds on deposit in the Treasury of the United States to the joint credit of the Shoshone and Arapaho Tribes of the Wind River Reservation, Wyoming, including the unexpended balance of the treaty funds arising under section 12 of the Act of June 7, 1897 (30 Stat. 93), between the Shoshone Tribe and the Arapaho Tribe, crediting one-half of the total amount in the principal account to a principal trust fund account and one-half of the total amount in the interest account to an interest trust fund account for each tribe: *Provided*, That in dividing the funds there shall be taken into consideration in determining the amount to be credited to each tribe the outstanding loans made from joint trust funds to the Indians of each tribe.

(May 19, 1947, ch. 80, § 1, 61 Stat. 102.)

REFERENCES IN TEXT

Section 12 of the Act of June 7, 1897 (30 Stat. 93), referred to in text, is act June 7, 1897, ch. 3, § 12, 30 Stat. 93, which was not classified to the Code.

WIND RIVER INDIAN RESERVATION; MINERAL RIGHTS

Pub. L. 85–780, Aug. 27, 1958, 72 Stat. 935, provided: "That, from and after the effective date of this Act [Aug. 27, 1958], all of the right, title, and interest of the United States in all minerals, including oil and gas, the Indian title, to which was extinguished by the Act of August 15, 1953 (67 Stat. 592; Public Law 284, Eighty-third Congress, first session [set out as a note under this section]), entitled 'An Act to provide compensation to the Shoshone and Arapahoe Tribes of Indians for certain lands of the Riverton reclamation project within the ceded portion of the Wind River Indian Reservation, and for other purposes', is hereby declared to be held by the United States in trust for the Shoshone and Arapahoe Tribes and, notwithstanding any other provision of law, said minerals, including oil and gas, subject to the provisions of section 2 of this Act, shall be administered and leased in accordance with the provisions of the Act of May 11, 1938 (ch. 198, 52 Stat. 347

[sections 396a to 396g of this title]). The gross proceeds received by the United States from such minerals either before or after the date of this Act shall be deposited to the credit of the Shoshone and Arapahoe Tribes in accordance with the provisions of the Act of May 19, 1947 (61 Stat. 102), as amended [this subchapter], and any of such gross proceeds that have been credited to miscellaneous receipts in the Treasury of the United States in accordance with the provisions of section 5 of the Act of August 15, 1953 (67 Stat. 592 [set out as a note under this section]), shall be transferred on the books of the Treasury to the credit of such tribes.

''SEC. 2. Notwithstanding any other provision of law, (1) all mineral leases, including oil and gas leases, covering any of the minerals referred to in section 1 hereof, which have heretofore been issued by the Secretary of the Interior on a noncompetitive basis, shall be subject to renewal at the end of the primary five-year term thereof for a term that extends to a date that is five years from the date of this Act [Aug. 27, 1958] and shall not be subject to renewal or further extension except in any case where, at the expiration of said extended term, oil or gas is being produced under the lease in paying quantities, and (2) the Secretary of the Interior shall process in accordance with the Mineral Leasing Act of February 25, 1920 (ch. 85, 41 Stat. 437), as amended [section 181 et seq. of Title 30, Mineral Lands and Mining], and the regulations issued thereunder, all oil and gas lease offers covering any of the oil and gas referred to in section 1 hereof which were filed on or before December 31, 1957: *Provided*, That any oil and gas lease issued pursuant to such lease offers shall be for a single term of five years commencing with the effective date of the lease and shall not be subject to renewal or extension except in any case where at the expiration of said five-year term, oil or gas is being produced under the lease in paying quantities.

''Any oil or gas lease referred to in subparagraph (1) of this section and any oil or gas lease which may hereafter be issued pursuant to the lease offers referred to in subparagraph (2) of this section shall be subject to the provisions of section 1 (1) of the Act of July 29, 1954 (ch. 644, 68 Stat. 583), amendatory of the second paragraph of section 17 of the Mineral Leasing Act of February 25, 1920 (ch. 85, 41 Stat. 443), as amended [section 226 of title 30].''

WIND RIVER INDIAN RESERVATION; COMPENSATION FOR LANDS OF THE RIVERTON RECLAMATION PROJECT

Act Aug. 15, 1953, ch. 509, 67 Stat. 592, provided that: ''There is hereby authorized to be transferred in the Treasury of the United States from funds now or hereafter made available for carrying on the functions of the Bureau of Reclamation and to be placed to the credit of the Shoshone and Arapahoe Tribes of Indians of the Wind River Indian Reservation in Wyoming, the sum of $1,009,500, said sum shall be credited to and expended for the benefit of said tribes and their members as provided by the Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208), and by the Act of July 17, 1953 (Public Law 132, Eighty-third Congress) [this subchapter], and as may be hereinafter amended, and shall be deemed to constitute full, complete, and final compensation, except as provided in section 5 of this Act, for terminating and extinguishing all of the right, title, estate, and interest, including minerals, gas and oil, of said Indian tribes and their members of, in and to the lands, interests in lands, and any and all past and future damages arising out of the cession to the United States, pursuant to the Act of March 3, 1905 (33 Stat. 1016) of that part of the former Wind River Indian Reservation lying within * * * the proposed exterior boundaries of the Riverton reclamation project, Fremont County, Wyoming * * *''.

* * * * *

''* * * *Provided*, That any member, or the heirs or assignees of any member, of either of said tribes, who on the 24th day of July 1952, had an existing and valid assignment on any part of the above-described land, shall have the right, at his or her option, within one year after the date of enactment of this Act [Aug. 15, 1953] to enter into a contract with the United States, by and through the Bureau of Reclamation, for the purchase, at a price and on terms satisfactory to the Secretary of the Interior, of all or any contiguous part of such assignment, and upon final payment of the purchase price therefor, a fee patent accordingly shall be issued to such assignee, subject to reservations of all oil, gas, and minerals to the United States, and subject to section 5 of this Act, and if any part of the land so selected shall contain land irrigable under the Riverton reclamation project, then said patented land shall be subject to all irrigation charges, taxes, and liens imposed by Federal or State law, to the same extent and in like manner as other lands of the Riverton reclamation project: *Provided further*, That all existing contracts relating to irrigation charges, with respect to such irrigable land, shall remain in full force and effect: *And provided further*, That nothing in this Act shall be construed to affect the rights and interests in and to any land embraced within the tract described herein that has been allotted to an individual member of either of the said tribes which, on the date of enactment of this Act [Aug. 15, 1953], is held by the United States in trust for such member or his or her heirs.

''SEC. 2. Subject only to the existing rights and interests which are not extinguished and terminated by this Act, all unentered and vacant lands within the area described in section 1 hereof, are hereby restored to the public domain for administration, use, occupancy, and disposal under the reclamation and public land laws of the United States: *Provided*, That the sale or other disposition of such lands shall be at rates and upon terms and conditions approved by the Secretary of the Interior: *Provided further*, That the average price of all such lands disposed of by sale shall be not less than $6.25 per acre.

''SEC. 3. The sum transferred to the credit of the Shoshone and Arapahoe Tribes of Indians as aforesaid and the expenses of carrying out the provisions of this Act shall be nonreimbursable and nonreturnable under the reclamation laws of the United States. The net proceeds derived from the disposal of said lands shall be covered into the general fund of the Treasury or into the reclamation fund as the Secretary of the Interior shall find appropriate in the light of the source from which the funds transferred or expended in carrying out this Act are derived.

''SEC. 4. Subject to any outstanding rights and interests, all of the ceded lands of the Wind River Reservation withdrawn pursuant to the Act of June 17, 1902, for the development of the Riverton reclamation project, Wyoming, not included within the boundaries of the tract described in section 1 of this Act, are hereby restored to the ownership of said tribes to the same extent as the ownership provided by the Act of July 27, 1939 (53 Stat. 1128) [sections 571 to 577 of this title], with respect to vacant lands ceded to the United States under the provisions of the Act of March 3, 1905 (33 Stat. 1016), but not subsequently withdrawn for reclamation purposes: *Provided*, That the compensation authorized in section 1 hereof shall also be deemed to release the United States from any and all claims for damages whatsoever arising out of withdrawal of lands herein restored to tribal ownership.

''SEC. 5. Notwithstanding any other provision of law, the United States shall deposit in the Treasury of the United States to the credit of said tribes, to be available for expenditure for the benefit of said tribes and their members, as provided by the Act of May 19, 1947 (61 Stat. 102), as amended by the Act of August 30, 1951 (65 Stat. 208), and by the Act of July 17, 1953 (Public Law 132, Eighty-third Congress) [this subchapter], and as may be hereinafter amended, 90 per centum of the gross receipts of the United States, as they are received from time to time, from all leases, bonuses, royalties, or other proceeds derived under the mining and mineral-leasing laws of the United States from any and all

lands in which all rights and interests of the tribes are terminated and extinguished by the terms and conditions of section 1 of this Act and which are embraced within the boundaries of the tract described in said section 1. Notwithstanding any other provision of law the remaining 10 per centum of such gross receipts shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

''SEC. 6. Should this Act become law subsequent to June 30, 1954, there is hereby reserved to the Shoshone and Arapahoe Tribes the privilege of rejecting, within one hundred and twenty days after the date of the Act [Aug. 15, 1953], the terms and conditions of its sections 1, 4, and 5. If those terms and conditions are rejected, no part of the Act shall become effective.

''SEC. 7. The Secretary of the Interior is authorized to perform any and all acts to carry out the provisions and purposes of this Act.''

§ 612. Establishment of trust fund for each tribe; transfer of funds; interest; crediting of revenues, receipts, and proceeds of judgments

The Secretary of the Treasury, upon request of the Secretary of the Interior, is authorized and directed to establish a trust fund account for each tribe and shall make such transfer of funds on the books of his department as may be necessary to effect the purpose of section 611 of this title: *Provided*, That interest shall accrue on the principal fund only, at the rate of 4 per centum per annum, and shall be credited to the interest trust fund accounts established by this section: *Provided further*, That all future revenues and receipts derived from the Wind River Reservation under any and all laws, and the proceeds from any judgment for money against the United States hereafter paid jointly to the Shoshone and Arapahoe Tribes of the Wind River Reservation, shall be divided in accordance with section 611 of this title and credited to the principal trust fund accounts established herein; and the proceeds from any judgment for money against the United States hereafter paid to either of the tribes singly shall be credited to the appropriate principal trust fund account.

(May 19, 1947, ch. 80, § 2, 61 Stat. 102; Aug. 30, 1951, ch. 367, § 1, 65 Stat. 208; Pub. L. 85–610, § 1, Aug. 8, 1958, 72 Stat. 541.)

AMENDMENTS

1958—Pub. L. 85–610 substituted ''Secretary of the Treasury'' for ''Comptroller of the United States'', required division of future receipts from Reservation and proceeds from judgments paid jointly to Tribes, and provided for manner of crediting proceeds from judgments paid to either of Tribes.

1951—Act Aug. 30, 1951, substituted ''any'' for ''existing'' before ''law'' in second proviso.

§ 613. Advances or expenditures from tribal funds; emergency and educational loans; payments to individuals of tribes; per capita payments not subject to liens or claims; exception

Notwithstanding any other provision of existing law, the trust funds credited to the Shoshone Tribe and the Arapahoe Tribe, respectively, under the provisions of this subchapter shall be available for expenditure or for advance to the tribes for such purposes as may be requested by the business council of the tribe concerned and approved by the Secretary of the Interior, or such official as may be designated by him: *Provided*, That the Secretary of the Interior is directed to make available out of the trust funds of the Shoshone Tribe the sum of $7,500 for the purpose of making emergency and educational loans on the authority and responsibility of the Shoshone Tribe, through its business council, without liability to the United States and free from regulation or approval by the Secretary of the Interior: *Provided further*, That, commencing as soon after August 8, 1958 as the Secretary of the Interior determines may be practicable in order to change from the existing quarterly payment system, but not later than January 1, 1959, 85 per centum of said trust funds shall be paid per capita to the members of the respective tribes in equal monthly installments on the first day of each month, or as near thereto as practicable, or with the approval of the Secretary of the Interior, at such more frequent intervals as the tribes may request. The amount of the monthly payments during any one calendar year shall be determined by the Secretary of the Interior on the basis of estimated anticipated income for that calendar year: *Provided further*, That the Secretary may increase or decrease the amount of the monthly payments in the light of actual receipts during the calendar year, and in order to avoid the omission of a payment or a reduction in the amount that would cause unnecessary hardship the Secretary may permit the total monthly payments for a year to exceed 85 per centum of the actual receipts for that year and deduct the excess from the receipts of the following or succeeding years before determining the amount of the monthly payments for such succeeding years: *Provided further*, That said per capita payments shall not be subject to any lien or claim of any nature against any of the members of said tribes unless the business council of such member shall consent thereto in writing, except as to reimbursable Treasury loans made to individual members of either tribe which may be due to the United States, and except as to irrigation charges owed by individual Indians to the United States with respect to lands for which water is requested and received by said individual Indians, and with respect to lands that are determined by the Secretary of the Interior to be properly classified under existing law on the basis of the survey undertaken by the Secretary after the amendment of this section on July 25, 1956 (70 Stat. 642): *Provided further*, That quarterly per capita payments under this subchapter shall continue without interruption until the monthly per capita payments are put into effect on or before January 1, 1959.

(May 19, 1947, ch. 80, § 3, 61 Stat. 102; Aug. 30, 1951, ch. 367, § 2, 65 Stat. 209; July 17, 1953, ch. 223, 67 Stat. 179; Aug. 9, 1955, ch. 638, 69 Stat. 557; July 25, 1956, ch. 723, § 1, 70 Stat. 642; Pub. L. 85–610, § 2, Aug. 8, 1958, 72 Stat. 541.)

AMENDMENTS

1958—Pub. L. 85–610 substituted ''business council'' for ''tribal council'', to authorize $7,500 for emergency and educational loans, permitted monthly payments instead of quarterly payments and allowed for payments at more frequent intervals if the tribes so request, required the Secretary to determine the amount of monthly payments during any calendar year on the

basis of estimated anticipated income for that calendar year, provided for increases and decreases in monthly payments and omitted provisions which related to authority of the Secretary to protect and conserve funds payable to minors and incompetents.

1956—Act July 25, 1956, increased per capita payments from 80 to 85 percent, extended period of payments from May 19, 1957, to May 19, 1959, subjected per capita payments to irrigation charges with respect to lands that are determined by the Secretary of the Interior to to be properly classified under existing law on the basis of a survey, and inserted provisions relating to authority of the Secretary to protect and conserve funds payable to minors and incompetents.

1955—Act Aug. 9, 1955, permitted quarterly per capita payments instead of semiannual payments.

1953—Act July 17, 1953, increased per capita distribution from two-thirds to 80 per centum.

1951—Act Aug. 30, 1951, substituted ''ten'' for ''five'' before ''years'' in first proviso.

PER CAPITA PAYMENTS AFTER MAY 19, 1959

Section 2 of act July 25, 1956, directed Secretary of the Interior to report to Congress before Jan. 1, 1958, in order to determine the conditions under which per capita payments could be authorized after May 19, 1959, (1) recommendations regarding any new authority, if any, needed to protect adequately the interests of minors and incompetent Indians, (2) results of a survey and reclassification of the lands that should be removed from the irrigation project, and (3) adequacy of tribal contribution to cost of administering the reservation.

SUBCHAPTER XX—PUEBLO AND CANONCITO NAVAJO INDIANS

§ 621. Portions of tribal lands to be held in trust by the United States; remainder to become part of the public domain

Title to the lands and the improvements thereon, lying and situated within the State of New Mexico, which have been acquired by the United States under authority of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), section 55 of title I of the Act of August 24, 1935 (49 Stat. 750, 781), the Bankhead-Jones Farm Tenant Act (50 Stat. 522, 525) and subsequent emergency relief appropriation Acts administrative jurisdiction over which has heretofore been transferred by the President from the Secretary of Agriculture to the Secretary of the Interior, to be administered through the Commissioner of Indian Affairs for the benefit of the Indians, by Executive Orders Numbered 7792, 7975, 8255, 8471, 8696, and 8472 and that title to the public domain lands and improvements thereon, lying and situated within the State of New Mexico, which were withdrawn in aid of proposed legislation by the Secretary of the Interior on December 23, 1938, and May 31, 1939, and now in use by Pueblo or Canoncito Navajo Indians, excepting those portions thereof used by the United States for administrative purposes, is declared to be in the United States of America in trust for the respective tribes, bands, or groups of Indians occupying and using same as a part of their respective existing reservations, subject to valid existing rights. The remainder of the aforesaid land is declared to be a part of the public domain of the United States and shall be transferred by the Secretary of the Interior to the Bureau of Land Management for administration under the provisions of the Act of Congress of June 28, 1934, generally known as Taylor Grazing Act [43 U.S.C. 315 et seq.] (48 Stat. 1269, as amended). The boundaries and descriptions of the areas to become Indian lands and those which are to be transferred to the Bureau of Land Management are set out in sections III and IV, respectively, of the memorandum of information which is attached to and a part of the report of the Secretary of the Interior to the Senate Committee on Interior and Insular Affairs on this subchapter, and such boundaries and descriptions are adopted as part of this subchapter and shall be published in the Federal Register: *Provided*, That before said boundaries and descriptions are published in the Federal Register as herein provided, the Secretary of the Interior may correct any clerical errors in section III of said memorandum of information and shall revise the same so as to define the areas on that portion of the lands conveyed by this subchapter and known as Bell Rock Mesa used and occupied respectively by the Laguna Pueblo Indians and the Canoncito Navajo Indians.

(Aug. 13, 1949, ch. 425, § 1, 63 Stat. 604.)

REFERENCES IN TEXT

The National Industrial Recovery Act, referred to in text, is act June 16, 1933, ch. 90, 48 Stat. 195, as amended. Title II of the Act was classified principally to subchapter I (§ 401 et seq.) of chapter 8 of former Title 40, Public Buildings, Property, and Works, and was terminated June 30, 1943, by act June 27, 1942, ch. 450, § 1, 56 Stat. 410. Provisions of title II of the Act which were classified to former Title 40 were repealed by Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304. For complete classification of this Act to the Code, see Tables.

The Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), referred to in text, is act Apr. 8, 1935, ch. 48, 49 Stat. 115, which was set out as a note under section 728 of Title 15, Commerce and Trade.

Section 55 of title I of the Act of August 24, 1935 (49 Stat. 750, 781), referred to in text, is section 5 of act Aug. 24, 1935, ch. 641, title I, 49 Stat. 781, which was not classified to the Code but was listed in the Supplementary Legislation note under section 721 of Title 15.

The Bankhead-Jones Farm Tenant Act (50 Stat. 522, 525), referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to chapter 33 (§ 1000 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

The Taylor Grazing Act, referred to in text, is act June 28, 1934, ch. 865, 48 Stat. 1269, as amended, which is classified principally to subchapter I (§ 315 et seq.) of chapter 8A of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 315 of Title 43 and Tables.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, Effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4, Ninety-fifth Congress (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977. Section 105 of Senate Resolution No. 4 established a temporary Select Committee on Indian Affairs having jurisdiction over matters relating to Indian affairs (such matters previously having been within the jurisdiction of the Committee on Interior Ninety-eighth Congress, established the Select Committee on Indian Affairs as a permanent committee of the Senate, and section 25 of Senate Resolution No. 71, Feb. 25, 1993, One Hundred Third Congress, redesignated the Select Com-

mittee on Indian Affairs as the Committee on Indian Affairs.

§ 622. Exchange of tribal lands; title to lands

For the purpose of consolidation of Indian lands the Secretary of the Interior is authorized, under such regulations as he may prescribe, to exchange any lands or interests therein, including improvements and water rights with the consent of the Pueblo or Navajo tribal authorities for other lands, water rights, and improvements of similar value in the area set apart for the Pueblos and Canoncito Navajos or in the areas declared to be public domain or within any public domain within New Mexico. Title to all lands acquired under the provisions of this subchapter shall be taken in the name of the United States in trust for the respective Pueblo Indians and the Navajo Canoncito group.

(Aug. 13, 1949, ch. 425, § 2, 63 Stat. 605.)

§ 623. Disbursement of deposits in the United Pueblos Agency

The funds now on deposit in the United Pueblos Agency in ''special deposits'' which have accrued from issuance of livestock-crossing permits and fees collected for grazing permits on the lands which have been under the jurisdiction of the Department of the Interior shall be expended or disbursed for the benefit of the Indians under such rules and regulations as the Secretary of the Interior may prescribe.

(Aug. 13, 1949, ch. 425, § 3, 63 Stat. 605.)

§ 624. Exchange of lands

(a) Authorization of Secretary; manner and place

For the purpose of improving the land tenure pattern and consolidating Pueblo Indian lands, the Secretary of the Interior is authorized, under such regulations as he may prescribe, to acquire by exchange any lands or interests therein, including improvements and water rights, within the Pueblo land consolidation areas, and to convey in exchange therefor not to exceed an equal value of unappropriated public lands within the State of New Mexico, or, with the consent of the Pueblo authorities any Pueblo tribal lands or interest therein, including improvements and water rights.

(b) Reservation of minerals, easements, or rights of use

Either party to an exchange under this section may reserve minerals, easements, or rights of use.

(c) Execution of title documents

The Secretary may execute any title documents necessary to effect the exchanges authorized by this section.

(d) Title to lands

Title to all lands acquired under the provisions of this section shall be taken in the name of the United States in trust for the respective Pueblo Indian tribes.

(Pub. L. 87–231, § 10, Sept. 14, 1961, 75 Stat. 505.)

CODIFICATION

Section was not enacted as part of act Aug. 13, 1949, ch. 425, 63 Stat. 604, which comprises this subchapter.

SUBCHAPTER XXI—NAVAJO AND HOPI TRIBES: REHABILITATION

§ 631. Basic program for conservation and development of resources; projects; appropriations

In order to further the purposes of existing treaties with the Navajo Indians, to provide facilities, employment, and services essential in combating hunger, disease, poverty, and demoralization among the members of the Navajo and Hopi Tribes, to make available the resources of their reservations for use in promoting a self-supporting economy and self-reliant communities, and to lay a stable foundation on which these Indians can engage in diversified economic activities and ultimately attain standards of living comparable with those enjoyed by other citizens, the Secretary of the Interior is authorized and directed to undertake, within the limits of the funds from time to time appropriated pursuant to this subchapter, a program of basic improvements for the conservation and development of the resources of the Navajo and Hopi Indians, the more productive employment of their manpower, and the supplying of means to be used in their rehabilitation, whether on or off the Navajo and Hopi Indian Reservations. Such program shall include the following projects for which capital expenditures in the amount shown after each project listed in the following subsections and totaling $108,570,000 are authorized to be appropriated:

(1) Soil and water conservation and range improvement work, $10,000,000.

(2) Completion and extension of existing irrigation projects, and completion of the investigation to determine the feasibility of the proposed San Juan-Shiprock irrigation project, $9,000,000.

(3) Surveys and studies of timber, coal, mineral, and other physical and human resources, $500,000.

(4) Development of industrial and business enterprises, $1,000,000.

(5) Development of opportunities for off-reservation employment and resettlement and assistance in adjustments related thereto, $3,500,000.

(6) Relocation and resettlement of Navajo and Hopi Indians (Colorado River Indian Reservation), $5,750,000.

(7) Roads and trails, $40,000,000; of which not less than $20,000,000 shall be (A) available for contract authority for such construction and improvement of the roads designated as route 1 and route 3 on the Navajo and Hopi Indian Reservations as may be necessary to bring the portion of such roads located in any State up to at least the secondary road standards in effect in such State, and (B) in addition to any amounts expended on such roads under the $20,000,000 authorization provided under this clause prior to amendment.

(8) Telephone and radio communications systems, $250,000.

(9) Agency, institutional, and domestic water supply, $2,500,000.

(10) Establishment of a revolving loan fund, $5,000,000.

(11) Hospital buildings and equipment, and other health conservation measures, $4,750,000.

(12) School buildings and equipment, and other educational measures, $25,000,000.

(13) Housing and necessary facilities and equipment, $820,000.

(14) Common service facilities, $500,000.

Funds so appropriated shall be available for administration, investigations, plans, construction, and all other objects necessary for or appropriate to the carrying out of the provisions of this subchapter. Such further sums as may be necessary for or appropriate to the annual operation and maintenance of the projects herein enumerated are also authorized to be appropriated. Funds appropriated under these authorizations shall be in addition to funds made available for use on the Navajo and Hopi Reservations, or with respect to Indians of the Navajo Tribes, out of appropriations heretofore or hereafter granted for the benefit, care, or assistance of Indians in general, or made pursuant to other authorizations now in effect.

(Apr. 19, 1950, ch. 92, § 1, 64 Stat. 44; Pub. L. 85–740, Aug. 23, 1958, 72 Stat. 834.)

AMENDMENTS

1958—Pub. L. 85–740 substituted $108,570,000 for $88,570,000 in opening par., and, in cl. (7), increased from $20,000,000 to $40,000,000 the amount authorized for roads and trails, of which not less than $20,000,000 shall be available for contract authority to bring routes 1 and 3 on the Navajo and Hopi Indian reservations up to secondary road standards in the State.

CONTRACT AUTHORITY; APPROPRIATIONS

Pub. L. 85–740 provided in part that the contract authority and appropriations authorized by the amendment to clause (7) of this section shall be in addition to sums apportioned to Indian reservations or to the State of Arizona under the Federal Highway Act, as amended and supplemented.

§ 632. Character and extent of administration; time limit; reports on use of funds

The foregoing program shall be administered in accordance with the provisions of this subchapter and existing laws relating to Indian affairs, shall include such facilities and services as are requisite for or incidental to the effectuation of the projects herein enumerated, shall apply sustained-yield principles to the administration of all renewable resources, and shall be prosecuted in a manner which will provide for completion of the program, so far as practicable, within ten years from April 19, 1950. An account of the progress being had in the rehabilitation of the Navajo and Hopi Indians, and of the use made of the funds appropriated to that end under this subchapter, shall be included in each annual report of the work of the Department of the Interior submitted to the Congress during the period covered by the foregoing program.

(Apr. 19, 1950, ch. 92, § 2, 64 Stat. 45.)

§ 633. Preference in employment; on-the-job training

Navajo and Hopi Indians shall be given, whenever practicable, preference in employment on all projects undertaken pursuant to this subchapter, and, in furtherance of this policy may be given employment on such projects without regard to the provisions of the civil-service and classification laws. To the fullest extent possible, Indian workers on such projects shall receive on-the-job training in order to enable them to become qualified for more skilled employment.

(Apr. 19, 1950, ch. 92, § 3, 64 Stat. 45.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The classification laws, referred to in text, are classified generally to chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

§ 634. Loans to Tribes or individual members; loan fund

The Secretary of the Interior is authorized, under such regulations as he may prescribe, to make loans from the loan fund authorized by section 631 of this title to the Navajo Tribe, or any member or association of members thereof, or to the Hopi Tribe, or any member of association of members thereof, for such productive purposes as, in his judgment, will tend to promote the better utilization of the manpower and resources of the Navajo or Hopi Indians. Sums collected in repayment of such loans and sums collected as interest or other charges thereon shall be credited to the loan fund, and shall be available for the purpose for which the fund was established.

(Apr. 19, 1950, ch. 92, § 4, 64 Stat. 45.)

INDIAN REVOLVING LOAN FUND

Certain funds to be administered as a single Indian Revolving Loan Fund after Apr. 12, 1974, see section 1461 of this title.

§ 635. Disposition of lands

(a) Lease of restricted lands; renewals

Any restricted Indian lands owned by the Navajo Tribe, members thereof, or associations of such members, or by the Hopi Tribe, members thereof, or associations of such members, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, or business purposes, including the development or utilization of natural resources in connection with operations under such leases. All leases so granted shall be for a term of not to exceed twenty-five years, but may include provisions authorizing their renewal for an additional term of not to exceed twenty-five years, and shall be made under such regulations as may be prescribed by the Secretary. Restricted allotments of deceased Indians may be leased under this section, for the benefit of their heirs or devisees, in the circumstances and by the persons prescribed in section 380 of this title. Nothing contained in this section shall be construed to repeal or affect any authority to lease restricted Indian lands conferred by or pursuant to any other provision of law.

(b) Lease, sale, or other disposition of lands owned in fee simple by Navajo Tribe

Notwithstanding any other provision of law, land owned in fee simple by the Navajo Tribe

may be leased, sold, or otherwise disposed of by the sole authority of the Navajo Tribal Council, in any manner that similar land in the State in which such land is situated may be leased, sold, or otherwise disposed of by private landowners, and such disposition shall create no liability on the part of the United States.

(c) Transfer of unallotted lands to tribally owned or municipal corporations

The Secretary of the Interior is authorized to transfer, upon request of the Navajo Tribal Council, to any corporation owned by the tribe and organized pursuant to State law, or to any municipal corporation organized under State law, legal title to or a leasehold interest in any unallotted lands held for the Navajo Indian Tribe, and thereafter the United States shall have no responsibility or liability for, but on request of the tribe shall render advice and assistance in, the management, use, or disposition of such lands.

(Apr. 19, 1950, ch. 92, § 5, 64 Stat. 46; Pub. L. 86–505, § 1, June 11, 1960, 74 Stat. 199.)

AMENDMENTS

1960—Pub. L. 86–505 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 636. Adoption of constitution by Navajo Tribe; method; contents

In order to facilitate the fullest possible participation by the Navajo Tribe in the program authorized by this subchapter, the members of the tribe shall have the right to adopt a tribal constitution in the manner herein prescribed. Such constitution may provide for the exercise by the Navajo Tribe of any powers vested in the tribe or any organ thereof by existing law, together with such additional powers as the members of the tribe may, with the approval of the Secretary of the Interior, deem proper to include therein. Such constitution shall be formulated by the Navajo Tribal Council at any regular meeting, distributed in printed form to the Navajo people for consideration, and adopted by secret ballot of the adult members of the Navajo Tribe in an election held under such regulations as the Secretary may prescribe, at which a majority of the qualified votes cast favor such adoption. The constitution shall authorize the fullest possible participation of the Navajos in the administration of their affairs as approved by the Secretary of the Interior and shall become effective when approved by the Secretary. The constitution may be amended from time to time in the same manner as herein provided for its adoption, and the Secretary of the Interior shall approve any amendment which in the opinion of the Secretary of the Interior advances the development of the Navajo people toward the fullest realization and exercise of the rights, privileges, duties, and responsibilities of American citizenship.

(Apr. 19, 1950. ch. 92, § 6, 64 Stat. 46.)

§ 637. Use of Navajo tribal funds

Notwithstanding any other provision of existing law, the tribal funds now on deposit or hereafter placed to the credit of the Navajo Tribe of Indians in the United States Treasury shall be available for such purposes as may be designated by the Navajo Tribal Council and approved by the Secretary of the Interior.

(Apr. 19, 1950, ch. 92, § 7, 64 Stat. 46.)

§ 638. Participation by Tribal Councils; recommendations

The Tribal Councils of the Navajo and Hopi Tribes and the Indian communities affected shall be kept informed and afforded opportunity to consider from their inception plans pertaining to the program authorized by this subchapter. In the administration of the program, the Secretary of the Interior shall consider the recommendations of the tribal councils and shall follow such recommendations whenever he deems them feasible and consistent with the objectives of this subchapter.

(Apr. 19, 1950, ch. 92, § 8, 64 Stat. 46.)

§ 639. Repealed. Pub. L. 104–193, title I, § 110(u), Aug. 22, 1996, 110 Stat. 2175

Section, acts Apr. 19, 1950, ch. 92, § 9, 64 Stat. 47; Oct. 30, 1972, Pub. L. 92–603, title III, § 303(c), 86 Stat. 1484; Dec. 31, 1973, Pub. L. 93–233, § 19(a), 87 Stat. 974, related to additional Social Security contributions to States for State expenditures for aid to dependent children to Navajo and Hopi Indians.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

§ 640. Repealed. Pub. L. 93–531, § 26, Dec. 22, 1974, 88 Stat. 1723

Section, act Apr. 19, 1950, ch. 92, § 10, 64 Stat. 47, established Joint Committee on Navajo-Hopi Indian Administration, with function of making a continuous study of programs for administration and rehabilitation of Navajo and Hopi Indians.

EFFECTIVE DATE OF REPEAL

Section 26 of Pub. L. 93–531 provided that the repeal is effective as of the close of business December 31, 1974.

§ 640a. Navajo Community College; purpose

It is the purpose of sections 640a to 640c–3 of this title to assist the Navajo Tribe of Indians in providing education to the members of the tribe and other qualified applicants through a community college, established by that tribe, known as the Navajo Community College.

(Pub. L. 92–189, § 2, Dec. 15, 1971, 85 Stat. 646.)

CODIFICATION

Section was not enacted as part of act Apr. 19, 1950, ch. 92, 64 Stat. 44, which comprises this subchapter.

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–471, title II, § 201, Oct. 17, 1978, 92 Stat. 1329, provided that: "This title [enacting section 640c–1 of

this title, amending section 640c of this title and enacting provisions set out as notes under this section and section 640c–1 of this title] may be cited as the 'Navajo Community College Assistance Act of 1978'.''

SHORT TITLE

Section 1 of Pub. L. 92–189 provided: ''That this Act [sections 640a to 640c–3 of this title] may be cited as the 'Navajo Community College Act'.''

EXPANSION OF NAVAJO COMMUNITY COLLEGE

Pub. L. 95–471, title II, § 202, Oct. 17, 1978, 92 Stat. 1329, provided that: ''The Congress after careful study and deliberation, finds that—

''(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

''(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

''(3) the population of the Navajo Tribe and the best area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population; and

''(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act [sections 640a to 640c–3 of this title].''

§ 640b. Grants

The Secretary of[1] Interior is authorized to make grants to the Navajo Tribe of Indians to assist the tribe in the construction, maintenance, and operation of the Navajo Community College. Such college shall be designed and operated by the Navajo Tribe to insure that the Navajo Indians and other qualified applicants have educational opportunities which are suited to their unique needs and interests.

(Pub. L. 92–189, § 3, Dec. 15, 1971, 85 Stat. 646.)

CODIFICATION

Section was not enacted as part of act Apr. 19, 1950, ch. 92, 64 Stat. 44, which comprises this subchapter.

§ 640c. Study of facilities needs

(a) Contents; report to Congress

The Secretary shall conduct a detailed survey and study of the academic facilities needs of the Navajo Community College, and shall report to the Congress not later than August 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of such College and by the governing body of the Navajo tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

(b) Funding

Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after October 17, 1978.

(c) Inventory

No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evaluation prepared by the health and safety division of the Bureau of Indian Affairs.

(Pub. L. 92–189, § 4, Dec. 15, 1971, 85 Stat. 646; Pub. L. 95–471, title II, § 203(a), Oct. 17, 1978, 92 Stat. 1330; Pub. L. 101–477, § 2(b), Oct. 30, 1990, 104 Stat. 1153.)

CODIFICATION

Section was not enacted as part of act Apr. 19, 1950, ch. 92, 64 Stat. 44, which comprises this subchapter.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–477 added subsec. (c).

1978—Pub. L. 95–471 substituted provisions relating to a detailed survey, study, and report and funding for this section for provisions authorizing appropriations for grants under sections 640a to 640c of this title.

DEFINITIONS

The definitions in section 1801 of this title apply to this section.

§ 640c–1. Authorization of appropriations

(a) Construction grants

(1) For the purpose of making construction grants under sections 640a to 640c–3 of this title, there are authorized to be appropriated $2,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for construction shall, unless otherwise provided in appropriations Acts, remain available until expended.

(b) Navajo Community College grants

(1) There are authorized to be appropriated for grants to the Navajo Community College, for each fiscal year, an amount necessary to pay expenses incurred for—

(A) the maintenance and operation of the college, including—

(i) basic, special, developmental, vocational, technical, and special handicapped education costs,

(ii) annual capital expenditures, including equipment needs, minor capital improvements and remodeling projects, physical plant maintenance and operation costs, and exceptions and supplemental need account, and

(iii) summer and special interest programs,

(B) major capital improvements, including internal capital outlay funds and capital improvement projects,

(C) mandatory payments, including payments due on bonds, loans, notes, or lease purchases, and

(D) supplemental student services, including student housing, food service, and the provision of access to books and services.

(2) The Secretary shall make payments, pursuant to grants under this subsection, in advance

[1] So in original. Probably should be ''of the''.

installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c) Funding requirements

The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under sections 640a to 640c–3 of this title are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

(Pub. L. 92–189, § 5, as added Pub. L. 95–471, title II, § 203(a), Oct. 17, 1978, 92 Stat. 1330; amended Pub. L. 96–374, title XIII, § 1351(a), (b), Oct. 3, 1980, 94 Stat. 1501; Pub. L. 98–192, § 14, Dec. 1, 1983, 97 Stat. 1343; Pub. L. 99–428, § 7, Sept. 30, 1986, 100 Stat. 983; Pub. L. 100–297, title V, § 5401, Apr. 28, 1988, 102 Stat. 414; Pub. L. 101–477, § 2(a), Oct. 30, 1990, 104 Stat. 1153; Pub. L. 102–325, title XIII, § 1301(d), July 23, 1992, 106 Stat. 797; Pub. L. 105–244, title IX, § 902, Oct. 7, 1998, 112 Stat. 1829.)

CODIFICATION

Section was not enacted as part of act Apr. 19, 1950, ch. 92, 64 Stat. 44, which comprises this subchapter.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244 substituted ''1999'' for ''1993''.

1992—Subsec. (a)(1). Pub. L. 102–325 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purpose of making construction grants under sections 640a to 640c–3 of this title, there are hereby authorized to be appropriated such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.''

1990—Subsec. (a)(1). Pub. L. 101–477 substituted ''1990, 1991, and 1992'' for ''1987, 1988, 1989, and 1990''.

1988—Subsec. (b)(1). Pub. L. 100–297 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''There is further authorized to be appropriated for grants to the Navajo Community College, for each fiscal year beginning on or after October 1, 1979, an amount equal to the amount necessary for operation and maintenance of the college, including, but not limited to, administrative, academic, and operations and maintenance costs.''

1986—Subsec. (a)(1). Pub. L. 99–428, § 7(1), substituted ''each of the fiscal years 1987, 1988, 1989, and 1990'' for ''the fiscal year beginning October 1, 1984, and for the three succeeding fiscal years''.

Subsec. (b)(1). Pub. L. 99–428, § 7(2), substituted ''for each fiscal year'' for ''for any fiscal year''.

1983—Subsec. (a)(1). Pub. L. 98–192 substituted ''October 1, 1984'' for ''October 1, 1979''.

1980—Subsec. (a)(1). Pub. L. 96–374, § 1351(a), substituted ''three succeeding fiscal years'' for ''two succeeding fiscal years''.

Subsec. (b)(1). Pub. L. 96–374, § 1351(b), added par. (1). Former par. (1), which authorized an appropriation for the Navajo Community College of $4,000 for each full-time equivalent student which the Secretary estimated would be in attendance during the year, was struck out.

Subsec. (b)(2), (3). Pub. L. 96–374, § 1351(b), redesignated par. (3) as (2). Former par. (2), which placed an upper limit on grants under this subsection, was struck out.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of Title 20, Education.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of Title 20, Education.

FISCAL YEAR BEGINNING OCTOBER 1, 1978

Section 203(b) of Pub. L. 95–471 provided that nothing in title II of Pub. L. 95–471, the Navajo Community College Assistance Act of 1978, shall be deemed to authorize appropriations for the fiscal year beginning Oct. 1, 1978.

DEFINITIONS

The definitions in section 1801 of this title apply to this section.

§ 640c–2. Effect on other laws

(a) Except as specifically provided by law, eligibility for assistance under sections 640a to 640c–3 of this title shall not, by itself, preclude the eligibility of the Navajo Community College to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(b) Notwithstanding any other provision of law, funds provided under sections 640a to 640c–3 of this title to the Navajo Community College may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.

(Pub. L. 92–189, § 6, as added Pub. L. 96–374, title XIII, § 1351(c), Oct. 3, 1980, 94 Stat. 1501; amended Pub. L. 100–297, title V, § 5403(b), Apr. 28, 1988, 102 Stat. 416.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

CODIFICATION

Section was not enacted as part of act Apr. 19, 1950, ch. 92, 64 Stat. 44, which comprises this subchapter.

AMENDMENTS

1988—Pub. L. 100–297 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of Title 20, Education.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of Title 20, Education.

§ 640c–3. Payments; interest

(a) Notwithstanding any other provision of law, the Secretary of the Interior shall not, in disbursing funds provided under sections 640a to 640c–3 of this title, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under sections 640a to 640c–3 of this title.

(b)(1)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under sections 640a to 640c–3 of this title after such funds are paid to the Navajo Community College and before such funds are expended for the purpose for which such funds were provided under sections 640a to 640c–3 of this title shall be the property of the Navajo Community College and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the Navajo Community College under any provision of Federal law.

(B) All interest or investment income described in subparagraph (A) shall be expended by the Navajo Community College by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

(2) Funds provided under sections 640a to 640c–3 of this title may only be invested by the Navajo Community College in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.

(Pub. L. 92–189, § 7, as added Pub. L. 100–297, title V, § 5402(b), Apr. 28, 1988, 102 Stat. 415.)

CODIFICATION

Section was not enacted as part of act Apr. 19, 1950, ch. 92, 64 Stat. 44, which comprises this subchapter.

EFFECTIVE DATE

For effective date and applicability of section, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of Title 20, Education.

SUBCHAPTER XXII—NAVAJO AND HOPI TRIBES: SETTLEMENT OF RIGHTS AND INTERESTS

§ 640d. Mediator

(a) Appointment; duties; qualifications; termination of duties

Within thirty days after December 22, 1974, the Director of the Federal Mediation and Conciliation Service shall appoint a Mediator (hereinafter referred to as the ''Mediator'') who shall assist in the negotiations for the settlement and partition of the relative rights and interests, as determined by the decision in the case of Healing v. Jones (210 F. Supp. 125, D. Ariz., 1962, aff'd 363 U.S. 758, 1963) (hereinafter referred to as the ''Healing case''), of the Hopi and Navajo Tribes (hereinafter referred to as the ''tribes'') to and in lands within the reservation established by the Executive order of December 16, 1882, except land management district no. 6 (such lands hereinafter referred to as the ''joint use area''). The Mediator shall not have any interest, direct or indirect, in the settlement of the interests and rights set out in this subsection. The duties of the Mediator shall cease upon the entering of a full agreement into the records of the supplemental proceedings pursuant to section 640d–2 of this title or the submission of a report to the District Court after a default in negotiations or a partial agreement pursuant to section 640d–3 of this title.

(b) Nature of proceedings

The proceedings in which the Mediator shall be acting under the provisions of this subchapter shall be the supplemental proceedings in the Healing case now pending in the United States District Court for the District of Arizona (hereinafter referred to as ''the District Court'').

(c) Interagency committee

(1) The Mediator is authorized to request from any department, agency, or independent instrumentality of the Federal Government any information, personnel, service, or materials he deems necessary to carry out his responsibilities under the provisions of this subchapter. Each such department, agency, or instrumentality is authorized to cooperate with the Mediator and to comply with such requests to the extent permitted by law, on a reimbursable or nonreimbursable basis.

(2) To facilitate the expeditious and orderly compilation and development of factual information relevant to the negotiating process, the President shall, within fifteen days of December 22, 1974, establish an interagency committee chaired by the Secretary of the Interior (hereinafter referred to as the ''Secretary'') to develop relevant information and to respond to the requests of the Mediator.

(d) Liaison with Secretary

The Secretary shall appoint a full-time representative as his liaison with the Mediator to facilitate the provision of information and assistance requested by the Mediator from the Department of the Interior.

(e) Staff assistants and consultants

The Mediator may retain the services of such staff assistants and consultants as he shall deem necessary, subject to the approval of the Director of the Federal Mediation and Conciliation Service.

(Pub. L. 93–531, § 1, Dec. 22, 1974, 88 Stat. 1712.)

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–180, § 1, Dec. 2, 1991, 105 Stat. 1230, provided that: ''This Act [amending sections 640d–11 and 640d–24 of this title and section 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 640d–11 of this title] may be cited as the 'Navajo-Hopi Relocation Housing Program Reauthorization Act of 1991'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–666, § 1, Nov. 16, 1988, 102 Stat. 3929, provided that: ''This Act [enacting sections 640d–29 and

640d–30 of this title, amending sections 640d–7, 640d–9 to 640d–14, 640d–22, 640d–24, 640d–25, and 640d–28 of this title, and enacting provisions set out as a note under section 640d–11 of this title] may be cited as the 'Navajo and Hopi Indian Relocation Amendments of 1988'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–305, §1, July 8, 1980, 94 Stat. 929, provided: ''That this Act [enacting sections 640d–25 to 640d–28 of this title and amending sections 640d–4, 640d–7, 640d–9 to 640d–12, 640d–14, 640d–18, 640d–22, and 640d–24 of this title] may be cited as the 'Navajo and Hopi Indian Relocation Amendments Act of 1980'.''

NAVAJO-HOPI LAND DISPUTE SETTLEMENT ACT OF 1996

Pub. L. 104–301, Oct. 11, 1996, 110 Stat. 3649, as amended by Pub. L. 105–256, §3, Oct. 14, 1998, 112 Stat. 1897, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Navajo-Hopi Land Dispute Settlement Act of 1996'.

''SEC. 2. FINDINGS.

''The Congress finds that—

''(1) it is in the public interest for the Tribe, Navajos residing on the Hopi Partitioned Lands, and the United States to reach a peaceful resolution of the longstanding disagreements between the parties under the Act commonly known as the 'Navajo-Hopi Land Settlement Act of 1974' (Public Law 93–531; 25 U.S.C. 640d et seq.);

''(2) it is in the best interest of the Tribe and the United States that there be a fair and final settlement of certain issues remaining in connection with the Navajo-Hopi Land Settlement Act of 1974, including the full and final settlement of the multiple claims that the Tribe has against the United States;

''(3) this Act, together with the Settlement Agreement executed on December 14, 1995, and the Accommodation Agreement (as incorporated by the Settlement Agreement), provide the authority for the Tribe to enter agreements with eligible Navajo families in order for those families to remain residents of the Hopi Partitioned Lands for a period of 75 years, subject to the terms and conditions of the Accommodation Agreement;

''(4) the United States acknowledges and respects—

''(A) the sincerity of the traditional beliefs of the members of the Tribe and the Navajo families residing on the Hopi Partitioned Lands; and

''(B) the importance that the respective traditional beliefs of the members of the Tribe and Navajo families have with respect to the culture and way of life of those members and families;

''(5) this Act, the Settlement Agreement, and the Accommodation Agreement provide for the mutual respect and protection of the traditional religious beliefs and practices of the Tribe and the Navajo families residing on the Hopi Partitioned Lands;

''(6) the Tribe is encouraged to work with the Navajo families residing on the Hopi Partitioned Lands to address their concerns regarding the establishment of family or individual burial plots for deceased family members who have resided on the Hopi Partitioned Lands; and

''(7) neither the Navajo Nation nor the Navajo families residing upon Hopi Partitioned Lands were parties to or signers of the Settlement Agreement between the United States and the Hopi Tribe.

''SEC. 3. DEFINITIONS.

''Except as otherwise provided in this Act, for purposes of this Act, the following definitions shall apply:

''(1) ACCOMMODATION.—The term 'Accommodation' has the meaning provided that term under the Settlement Agreement.

''(2) HOPI PARTITIONED LANDS.—The term 'Hopi Partitioned Lands' means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act [Oct. 11, 1996]).

''(3) NAVAJO PARTITIONED LANDS.—The term 'Navajo Partitioned Lands' has the meaning provided that term in the proposed regulations issued on November 1, 1995, at 60 Fed. Reg. 55506.

''(4) NEW LANDS.—The term 'New Lands' has the meaning provided that term in section 700.701(b) of title 25, Code of Federal Regulations.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(6) SETTLEMENT AGREEMENT.—The term 'Settlement Agreement' means the agreement between the United States and the Hopi Tribe executed on December 14, 1995.

''(7) TRIBE.—The term 'Tribe' means the Hopi Tribe.

''(8) NEWLY ACQUIRED TRUST LANDS.—The term 'newly acquired trust lands' means lands taken into trust for the Tribe within the State of Arizona pursuant to this Act or the Settlement Agreement.

''SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.

''The United States approves, ratifies, and confirms the Settlement Agreement.

''SEC. 5. CONDITIONS FOR LANDS TAKEN INTO TRUST.

''The Secretary shall take such action as may be necessary to ensure that the following conditions are met prior to taking lands into trust for the benefit of the Tribe pursuant to the Settlement Agreement:

''(1) SELECTION OF LANDS TAKEN INTO TRUST.—

''(A) PRIMARY AREA.—In accordance with section 7(a) of the Settlement Agreement, the primary area within which lands acquired by the Tribe may be taken into trust by the Secretary for the benefit of the Tribe under the Settlement Agreement shall be located in northern Arizona.

''(B) REQUIREMENTS FOR LANDS TAKEN INTO TRUST IN THE PRIMARY AREA.—Lands taken into trust in the primary area referred to in subparagraph (A) shall be—

''(i) land that is used substantially for ranching, agriculture, or another similar use; and

''(ii) to the extent feasible, in contiguous parcels.

''(2) ACQUISITION OF LANDS.—Before taking any land into trust for the benefit of the Tribe under this section, the Secretary shall ensure that—

''(A) at least 85 percent of the eligible Navajo heads of household (as determined under the Settlement Agreement) have entered into an accommodation or have chosen to relocate and are eligible for relocation assistance (as determined under the Settlement Agreement); and

''(B) the Tribe has consulted with the State of Arizona concerning the lands proposed to be placed in trust, including consulting with the State concerning the impact of placing those lands into trust on the State and political subdivisions thereof resulting from the removal of land from the tax rolls in a manner consistent with the provisions of part 151 of title 25, Code of Federal Regulations.

''(3) PROHIBITION.—The Secretary may not, pursuant to the provisions of this Act and the Settlement Agreement, place lands, any portion of which are located within or contiguous to a 5-mile radius of an incorporated town or city (as those terms are defined by the Secretary) in northern Arizona, into trust for benefit of the Tribe without specific statutory authority.

''(4) EXPEDITIOUS ACTION BY THE SECRETARY.—Consistent with all other provisions of this Act, the Secretary is directed to take lands into trust under this Act expeditiously and without undue delay.

''SEC. 6. ACQUISITION THROUGH CONDEMNATION OF CERTAIN INTERSPERSED LANDS.

''(a) IN GENERAL.—

''(1) ACTION BY THE SECRETARY.—

''(A) IN GENERAL.—The Secretary shall take action as specified in subparagraph (B), to the extent that the Tribe, in accordance with section 7(b) of the Settlement Agreement—

''(i) acquires private lands; and

''(ii) requests the Secretary to acquire through condemnation interspersed lands that are owned by the State of Arizona and are located within the exterior boundaries of those private lands in order to have both the private lands and the State lands taken into trust by the Secretary for the benefit of the Tribe.

''(B) ACQUISITION THROUGH CONDEMNATION.—With respect to a request for an acquisition of lands through condemnation made under subparagraph (A), the Secretary shall, upon the recommendation of the Tribe, take such action as may be necessary to acquire the lands through condemnation and, with funds provided by the Tribe, pay the State of Arizona fair market value for those lands in accordance with applicable Federal law, if the conditions described in paragraph (2) are met.

''(2) CONDITIONS FOR ACQUISITION THROUGH CONDEMNATION.—The Secretary may acquire lands through condemnation under this subsection if—

''(A) that acquisition is consistent with the purpose of obtaining not more than 500,000 acres of land to be taken into trust for the Tribe;

''(B) the State of Arizona concurs with the United States that the acquisition is consistent with the interests of the State; and

''(C) the Tribe pays for the land acquired through condemnation under this subsection.

''(b) DISPOSITION OF LANDS.—If the Secretary acquires lands through condemnation under subsection (a), the Secretary shall take those lands into trust for the Tribe in accordance with this Act and the Settlement Agreement.

''(c) PRIVATE LANDS.—The Secretary may not acquire private lands through condemnation for the purpose specified in subsection (a)(2)(A).

''SEC. 7. ACTION TO QUIET POSSESSION.

''If the United States fails to discharge the obligations specified in section 9(c) of the Settlement Agreement with respect to voluntary relocation of Navajos residing on Hopi Partitioned Lands, or section 9(d) of the Settlement Agreement, relating to the implementation of sections 700.137 through 700.139 of title 25, Code of Federal Regulations, on the New Lands, including failure for reason of insufficient funds made available by appropriations or otherwise, the Tribe may bring an action to quiet possession that relates to the use of the Hopi Partitioned Lands after February 1, 2000, by a Navajo family that is eligible for an accommodation, but fails to enter into an accommodation.

''SEC. 8. PAYMENT TO STATE OF ARIZONA.

''(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to the Department of the Interior $250,000 for fiscal year 1998, to be used by the Secretary of the Interior for making a payment to the State of Arizona.

''(b) PAYMENT.—The Secretary shall make a payment in the amount specified in subsection (a) to the State of Arizona after an initial acquisition of land from the State has been made by the Secretary pursuant to section 6.

''SEC. 9. 75-YEAR LEASING AUTHORITY.

''[Amended section 415 of this title.]

''SEC. 10. REAUTHORIZATION OF THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM.

''[Amended section 640d–24 of this title.]

''SEC. 11. EFFECT OF THIS ACT ON CASES INVOLVING THE NAVAJO NATION AND THE HOPI TRIBE.

''Nothing in this Act or the amendments made by this Act shall be interpreted or deemed to preclude, limit, or endorse, in any manner, actions by the Navajo Nation that seek, in court, an offset from judgments for payments received by the Hopi Tribe under the Settlement Agreement.

''SEC. 12. WATER RIGHTS.

''(a) IN GENERAL.—

''(1) WATER RIGHTS.—Subject to the other provisions of this section, newly acquired trust lands shall have only the following water rights:

''(A) The right to the reasonable use of groundwater pumped from such lands.

''(B) All rights to the use of surface water on such lands existing under State law on the date of acquisition, with the priority date of such right under State law.

''(C) The right to make any further beneficial use on such lands of surface water which is unappropriated on the date each parcel of newly acquired trust lands is taken into trust. The priority date for the right shall be the date the lands are taken into trust.

''(2) RIGHTS NOT SUBJECT TO FORFEITURE OR ABANDONMENT.—The Tribe's water rights for newly acquired trust lands shall not be subject to forfeiture or abandonment arising from events occurring after the date the lands are taken into trust.

''(b) RECOGNITION AS VALID USES.—

''(1) GROUNDWATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of groundwater which may be made from wells (or their subsequent replacements) in existence on the date each parcel of newly acquired trust land is acquired and shall not object to such groundwater uses on the basis of water rights associated with the newly acquired trust lands. The Tribe, and the United States on the Tribe's behalf, may object only to the impact of groundwater uses on newly acquired trust lands which are initiated after the date the lands affected are taken into trust and only on grounds allowed by the State law as it exists when the objection is made. The Tribe, and the United States on the Tribe's behalf, shall not object to the impact of groundwater uses on the Tribe's right to surface water established pursuant to subsection (a)(1)(C) when those groundwater uses are initiated before the Tribe initiates its beneficial use of surface water pursuant to subsection (a)(1)(C).

''(2) SURFACE WATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of surface water in existence on or prior to the date each parcel of newly acquired trust land is acquired and shall not object to such surface water uses on the basis of water rights associated with the newly acquired trust lands, but shall have the right to enforce the priority of its rights against all junior water rights the exercise of which interfere with the actual use of the Tribe's senior surface water rights.

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall preclude the Tribe, or the United States on the Tribe's behalf, from asserting objections to water rights and uses on the basis of the Tribe's water rights on its currently existing trust lands.

''(c) APPLICABILITY OF STATE LAW ON LANDS OTHER THAN NEWLY ACQUIRED LANDS.—The Tribe, and the United States on the Tribe's behalf, further recognize that State law applies to water uses on lands, including subsurface estates, that exist within the exterior boundaries of newly acquired trust lands and that are owned by any party other than the Tribe.

''(d) ADJUDICATION OF WATER RIGHTS ON NEWLY ACQUIRED TRUST LANDS.—The Tribe's water rights on newly acquired trust lands shall be adjudicated with the rights of all other competing users in the court now presiding over the Little Colorado River Adjudication, or if that court no longer has jurisdiction, in the appropriate State or Federal court. Any controversies be-

tween or among users arising under Federal or State law involving the Tribe's water rights on newly acquired trust lands shall be resolved in the court now presiding over the Little Colorado River Adjudication, or, if that court no longer has jurisdiction, in the appropriate State or Federal court. Nothing in this subsection shall be construed to affect any court's jurisdiction: *Provided*, That the Tribe shall administer all water rights established in subsection (a).

''(e) PROHIBITION.—Water rights for newly acquired trust lands shall not be used, leased, sold, or transported for use off of such lands or the Tribe's other trust lands: *Provided*, That the Tribe may agree with other persons having junior water rights to subordinate the Tribe's senior water rights. Water rights for newly acquired trust lands can only be used on those lands or other trust lands of the Tribe located within the same river basin tributary to the main stream of the Colorado River.

''(f) SUBSURFACE INTERESTS.—On any newly acquired trust lands where the subsurface interest is owned by any party other than the Tribe, the trust status of the surface ownership shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

''(g) STATUTORY CONSTRUCTION WITH RESPECT TO WATER RIGHTS OF OTHER FEDERALLY RECOGNIZED INDIAN TRIBES.—Nothing in this section shall affect the water rights of any other federally recognized Indian tribe with a priority date earlier than the date the newly acquired trust lands are taken into trust.

''(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to determine the law applicable to water use on lands owned by the United States, other than on the newly acquired trust lands. The granting of the right to make beneficial use of unappropriated surface water on the newly acquired trust lands with a priority date such lands are taken into trust shall not be construed to imply that such right is a Federal reserved water right. Nothing in this section or any other provision of this Act shall be construed to establish any Federal reserved right to groundwater. Authority for the Secretary to take land into trust for the Tribe pursuant to the Settlement Agreement and this Act shall be construed as having been provided solely by the provisions of this Act.''

EXECUTIVE ORDER NO. 11829

Ex. Ord. No. 11829, Jan. 6, 1975, 40 F.R. 1497, as amended by Ex. Ord. No. 11853, Apr. 17, 1975, 40 F.R. 17537, which established the Hopi-Navajo Land Settlement Interagency Committee and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, § 11, Aug. 17, 1982, 47 F.R. 36099, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 640d–1. Negotiating teams

(a) Appointment; time; membership and certification; nature of authority

Within thirty days after December 22, 1974, the Secretary shall communicate in writing with the tribal councils of the tribes directing the appointment of a negotiating team representing each tribe. Each negotiating team shall be composed of not more than five members to be certified by appropriate resolution of the respective tribal council. Each tribal council shall promptly fill any vacancies which may occur on its negotiating team. Notwithstanding any other provision of law, each negotiating team, when appointed and certified, shall have full authority to bind its tribe with respect to any other matter concerning the joint use area within the scope of this subchapter.

(b) Failure to select and certify

In the event either or both of the tribal councils fail to select and certify a negotiating team within thirty days after the Secretary communicates with the tribal council under subsection (a) of this section or to select and certify a replacement member within thirty days of the occurrence of a vacancy, the provisions of section 640d–3(a)[1] of this title shall become effective.

(c) First negotiating session; time and place; chairman; suggestions for procedure, agenda, and resolution of issues in controversy

Within fifteen days after formal certification of both negotiating teams to the Mediator, the Mediator shall schedule the first negotiating session at such time and place as he deems appropriate. The negotiating sessions, which shall be chaired by the Mediator, shall be held at such times and places as the Mediator deems appropriate. At such sessions, the Mediator may, if he deems it appropriate, put forward his own suggestions for procedure, the agenda, and the resolution of the issues in controversy.

(d) Failure to attend two consecutive sessions or bargain in good faith

In the event either negotiating team fails to attend two consecutive sessions or, in the opinion of the Mediator, either negotiating team fails to bargain in good faith or an impasse is reached, the provisions of section 640d–3(a)[1] of this title shall become effective.

(e) Disagreements within team

In the event of a disagreement within a negotiating team the majority of the members of the team shall prevail and act on behalf of the team unless the resolution of the tribal council certifying the team specifically provides otherwise.

(Pub. L. 93–531, § 2, Dec. 22, 1974, 88 Stat. 1712.)

REFERENCES IN TEXT

Section 640d–3 of this title, referred to in subsecs. (b) and (d), was amended by Pub. L. 98–620, title IV, § 402(27), Nov. 8, 1984, 98 Stat. 3359, by striking out subsec. (b) and redesignating subsec. (a) as the entire section.

§ 640d–2. Implementation of agreements

(a) Full agreement

If, within one hundred and eighty days after the first session scheduled by the Mediator under section 640d–1(c) of this title, full agreement is reached, such agreement shall be put in such form as the Mediator determines best expresses the intent of the tribes and shall then be submitted to the Secretary and the Attorney General of the United States for their comments as they relate to the interest of the United States in the proceedings. These comments are to be submitted to the Mediator and the negotiating teams within thirty days. The negotiating teams and the Mediator shall then consider the comments and, if agreement can still be reached on terms acceptable to the negotiating teams and the Mediator within sixty days of receipt by him of the comments, the agreement shall be put in final written form and shall be

[1] See References in Text note below.

signed by the members of the negotiating teams and the Mediator. The Mediator shall then cause the agreement to be entered into the records of the supplemental proceedings in the Healing case. The provisions of the agreement shall be reviewed by the District Court, modified where necessary, and put into effect immediately thereafter.

(b) Partial agreement

If, within the one hundred and eighty day period referred to in subsection (a) of this section, a partial agreement has been reached between the tribes and they wish such partial agreement to go into effect, they shall follow the procedure set forth in subsection (a) of this section. The partial agreement shall then be considered by the Mediator in preparing his report, and the District Court in making a final adjudication, pursuant to section 640d–3 of this title.

(c) Consistency with existing law

For the purpose of this section, the negotiating teams may make any provision in the agreement or partial agreement not inconsistent with existing law. No such agreement or any provision in it shall result in a taking by the United States of private property compensable under the Fifth Amendment of the Constitution of the United States.

(Pub. L. 93–531, § 3, Dec. 22, 1974, 88 Stat. 1713.)

§ 640d–3. Default or failure to reach agreement; recommendations to District Court; final adjudication

If the negotiating teams fail to reach full agreement within the time period allowed in section 640d–2(a) of this title or if one or both of the tribes are in default under the provisions of section 640d–1(b) or (d) of this title, the Mediator, within ninety days thereafter, shall prepare and submit to the District Court a report containing his recommendations for the settlement of the interests and rights set out in section 640d(a) of this title which shall be most reasonable and equitable in light of the law and circumstances and consistent with the provisions of this subchapter. Following the District Court's review of the report and recommendations (which are not binding thereon) and any further proceedings which the District Court may schedule, the District Court is authorized to make a final adjudication, including partition of the joint use area, and enter the judgments in the supplemental proceedings in the Healing case.

(Pub. L. 93–531, § 4, Dec. 22, 1974, 88 Stat. 1713; Pub. L. 98–620, title IV, § 402(27), Nov. 8, 1984, 98 Stat. 3359.)

AMENDMENTS

1984—Pub. L. 98–620 struck out designation ''(a)'' before ''If the negotiating'', and struck out subsec. (b) which provided that any proceedings as authorized in this section had to be assigned for hearing at the earliest possible date, would take precedence over all other matters pending on the docket of the District Court at that time, and had to be expedited in every way by the Court.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 640d–4. Authorized recommendations for facilitation of agreement or report to District Court; discretionary nature of recommendations

(a) For the purpose of facilitating an agreement pursuant to section 640d–2 of this title or preparing a report pursuant to section 640d–3 of this title, the Mediator is authorized—

(1) notwithstanding the provisions of section 211 of this title, to recommend that, subject to the consent of the Secretary, there be purchased or otherwise acquired additional lands for the benefit of either tribe from the funds of either tribe or funds under any other authority of law;

(2) to recommend that, subject to the consent of the Secretary, there be undertaken a program of restoration of lands lying within the joint use area, employing for such purpose funds authorized by this subchapter, funds of either tribe, or funds under any other authority of law;

(3) to recommend that, subject to the consent of the Secretary, there be undertaken a program for relocation of members of one tribe from lands which may be partitioned to the other tribe in the joint use area;

(4) Repealed. Pub. L. 93–531, § 30(a), as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 934.

(5) to make any other recommendations as are in conformity with this subchapter and the Healing case to facilitate a settlement.

(b) The authorizations contained in subsection (a) of this section shall be discretionary and shall not be construed to represent any directive of the Congress.

(Pub. L. 93–531, § 5, Dec. 22, 1974, 88 Stat. 1714; Pub. L. 93–531, § 30(a), as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 934.)

AMENDMENTS

1980—Subsec. (a)(4). Pub. L. 96–305 struck out par. (4) which authorized the Mediator to recommend, in exceptional cases where necessary to prevent hardship, a limited tenure for residential use, not exceeding a life estate, and a phased relocation of members of one tribe from lands which may be partitioned to the other tribe in the joint use area.

§ 640d–5. Considerations and guidelines for preparation of report by Mediator and final adjudication by District Court

The Mediator in preparing his report, and the District Court in making the final adjudication, pursuant to section 640d–3 of this title, shall consider and be guided by the decision of the Healing case, under which the tribes have joint, undivided, and equal interests in and to all of the joint use area; by any partial agreement reached by the parties under section 640d–2(b) of this title; by the last best offer for a complete settlement as a part of the negotiating process by each of the tribes; and by the following:

(a) The rights and interests, as defined in the Healing case, of the Hopi Tribe in and to that portion of the reservation established by the Executive order of December 16, 1882, which is

known as land management district no. 6 (hereinafter referred to as the ''Hopi Reservation'') shall not be reduced or limited in any manner.

(b) The boundary lines resulting from any partitioning of lands in the joint use area shall be established so as to include the higher density population areas of each tribe within the portion of the lands partitioned to such tribe to minimize and avoid undue social, economic, and cultural disruption insofar as practicable.

(c) In any division of the surface rights to the joint use area, reasonable provision shall be made for the use of and right of access to identified religious shrines for the members of each tribe on the reservation of the other tribe where such use and access are for religious purposes.

(d) In any partition of the surface rights to the joint use area, the lands shall, insofar as is practicable, be equal in acreage and quality: *Provided*, That if such partition results in a lesser amount of acreage, or value, or both to one tribe such differential shall be fully and finally compensable to such tribe by the other tribe. The value of the land for the purposes of this subsection shall be based on not less than its value with improvements and its grazing capacity fully restored: *Provided further*, That, in the determination of compensation for any such differential, the Federal Government shall pay any difference between the value of the particular land involved in its existing state and the value of such land in a fully restored state which results from damage to the land which the District Court finds attributable to a failure of the Federal Government to provide protection where such protection is or was required by law or by the demands of the trust relationship.

(e) Any lands partitioned to each tribe in the joint use area shall, where feasible and consistent with the other provisions of this section, be contiguous to the reservation of each such tribe.

(f) Any boundary line between lands partitioned to the two tribes in the joint use area shall, insofar as is practicable, follow terrain which will facilitate fencing or avoid the need for fencing.

(g) Any claim the Hopi Tribe may have against the Navajo Tribe for an accounting of all sums collected by the Navajo Tribe since September 17, 1957, as trader license fees or commissions, lease rental, or proceeds, or other similar charges for doing business or for damages in the use of lands within the joint use area, shall be for a one-half share in such sums.

(h) Any claim the Hopi Tribe may have against the Navajo Tribe for the determination and recovery of the fair value of the grazing and agricultural use of the lands within the joint use area by the Navajo Tribe and its individual members, since September 28, 1962, shall be for one-half of such value.

(Pub. L. 93–531, § 6, Dec. 22, 1974, 88 Stat. 1714.)

§ 640d–6. Joint ownership and management of coal, oil, gas and other minerals within or underlying partitioned lands; division of proceeds

Partition of the surface of the lands of the joint use area shall not affect the joint ownership status of the coal, oil, gas, and all other minerals within or underlying such lands. All such coal, oil, gas, and other minerals within or underlying such lands shall be managed jointly by the two tribes, subject to supervision and approval by the Secretary as otherwise required by law, and the proceeds therefrom shall be divided between the tribes, share and share alike.

(Pub. L. 93–531, § 7, Dec. 22, 1974, 88 Stat. 1715.)

§ 640d–7. Determination of tribal rights and interests in land

(a) Authorization to commence and defend actions in District Court

Either tribe, acting through the chairman of its tribal council for and on behalf of the tribe, is each hereby authorized to commence or defend in the District Court an action against the other tribe and any other tribe of Indians claiming any interest in or to the area described in the Act of June 14, 1934, except the reservation established by the Executive Order of December 16, 1882, for the purpose of determining the rights and interests of the tribes in and to such lands and quieting title thereto in the tribes.

(b) Allocation of land to respective reservations upon determination of interests

Lands, if any, in which the Navajo Tribe or Navajo individuals are determined by the District Court to have the exclusive interest shall continue to be a part of the Navajo Reservation. Lands, if any, in which the Hopi Tribe, including any Hopi village or clan thereof, or Hopi individuals are determined by the District Court to have the exclusive interest shall thereafter be a reservation for the Hopi Tribe. Any lands in which the Navajo and Hopi Tribes or Navajo or Hopi individuals are determined to have a joint or undivided interest shall be partitioned by the District Court on the basis of fairness and equity and the area so partitioned shall be retained in the Navajo Reservation or added to the Hopi Reservation, respectively.

(c) Actions for accounting, fair value of grazing, and claims for damages to land; determination of recovery; defenses

(1) Either as a part of or in a proceeding supplementary to the action authorized in subsection (a) of this section, either tribe, through the chairman of its tribal council for and on behalf of the tribe, including all villages, clans, and individual members thereof, may prosecute or defend an action for the types of relief, including interest, specified in section 640d–17 of this title, including all subsections thereof, against the other tribe, through its tribal chairman in a like representative capacity, and against the United States as to the types of recovery specified in subsection (a)(3) of section 640d–17 of this title and subject to the same provisions as contained in said subsection, such action to apply to the lands in issue in the reservation established by the Act of June 14, 1934 (48 Stat. 960).

(2) In the event the Hopi Tribe or Navajo Tribe is determined to have any interest in the lands in issue, the right of either tribe to recover hereunder shall be based upon that percentage of the total sums collected, use made, waste committed, and other amounts of recovery,

which is equal to the percentage of lands in issue in which either tribe is determined to have such interest.

(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.

(d) Denial of Congressional interest in merits of conflicting claims; liability of United States

Nothing in this section shall be deemed to be a Congressional determination of the merits of the conflicting claims to the lands that are subject to adjudication pursuant to this section, or to affect the liability of the United States, if any, under litigation now pending before the Indian Claims Commission.

(e) Payment of legal fees, court costs and other expenses

The Secretary of the Interior is authorized to pay any or all appropriate legal fees, court costs, and other related expenses arising out of, or in connection with, the commencing of, or defending against, any action brought by the Navajo, San Juan Southern Paiute or Hopi Tribe under this section.

(f) Provision of attorney fees for San Juan Southern Paiute Tribe

(1) Any funds made available for the San Juan Southern Paiute Tribe to pay for attorney's fees shall be paid directly to the tribe's attorneys of record until such tribe is acknowledged as an Indian tribe by the United States: *Provided*, That the tribe's eligibility for such payments shall cease once a decision by the Secretary of the Interior declining to acknowledge such tribe becomes final and no longer appealable.

(2) Nothing in this subsection shall be interpreted as a congressional acknowledgement of the San Juan Southern Paiute as an Indian tribe or as affecting in any way the San Juan Southern Paiute Tribe's Petition for Recognition currently pending with the Secretary of the Interior.

(3) There is hereby authorized to be appropriated not to exceed $250,000 to pay for the legal expenses incurred by the Southern Paiute Tribe on legal action arising under this section prior to November 16, 1988.

(Pub. L. 93–531, § 8, Dec. 22, 1974, 88 Stat. 1715; Pub. L. 96–305, § 2, July 8, 1980, 94 Stat. 929; Pub. L. 100–666, § 9, Nov. 16, 1988, 102 Stat. 3933.)

REFERENCES IN TEXT

Act of June 14, 1934, referred to in subsecs. (a) and (c)(1), is act June 14, 1934, ch. 521, 48 Stat. 960, which was not classified to the Code.

The Indian Claims Commission, referred to in subsec. (d), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

AMENDMENTS

1988—Subsec. (e). Pub. L. 100–666, § 9(a), inserted ", San Juan Southern Paiute" after "Navajo".

Subsec. (f). Pub. L. 100–666, § 9(b), added subsec. (f).

1980—Subsec. (c). Pub. L. 96–305 substituted provision authorizing, as part of the determination of tribal rights and interests in land, actions for accounting, fair value of grazing, and claims for damages, specifying the formula for determining recovery, and limiting defenses for provision authorizing exchange of reservation lands.

§ 640d–8. Allotments in severalty to Paiute Indians now located on lands; issue of patents declaring United States as trustee

Notwithstanding any other provision of this subchapter, the Secretary is authorized to allot in severalty to individual Paiute Indians, not now members of the Navajo Tribe, who are located within the area described in the Act of June 14, 1934 (48 Stat. 960), and who were located within such area, or are direct descendants of Paiute Indians who were located within such area, on the date of such Act, land in quantities as specified in section 331[1] of this title, and patents shall be issued to them for such lands having the legal effect and declaring that the United States holds such land in trust for the sole use and benefit of each allottee and, following his death, of his heirs according to the laws of the State of Arizona.

(Pub. L. 93–531, § 9, Dec. 22, 1974, 88 Stat. 1716.)

REFERENCES IN TEXT

Act of June 14, 1934, referred to in text, is act June 14, 1934, ch. 521, 48 Stat. 960, which was not classified to the Code.

Section 331 of this title, referred to in text, was repealed by Pub. L. 106–462, title I, § 106(a)(1), Nov. 7, 2000, 114 Stat. 2007.

§ 640d–9. Partitioned or other designated lands

(a) Lands to be held in trust for Navajo Tribe; exception

Subject to the provisions of sections 640d–8 and 640d–16(a) of this title, any lands partitioned to the Navajo Tribe pursuant to sections 640d–2 and 640d–3 of this title and the lands described in the Act of June 14, 1934 (48 Stat. 960), except the lands as described in section 640d–7 of this title, shall be held in trust by the United States exclusively for the Navajo Tribe and as a part of the Navajo Reservation.

(b) Lands to be held in trust for Hopi Tribe

Subject to the provisions of sections 640d–8 and 640d–16(a) of this title, any lands partitioned to the Hopi Tribe pursuant to sections 640d–2 and 640d–3 of this title and the lands as described in section 640d–7 of this title shall be held in trust by the United States exclusively for the Hopi Tribe and as a part of the Hopi Reservation.

(c) Protection of rights and property of individuals subject to relocation

The Secretary shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this subchapter, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to section 640d–28 of this title.

[1] See References in Text note below.

(d) Protection of benefits and services of individuals subject to relocation

With respect to any individual subject to relocation, the Secretary shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

(e) Tribal jurisdiction over partitioned lands

(1)[1] Lands partitioned pursuant to this subchapter, whether or not the partition order is subject to appeal, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe shall apply to such partitioned lands under the following schedule:

(A) Effective ninety days after July 8, 1980, all conservation practices, including grazing control and range restoration activities, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on the Navajo Reservation lands shall be administered by the Bureau of Indian Affairs Navajo Area Office and on the Hopi Reservation lands by the Bureau of Indian Affairs Phoenix Area Office, under applicable laws and regulations.

(B) Notwithstanding any provision of law to the contrary, each tribe shall have such jurisdiction and authority over any lands partitioned to it and all persons located thereon, not in conflict with the laws and regulations referred to in paragraph (A) above, to the same extent as is applicable to those other portions of its reservation. Such jurisdiction and authority over partitioned lands shall become effective April 18, 1981.

The provisions of this subsection shall be subject to the responsibility of the Secretary to protect the rights and property of life tenants and persons awaiting relocation as provided in subsections (c) and (d) of this section.

(f) Development of lands in litigation; exception

(1) Any development of lands in litigation pursuant to section 640d–7 of this title and further defined as ''that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation,'' shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. ''Development'' as used herein shall mean any new construction or improvement to the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way.

(2) Each Indian tribe which receives a written request for the consent of the Indian tribe to a particular improvement, construction, or other development on the lands to which paragraph (1) applies shall respond in writing to such request by no later than the date that is 30 days after the date on which the Indian tribe receives the request. If the Indian tribe refuse to consent to the improvement, construction, or other development, the response shall include the reasons why consent is being refused.

(3)(A) Paragraph (1) shall not apply to any improvement, construction, or other development if—

(i) such improvement, construction, or development does not involve new housing construction, and

(ii) after the Navajo Tribe or Hopi Tribe has refused to consent to such improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary of the Interior determines that such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

(B) If a written request for a determination described in subparagraph (A)(ii) is submitted to the Secretary of the Interior after the Navajo Tribe or Hopi Tribe has refused to consent to any improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary shall, by no later than the date that is 45 days after the date on which such request is submitted to the Secretary, determine whether such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either Tribe.

(C) Any development that is undertaken pursuant to this section shall be without prejudice to the rights of the parties in the civil action pending before the United States District Court for the District of Arizona commenced pursuant to section 640d–7 of this title, as amended.

(Pub. L. 93–531, § 10, Dec. 22, 1974, 88 Stat. 1716; Pub. L. 96–305, § 3, July 8, 1980, 94 Stat. 929; Pub. L. 100–666, § 6, Nov. 16, 1988, 102 Stat. 3932.)

REFERENCES IN TEXT

Act of June 14, 1934, referred to in subsec. (a), is act June 14, 1934, ch. 521, 48 Stat. 960, which was not classified to the Code.

AMENDMENTS

1988—Subsec. (f). Pub. L. 100–666 designated existing provisions as par. (1) and added pars. (2) and (3).

1980—Subsecs. (c) to (f). Pub. L. 96–305 added subsecs. (c) to (f).

§ 640d–10. Resettlement lands for Navajo Tribe

(a) Transfer of lands under jurisdiction of Bureau of Land Management; State and private land exchanges; valuation; acquired private lands; lands to be held in trust

The Secretary is authorized and directed to—

(1) transfer not to exceed two hundred and fifty thousand acres of lands under the jurisdiction of the Bureau of Land Management within the State[1] of Arizona and New Mexico

[1] So in original. No par. (2) has been enacted.

[1] So in original. Probably should be ''States''.

to the Navajo Tribe: *Provided*, That, in order to facilitate such transfer, the Secretary is authorized to exchange such lands for State or private lands of equal value or, if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands transferred out of Federal ownership. The Secretary shall try to reduce the payment to as small an amount as possible.

(2)[2] on behalf of the United States, accept title to not to exceed one hundred and fifty thousand acres of private lands acquired by the Navajo Tribe. Title thereto shall be taken in the name of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation.

Subject to the provisions of the following sentences of this subsection, all rights, title and interests of the United States in the lands described in paragraph (1), including such interests the United States as lessor has in such lands under the Mineral Leasing Act of 1920, as amended [30 U.S.C. 181 et seq.], will, subject to existing leasehold interests, be transferred without cost to the Navajo Tribe and title thereto shall be taken by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation. So long as selected lands coincide with pending noncompetitive coal lease applications under the Mineral Leasing Act of 1920, as amended, the Secretary may not transfer any United States interests in such lands until the noncompetitive coal lease applications have been fully adjudicated. If such adjudication results in issuance of Federal coal leases to the applicants, such transfer shall be subject to such leases. The leaseholders rights and interests in such coal leases will in no way be diminished by the transfer of the rights, title and interests of the United States in such lands to the Navajo Tribe. If any selected lands are subject to valid claims located under the Mining Law of 1872 the transfer of the selected lands may be made subject to those claims.

(2)[2] Those interests in lands acquired in the State of New Mexico by the Navajo Tribe pursuant to subsection 2[3] of this section shall be subject to the right of the State of New Mexico to receive the same value from any sales, bonuses, rentals, royalties and interest charges from the conveyance, sale, lease, development, and production of coal as would have been received had the subsurface interest in such lands remained with the United States and been leased pursuant to the Mineral Lands Leasing Act of 1920, as amended [30 U.S.C. 181 et seq.], or any successor Act; or otherwise developed. The State's interest shall be accounted for in the same manner as it would have been if a lease had issued pursuant to the Mineral Lands Leasing Act of 1920, as amended.

[2] So in original. Two pars. designated (2) have been enacted.

[3] So in original. Probably should be ''paragraph (1)''.

(b) Proximity of lands to be transferred or acquired to Navajo Reservation; lands to be used for exchanges

A border of any parcel of land so transferred or acquired shall be within eighteen miles of the present boundary of the Navajo Reservation: *Provided*, That, except as limited by subsection (g) of this section, Bureau of Land Management lands anywhere within the States of Arizona and New Mexico may be used for the purpose of exchanging for lands within eighteen miles of the present boundary of the reservation.

(c) Selection of lands to be transferred or acquired; time period; consultation; restriction of New Mexico lands

Lands to be so transferred or acquired shall, for a period of three years after July 8, 1980, be selected by the Navajo Tribe after consultation with the Commissioner: *Provided*, That, at the end of such period, the Commissioner shall have the authority to select such lands after consultation with the Navajo Tribe: *Provided further*, That not to exceed thirty-five thousand acres of lands so transferred or acquired shall be selected within the State of New Mexico.

(d) Progress and status of land transfer program; reports to Congressional committees

The Commissioner, in consultation with the Secretary, shall within sixty days following the first year of enactment of this subsection report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs, on the progress of the land transfer program authorized in subsection (a) of this section. Sixty days following the second year of enactment of this subsection the Commissioner, in consultation with the Secretary, shall submit a report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs giving the status of the land transfer program authorized in subsection (a) of this section, making any recommendations that the Commissioner deems necessary to complete the land transfer program.

(e) Entitlement lands payments

Payments being made to any State or local government pursuant to the provisions of chapter 69 of title 31, on any lands transferred pursuant to subsection (a)(1) of this section shall continue to be paid as if such transfer had not occurred.

(f) Acquisition of title to surface and subsurface interest; time period; public notice; report to Congressional committees; rights of subsurface owner

(1) For a period of three years after July 8, 1980, the Secretary shall not accept title to lands acquired pursuant to subsection (a)(2)[4] of this section unless fee title to both surface and subsurface has been acquired or the owner of the subsurface interest consents to the acceptance of the surface interest in trust by the Secretary.

(2) If, ninety days prior to the expiration of such three year period, the full entitlement of private lands has not been acquired by the Navajo Tribe and accepted by the Secretary in trust

[4] See References in Text note below.

for the Navajo Tribe under the restrictions of paragraph (1) of this subsection, the Commissioner, after public notice, shall, within thirty days, make a report thereon to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs.

(3) In any case where the Secretary accepts, in trust, title to the surface of lands acquired pursuant to subsection (a)(2)[4] of this section where the subsurface interest is owned by third parties, the trust status of such surface ownership and the inclusion of the land within the Navajo Reservation shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

(g) Lands not available for transfer

No public lands lying north and west of the Colorado River in the State of Arizona shall be available for transfer under this section.

(h) Administration of lands transferred or acquired

The lands transferred or acquired pursuant to this section shall be administered by the Commissioner until relocation under the Commission's[5] plan is complete and such lands shall be used solely for the benefit of Navajo families residing on Hopi-partitioned lands as of December 22, 1974: *Provided*, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this subchapter shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this subchapter.

(i) Negotiations regarding land exchanges or leases

The Commissioner shall have authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes; and lands which may be acquired or transferred pursuant to this section may, with the approval of the Commissioner, be included in any land exchange between the tribes authorized under section 640d–22 of this title.

(Pub. L. 93–531, § 11, Dec. 22, 1974, 88 Stat. 1716; Pub. L. 96–305, § 4, July 8, 1980, 94 Stat. 930; Pub. L. 98–603, title I, § 106, Oct. 30, 1984, 98 Stat. 3157; Pub. L. 100–666, §§ 4(b), 8, Nov. 16, 1988, 102 Stat. 3930, 3933.)

REFERENCES IN TEXT

The Mineral Leasing Act of 1920, as amended, and the Mineral Lands Leasing Act of 1920, as amended, referred to in subsec. (a), are act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Mining Law of 1872, referred to in subsec. (a), is act May 10, 1872, ch. 152, 17 Stat. 91, as amended. That act was incorporated into the Revised Statutes as R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30. For complete classification of R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344 to the Code, see Tables.

The first year of enactment of this subsection and the second year of enactment of this subsection, referred to in subsec. (d), probably mean the first and second year after the date of enactment of this subsection, which was July 8, 1980.

Subsection (a)(2) of this section, referred to in subsec. (f)(1), (3), means the first paragraph (2) of subsec. (a), relating to acceptance of title to private lands.

CODIFICATION

In subsec. (e), ''chapter 69 of title 31'' substituted for ''the Act of October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601 et seq.)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1988—Subsecs. (c), (d), (f)(2). Pub. L. 100–666, § 4(b), substituted ''Commissioner'' for ''Commission'' wherever appearing.

Subsec. (h). Pub. L. 100–666, §§ 4(b), 8, substituted ''by the Commissioner'' for ''by the Commission'' and ''December 22, 1974: *Provided*, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this subchapter shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this subchapter'' for ''July 8, 1980, who are awaiting relocation under this subchapter''.

Subsec. (i). Pub. L. 100–666, § 4(b), substituted ''Commissioner'' for ''Commission'' in two places.

1984—Subsec. (a). Pub. L. 98–603, § 106(2), inserted provisions relating to transfer without cost to the Navajo Tribe with title taken by the United States in trust for the benefit of the Navajo Tribe as part of the Navajo Reservation of all rights, title, and interests of the United States in the lands described in par. (1), subject to existing leaseholds.

Subsec. (a)(1). Pub. L. 98–603, § 106(1), struck out provisions requiring transfer of lands without cost to the Navajo Tribe with title taken by the United States in trust for the benefit of the Navajo Tribe as part of the Navajo Reservation.

Subsec. (a)(2). Pub. L. 98–603, § 106(3), added the par. (2) relating to interests in lands acquired in New Mexico.

1980—Subsec. (a). Pub. L. 96–305 substituted provision authorizing the Secretary to transfer not more than 250,000 acres of land under the jurisdiction of the Bureau of Land Management to the Navajo Tribe, at no cost to the Navajo Tribe, and in order to facilitate this transfer, exchange Bureau of Land Management land, at equal valuation, for State and private land, and to accept title to not more than 150,000 acres of private lands acquired by the Navajo Tribe, with title to both the transferred and privately acquired lands to be held by the United States in trust for the benefit of the Navajo Tribe for provision authorizing the Secretary to transfer not more than 250,000 acres of land under the jurisdiction of the Bureau of Land Management to the Navajo Tribe providing the Navajo Tribe pay the fair market value of the land transferred and providing that title to the transferred land be held by the United States for the benefit of the Navajo Tribe.

Subsec. (b). Pub. L. 96–305 substituted provision requiring a border of any parcel of land transferred or acquired to be within 18 miles of the present boundary of the Navajo Reservation and providing that, with the exception of the lands unavailable for transfer, any Bureau of Land Management lands within Arizona and New Mexico be available for exchange for lands within 18 miles of the present boundary of the reservation for provision authorizing the United States to take in trust for the benefit of the Navajo Tribe any private lands acquired by the Navajo Tribe which are contiguous or adjacent to the Navajo Reservation and re-

[5] So in original. Probably should be ''Commissioner's''.

stricting the total acreage of lands transferred or acquired to not more than 250,000 acres.

Subsecs. (c) to (i). Pub. L. 96–305 added subsecs. (c) to (i).

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress. Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

Select Committee on Indian Affairs of the Senate redesignated Committee on Indian Affairs of the Senate by section 25 of Senate Resolution No. 71, Feb. 25, 1993, One Hundred Third Congress.

§ 640d–11. Office of Navajo and Hopi Indian Relocation

(a) Establishment; Commissioner

There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this subchapter referred to as the ''Commissioner'').

(b) Appointment; term of office; compensation

(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

(2) The term of office of the Commissioner shall be 2 years. An individual may be appointed Commissioner for more than one term. The Commissioner serving at the end of a term shall continue to serve until his or her successor has been confirmed in accordance with paragraph (1) of this subsection.

(3) The Commissioner shall be a full-time employee of the United States, and shall be compensated at the rate of basic pay payable for level IV of the Executive Schedule.

(c) Transfer of powers, duties, and funds to Commissioner

(1)(A) Except as otherwise provided by the Navajo and Hopi Indian Relocation Amendments of 1988, the Commissioner shall have all the powers and be responsible for all the duties that the Navajo and Hopi Indian Relocation Commission had before November 16, 1988.

(B) All funds appropriated to the Navajo and Hopi Indian Relocation Commission before the date on which the first Commissioner on Navajo and Hopi Indian Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Office of Navajo and Hopi Indian Relocation on such date and shall remain available without fiscal year limitation.

(2) There are hereby transferred to the Commissioner, on January 31, 1989—

(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99–190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

(B) all funds appropriated for activities relating to such relocation pursuant to Public Law 99–190 (99 Stat. at 1236): *Provided*, That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs. (B)[1]: *Provided further*, That for administrative purposes such funds shall be maintained in a separate account.

(d) Powers of Commissioner

(1) Subject to such rules and regulations as may be adopted by the Office of Navajo and Hopi Indian Relocation, the Commissioner shall have the power to—

(A) appoint and fix the compensation of such staff and personnel as the Commissioner deems necessary in accordance with the provisions of title 5 governing appointments in the competitive service, but at rates not in excess of a position classified above a GS–15 of the General Schedule under section 5108 of such title; and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, but at rates not to exceed $200 a day for individuals.

(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purpose by appropriations Acts.

(3) There are authorized to be appropriated for each fiscal year $100,000 to fund contracts described in paragraph (2).

(e) Administrative, fiscal, and housekeeping services; implementation of relocation plan; reasonable assistance by Federal departments or agencies; report to Congress

(1) The Commissioner is authorized to provide for the administrative, fiscal, and housekeeping services of the Office of Navajo and Hopi Indian Relocation and is authorized to call upon any department or agency of the United States to assist him in implementing the relocation plan, except that the control over and responsibility for completing relocation shall remain in the Commissioner. In any case in which the Office calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commissioner shall report such failure to the Congress.

(f) Termination

The Office of Navajo and Hopi Indian Relocation shall cease to exist when the President determines that its functions have been fully discharged.

(Pub. L. 93–531, § 12, Dec. 22, 1974, 88 Stat. 1716; Pub. L. 96–305, § 5, July 8, 1980, 94 Stat. 932; Pub. L. 100–666, § 4(a), Nov. 16, 1988, 102 Stat. 3929; Pub. L. 100–696, title IV, § 406, Nov. 18, 1988, 102 Stat. 4592; Pub. L. 102–180, § 3(a)–(c), Dec. 2, 1991, 105 Stat. 1230.)

[1] So in original. The period followed by the designation ''(B)'' probably should not appear.

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(3), is set out in section 5315 of Title 5, Government Organization and Employees.

The Navajo and Hopi Indian Relocation Amendments of 1988, referred to in subsec. (c)(1)(A), is Pub. L. 100–666, Nov. 16, 1988, 102 Stat. 3929, which enacted sections 640d–29 and 640d–30 of this title, amended sections 640d–7, 640d–9 to 640d–14, 640d–22, 640d–24, 640d–25, and 640d–28 of this title, and enacted provisions set out as a note under sections 640d and 640d–11 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 640d of this title and Tables.

Public Law 99–190, referred to in subsec. (c)(2), is Pub. L. 99–190, Dec. 19, 1985, 99 Stat. 1185. The provisions of Pub. L. 99–190 (99 Stat. 1236) relating to the relocation of members of the Navajo Tribe are not classified to the Code. For complete classification of Pub. L. 99–190 to the Code, see Tables.

The provisions of title 5 governing appointments in the competitive service, referred to in the subsec. (d)(1)(A), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–180, § 3(a), inserted at end ''The Commissioner serving at the end of a term shall continue to serve until his or her successor has been confirmed in accordance with paragraph (1) of this subsection.''

Subsec. (b)(3). Pub. L. 102–180, § 3(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Commissioner shall be a full time employee of the United States and shall be paid at the rate of GS–18 of the General Schedule under section 5332 of title 5.''

Subsec. (d)(1). Pub. L. 102–180, § 3(c), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Commissioner shall have the power to—

''(A) appoint and fix the compensation of such staff and personnel as he deems necessary, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

''(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, but at rates not to exceed $200 a day for individuals.''

1988—Pub. L. 100–666 amended section generally, substituting subsecs. (a) to (f) relating to the Office of Navajo and Hopi Indian Relocation, for former subsecs. (a) to (j) which related to the Navajo and Hopi Relocation Commission.

1980—Subsec. (g)(1). Pub. L. 96–305, § 5(1), inserted ''an independent legal counsel,'' after ''an Executive Director,''.

Subsec. (h). Pub. L. 96–305, § 5(2), substituted provision authorizing Commission to provide for its own administrative, fiscal, and housekeeping services for provision authorizing Department of the Interior, on a nonreimbursable basis, to furnish necessary administrative and housekeeping services for Commission.

Subsecs. (i), (j). Pub. L. 96–305, § 5(3), added subsec. (i) and redesignated former subsec. (i) as (j).

SEPARATION OR REDUCTION IN GRADE OR COMPENSATION OF EMPLOYEE

Section 3(d) of Pub. L. 102–180 provided that: ''The amendments made by this section [amending this section and section 5315 of Title 5, Government Organization and Employees] shall not cause any employee of the Office of Navajo and Hopi Indian Relocation to be separated or reduced in grade or compensation for 12 months after the date of enactment of this Act [Dec. 2, 1991].''

POSITIONS IN SENIOR EXECUTIVE SERVICE

Section 3(e) of Pub. L. 102–180 provided that: ''The position of Executive Director of the Office of Navajo and Hopi Indian Relocation and Deputy Executive Director of such Office shall on and after the date of the enactment of this Act [Dec. 2, 1991], be in the Senior Executive Service.''

EMPLOYEES OF OFFICE AS GOVERNMENT EMPLOYEES

Section 3(f) of Pub. L. 102–180 provided that: ''Any employee of the Office of Navajo and Hopi Indian Relocation on the date of the enactment of this Act [Dec. 2, 1991], shall be considered an employee as defined in section 2105 of title 5, United States Code.''

CONTINUATION OF RELOCATION COMMISSION AND RETENTION OF EXISTING COMMISSIONERS PENDING CONFIRMATION OF COMMISSIONER; TRANSFER OF EXISTING PERSONNEL; CHANGE OF NAME

Section 4(c) of Pub. L. 100–666 provided that:

''(1) Notwithstanding any other provisions of law or any amendment made by this Act [see Short Title of 1988 Amendment note under section 640d of this title]—

''(A) the Navajo and Hopi Indian Relocation Commission shall—

''(i) continue to exist until the date on which the first Commissioner is confirmed by the Senate,

''(ii) have the same structure, powers and responsibilities such Commission had before the enactment of this Act [Nov. 16, 1988], and

''(iii) assume responsibility for the powers and duties transferred to such Commissioner under section 12(c)(2) of Public Law 93–531 [25 U.S.C. 640d–11(c)(2)], as amended by this Act, until the Commissioner is confirmed,

''(B) the existing Commissioners shall serve until the new Commissioner is confirmed by the Senate, and

''(C) the existing personnel of the Commission shall be transferred to the new Office of Navajo and Hopi Indian Relocation.

''(2) The Navajo and Hopi Relocation Commission shall become known as the Office of Navajo and Hopi Indian Relocation on the date on which the first Commissioner is confirmed by the Senate.''

§ 640d–12. Report concerning relocation of households and members of each tribe

(a) By no later than the date that is 6 months after the date on which the first Commissioner is confirmed by the Senate, the Commissioner shall prepare and submit to the Congress a report concerning the relocation of households and members thereof of each tribe and their personal property, including livestock, from lands partitioned to the other tribe pursuant to this subchapter.

(b) The report required under subsection (a) of this section shall contain, among other matters, the following:

(1) the names of all members of the Navajo Tribe who reside within the areas partitioned to the Hopi Tribe and the names of all members of the Hopi Tribe who reside within the areas partitioned to the Navajo Tribe;

(2) the names of all other members of the Navajo Tribe, and other members of the Hopi Tribe, who are eligible for benefits provided under this subchapter and who have not received all the benefits for which such members are eligible under this subchapter; and

(3) the fair market value of the habitations and improvements owned by the heads of households identified by the Commissioner is[1]

[1] So in original. Probably should be ''as''.

being among the persons named in clause (1) of this subsection.

(Pub. L. 93–531, § 13, Dec. 22, 1974, 88 Stat. 1717; Pub. L. 96–305, § 6, July 8, 1980, 94 Stat. 932; Pub. L. 100–666, § 4(d), Nov. 16, 1988, 102 Stat. 3931; Pub. L. 101–121, title I, § 120, Oct. 23, 1989, 103 Stat. 722.)

AMENDMENTS

1989—Subsec. (b)(4). Pub. L. 101–121 struck out cl. (4) which required a report on how funds in the Navajo Rehabilitation Trust Funds would be expended to carry out the purposes described in section 640d–30(d) of this title.

1988—Pub. L. 100–666 amended section generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (c).

1980—Subsec. (c)(5). Pub. L. 96–305 substituted ''ninety'' for ''thirty''.

§ 640d–13. Relocation of households and members

(a) Authorization; time of completion; prohibition of further settlement of nonmembers without written approval; limit on grazing of livestock

Consistent with section 640d–7 of this title and the order of the District Court issued pursuant to section 640d–2 or 640d–3 of this title, the Commissioner is authorized and directed to relocate pursuant to section 640d–7 of this title and such order all households and members thereof and their personal property, including livestock, from any lands partitioned to the tribe of which they are not members. The relocation shall take place in accordance with the relocation plan and shall be completed by the end of five years from the date on which the relocation plan takes effect. No further settlement of Navajo individuals on the lands partitioned to the Hopi Tribe pursuant to this subchapter or on the Hopi Reservation shall be permitted unless advance written approval of the Hopi Tribe is obtained. No further settlement of Hopi individuals on the lands partitioned to the Navajo Tribe pursuant to this subchapter or on the Navajo Reservation shall be permitted unless advance written approval of the Navajo Tribe is obtained. No individual shall hereafter be allowed to increase the number of livestock he grazes on any area partitioned pursuant to this subchapter to the tribe of which he is not a member, nor shall he retain any grazing rights in any such area subsequent to his relocation therefrom.

(b) Additional payments to heads of household; time

In addition to the payments made pursuant to section 640d–14 of this title, the Commissioner shall make payments to heads of households identified in the report prepared pursuant to section 640d–12 of this title upon the date of relocation of such households, as determined by the Commissioner, in accordance with the following schedule:

(1) the sum of $5,000 to each head of a household who, prior to the expiration of one year after the effective date of the relocation plan, contracts with the Commissioner to relocate;

(2) the sum of $4,000 to each head of a household who is not eligible for the payment provided for in clause (1) of this subsection but who, prior to the expiration of two years after the effective date of the relocation plan, contracts with the Commissioner to relocate;

(3) the sum of $3,000 to each head of a household who is not eligible for the payments provided for in clause (1) or (2) of this subsection but who, prior to the expiration of three years after the effective date of the relocation plan, contracts with the Commissioner to relocate; and

(4) the sum of $2,000 to each head of a household who is not eligible for the payments provided for in clause (1), (2), or (3) of this subsection but who, prior to the expiration of four years after the effective date of the relocation plan, contracts with the Commissioner to relocate.

(c) Payments to or for any person moving into partitioned area after May 29, 1974

No payment shall be made pursuant to this section to or for any person who, after May 29, 1974, moved into an area partitioned pursuant to section 640d–7 of this title or section 640d–2 or 640d–3 of this title to a tribe of which he is not a member.

(Pub. L. 93–531, § 14, Dec. 22, 1974, 88 Stat. 1718; Pub. L. 100–666, § 4(b), Nov. 16, 1988, 102 Stat. 3930.)

AMENDMENTS

1988—Subsecs. (a), (b). Pub. L. 100–666 substituted ''Commissioner'' for ''Commission'' wherever appearing.

§ 640d–14. Relocation housing

(a) Purchase of habitation and improvements from head of household; fair market value

The Commissioner shall purchase from the head of each household whose household is required to relocate under the terms of this subchapter the habitation and other improvements owned by him on the area from which he is required to move. The purchase price shall be the fair market value of such habitation and improvements as determined under section 640d–12(b)(2)[1] of this title.

(b) Reimbursement for moving expenses; payment for replacement dwelling; limitations

In addition to the payments made pursuant to subsection (a) of this section, the Commissioner shall:

(1) reimburse each head of a household whose household is required to relocate pursuant to this subchapter for the actual reasonable moving expenses of the household as if the household members were displaced persons under section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) [42 U.S.C. 4622];

(2) pay to each head of a household whose household is required to relocate pursuant to this subchapter an amount which, when added to the fair market value of the habitation and improvements purchased under subsection (a) of this section, equals the reasonable cost of a decent, safe, and sanitary replacement dwell-

[1] See References in Text note below.

ing adequate to accommodate such household: *Provided*, That the additional payment authorized by this paragraph (2) shall not exceed $17,000 for a household of three or less and not more than $25,000 for a household of four or more, except that the Commissioner may, after consultation with the Secretary of Housing and Urban Development, annually increase or decrease such limitations to reflect changes in housing development and construction costs, other than costs of land, during the preceding year: *Provided further*, That the additional payment authorized by this subsection shall be made only to a head of a household required to relocate pursuant to this subchapter who purchases and occupies such replacement dwelling not later than the end of the two-year period beginning on the date on which he receives from the Commissioner final payment for the habitation and improvements purchased under subsection (a) of this section, or on the date on which such household moves from such habitation, whichever is the later date. The payments made pursuant to this paragraph (2) shall be used only for the purpose of obtaining decent, safe, and sanitary replacement dwellings adequate to accommodate the households relocated pursuant to this subchapter.

(c) Establishment of standards consistent with other laws; payments to or for any person moving into partitioned area after specified time

In implementing subsection (b) of this section, the Commissioner shall establish standards consistent with those established in the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) [42 U.S.C. 4601 et seq.]. No payment shall be made pursuant to this section to or for any person who, later than one year prior to December 22, 1974, moved into an area partitioned pursuant to section 640d–7 of this title or section 640d–2 or 640d–3 of this title to a tribe of which he is not a member.

(d) Methods of payment

The Commissioner shall be responsible for the provision of housing for each household eligible for payments under this section in one of the following manners:

(1) Should any head of household apply for and become a participant or homebuyer in a mutual help housing or other homeownership opportunity project undertaken under the United States Housing Act of 1937 (50 Stat. 888) as amended [42 U.S.C. 1437 et seq.], or in any other federally assisted housing program now or hereafter established, the amounts payable with respect to such household under paragraph (2) of subsection (b) of this section and under subsection (a) of this section shall be paid to the local housing agency or sponsor involved as a voluntary equity payment and shall be credited against the outstanding indebtedness or purchase price of the household's home in the project in a manner which will accelerate to the maximum extent possible the achievement by that household of debt free homeownership.

(2) Should any head of household wish to purchase or have constructed a dwelling which the Commissioner determines is decent, safe, sanitary, and adequate to accommodate the household, the amounts payable with respect to such household under paragraph (2) of subsection (b) of this section and under subsection (a) of this section shall be paid to such head of household in connection with such purchase or construction in a manner which the Commissioner determines will assure the use of the funds for such purpose.

(3) Should any head of household not make timely arrangements for relocation housing, or should any head of household elect and enter into an agreement to have the Commissioner construct or acquire a home for the household, the Commissioner may use the amounts payable with respect to such household under paragraph (2) of subsection (b) of this section and under subsection (a) of this section for the construction or acquisition (including enlargement or rehabilitation if necessary) of a home and related facilities for such household: *Provided*, That, the Commissioner may combine the funds for any number of such households into one or more accounts from which the costs of such construction or acquisition may be paid on a project basis and the funds in such account or accounts shall remain available until expended: *Provided further*, That the title to each home constructed or acquired by the Commissioner pursuant to this paragraph shall be vested in the head of the household for which it was constructed or acquired upon occupancy by such household, but this shall not preclude such home being located on land held in trust by the United States.

(e) Disposal of acquired dwellings and improvements

The Commissioner is authorized to dispose of dwellings and other improvements acquired or constructed pursuant to this subchapter in such manner, including resale of such dwellings and improvements to members of the tribe exercising jurisdiction over the area at prices no higher than the acquisition or construction costs, as best effects section 640d–7 of this title and the order of the District Court pursuant to section 640d–2 or 640d–3 of this title.

(f) Preferential treatment for heads of households of Navajo Tribe evicted from Hopi Reservation by judicial decision; restriction

Notwithstanding any other provision of law to the contrary, the Commissioner shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this section to the head of each household of members of the Navajo Tribe who were evicted from the Hopi Indian Reservation as a consequence of the decision in the case of United States v. Kabinto (456 F.2d 1087 (1972)): *Provided*, That such heads of households have not already received equivalent assistance from Federal agencies.

(g) Appeals of eligibility determinations

Notwithstanding any other provision of law, appeals from any eligibility determination of the Relocation Commission, irrespective of the amount in controversy, shall be brought in the

United States District Court for the District of Arizona.

(Pub. L. 93–531, § 15, Dec. 22, 1974, 88 Stat. 1719; Pub. L. 96–305, § 7, July 8, 1980, 94 Stat. 932; Pub. L. 100–666, §§ 4(b), 10, Nov. 16, 1988, 102 Stat. 3930, 3934.)

REFERENCES IN TEXT

Section 640d–12 of this title, referred to in subsec. (a), was amended generally by Pub. L. 100–666, § 4(d), Nov. 16, 1988, 102 Stat. 3931, and as so amended, section 640d–12(b)(2) does not relate to fair market value of habitations and improvements. Provisions formerly contained in section 640d–12(b)(2) are covered in section 640d–12(b)(3).

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), referred to in subsec. (c), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified generally to chapter 61 (§ 4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

The United States Housing Act of 1937, referred to in subsec. (d)(1), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

AMENDMENTS

1988—Subsecs. (a) to (f). Pub. L. 100–666, § 4(b), substituted "Commissioner" for "Commission" wherever appearing.

Subsec. (g). Pub. L. 100–666, § 10, added subsec. (g).

1980—Subsec. (f). Pub. L. 96–305 added subsec. (f).

§ 640d–15. Payment of fair rental value for use of lands subsequent to date of partition

(a) Payment by Navajo Tribe

The Navajo Tribe shall pay to the Hopi Tribe the fair rental value as determined by the Secretary for all use by Navajo individuals of any lands partitioned to the Hopi Tribe pursuant to sections 640d–7 and 640d–2 or 640d–3 of this title subsequent to the date of the partition thereof.

(b) Payment by Hopi Tribe

The Hopi Tribe shall pay to the Navajo Tribe the fair rental value as determined by the Secretary for all use by Hopi individuals of any lands partitioned to the Navajo Tribe pursuant to sections 640d–7 and 640d–2 or 640d–3 of this title subsequent to the date of the partition thereof.

(Pub. L. 93–531, § 16, Dec. 22, 1974, 88 Stat. 1720.)

§ 640d–16. Title, possession, and enjoyment of lands

(a) Covered lands; jurisdiction of respective tribes over nonmembers

Nothing in this subchapter shall effect the title, possession, and enjoyment of lands heretofore allotted to Hopi and Navajo individuals for which patents have been issued. Such Hopi individuals living on the Navajo Reservation shall be subject to the jurisdiction of the Navajo Tribe and such Navajo individuals living on the Hopi Reservation shall be subject to the jurisdiction of the Hopi Tribe.

(b) Relocation of Federal employees

Nothing in this subchapter shall require the relocation from any area partitioned pursuant to this subchapter of the household of any Navajo or Hopi individual who is employed by the Federal Government within such area or to prevent such employees or their households from residing in such areas in the future: *Provided*, That any such Federal employee who would, except for the provisions of this subsection, be relocated under the terms of this subchapter may elect to be so relocated.

(Pub. L. 93–531, § 17, Dec. 22, 1974, 88 Stat. 1720.)

§ 640d–17. Actions for accounting, fair value of grazing, and claims for damages to land

(a) Authorization to commence and defend actions in District Court

Either tribe, acting through the chairman of its tribal council, for and on behalf of the tribe, including all villages, clans, and individual members thereof, is hereby authorized to commence or defend in the District Court an action or actions against the other tribe for the following purposes if such action or actions are not settled pursuant to section 640d–2 or 640d–3 of this title:

(1) for an accounting of all sums collected by either tribe since the 17th day of September 1957 as trader license fees or commissions, lease proceeds, or other similar charges for the doing of business or the use of lands within the joint use area, and judgment for one-half of all sums so collected, and not paid to the other tribe, together with interest at the rate of 6 per centum per annum compounded annually;

(2) for the determination and recovery of the fair value of the grazing and agricultural use by either tribe and its individual members since the 28th day of September 1962 of the undivided one-half interest of the other tribe in the lands within the joint use area, together with interest at the rate of 6 per centum per annum compounded annually, notwithstanding the fact that the tribes are tenants in common of such lands; and

(3) for the adjudication of any claims that either tribe may have against the other for damages to the lands to which title was quieted as aforesaid by the United States District Court for the District of Arizona in such tribes, share and share alike, subject to the trust title of the United States, without interest, notwithstanding the fact that such tribes are tenants in common of such lands: *Provided*, That the United States may be joined as a party to such an action and, in such case, the provisions of sections 1346(a)(2) and 1505 of title 28 shall not be applicable to such action.

(b) Defenses

Neither laches nor the statute of limitations shall constitute a defense to any action authorized by this subchapter for existing claims if commenced within two years from December 22, 1974, or one hundred and eighty days from the date of issuance of an order of the District Court pursuant to section 640d–2 or 640d–3 of this title, whichever is later.

(c) Further original, ancillary or supplementary actions to insure quiet enjoyment

Either tribe may institute such further original, ancillary, or supplementary actions against

the other tribe as may be necessary or desirable to insure the quiet and peaceful enjoyment of the reservation lands of the tribes by the tribes and the members thereof, and to fully accomplish all objects and purposes of this subchapter. Such actions may be commenced in the District Court by either tribe against the other, acting through the chairman of its tribal council, for and on behalf of the tribe, including all villages, clans, and individual members thereof.

(d) United States as party; judgments as claims against the United States

Except as provided in clause (3) of subsection (a) of this section, the United States shall not be an indispensable party to any action or actions commenced pursuant to this section. Any judgment or judgments by the District Court in such action or actions shall not be regarded as a claim or claims against the United States.

(e) Remedies

All applicable provisional and final remedies and special proceedings provided for by the Federal Rules of Civil Procedure and all other remedies and processes available for the enforcement and collection of judgments in the district courts of the United States may be used in the enforcement and collection of judgments obtained pursuant to the provisions of this subchapter.

(Pub. L. 93–531, § 18, Dec. 22, 1974, 88 Stat. 1721.)

§ 640d–18. Reduction of livestock within joint use area

(a) Institution of conservation practices

Notwithstanding any provision of this subchapter, or any order of the District Court pursuant to section 640d–2 or 640d–3 of this title, the Secretary is authorized and directed to immediately commence reduction of the numbers of all the livestock now being grazed upon the lands within the joint use area and complete such reductions to carrying capacity of such lands, as determined by the usual range capacity standards as established by the Secretary after December 22, 1974. The Secretary is directed to institute such conservation practices and methods within such area as are necessary to restore the grazing potential of such area to the maximum extent feasible.

(b) Survey location of monuments and fencing of boundaries

The Secretary, upon the date of issuance of an order of the District Court pursuant to sections 640d–7 and 640d–2 or 640d–3 of this title, shall provide for the survey location of monuments, and fencing of boundaries of any lands partitioned pursuant to sections 640d–7 and 640d–2 or 640d–3 of this title.

(c) Completion of surveying, monumenting, and fencing operations and livestock reduction program

(1) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after July 8, 1980, with respect to lands partitioned pursuant to section 640d–3 of this title and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 640d–7 of this title.

(2) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after July 8, 1980.

(Pub. L. 93–531, § 19, Dec. 22, 1974, 88 Stat. 1721; Pub. L. 96–305, § 8, July 8, 1980, 94 Stat. 932.)

AMENDMENTS

1980—Subsec. (c). Pub. L. 96–305 added subsec. (c).

§ 640d–19. Perpetual use of Cliff Spring as shrine for religious ceremonial purposes; boundary; piping of water for use by residents

The members of the Hopi Tribe shall have perpetual use of Cliff Spring as shown on USGS 7½ minute Quad named Toh Ne Zhonnie Spring, Arizona, Navajo County, dated 1968; and located 1,250 feet west and 200 feet south of the intersection of 36 degrees, 17 minutes, 30 seconds north latitude and 110 degrees, 9 minutes west longitude, as a shrine for religious ceremonial purposes, together with the right to gather branches of fir trees growing within a 2–mile radius of said spring for use in such religious ceremonies, and the further right of ingress, egress, and regress between the Hopi Reservation and said spring. The Hopi Tribe is hereby authorized to fence said spring upon the boundary line as follows:

Beginning at a point on the 36 degrees, 17 minutes, 30 seconds north latitude 500 feet west of its intersection with 110 degrees, 9 minutes west longitude, the point of beginning;

thence north 46 degrees west, 500 feet to a point on the rim top at elevation 6,900 feet;

thence southwesterly 1,200 feet (in a straight line) following the 6,900 feet contour;

thence 46 degrees east, 600 feet;

thence north 38 degrees east, 1,300 feet to the point of beginning, 23.8 acres more or less: *Provided*, That, if and when such spring is fenced, the Hopi Tribe shall pipe the water therefrom to the edge of the boundary as hereinabove described for the use of residents of the area. The natural stand of fir trees within such 2–mile radius shall be conserved for such religious purposes.

(Pub. L. 93–531, § 20, Dec. 22, 1974, 88 Stat. 1722.)

§ 640d–20. Use and right of access to religious shrines on reservation of other tribe

Notwithstanding anything contained in this subchapter to the contrary, the Secretary shall make reasonable provision for the use of and right of access to identified religious shrines for the members of each tribe on the reservation of the other tribe where such use and access are for religious purposes.

(Pub. L. 93–531, § 21, Dec. 22, 1974, 88 Stat. 1722.)

§ 640d–21. Payments not to be considered as income for eligibility under any other Federal or federally assisted program or for assistance under Social Security Act or for revenue purposes

The availability of financial assistance or funds paid pursuant to this subchapter may not

be considered as income or resources or otherwise utilized as the basis (1) for denying a household or member thereof participation in any federally assisted housing program or (2) 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 [42 U.S.C. 301 et seq.] or any other Federal or federally assisted program. None of the funds provided under this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 93–531, § 22, Dec. 22, 1974, 88 Stat. 1722.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§ 640d–22. Authorization for exchange of reservation lands; availability of additional relocation benefits; restrictions

The Navajo and Hopi Tribes are hereby authorized to exchange lands which are part of their respective reservations. In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein the Commissioner shall make available 125 per centum of the relocation benefits provided in sections 640d–13 and 640d–14 of this title to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within one hundred and eighty days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commissioner to relocate within twelve months of the agreement or such later time as determined by the Commissioner and such additional benefits shall only be paid to those who actually relocate within such period.

(Pub. L. 93–531, § 23, Dec. 22, 1974, 88 Stat. 1722; Pub. L. 96–305, § 9, July 8, 1980, 94 Stat. 933; Pub. L. 100–666, § 4(b), Nov. 16, 1988, 102 Stat. 3930.)

AMENDMENTS

1988—Pub. L. 100–666 substituted ''Commissioner'' for ''Commission'' wherever appearing.

1980—Pub. L. 96–305 inserted provision authorizing the Commission, in the event that the tribes agree on an exchange of lands, to make available 125 per centum of the relocation benefits provided in sections 640d–13 and 640d–14 of this title to members of either tribe living on lands to be exchanged to other than his or her own tribe, provided that within 180 days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands contract with the Commission to relocate within 12 months of the agreement or such later time as the Commission determines and to pay these additional benefits only to those who actually relocate within such period.

§ 640d–23. Separability

If any provision of this subchapter, or the application of any provision to any person, entity or circumstance, is held invalid, the remainder of this subchapter shall not be affected thereby.

(Pub. L. 93–531, § 24, Dec. 22, 1974, 88 Stat. 1722.)

§ 640d–24. Authorization of appropriations

(a) Purposes; amounts

(1) For the purpose of carrying out the provisions of section 640d–14 of this title, there is hereby authorized to be appropriated not to exceed $31,500,000.

(2) For the purpose of carrying out the provisions of section 640d–18(a) of this title, there is hereby authorized to be appropriated not to exceed $10,000,000.

(3) For the purpose of carrying out the provisions of section 640d–18(b) of this title, there is hereby authorized to be appropriated not to exceed $500,000.

(4) For the purpose of carrying out the provisions of section 640d–13(b) of this title, there is hereby authorized to be appropriated not to exceed $13,000,000.

(5) There is hereby authorized to be appropriated annually not to exceed $4,000,000 for the expenses of the Commissioner.

(6) There is hereby authorized to be appropriated not to exceed $500,000 for the services and expenses of the Mediator and the assistants and consultants retained by him: *Provided*, That, any contrary provision of law notwithstanding, until such time as funds are appropriated and made available pursuant to this authorization, the Director of the Federal Mediation and Conciliation Service is authorized to provide for the services and expenses of the Mediator from any other appropriated funds available to him and to reimburse such appropriations when funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt thereof.

(7) For the purpose of carrying out the provisions of subsection (i) of section 640d–28 of this title, there is authorized to be appropriated, effective in fiscal year 1981, not to exceed $1,000,000 annually.

(8) For the purposes of carrying out the provisions of section 640d–14 of this title, there is authorized to be appropriated not to exceed $30,000,000 for each of fiscal years 2003 through 2008.

(b) Availability of sums

The funds appropriated pursuant to the authorizations provided in this subchapter shall remain available until expended.

(Pub. L. 93–531, § 25, Dec. 22, 1974, 88 Stat. 1722; Pub. L. 96–40, July 30, 1979, 93 Stat. 318; Pub. L. 96–305, § 10, July 8, 1980, 94 Stat. 933; Pub. L. 98–48, July 13, 1983, 97 Stat. 244; Pub. L. 100–666, §§ 2, 4(b), Nov. 16, 1988, 102 Stat. 3929, 3930; Pub. L. 102–180, § 2, Dec. 2, 1991, 105 Stat. 1230; Pub. L. 104–15, § 1, June 21, 1995, 109 Stat. 189; Pub. L. 104–301, § 10, Oct. 11, 1996, 110 Stat. 3652; Pub. L. 108–204, title I, § 102, Mar. 2, 2004, 118 Stat. 543.)

AMENDMENTS

2004—Subsec. (a)(8). Pub. L. 108–204 substituted ''for each of fiscal years 2003 through 2008'' for ''annually for fiscal years 1995, 1996, 1997, 1998, 1999, and 2000''.

1996—Subsec. (a)(8). Pub. L. 104–301 substituted ''1996, 1997, 1998, 1999, and 2000'' for ''1996, and 1997''.

1995—Subsec. (a)(8). Pub. L. 104–15 substituted ''1995, 1996, and 1997'' for ''1989, 1990, 1991, 1992, 1993, 1994, and 1995''.

1991—Subsec. (a)(8). Pub. L. 102–180 substituted ''1991, 1992, 1993, 1994, and 1995'' for ''and 1991''.

1988—Subsec. (a)(4). Pub. L. 100–666, § 2(1), substituted ''$13,000,000'' for ''$7,700,000''.

Subsec. (a)(5). Pub. L. 100–666, § 4(b), substituted ''Commissioner'' for ''Commission''.

Subsec. (a)(8). Pub. L. 100–666, § 2(2), substituted ''$30,000,000 annually for fiscal years 1989, 1990, and 1991'' for ''$15,000,000 annually for fiscal years 1983 through 1987''.

1983—Subsec. (a)(4). Pub. L. 98–48, § 1, substituted ''$7,700,000'' for ''$5,500,000''.

Subsec. (a)(8). Pub. L. 98–48, § 2, added par. (8).

1980—Subsec. (a)(5). Pub. L. 96–305, § 10(a), substituted ''$4,000,000'' for ''$1,000,000''.

Subsec. (a)(7). Pub. L. 96–305, § 10(b), added par. (7).

1979—Subsec. (a)(5). Pub. L. 96–40 substituted ''$1,000,000'' for ''$500,000''.

§ 640d–25. Discretionary fund to expedite relocation efforts

(a) Authorization of appropriations

To facilitate and expedite the relocation efforts of the Commissioner, there is hereby authorized to be appropriated annually, effective in fiscal year 1981, not to exceed $6,000,000 as a discretionary fund.

(b) Authorized uses

Funds appropriated under the authority of subsection (a) of this section may be used by the Commissioner for grants, contracts, or expenditures which significantly assist the Commissioner or assist the Navajo Tribe or Hopi Tribe in meeting the burdens imposed by this subchapter.

(c) Funding and construction of Hopi high school and medical center

The Secretary of the Interior and the Secretary of Health and Human Services, as appropriate, shall assign the highest priority, in the next fiscal year after July 8, 1980, to the funding and construction of the Hopi high school and Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.

(Pub. L. 93–531, § 27, as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 933; amended Pub. L. 100–666, §§ 3, 4(b), Nov. 16, 1988, 102 Stat. 3929, 3930.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–666, § 4(b), substituted ''Commissioner'' for ''Commission''.

Subsec. (b). Pub. L. 100–666, § 3, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Such funds may only be used by the Commission to—

''(1) match or pay not to exceed 30 per centum of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this subchapter;

''(2) engage or participate, either directly or by contract, in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this subchapter.

Not to exceed 5 per centum of such funds may be used for the administrative expenses of the Commission in carrying out this section.''

§ 640d–26. Implementation requirements

(a) Environmental impact provisions

No action taken pursuant to, in furtherance of, or as authorized by this subchapter, shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321 et seq.].

(b) Transfer of public lands

Any transfer of public lands pursuant to this subchapter shall be made notwithstanding the provisions of sections 1782 and 1752(g) of title 43.

(Pub. L. 93–531, § 28, as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 933.)

REFERENCES IN TEXT

National Environmental Policy Act of 1969, as amended, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 640d–27. Attorney fees, costs and expenses for litigation or court action

(a) Payment by Secretary; authorization of appropriations

In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this subchapter, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

(b) Award by court; reimbursement to Secretary

Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

(c) Excess difference between award of court and award of Secretary treated as final judgment of Court of Claims

To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28.

(d) Litigation or court actions applicable

This section shall apply to any litigation or court action pending upon July 8, 1980, in which a final order, decree, judgment has not been entered, but shall not apply to any action authorized by section 640d–7 or 640d–17(a) of this title.

(Pub. L. 93–531, § 29, as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 934.)

REFERENCES IN TEXT

The Court of Claims, referred to in subsec. (c), and the Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 640d–28. Life estates

(a) Omitted

(b) Application for lease; contents; filing date; extension

Any Navajo head of household who desires to do so may submit an application for a life estate lease to the Commissioner. Such application shall contain such information as the Commissioner may prescribe by regulation, such regulation to be promulgated by the Commissioner within ninety days of July 8, 1980. To be considered, such application must be filed with the Commissioner on or before April 1, 1981: *Provided*, That the Commissioner may, for good cause, grant an extension of one hundred and eighty days.

(c) Application groupings

Upon receipt of applications filed pursuant to this section, the Commissioner shall group them in the following order:

(A) Applicants who are determined to be at least 50 per centum disabled as certified by a physician approved by the Commissioner. Such applicants shall be ranked in the order of the severity of their disability.

(B) Applicants who are not at least 50 per centum disabled shall be ranked in order of their age with oldest listed first and the youngest listed last: *Provided*, That, if any applicant physically resides in quarter quad Nos. 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE as designated on the Mediator's partition map, such applicant shall be given priority over another applicant of equal age.

(C) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi partitioned lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commissioner.

(D) Applicants who were not at least forty-nine years of age on December 22, 1974, or are not at least 50 per centum disabled, shall also be rejected by the Commissioner.

(d) Number of leases; priorities

The Commissioner shall have authority to award life estate leases to not more than one hundred and twenty applicants with first priority being given to applicants listed pursuant to subsection (c)(A) of this section and the next priority being given to the applicants listed pursuant to subsection (c)(B) of this section, in order of such listing.

(e) Area; allowable livestock; assistance by Secretary in feeding livestock

Each life estate lease shall consist of a fenced area not exceeding ninety acres of land which shall include the life tenant's present residence and may be used by the life tenant to feed not to exceed twenty-five sheep units per year or equivalent livestock. The Secretary, under existing authority, shall make available to life estate tenants such assistance during that tenure, as may be necessary to enable such tenant to feed such livestock at an adequate nutritional level.

(f) Individuals permitted to reside; regulations

No person may reside on a life estate other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant. The Commissioner shall promulgate regulations to carry out the intent of this subsection.

(g) Termination

The life estate tenure shall end by voluntary relinquishment, or at the death of the life tenant or the death of his or her spouse, whichever occurs last: *Provided*, That each survivorship right shall apply only to those persons who were lawfully married to each other on or before July 8, 1980.

(h) Relocation benefits upon voluntary relinquishment; compensation upon death of life tenant or surviving spouse; relocation of dependents

Nothing in this section shall be construed as prohibiting any such applicant who receives a life estate lease under this section from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon voluntary relinquishment of such estate, by such means or instrument as the Secretary shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 640d–14 of this title. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant or surviving spouse based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 640d–14 of this title. Assistance provided pursuant to section 640d–14(b) of this title, shall be paid to any head of household lawfully residing on such life estate pursuant to subsection (f) of this section who is required to move by the termination of such life estate by the death of the life tenant and his or her surviving spouse and who does not maintain a residence elsewhere. Compensation under section 640d–14(a) of this title shall be paid and distributed in accordance with the last will and testament of the life tenant or surviving spouse or, in

the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with existing Federal law. Upon termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.

(i) Payment of fair market rental value

The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned.

(j) Improvements

Nothing in this subchapter or any other law shall be construed to prevent a life tenant from making reasonable improvements on the life estate which are related to the residence and agricultural purposes of the life tenancy.

(k) Additional leases for Hopi heads of household

The Commissioner is authorized to grant not to exceed ten additional life estate leases to Hopi heads of household residing on Navajo-partitioned lands under such terms of this section as may be appropriate.

(Pub. L. 93–531, § 30, as added Pub. L. 96–305, § 11, July 8, 1980, 94 Stat. 934; amended Pub. L. 100–666, § 4(b), Nov. 16, 1988, 102 Stat. 3930.)

CODIFICATION

Subsec. (a) provided for the repeal of section 640d–4(a)(4) of this title.

AMENDMENTS

1988—Subsecs. (b) to (d), (f), (k). Pub. L. 100–666 substituted ''Commissioner'' for ''Commission'' wherever appearing.

§ 640d–29. Restrictions on lobbying; exception

(a) Except as provided in subsection (b) of this section, no person or entity who has entered into a contract with the Commissioner to provide services under this subchapter may engage in activities designed to influence Federal legislation on any issue relating to the relocation required under this subchapter.

(b) Subsection (a) of this section shall not apply to the Navajo Tribe or the Hopi Tribe, except that such tribes shall not spend any funds received from the Office in any activities designed to influence Federal legislation.

(Pub. L. 93–531, § 31, as added Pub. L. 100–666, § 5, Nov. 16, 1988, 102 Stat. 3931.)

§ 640d–30. Navajo Rehabilitation Trust Fund

(a) Establishment

There is hereby established in the Treasury of the United States a trust fund to be known as the ''Navajo Rehabilitation Trust Fund'', which shall consist of the funds transferred under subsection (b) of this section and of the funds appropriated pursuant to subsection (f) of this section and any interest or investment income accrued on such funds.

(b) Deposit of income into Fund

All of the net income derived by the Navajo Tribe from the surface and mineral estates of lands located in New Mexico that are acquired for the benefit of the Navajo Tribe under section 640d–10 of this title shall be deposited into the Navajo Rehabilitation Trust Fund.

(c) Secretary as trustee; investment of funds

The Secretary shall be the trustee of the Navajo Rehabilitation Trust Fund and shall be responsible for investment of the funds in such Trust Fund.

(d) Availability of funds; purposes

Funds in the Navajo Rehabilitation Trust Fund, including any interest or investment accruing thereon, shall be available to the Navajo Tribe, with the approval of the Secretary, solely for purposes which will contribute to the continuing rehabilitation and improvement of the economic, educational, and social condition of families, and Navajo communities, that have been affected by—

(1) the decison[1] in the Healing case, or related proceedings,

(2) the provision[2] of this subchapter, or

(3) the establishment by the Secretary of the Interior of grazing district number 6 as land for the exclusive use of the Hopi Tribe.

(e) Conceptual framework for expenditure of funds

By December 1, 1989, the Secretary of the Interior, with the advice of the Navajo Tribe and the Office of Navajo and Hopi Indian Relocation, shall submit to the Congress a conceptual framework for the expenditure of the funds authorized for the Navajo Rehabilitation Trust Fund. Such framework is to be consistent with the purposes described in subsection (d) of this section.

(f) Termination of Trust Fund

The Navajo Rehabilitation Trust Fund shall terminate when, upon petition by the Navajo Tribe, the Secretary determines that the goals of the Trust Fund have been met and the United States has been reimbursed for funds appropriated under subsection (f) of this section. All funds in the Trust Fund on such date shall be transferred to the general trust funds of the Navajo Tribe.

(g) Authorization of appropriations; reimbursement of General Fund

There is hereby authorized to be appropriated for the Navajo Rehabilitation Trust Fund not[3] exceed $10,000,000 in each of fiscal years 1990, 1991, 1992, 1993, 1994 and 1995. The income from the land referred to in subsection (b) of this section shall be used to reimburse the General Fund of the United States Treasury for amounts appropriated to the Fund.

(Pub. L. 93–531, § 32, as added Pub. L. 100–666, § 7, Nov. 16, 1988, 102 Stat. 3932; amended Pub. L. 101–121, title I, § 120, Oct. 23, 1989, 103 Stat. 722.)

CODIFICATION

Another section 32 of Pub. L. 93–531 was enacted by Pub. L. 100–696, title IV, § 407, Nov. 18, 1988, 102 Stat. 4593, and is classified to section 640d–31 of this title.

[1] So in original. Probably should be ''decision''.

[2] So in original. Probably should be ''provisions''.

[3] So in original. Probably should be ''not to''.

AMENDMENTS

1989—Subsecs. (e) to (g). Pub. L. 101–121 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

§ 640d–31. Residence of families eligible for relocation assistance

Nothing in this subchapter prohibits the Commissioner from providing relocation assistance to families certified as eligible, regardless of their current place of residence, with funds appropriated to implement this subchapter.

(Pub. L. 93–531, § 32, as added Pub. L. 100–696, title IV, § 407, Nov. 18, 1988, 102 Stat. 4593.)

CODIFICATION

Another section 32 of Pub. L. 93–531 was enacted by Pub. L. 100–666, § 7, Nov. 16, 1988, 102 Stat. 3932, and is classified to section 640d–30 of this title.

SUBCHAPTER XXIII—HOPI TRIBE: INDUSTRIAL PARK

§ 641. Congressional findings and declaration of purpose

For the purpose of assisting in the economic advancement and contributing to the general welfare of the Hopi Indian Tribe of Arizona, the Congress hereby finds it to be fitting and appropriate to provide the Hopi Tribal Council with certain powers of self-determination that are necessary to enable the Hopi people to carry out the effective development and operation of the Hopi Industrial Park, which is located in the counties of Navajo and Coconino in the State of Arizona.

(Pub. L. 91–264, § 1, May 22, 1970, 84 Stat. 260.)

§ 642. Powers of Tribal Council

The Hopi Tribal Council shall have the following powers:

(a) Sale of lands

To sell any part of the lands within the Hopi Industrial Park.

(b) Mortgages or deeds of trust; law governing mortgage foreclosure or sale; United States as party; removal of cases; appeals

To execute mortgages upon, or deeds of trust to, the lands within said Hopi Industrial Park. Such lands shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed to trust in accordance with the laws of the State of Arizona. The United States shall be an indispensable party to, and may be joined in, any such proceeding involving said lands with the right to remove the action to the United States district court for the district in which the land is situated, according to the procedure in section 1446 of title 28, and the United States shall have the right to appeal from any order of remand entered in such action.

(c) Pledge of revenue or other income to secure indebtedness for development of park; law governing action to enforce pledge; United States as party

To pledge any revenue or other income from lands within said Hopi Industrial Park, and the improvements situated thereon, and any other revenue or income that may be available to the Hopi Tribe without regard to source, to secure any indebtedness of the Hopi Tribe incurred in the development of said Hopi Industrial Park, and any action to enforce said pledge shall be in accordance with the laws of the State of Arizona, and the United States shall be an indispensable party thereto to the same extent and under the same conditions as hereinbefore provided in the case of mortgage foreclosures.

(d) Issuance of bonds and payment of costs thereof; sale of bonds at public or private sale

To issue bonds for and on behalf of the Hopi Tribe, and pay the costs thereof, to accomplish the purposes of this subchapter, in one or more series, in such denomination or denominations, maturing at such time or times, and in such amount or amounts, bearing interest at such rate or rates, in such form either coupon or registered, to be executed in such manner, payable in such medium of payment, at such place or places, subject to such terms of redemption, with or without premium, and containing such other restrictive terms as may be provided by tribal ordinance. Such bonds may be sold at not less than par at either public or private sale and shall be fully negotiable.

(e) Appointment of bank or trust company as trustee for purposes of authorization and creation of issue of bonds; authority to commence action to enforce obligations to tribe without joining United States as party

To appoint a bank or trust company with its home office in the State of Arizona having an officially reported combined capital, surplus, undivided profits and reserves aggregating not less than $10,000,000 as trustee for all of the purposes provided in the ordinance authorizing and creating any issue of bonds. Any trustee so appointed may be authorized to commence an action for and on behalf of, or on relation of, the Hopi Tribe to enforce any obligation to the tribe pledged to secure payment of the bonds without joining the United States as a party thereto.

(f) Entering business ventures as shareholder, or as limited partner with corporation, firm or person operating within park

To enter into any business venture as a shareholder of a corporation issuing nonassessable stock, or as a limited partner with any corporation, firm or person operating within said Hopi Industrial Park.

(g) Lease of lands and improvements thereon

To lease lands within the Hopi Industrial Park, any other tribal lands, and the improvements thereon, in accordance with the provisions of Federal laws.

(Pub. L. 91–264, § 2, May 22, 1970, 84 Stat. 260.)

§ 643. Council's powers subject to approval by Secretary

The exercise of all powers granted the Hopi Tribal Council by this subchapter shall be subject to the approval of the Secretary of the Interior, or his duly authorized representatives.

(Pub. L. 91–264, § 3, May 22, 1970, 84 Stat. 261.)

§ 644. Bonds as valid and binding obligations

Bonds issued by authority of this subchapter and bearing the signatures of tribal officers in office on the date of the signing thereof shall be valid and binding obligations, not withstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the Hopi Tribal Council.

(Pub. L. 91–264, § 4, May 22, 1970, 84 Stat. 261.)

§ 645. Exemption from taxation

All bonds issued by the Hopi Tribal Council for and on behalf of the Hopi Tribe and the interest provided in said bonds shall be exempt from taxation to the same extent they would have been exempt if the bonds had been issued by the State of Arizona or a political subdivision thereof.

(Pub. L. 91–264, § 5, May 22, 1970, 84 Stat. 261.)

§ 646. Exempted securities

Any securities issued by the Hopi Tribal Council (including any guarantee by such council), and any securities guaranteed by the council as to both principal and interest, shall be deemed to be exempted securities within the meaning of sections 77c(a)(2) and 78e(a)(12) of title 15, and shall be exempt from all registration requirements of Acts of May 27, 1933, and June 6, 1934.

(Pub. L. 91–264, § 6, May 22, 1970, 84 Stat. 261.)

REFERENCES IN TEXT

Acts of May 27, 1933, and June 6, 1934, referred to in text, were in the original ''said Acts'', meaning act May 27, 1933, ch. 38, 48 Stat. 74, as amended, and act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which are known as the Securities Act of 1933 and the Securities Exchange Act of 1934, respectively. Act May 27, 1933, is classified generally to chapter 2A (§ 77a et seq.) of Title 15, Commerce and Trade, and act June 6, 1934, is classified principally to chapter 2B (§ 78a et seq.) of Title 15. For complete classification of these Acts to the Code, see Tables.

SUBCHAPTER XXIV—HUALAPAI TRIBE

§ 647. Disposition of judgment fund; deductions; advances, expenditures, investments or reinvestments for authorized purposes

The unexpended balance of funds on deposit in the Treasury of the United States to the credit of the Hualapai Tribe of Indians that were appropriated to pay a judgment granted by the Indian Claims Commission in dockets Numbered 90 and 122, and the interest thereon, less payment of attorney fees and expenses, may be advanced, expended, invested or reinvested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 91–400, § 1, Sept. 16, 1970, 84 Stat. 838.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 648. Tax exemption

Any part of such funds that may be distributed to members of the tribe shall not be subject to Federal or State income tax.

(Pub. L. 91–400, § 2, Sept. 16, 1970, 84 Stat. 838.)

§ 649. Rules and regulations

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

(Pub. L. 91–400, § 3, Sept. 16, 1970, 84 Stat. 838.)

SUBCHAPTER XXV—INDIANS OF CALIFORNIA

§ 651. "Indians of California" defined

For the purposes of this subchapter the Indians of California shall be defined to be all Indians who were residing in the State of California on June 1, 1852, and their descendants now living in said State.

(May 18, 1928, ch. 624, § 1, 45 Stat. 602.)

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–294, § 1, Oct. 27, 1998, 112 Stat. 2818, provided that: ''This Act [amending provisions set out as a note below] may be cited as the 'Advisory Council on California Indian Policy Extension Act of 1998'.''

ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY ACT OF 1992

Pub. L. 102–416, Oct. 14, 1992, 106 Stat. 2131, as amended by Pub. L. 104–109, § 14, Feb. 12, 1996, 110 Stat. 766; Pub. L. 105–294, § 3, Oct. 27, 1998, 112 Stat. 2818, provided for the establishment of Advisory Council on California Indian Policy, consisting of 18 members, to develop list of tribes, to conduct a study of policies and programs affecting California Indians, to submit a report on the study no later than 36 months after first meeting of the Council, and to work with Congress, the Secretary, the Secretary of Health and Human Services, and the California Indian tribes, to implement the Council's proposals and recommendations, authorized the Council to appoint staff, hold hearings, establish task forces, accept funding from sources other than Federal government, and secure information from other Federal agencies, provided for termination of the Council on Mar. 31, 2000, and authorized $700,000 in appropriations to carry out the provisions of this Act.

REPORT TO CONGRESS

Act June 8, 1954, ch. 271, § 2, 68 Stat. 240, directed Secretary of the Interior to transmit to Congress on or before Aug. 31, 1955, a full and complete report of funds used and purposes accomplished to carry out provisions of this Act [amending section 657 of this title] and act approved May 18, 1928 (45 Stat. 602), as amended by acts of April 29, 1930 (46 Stat. 259); and June 30, 1948 (62 Stat. 1166); and May 24, 1950 (64 Stat. 189) [this subchapter].

§ 652. Claims against United States for appropriated lands; submission to United States Court of Federal Claims; appeal; grounds for relief

All claims of whatsoever nature the Indians of California as defined in section 651 of this title may have against the United States by reason of lands taken from them in the State of California by the United States without compensation, or for the failure or refusal of the United States to compensate them for their interest in lands in said State which the United States appropriated to its own purposes without the consent of said Indians, may be submitted to the United States Court of Federal Claims by the attorney general of the State of California acting for and on behalf of said Indians for determination of the

equitable amount due said Indians from the United States; and jurisdiction is conferred upon the United States Court of Federal Claims,[1] to hear and determine all such equitable claims of said Indians against the United States and to render final decree thereon.

It is declared that the loss to the said Indians on account of their failure to secure the lands and compensation provided for in the eighteen unratified treaties is sufficient ground for equitable relief.

(May 18, 1928, ch. 624, § 2, 45 Stat. 602; Pub. L. 97–164, title I, § 150, Apr. 2, 1982, 96 Stat. 46; Pub. L. 100–352, § 6(b), June 27, 1988, 102 Stat. 663; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' in two places.

1988—Pub. L. 100–352 struck out '', with the right of either party to appeal to the United States Court of Appeals for the Federal Circuit'' before '', to hear and determine''.

1982—Pub. L. 97–164 substituted ''United States Claims Court'' for ''Court of Claims'' and for ''Court of Claims of the United States'' and substituted ''United States Court of Appeals for the Federal Circuit'' for ''Supreme Court of the United States''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100–352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 653. Statutes of limitations unavailable against claims; amount of decree; set-off

If any claim or claims be submitted to said courts, they shall settle the equitable rights therein, notwithstanding lapse of time or statutes of limitation or the fact that the said claim or claims have not been presented to any other tribunal, including the commission created by the Act of March 3, 1851 (Ninth Statutes at Large, page 631): *Provided*, That any decree for said Indians shall be for an amount equal to the just value of the compensation provided or proposed for the Indians in those certain eighteen unratified treaties executed by the chiefs and head men of the several tribes and bands of Indians of California and submitted to the Senate of the United States by the President of the United States for ratification on the 1st day of June, 1852, including the lands described therein at $1.25 per acre. Any payment which may have been made by the United States or moneys heretofore or hereafter expended to date of award for the benefit of the Indians of California, made under specific appropriations for the support, education, health, and civilization of Indians in California, including purchases of land, shall not be pleaded as an estoppel but may be pleaded by way of set-off.

(May 18, 1928, ch. 624, § 3, 45 Stat. 602.)

REFERENCES IN TEXT

Act of March 3, 1851, referred to in text, is act Mar. 3, 1851, ch. 41, 9 Stat. 631, which was not classified to the Code.

§ 654. Claims presented by petition; filing date; amendment; signature and verification; official letters, documents, etc., furnished

The claims of the Indians of California under the provisions of this subchapter shall be presented by petition, which shall be filed within three years after May 18, 1928. Said petition shall be subject to amendment. The petition shall be signed and verified by the attorney general of the State of California. Verification may be upon information and belief as to the facts alleged. Official letters, papers, documents, and public records, or certified copies thereof, may be used in evidence and the departments of the Government shall give the said attorney access to such papers, correspondence, or furnish such certified copies of record as may be necessary in the premises free of cost.

(May 18, 1928, ch. 624, § 4, 45 Stat. 602.)

§ 655. Reimbursement of State of California for necessary costs and expenses

In the event that the court renders judgment against the United States under the provisions of this subchapter, it shall decree such amount as it finds reasonable to be paid to the State of California to reimburse the State for all necessary costs and expenses incurred by said State, other than attorney fees: *Provided*, That no reimbursement shall be made to the State of California for the services rendered by its attorney general.

(May 18, 1928, ch. 624, § 5, 45 Stat. 602.)

§ 656. Judgment amount deposited in Treasury to credit of Indians; interest rate; use of fund

The amount of any judgment shall be placed in the Treasury of the United States to the credit of the Indians of California and shall draw interest at the rate of 4 per centum per annum and shall be thereafter subject to appropriation by Congress for educational, health, industrial, and other purposes for the benefit of said Indians, including the purchase of lands and building of homes, and no part of said judgment shall be paid out in per capita payments to said Indians: *Provided*, That the Secretary of the Treasury is authorized and directed to pay to the State of California, out of the proceeds of the judgment when appropriated, the amount decreed by the court to be due said State, as provided in section 655 of this title.

[1] So in original. The comma probably should not appear.

(May 18, 1928, ch. 624, § 6, 45 Stat. 603.)

§ 657. Revision of roll of Indians

The Secretary of the Interior, under such regulations as he may prescribe, is authorized and directed to revise the roll of the Indians of California, as defined in section 651 of this title, which was approved by him on May 16, 1933, in the following particulars: (a) By adding to said roll the names of persons who filed applications for enrollment as Indians of California on or before May 18, 1932, and who, although determined to be descendants of the Indians residing in the State of California on June 1, 1852, were denied enrollment solely on the ground that they were not living in the State of California on May 18, 1928, and who were alive on May 24, 1950; (b) by adding to said roll the names of persons who are descendants of the Indians residing in the State of California on June 1, 1852, and who are the fathers, mothers, brothers, sisters, uncles, or aunts of persons whose names appear on said roll, and who were alive on May 24, 1950, irrespective of whether such fathers, mothers, brothers, sisters, uncles, or aunts were living in the State of California on May 18, 1928; (c) by adding to said roll the names of persons born since May 18, 1928, and living on May 24, 1950, who are the children or other descendants of persons whose names appear on said roll, or of persons whose names are eligible for addition to said roll under clauses (a) or (b) of this section, or of persons dying prior to May 24, 1950, whose names would have been eligible for addition to said roll under clauses (a) or (b) of this section if such persons had been alive on May 24, 1950; and (d) by removing from said roll the names of persons who have died since May 18, 1928, and prior to May 24, 1950. Persons entitled to enrollment under clause (a) of this section shall be enrolled by the Secretary of the Interior without further application. Persons claiming to be entitled to enrollment under clauses (b) or (c) of this section shall, within one year after May 24, 1950, make an application in writing to the Secretary of the Interior for enrollment, unless they have previously filed such an application under this section. For the purposes of clause (d) of this section, when the Secretary of the Interior is satisfied that reasonable and diligent efforts have been made to locate a person whose name is on said roll and that such person cannot be located, he may presume that such person died prior to May 24, 1950, and his presumption shall be conclusive. The Secretary of the Interior shall prepare not less than five hundred copies of an alphabetical list of the Indians of California whose names appear on the roll approved on May 16, 1933, giving the name, address, and age at time of enrollment of each such enrollee, together with such other factual information, if any, as the Secretary may deem advisable as tending to identify each enrollee, and shall distribute copies of this list to the various communities of California Indians. The Indians of California in each community may elect a committee of three enrollees who may aid the enrolling agent in any matters relating to the revision of said roll. After the expiration of the period allowed by this section for filing applications, the Secretary of the Interior shall have until June 30, 1955, to approve and promulgate the revised roll of the Indians of California provided for in this section. Upon such approval and promulgation, the roll shall be closed and thereafter no additional names shall be added thereto.

(May 18, 1928, ch. 624, § 7, 45 Stat. 603; Apr. 29, 1930, ch. 222, 46 Stat. 259; June 30, 1948, ch. 765, § 1, 62 Stat. 1166; May 24, 1950, ch. 196, § 1, 64 Stat. 189; June 8, 1954, ch. 271, § 1, 68 Stat. 240.)

AMENDMENTS

1954—Act June 8, 1954, inserted sentence providing for presumption of death, for purposes of cl. (d), after failure to locate, and extended to June 30, 1955, time for approving and promulgating revised roll.

1950—Act May 24, 1950, permitted revision of roll to include certain classes of Indians not previously eligible for inclusion.

1948—Act June 30, 1948, amended section generally to permit Secretary of the Interior to revise roll of Indians.

1930—Act Apr. 29, 1930, increased time within which an Indian could make application to be enrolled, and increased time within which Secretary of the Interior could alter and revise roll.

APPROPRIATIONS

Section 2 of act June 30, 1948, authorized $25,000 for the Secretary of the Interior to be used to defray the expense incurred in revising the roll as provided for in this section.

§ 658. Distribution of $150 from fund to each enrolled Indian

Notwithstanding the provisions of section 656 of this title, the Secretary of the Interior, under such regulations as he may prescribe, is authorized and directed to distribute per capita the sum of $150 to each Indian of California living on May 24, 1950, who is now or may hereafter be enrolled under sections 651 and 657 of this title. The Secretary of the Interior may, in his discretion, make such distribution from time to time to persons on the roll of the Indians of California approved on May 16, 1933, as he identifies such enrollees, before the completion of the revised roll provided for in section 657 of this title. The Secretary of the Interior is authorized to withdraw from the fund on deposit in the Treasury of the United States arising from the judgment in favor of the Indians of California entered by the Court of Claims on December 4, 1944, and appropriated for them by section 203 of the Act of April 25, 1945 (59 Stat. 77), such sums as may be necessary to make the per capita payments required by this section, including not to exceed $15,000 for the purpose of defraying the expenses incident to carrying out the provisions of sections 657 and 658 of this title. Such payments shall be made out of the accumulated interest on such judgment fund and so much of the principal thereof as is necessary to complete the payments. The money paid to enrollees pursuant to this section shall not be subject to any lien or claim of any nature against any such persons, except for debts owing to the United States.

(May 24, 1950, ch. 196, § 2, 64 Stat. 190.)

REFERENCES IN TEXT

The Court of Claims, referred to in text, and the Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of

Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

Section 203 of the Act of April 25, 1945, referred to in text, is section 203 of act Apr. 25, 1945, ch. 95, title II, 59 Stat. 94, which was not classified to the Code.

CODIFICATION

Section was not enacted as part of act May 18, 1928, ch. 624, 45 Stat. 602, which comprises this subchapter.

§ 659. Distribution of judgment fund

(a) Preparation of Indian roll

The Secretary of the Interior shall prepare a roll of persons of Indian blood who apply for inclusion thereon and (i) whose names or the name of a lineal or collateral relative appears on any of the approved rolls heretofore prepared pursuant to this subchapter and the amendments thereto or (ii) who can establish, to the satisfaction of the Secretary, lineal or collateral relationship to an Indian who resided in California on June 1, 1852, and (iii) who were born on or before and were living on September 21, 1968.

(b) Contents

The roll so prepared shall indicate, as nearly as possible, the group or groups of Indians of California with which the ancestors of each enrollee were affiliated on June 1, 1852. If the affiliation of an enrollee's ancestors on that date is unknown, it shall be presumed to be the same as that of the ancestors' relatives whose affiliation is known unless there is sound reason to believe otherwise. Applicants whose ancestry is derived partly from one of the groups named in section 660(b) of this title and partly from another group of Indians in California shall elect the affiliation to be shown for them on the roll.

(c) Application for enrollment

Application for enrollment shall be filed with the Area Director of the Bureau of Indian Affairs, Sacramento, California, on forms prescribed for that purpose.

(Pub. L. 90–507, § 1, Sept. 21, 1968, 82 Stat. 860.)

CODIFICATION

Section was not enacted as part of act May 18, 1928, ch. 624, 45 Stat. 602, which comprises this subchapter.

§ 660. Equal share distribution of 1964 appropriation

(a) Persons covered; amounts

The Secretary shall distribute to each person whose name appears on the roll prepared pursuant to section 659 of this title, except those whose ancestry is derived from one or more of the groups named in subsection (b) of this section, an equal share of the moneys which were appropriated by the Act of October 7, 1964 (78 Stat. 1033), in satisfaction of the judgment of the Indian Claims Commission in consolidated dockets numbered 31, 37, 80, 80–D, and 347, plus the interest earned thereon, minus attorneys fees, litigation expenses (including the reimbursement of funds expended under authority of the Acts of July 1, 1946 (60 Stat. 348), August 4, 1955 (69 Stat. 460), and July 14, 1960 (74 Stat. 512)), a proper share of the costs of roll preparation, and such amounts as may be required to effect the distribution.

(b) Persons excepted

Persons whose ancestry is derived solely from one or more of the following groups and persons of mixed ancestry who elected to share, other than as heirs or legatees of enrollees, in any award granted to any of the following groups shall not share in the funds distributed pursuant to subsection (a) of this section: Northern Paiute, Southern Paiute, Mohave, Quechan (Yuma), Chemehuevi, Shoshone, Washoe, Klamath, Modoc, and Yahooskin Band of Snakes.

(Pub. L. 90–507, § 2, Sept. 21, 1968, 82 Stat. 860.)

REFERENCES IN TEXT

Act of October 7, 1964, referred to in subsec. (a), is act Oct. 7, 1964, Pub. L. 88–635, 78 Stat. 1033, known as the Supplemental Appropriation Act, 1965. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in subsec. (a), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Acts of July 1, 1946, August 4, 1955, and July 14, 1960, referred to in subsec. (a), are, respectively, act July 1, 1946, ch. 529, 60 Stat. 348, known as the Interior Department Appropriation Act, 1947, act Aug. 4, 1955, ch. 541, 69 Stat. 450, known as the Supplemental Appropriation Act, 1956, and act July 14, 1960, Pub. L. 86–651, 74 Stat. 509, known as the Supplemental Appropriation Act, 1961. Those portions of the acts which appropriated the funds referred to were not classified to the Code.

CODIFICATION

Section was not enacted as part of act May 18, 1928, ch. 624, 45 Stat. 602, which comprises this subchapter.

§ 661. Equal share distribution of undistributed balance of 1945 appropriation

(a) Persons covered; amounts

The Secretary shall distribute to each person whose name appears on the roll prepared pursuant to section 659 of this title regardless of group affiliation an equal share of the undistributed balance of the moneys appropriated in satisfaction of the judgment of the Court of Claims in the case of The Indians of California against United States (102 Court of Claims 837; 59 Stat. 94), plus the interest earned thereon, including the reimbursed moneys and unexpended balances of the funds established by the Acts of July 1, 1946 (60 Stat. 348), August 4, 1955 (69 Stat. 460), and July 14, 1960 (74 Stat. 512), minus a proper share of the costs of roll preparation and such amounts as may be necessary to effect the distribution.

(b) Credit to judgment account

The Secretary of the Treasury is authorized and directed to credit to the judgment account referred to in subsection (a) of this section, for distribution as a part of such account, the sum of $83,275, plus interest at 4 per centum per annum from December 4, 1944, which sum represents the value of sixty-six thousand six hundred and twenty acres of land erroneously used as an offset against said judgment.

(Pub. L. 90–507, § 3, Sept. 21, 1968, 82 Stat. 860; Pub. L. 91–64, Aug. 25, 1969, 83 Stat. 105.)

REFERENCES IN TEXT

The moneys appropriated in satisfaction of the judgment of the Court of Claims in the case of The Indians of California against United States (102 Court of Claims 837; 59 Stat. 94), referred to in subsec. (a), are the moneys appropriated by act Apr. 25, 1945, ch. 95, 59 Stat. 77, known as the First Deficiency Appropriations Act, 1945. That portion of the act which appropriated the moneys referred to was not classified to the Code.

The Court of Claims, referred to in text, and the Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

Acts of July 1, 1946, August 4, 1955, and July 14, 1960, referred to in subsec. (a), are, respectively, act July 1, 1946, ch. 529, 60 Stat. 348, known as the Interior Department Appropriation Act, 1947, act Aug. 4, 1955, ch. 541, 69 Stat. 450, known as the Supplemental Appropriation Act, 1956, and act July 14, 1960, Pub. L. 86–651, 74 Stat. 509, known as the Supplemental Appropriation Act, 1961. Those portions of the acts which appropriated the funds referred to were not classified to the Code.

CODIFICATION

Section was not enacted as part of act May 18, 1928, ch. 624, 45 Stat. 602, which comprises this subchapter.

AMENDMENTS

1969—Pub. L. 91–64 designated existing provisions as subsec. (a) and added subsec. (b).

§ 662. Heirs of deceased enrollees; tax exemption

Each share distributable to an enrollee under sections 660 and 661 of this title shall be paid directly to the enrollee or, if he is deceased at the time of distribution, to his heirs or legatees unless the distributee is under twenty-one years of age or is otherwise under legal disability, in which case such disposition shall be made of the share as the Secretary determines will adequately protect the best interests of the distributee. Funds distributed under sections 659 to 663 of this title shall not be subject to Federal or State income taxes.

(Pub. L. 90–507, § 4, Sept. 21, 1968, 82 Stat. 861.)

CODIFICATION

Section was not enacted as part of act May 18, 1928, ch. 624, 45 Stat. 602, which comprises this subchapter.

§ 663. Rules and regulations; filing deadline

The Secretary is authorized to prescribe rules and regulations to carry out the provisions of sections 659 to 663 of this title, which rules and regulations shall include an appropriate deadline for the filing of applications for enrollment under section 659 of this title. The determinations of the Secretary regarding eligibility for enrollment, the affiliation of an applicant's ancestors, and the shares of the cost of roll preparation to be charged to each of the two funds referred to in sections 660 and 661 of this title shall be final. Not more than $325,000 in all shall be available under sections 659 to 663 of this title for the costs of roll preparation and of the distribution of shares.

(Pub. L. 90–507, § 5, Sept. 21, 1968, 82 Stat. 861.)

CODIFICATION

Section was not enacted as part of act May 18, 1928, ch. 624, 45 Stat. 602, which comprises this subchapter.

SUBCHAPTER XXVI—SOUTHERN UTE INDIAN TRIBE OF COLORADO

§ 668. Sale of lands held by the United States

Subject to the provisions of the Southern Ute Indian tribal constitution and the ordinances and resolutions adopted thereunder, any lands that are held by the United States in trust for the Southern Ute Indian Tribe or that are subject to a restriction against alienation or taxation imposed by the United States, and that are not needed for Indian use, may be sold by the Southern Ute Indian Tribe, with the approval of the Secretary of the Interior, and such sales shall terminate the Federal trust or restrictions against alienation or taxation of the lands, except that the trust or restricted status of said lands may be retained, upon approval of the Secretary of the Interior, in any sale to a member of the tribe.

(Pub. L. 92–312, § 1, June 14, 1972, 86 Stat. 216.)

SOUTHERN UTE INDIAN RESERVATION IN COLORADO; CONFIRMATION OF RESERVATION BOUNDARIES

Pub. L. 98–290, May 21, 1984, 98 Stat. 201, provided that:

''CONGRESSIONAL PURPOSE

''SECTION 1. The purposes of this Act are—

''(1) to resolve uncertainty over the boundaries of the Southern Ute Indian Reservation and the status of unrestricted land on such reservation, and

''(2) to avoid long and costly litigation over issues dependent on reservation or Indian country status.

''INDIAN TRUST LAND DEFINED

''SEC. 2. For purposes of this Act, the term 'Indian trust land' means any land within the boundaries of the Southern Ute Indian Reservation which—

''(1) is held by the United States in trust for the benefit of the Southern Ute Indian Tribe or individual Indians, or

''(2) is owned by the United States and reserved for use or actually used in the administration of Indian affairs.

Any right-of-way bounded on both sides by Indian trust land shall be Indian trust land. Any other right-of-way shall not be Indian trust land.

''BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION DEFINED

''SEC. 3. The Southern Ute Indian Reservation in the State of Colorado is declared to have the following boundaries:

''(1) Bounded on the north by the southern boundary of the lands—

''(A) ceded to the United States by certain bands of Ute Indians under the Articles of Convention entered into on September 13, 1873, and ratified by the Act approved April 29, 1874 (18 Stat. 36), and

''(B) described in article I of such Articles of Convention.

''(2) Bounded on the south by the boundary line between the States of Colorado and New Mexico as described in article II of the treaty between the United States and the Ute Indians concluded March 2, 1868, and proclaimed November 6, 1868 (15 Stat. 619).

''(3) Bounded on the west by the eastern boundary of the Ute Mountain Ute Indian Reservation.

''(4) Bounded on the east by the southernmost 15 miles of the eastern boundary of the lands reserved to

the Ute Indians by article II of the treaty between the United States and the Ute Indians concluded March 2, 1868, and proclaimed November 6, 1868 (15 Stat. 619), except that the lands east of such boundary in township 32 north, range 1 west, New Mexico principal meridian, that are held by the United States in trust for the benefit of the Southern Ute Indian Tribe are part of the Southern Ute Indian Reservation.

''JURISDICTION OVER RESERVATION

''SEC. 4. (a) Such territorial jurisdiction as the Southern Ute Indian Tribe has over persons other than Indians and the property of such persons shall be limited to Indian trust lands within the reservation.

''(b) Any person who is not an Indian and the property of any such person shall be subject to the jurisdiction of the United States under section 1152 of title 18, United States Code, only on Indian trust land.

''(c) Any law of the United States related to the sale, possession, introduction, or manufacture of alcoholic beverages or to trading with Indians within Indian country, or within the Indian reservation, shall apply, with respect to the Southern Ute Indian Reservation, only on Indian trust land.

''JURISDICTION OVER INCORPORATED MUNICIPALITIES WITHIN THE RESERVATION

''SEC. 5. The State of Colorado shall exercise criminal and civil jurisdiction within the boundaries of the town of Ignacio, Colorado, and any other municipality which may be incorporated under the laws of Colorado within the Southern Ute Indian Reservation, as if such State had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79) [see 28 U.S.C. 1360 note].''

§ 669. Use of sale proceeds for purchase of real property only

All funds derived from the sale of lands pursuant to this subchapter shall be used only for the purchase of real property within the boundaries of the Southern Ute Indian Reservation. Title to any lands purchased with such funds and title to any lands reacquired by the tribe by foreclosure of a mortgage or deed of trust shall be taken in the name of the United States in trust for the Southern Ute Indian Tribe.

(Pub. L. 92–312, § 2, June 14, 1972, 86 Stat. 216.)

§ 670. Mortgage or deed of trust of lands sold; United States as party to all proceedings

Any tribal lands that may be sold pursuant to section 668 of this title may, with the approval of the Secretary of the Interior, be encumbered by a mortgage or deed of trust, and shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State in which the land is located. The United States shall be an indispensable party to any such proceedings with the right of removal of the proceeding to the United States district court for the district in which the land is located, following the procedure in section 1446 of title 28, and the United States shall have the right to appeal from any order of remand in the proceeding.

(Pub. L. 92–312, § 3, June 14, 1972, 86 Stat. 216.)

SUBCHAPTER XXVII—UTE INDIANS OF UTAH

§ 671. Use of funds of the Ute Indian Tribe of the Uintah and Ouray Reservation for expenditure and per capita payments; regulations applicable to loans; restriction on attorney fees

Notwithstanding any other provision of existing law, the tribal funds now on deposit or hereafter deposited in the United States Treasury to the credit of the Ute Indian Tribe of the Uintah and Ouray Reservation may be expended or advanced for such purposes, including per capita payments, as may be designated by the Tribal Business Committee of said tribe and approved by the Secretary of the Interior: *Provided*, That the aggregate amount of the expenditures and advances authorized by this section exclusive of per capita payments from interest shall not exceed 33⅓ per centum of such tribal funds now on deposit: *Provided further*, That with the exception of a $1,000 per capita payment which is authorized, no per capita payment shall be approved by the Secretary of the Interior from the principal of any judgment obtained under the Jurisdictional Act of June 28, 1938 (52 Stat. 1209), as amended, without further legislation: *Provided further*, That any funds advanced for loans by the tribe to individual Indians or associations of Indians shall be subject to regulations established for the making of loans from the revolving loan fund authorized by section 470 of this title: *Provided further*, That no part of the funds authorized to be expended or advanced by this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the preparation or prosecution of the suit or suits in the Court of Claims which resulted in any or all of the judgments handed down by said court on July 13, 1950, unless approved by the said court in the proceeding now pending before said court for the adjudication of attorneys' fees, or to any agent or attorney on account of any contract for services rendered or to be rendered in the preparation of any suit against the United States.

(Aug. 21, 1951, ch. 338, § 1, 65 Stat. 193; June 29, 1954, ch. 412, 68 Stat. 321.)

REFERENCES IN TEXT

The Jurisdictional Act of June 28, 1938, referred to in text, is act June 28, 1938, ch. 776, 52 Stat. 1209, which was not classified to the Code.

The Court of Claims, referred to in text, and the Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1954—Act June 29, 1954, excepted from 33⅓ per centum limitation on expenditures and advances, per capita payments made from interest.

§ 672. Division of trust funds; ratification of resolution; crediting of shares; release of United States from liability in certain cases

The Secretary of the Interior is authorized and directed to divide the trust funds belonging to the Confederated Bands of Ute Indians and deposited in the United States Treasury pursuant to section 399 of this title, section 315j of title 43, and the Act of June 28, 1938 (52 Stat. 1211), as amended, including the interest thereon, by crediting 60 per centum to the Ute Indian Tribe of the Uintah and Ouray Reservation, consisting of the Uintah, Uncompahgre, and White River Utes, and 40 per centum to the Southern Utes, consisting of the Southern Utes of the Southern Ute Reservation and the Ute Mountain Tribe of the Ute Mountain Reservation. The resolution adopted June 1, 1950, by the members of the Uncompahgre, White River, and Uintah bands of Ute Indians compromising and settling all existing controversies between themselves as to ownership and distribution of any judgments which may be obtained against the United States and as to ownership of land within the Uintah and Ouray Reservation and income issuing therefrom by providing that the same shall become the tribal property of all the Indians of the Ute Indian Tribe of the Uintah and Ouray Reservation without regard to band derivation is ratified, approved and confirmed. The funds apportioned to the Southern Utes under this section shall be divided between the Southern Utes of the Southern Ute Reservation and the Ute Mountain Tribe of the Ute Mountain Reservation as agreed between said tribes. The shares of the respective groups shall be credited to the existing accounts established pursuant to sections 155 and 161a to 161d of this title. None of the funds involved herein shall be credited or distributed to the Ute Indian Tribe of the Uintah and Ouray Reservation, consisting of the Uintah, Uncompahgre, and White Rivers Utes, until the Uncompahgre and White River Banks present to the Secretary of the Interior a release satisfactory to him, relieving the United States of any liability resulting from the inclusion of the Uintah Band in the disposition or use of said trust funds.

(Aug. 21, 1951, ch. 338, § 2, 65 Stat. 194.)

REFERENCES IN TEXT

Act of June 28, 1938, referred to in text, is act June 28, 1938, ch. 776, 52 Stat. 1209, which was not classified to the Code.

§ 673. Repealed. Pub. L. 97–375, title I, § 108(b), Dec. 21, 1982, 96 Stat. 1820

Section, act Aug. 21, 1951, ch. 338, § 3, 65 Stat. 194, directed Secretary of the Interior to make a full and complete progress report to Congress of his activities and of expenditures authorized under section 671 of this title.

§ 674. Use of funds of the Ute Mountain Tribe of the Ute Mountain Reservation for expenditure and per capita payments; taxation of lands and funds; regulations applicable to loans

Notwithstanding any other provisions of existing laws, the tribal funds now on deposit or hereafter deposited in the United States Treasury to the credit of the Ute Mountain Tribe of the Ute Mountain Reservation, may be expended or advanced for such purposes and in a manner, including per capita payments, the purchase of land or any interests therein or improvements thereon and water rights, as may be designated by the Ute Mountain Tribal Council and approved by the Secretary of the Interior: *Provided*, That the purchase of taxable lands under this authority shall not operate to remove such lands from the tax rolls: *Provided further*, That neither the transfer to the tribe of tribal funds, nor the distribution thereof to individual members of the tribe, as provided herein, from those funds consisting of compensation for lands acquired by the United States Government, shall be subject to Federal tax: *And provided further*, That any funds advanced for loans by the tribe to individual Indians or associations of Indians shall be subject to regulations established for the making of loans from the revolving loan fund authorized by section 470 of this title.

(Aug. 12, 1953, ch. 406, § 1, 67 Stat. 540.)

§ 675. Restriction on payment of funds for agents' or attorneys' fees

No part of the funds authorized to be expended or advanced pursuant to section 674 of this title shall be paid or disbursed to or received by any agent or attorney on account of any contract for services rendered or to be rendered or expenses in the preparation of any suit against the United States.

(Aug. 12, 1953, ch. 406, § 2, 67 Stat. 540.)

§ 676. Use of funds of Southern Ute Tribe of Southern Ute Reservation for expenditure and per capita payments; regulations applicable to loans

Notwithstanding any other provisions of existing laws, the tribal funds now on deposit or hereafter deposited in the United States Treasury to the credit of the Southern Ute Tribe of the Southern Ute Reservation, may be expended or advanced for such purposes and in a manner, including per capita payments the purchase of land or any interests therein or improvements thereon and water rights, as may be designated by the Southern Ute Tribal Council and approved by the Secretary of the Interior: *Provided*, That the purchase of taxable lands under this authority shall not operate to remove such lands from the tax rolls: *Provided further*, That neither the transfer to the tribe of tribal funds, nor the distribution thereof to individual members of the tribe, as provided herein, from those funds consisting of compensation for lands acquired by the United States Government, shall be subject to Federal tax: *Provided further*, That any funds advanced for loans by the tribe to individual Indians or associations of Indians shall be subject to regulations established for the making of loans from the revolving loan fund authorized by section 470 of this title: *And provided further*, That no part of the funds authorized to be expended or advanced by this section shall be paid or disbursed to or received by any agent or attorney on account of any contract for

services rendered or to be rendered or expenses in the preparation of any suit against the United States.

(June 28, 1954, ch. 405, 68 Stat. 300.)

§ 676a. Distribution of judgment fund

The Secretary of the Interior is hereby authorized and directed to divide the trust fund belonging to the Confederated Bands of Ute Indians appropriated by the Second Supplemental Appropriations Act, 1965, and deposited in the United States Treasury pursuant to the final judgment entered in Indian Claims Commission docket numbered 327, including the interest thereon, by crediting 60 per centum to the Ute Indian Tribe of the Uintah and Ouray Reservation, and the Ute Distribution Corporation, to the Ute Mountain Tribe of the Ute Mountain Reservation,[1] 20 per centum to the Ute Mountain Tribe of the Ute Mountain Reservation, and 20 per centum for the Southern Ute Tribe of the Southern Ute Reservation. The portion of the trust fund, upon its division as herein directed, credited to the Ute Indian Tribe of the Uintah and Ouray Reservation, to the Ute Distribution Corporation, to the Ute Mountain Tribe of the Ute Mountain Reservation, and to the Southern Ute Tribe of the Southern Ute Reservation, shall be available for use in accordance with existing authorizations for use of funds of the tribes and the Ute Distribution Corporation, including the Act of August 21, 1951 (65 Stat. 193), as amended [25 U.S.C. 671–673], the Act of August 12, 1953 (67 Stat. 540) [25 U.S.C. 674, 675], the Act of June 28, 1954 (68 Stat. 300) [25 U.S.C. 676], and the Act of August 27, 1954 (68 Stat. 868), as amended [25 U.S.C. 677 et seq.]. Any part of such funds that may be distributed to the members of the tribe shall not be subject to Federal or State income taxes.

(Pub. L. 90–60, Aug. 1, 1967, 81 Stat. 164; Pub. L. 90–332, June 7, 1968, 82 Stat. 171.)

REFERENCES IN TEXT

The Second Supplemental Appropriations Act, 1965, referred to in text, is Pub. L. 89–16, Apr. 30, 1965, 79 Stat. 81. The trust fund appropriated by the Second Supplemental Appropriations Act, 1965, was provided for by title IV of the Act which was not classified to the Code.

Act of August 27, 1954, referred to in text, is act Aug. 27, 1954, ch. 1009, 68 Stat. 868, as amended, which is classified generally to subchapter XXVIII (§ 677 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1968—Pub. L. 90–332 inserted reference to Ute Mountain Tribe of Ute Mountain Reservation in provisions covering authorized uses of trust funds, inserted reference to Act August 12, 1953, and made minor changes in punctuation.

§ 676b. Distribution of judgment fund; deductions; availability for certain uses

The unexpended balance of funds on deposit in the Treasury to the credit of the Confederated Bands of Ute Indians appropriated by the Act of May 13, 1966 (80 Stat. 141), pursuant to the final judgment entered in Court of Claims case numbered 47567; and the funds on deposit to the credit of the Ute Tribe of the Uintah and Ouray Reservation, for and on behalf of the Uncompahgre Band of Ute Indians, that were appropriated by the Act of April 30, 1965 (79 Stat. 81), to pay a judgment by the Indians Claims Commission in docket numbered 349; and the interest thereon, less attorney fees and litigation expenses, shall be available for use by the respective tribes in accordance with the Act of August 21, 1951 (65 Stat. 193; 25 U.S.C. 672), the Act of August 12, 1953 (67 Stat. 540; 25 U.S.C. 674), the Act of June 28, 1954 (68 Stat. 300; 25 U.S.C. 676), and the Act of August 27, 1954 (68 Stat. 868; 25 U.S.C. 677), as amended.

(Pub. L. 91–420, § 1, Sept. 25, 1970, 84 Stat. 871.)

REFERENCES IN TEXT

Act of May 13, 1966, referred to in text, is act May 13, 1966, Pub. L. 89–426, 80 Stat. 141, which was not classified to the Code.

The Court of Claims, referred to in text, and the Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

Act of April 30, 1965, referred to in text, is act Apr. 30, 1965, Pub. L. 89–16, 79 Stat. 81, known as the Second Supplemental Appropriations Act, 1965. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Act of August 27, 1954, referred to in text, is act Aug. 27, 1954, ch. 1009, 68 Stat. 868, as amended, which is classified generally to subchapter XXVIII (§ 677 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 676b–1. Tax exemption

Any portion of the funds distributed per capita to the members of the respective tribes shall not be subject to Federal or State income tax.

(Pub. L. 91–420, § 2, Sept. 25, 1970, 84 Stat. 871.)

SUBCHAPTER XXVIII—UTE INDIANS OF UTAH: DISTRIBUTION OF ASSETS BETWEEN MIXED-BLOOD AND FULL-BLOOD MEMBERS; TERMINATION OF FEDERAL SUPERVISION OVER PROPERTY OF MIXED-BLOOD MEMBERS

§ 677. Purpose

The purpose of this subchapter is to provide for the partition and distribution of the assets of the Ute Indian Tribe of the Uintah and Ouray Reservation in Utah between the mixed-blood and full-blood members thereof; for the termination of Federal supervision over the trust, and restricted property, of the mixed-blood members of said tribe; and for a development program for the full-blood members thereof, to assist them in preparing for termination of Federal supervision over their property.

(Aug. 27, 1954, ch. 1009, § 1, 68 Stat. 868.)

[1] So in original.

REPEAL OF INCONSISTENT LAWS

Section 29 of act Aug. 27, 1954, provided that: ''All Acts or parts of Acts, inconsistent with this Act [this subchapter] are hereby repealed insofar as they affect the tribe or its members.''

SEPARABILITY

Section 30 of act Aug. 27, 1954, provided that: ''If any provision of this Act [this subchapter], or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.''

§ 677a. Definitions

For the purposes of this subchapter—

(a) ''Tribe'' means the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah.

(b) ''Full-blood'' means a member of the tribe who possesses one-half degree of Ute Indian blood and a total of Indian blood in excess of one-half, excepting those who become mixed-bloods by choice under the provisions of section 677c of this title.

(c) ''Mixed-blood'' means a member of the tribe who does not possess sufficient Indian or Ute Indian blood to fall within the full-blood class as herein defined, and those who become mixed-bloods by choice under the provisions of section 677c of this title.

(d) ''Secretary'' means Secretary of the Interior.

(e) ''Superintendent'' means the Superintendent of the Uintah and Ouray Reservation, Utah.

(f) ''Asset'' means any property of the tribe, real, personal or mixed, whether held by the tribe or by the United States in trust for the tribe, or subject to a restriction against alienation imposed by the United States.

(g) ''Adult'' means a member of the tribe who has attained the age of twenty-one years.

(Aug. 27, 1954, ch. 1009, § 2, 68 Stat. 868.)

§ 677b. Method of determining Ute Indian blood

For the purposes of this subchapter Ute Indian blood shall be determined in accordance with the constitution and bylaws of the tribe and all tribal ordinances in force and effect on August 27, 1954.

(Aug. 27, 1954, ch. 1009, § 3, 68 Stat. 868.)

§ 677c. Transfer of members from full-blood roll to mixed-blood group; time; certification by Secretary

Any member of the tribe whose name appears on the proposed roll of full-blood members as provided in section 677g of this title and any person whose name is added to such proposed roll as the result of an appeal to the Secretary may apply to the Superintendent to become identified with and a part of the mixed-blood group: *Provided*, That such application is made within thirty days subsequent to the publication of such proposed roll or in the event of an appeal within thirty days subsequent to notification of the decision on said appeal: *And provided further*, That before such transfer is made upon the official rolls the Secretary shall first certify that, in his opinion, such change in status is not detrimental to the best interest of the person seeking such change.

(Aug. 27, 1954, ch. 1009, § 4, 68 Stat. 868.)

§ 677d. Restriction of tribe to full-blood members after publication of final rolls; non-interest of mixed-blood members; new membership

Effective on the date of publication of the final rolls as provided in section 677g of this title the tribe shall thereafter consist exclusively of full-blood members. Mixed-blood members shall have no interest therein except as otherwise provided in this subchapter. New membership in the tribe shall thereafter be controlled and determined by the constitution and bylaws of the tribe and ordinances enacted thereunder.

(Aug. 27, 1954, ch. 1009, § 5, 68 Stat. 868; Aug. 2, 1956, ch. 880, § 1, 70 Stat. 936.)

AMENDMENTS

1956—Act Aug. 2, 1956, provided for control and determination of new membership in the tribe in accordance with the constitution and bylaws of the tribe and ordinances enacted thereunder.

§ 677e. Organization of mixed-blood members; constitution and bylaws; representatives; actions in absence of organization

The mixed-blood members of the tribe, including those residing on and off the reservation, shall have the right to organize for their common welfare, and may adopt an appropriate constitution and bylaws which shall become effective when ratified by a majority vote of the adult mixed-blood members of the tribe at a special election authorized and called by the Secretary under such rules and regulations as he may prescribe. Such constitution may provide for the selection of authorized representatives who shall have power to take any action that is required by this subchapter to be taken by the mixed-blood members as a group: *Provided*, That nothing herein contained shall be construed as requiring said mixed-blood Indians to so organize if such organization is by them deemed unnecessary. In the event no such approved organization is effected, any action taken by the adult mixed-blood members, by majority vote, whether in public meeting or by referendum, but in either event, after such notice as may be prescribed by the Secretary, shall be binding upon said mixed-blood members of the tribe for the purposes of this subchapter.

(Aug. 27, 1954, ch. 1009, § 6, 68 Stat. 868.)

§ 677f. Employment of legal counsel for mixed-blood members; fees

The mixed-blood members of the tribe as a group may employ legal counsel to accomplish the legal work required on behalf of said group under the terms of this subchapter, and for any other purpose by them deemed necessary or desirable; the choice of counsel and fixing of fees to be subject to the approval of the Secretary until Federal supervision over all of the members of said group and their property is terminated in the manner provided in section 677*o* of this title.

(Aug. 27, 1954, ch. 1009, § 7, 68 Stat. 869.)

§ 677g. Membership rolls of full-blood and mixed-blood members; preparation and initial publication; appeal from inclusion or omission from rolls; finality of determination; final publication; inheritable interest; future membership

The tribe shall have a period of thirty days from August 27, 1954 in which to prepare and submit to the Secretary a proposed roll of the full-blood members of the tribe, and a proposed roll of the mixed-blood members of the tribe, living on August 27, 1954. If the tribe fails to submit such proposed rolls within the time specified in this subchapter, the Secretary shall prepare such proposed rolls for the tribe. Said proposed rolls shall be published in the Federal Register, and in a newspaper of general circulation in each of the counties of Uintah and Duchesne in the State of Utah. Any person claiming membership rights in the tribe, or an interest in its assets, or a representative of the Secretary on behalf of any such person, within sixty days from the date of publication in the Federal Register, or in either of the papers of general circulation, as hereinbefore provided, whichever publication date is last, may file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from either of such proposed rolls. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals to the Secretary, and after all transfers have been made pursuant to section 677c of this title the roll of the full-blood members of the tribe, and the roll of the mixed-blood members of the tribe, shall be published in the Federal Register, and such rolls shall be final for the purposes of this subchapter, but said sections shall not be construed as granting any inheritable interest in tribal assets to full-blood members of the tribe or as preventing future membership in the tribe, after August 27, 1954, in the manner provided in the constitution and bylaws of the tribe.

(Aug. 27, 1954, ch. 1009, § 8, 68 Stat. 869; Aug. 2, 1956, ch. 880, § 2, 70 Stat. 936.)

AMENDMENTS

1956—Act Aug. 2, 1956, prohibited constructions of this subchapter granting inheritable interest in tribal assets to full-blood members of the tribe or preventing future membership in the tribe in accordance with its constitution and bylaws.

§ 677h. Sale or other disposition of certain described lands; funds; relief of United States from liability; assigned lands

The business committee of the tribe for and on behalf of the full-blood members of said tribe, and the duly authorized representatives for the mixed-blood members of said tribe, acting jointly, are authorized, subject to the approval of the Secretary, to sell, exchange, dispose of, and convey to any purchaser deemed satisfactory to said committee and representatives, any or all of the lands of said tribe described as follows, to wit:

Description	Section	Acres
Township 1 North, Range 1 East:		
NW/4 SW/4	35	40.00
Township 1 North, Range 1 West:		
W/2 NE/4	20	80.00
SE/4 SW/4	21	40.00
NE/4 NW/4; N/2 SW/4	28	120.00
Total		240.00
Township 2 North, Range 1 West:		
E/2 SW/4 NE/4	35	20.00
Township 1 South, Range 1 West:		
NW/4 SE/4	6	40.00
Lot 3	7	40.51
S/2 NE/4; NE/4 SE/4; W/2 SW/4 NW/4; W/2 NW/4 SW/4	16	160.00
E/2 SE/4	17	80.00
E/2 NE/4	20	80.00
SE/4 SE/4	29	40.00
Lot 2	30	40.26
SW/4 NW/4; SW/4 SE/4	35	80.00
SW/4 NE/4	36	40.00
Total		600.77
Township 1 South, Range 2 West:		
NW/4 SW/4	12	40.00
S/2 NE/4; N/2 SE/4	14	160.00
Total		200.00
Township 1 South, Range 3 West:		
SW/4 E/4	8	40.00
NW/4S NW/4	16	40.00
Total		80.00
Township 1 South, Range 8 West:		
W/2 SW/4	3	80.00
NE/4 SE/4	4	40.00
All	5	721.00
All	6	695.40
NE/4 NW/4	10	40.00
NE/4 SW/4	12	40.00
SW/4 NW/4	14	40.00
Total		1,656.40
Township 2 South, Range 1 West:		
S/2 SW/4; SE/4 SE/4	1	120.00
Lot 3; SE/4 NW/4	4	81.28
Lots 1 & 2; E/2 NW/4; W/2 NE/4	7	237.78
NW/4 NW/4	12	40.00
SE/4 NE/4	13	40.00
Total		519.06
Township 2 South, Range 1 East:		
Lot 2; SE/4 NW/4	18	79.71
Township 2 South, Range 2 West:		
S/2 S/2	2	160.00
N/2	12	320.00
Total		480.00
Township 2 South, Range 3 West:		
E/2 NE/4	17	80.00
NE/4 SW/4; S/2 SE/4	19	120.00
NW/4 SW/4	29	40.00
Lots 1 & 2; E/2 NW/4; NE/4	30	316.36
Lot 2; SE/4 NW/4	31	78.40
Total		634.76
Township 2 South, Range 4 West:		
SW/4 SW/4	1	40.00
SE/4 SW/4; SW/4 SE/4	9	80.00
W/2 NE/4	16	80.00
NE/4	28	160.00
N/2 SE/4	32	80.00
Lots 3 & 4; N/2 SW/4	33	167.31
NE/4 SW/4; N/2 SE/4; Lots 1 & 2	36	200.46
Total		807.77
Township 2 South, Range 5 West:		
NW/4	10	160.00
NE/4 NE/4	29	40.00
N/2 NE/4; SE/4 NE/4	33	120.00
W/2 NW/4; SE/4 NW/4; N/2 SW/4; SE/4 SW/4; S/2 SE/4	34	320.00
NW/4 SE/4	36	40.00
Total		680.00
Township 2 South, Range 7 West:		
NE/4 SE/4; SW/4 SW/4	13	80.00

Description	Section	Acres
NE/4 NE/4; SW/4 NW/4; N/2 SW/4; SE/4 SW/4; W/2 SE/4; SE/4 SE/4	14	320.00
W/2 NE/4; SE/4 NE/4	15	120.00
N/2 NE/4	23	80.00
N/2 N/2; SE/4 NE/4	24	200.00
Total		800.00
Township 2 South, Range 8 West:		
SE/4 SW/4	31	40.00
Township 3 South, Range 1 East:		
Lot 2; SE/4 NW/4; S/2 NE/4	7	158.12
N/2 SW/4; SW/4 NE/4; NW/4 SE/4	16	160.00
Lots 1, 2 & 3; NE/4 SW/4	18	155.35
E/2 NE/4	30	80.00
Total		553.47
Township 3 South, Range 2 East:		
Lot 8	6	35.49
SW/4 SW/4	25	40.00
SE/4 NW/4; E/2 SW/4	36	120.00
Total		195.49
Township 3 South, Range 1 West:		
N/2 SE/4	3	80.00
Lots 1–8, Incl	22	331.46
Lots 1–4, Incl.; S/2 N/2	23	338.28
Lots 1–4, Incl.; S/2 N/2	24	341.20
W/2 SE/4	25	80.00
Total		1,170.94
Township 3 South, Range 2 West:		
S/2 S/2	9	160.00
S/2 SE/4	7	80.00
SW/4 SW/4	8	40.00
W/2 SW/4	15	80.00
NE/4 SW/4; NW/4; SE/4	16	360.00
SW/4 SW/4	17	40.00
NE/4 NE/4	18	40.00
N/2 NE/4	21	80.00
N/2 NW/4	24	80.00
W/2 SW/4	33	80.00
Total		1,040.00
Township 3 South, Range 3 West:		
S/2 NW/4; NE/4 SW/4; N/2 SE/4	2	200.00
NW/4 SE/4; N/2 SW/4	17	120.00
All (Lots 1–4, Incl., E/2 W/2; E/2)	19	633.87
SW/4 SW/4	20	40.00
E/2 SW/4	21	80.00
N/2 NW/4; S/2 NE/4; NE/4 SE/4	29	200.00
W/2 NE/4; NE/4 NW/4; Lot 1	30	158.66
Total		1,432.53
Township 3 South, Range 4 West:		
SW/4 NW/4	11	40.00
S/2 SE/4; SE/4 SW/4; N/2 S/2	13	280.00
NE/4; NE/4 NW/4	24	200.00
SE/4 NE/4; W/2 NE/4; E/2 NW/4	26	200.00
E/2 NE/4	30	80.00
Total		800.00
Township 3 South, Range 5 West:		
Lots 1 & 2; SE/4 NE/4	3	118.86
Lot 4; SW/4 NW/4; W/2 SW/4; SE/4 SW/4	2	199.58
S/2 NE/4; N/2 SE/4	5	160.00
NW/4; W/2 NE/4; NE/4 SW/4; NW/4 SE/4	11	320.00
W/2 E/2	12	160.00
W/2 E/2	13	160.00
SW/4 NW/4; N/2 SW/4; SW/4 SW/4	21	160.00
E/2 NE/4	34	80.00
Total		1,358.44
Township 3 South, Range 7 West:		
Lots 3 & 4	7	66.55
S/2	13	320.00
NW/4 SW/4	16	40.00
E/2 SE/4; SW/4 SE/4; W/2 NW/4	17	200.00
E/2 NE/4; Lots 1 & 2	18	147.16
Total		773.71
Township 3 South, Range 8 West:		
E/2; NW/4; E/2 SW/4	35	560.00
S/2 S/2	1	160.00
SW/4	2	160.00
W/2 SE/4	3	80.00
Lots 3; SE/4 NW/4; NE/4 SW/4	6	120.04
SE/4	9	160.00
NE/4	10	160.00
S/2 NW/4	11	80.00
NW/4; SE/4	12	320.00
N/2 NE/4; SE/4 NE/4; SE/4; NE/4 NW/4	13	320.00
NE/4; S/2	14	480.00
S/2	15	320.00
W/2 NE/4; S/2 NW/4	27	160.00
Total		3,080.04
Township 3 South, Range 9 West:		
SW/4 NW/4; NW/4 SW/4	27	80.00
Township 4 South, Range 2 West:		
Lot 3; NE/4 SW/4; N/2 SE/4	7	159.70
E/2 NE/4; SW/4 NE/4	12	120.00
E/2 NW/4; SW/4 NW/4	16	120.00
SE/4 NE/4; NW/4; NW/4 SW/4; N/2 SE/4	17	320.00
Lot 1	18	39.91
SE/4, S/2 NE/4; S/2 SW/4	21	320.00
S/2	22	320.00
W/2 SW/4	23	80.00
Lot 4	26	6.89
Lots 1–4, Incl	27	26.59
Lots 1–4, Incl	28	126.64
Lots 1–6, Incl.; NE/4; E/2 NW/4	30	475.16
Total		2,114.89
Township 4 South, Range 3 West:		
Lot 10	2	40.90
E/2 NE/4; NE/4 SE/4	13	120.00
Lots 1 & 2; N/2 SE/4; SW/4; N/2	25	622.29
All	26	640.00
Lots 1–6, Incl.; NW/4 NW/4	35	237.96
Lot 1	36	25.75
Total		1,686.90
Township 4 South, Range 4 West:		
S/2	25	320.00
Township 4 South, Range 8 West:		
N/2	29	320.00
Township 4 South, Range 9 West:		
S/2	9	320.00
All	10	640.00
All	11	640.00
S/2	12	320.00
N/2; N/2 S/2; SE/4 SE/4	13	520.00
N/2	14	320.00
N/2	15	320.00
N/2	16	320.00
N/2	17	320.00
Lots 3 & 4; E/2 SW/4; SE/4	18	319.09
Lots 1 & 2; E/2 NW/4; NE/4	19	319.37
Total		4,358.46
Township 4 South, Range 10 West:		
S/2	13	320.00
SE/4 NW/4; E/2 SW/4	17	120.00
NE/4 NW/4	20	40.00
Total		480.00
Township 5 South, Range 7 West:		
S/2 SW/4	35	80.00
Township 5 South, Range 9 West:		
SE/4 NW/4; S/2 NE/4	34	120.00
SW/4 NW/4	35	40.00
Total		160.00
Township 6 South, Range 9 West:		
SW/4 SE/4	5	40.00
W/2 NE/4; NW/4 SE/4	8	120.00
Total		160.00
Grand total		27,043.34

All such sales, exchanges, or other dispositions shall be made upon such terms as said committee and said authorized representatives shall deem satisfactory and may be made pursuant to bids or at private sale, and all funds or other property derived from such sales, exchanges, or other dispositions shall be subject to the terms of this subchapter. Consent by the tribal business committee and said authorized representatives to the sale, exchange, or other disposal of the lands herein described shall relieve the

United States of any liability resulting from such sale, exchange, or other disposition. The tribal business committee and said authorized representatives are further authorized to sell or dispose of tribal assigned lands to the assignees thereof under such terms and conditions as may be agreed upon by the said tribal business committee and said authorized representatives with the assignees, subject, however, to the approval of the Secretary.

(Aug. 27, 1954, ch. 1009, § 9, 68 Stat. 869.)

§ 677i. Division of assets; basis; prior alienation or encumbrance; partition by Secretary upon nonagreement; assistance; management of claims and rights; division of net proceeds; applicability of usual processes of the law to originally owned stock of corporate representative and to corporate distributions

The tribal business committee representing the full-blood group, and the authorized representatives of the mixed-blood group, within sixty days after the publication of the final membership roll, as provided in section 677g of this title, shall commence a division of the assets of the tribe that are then susceptible to equitable and practicable distribution. Such division shall be by agreement between them subject to the approval of the Secretary. Said division shall be based upon the relative number of persons comprising the final membership roll of each group. After such division the rights or beneficial interests in tribal property of each mixed-blood person whose name appears on the roll shall constitute an undivided interest in and to such property which may be inherited or bequeathed, but shall be subject to alienation or encumbrance before the transfer of title to such tribal property only as provided herein. Any contract made in violation of this section shall be null and void. If said groups are unable to agree upon said division within a period of twelve months from the date of such commencement, or any authorized extension of said period granted within the discretion of the Secretary, the Secretary is authorized to partition the assets of the tribe in such manner as in his opinion will be equitable and fair to both groups. Such partition shall give rise to no cause of action against the United States and the costs of such partition shall be paid by the tribe. The Secretary is authorized to provide such reasonable assistance as may be requested by both groups, or by either group, in formulation and execution of a plan for the division of said assets, including necessary technical services of Government employees at Fort Duchesne, Utah, and arranging for necessary consultations with representatives of Federal departments and agencies, officials of the State of Utah, and political subdivisions thereof, and members of the tribe. All unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not susceptible to equitable and practicable distribution shall be managed jointly by the Tribal Business Committee and the authorized representatives of the mixed-blood group, subject to such supervision by the Secretary as is otherwise required by law, and the net proceeds therefrom after deducting the costs chargeable to such management shall first be divided between the full-blood and mixed-blood groups in direct proportion to the number of persons comprising the final membership roll of each group and without regard to the number of persons comprising each group at the time of the division of such proceeds.

The stock of any corporation organized by the mixed-blood group for the purpose of empowering the officers of such corporation to act as the authorized representatives of said mixed-blood group in the joint management with the tribe and in the distribution and[1] unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not susceptible to equitable and practicable distribution shall not be subject to mortgage, pledge, hypothecation, levy, execution, attachment or other similar process, while such stock remains in the ownership of the original stockholder or his heirs or legatees, but the interest of stockholders in any distribution by such corporation shall be subject to the usual processes of the law.

(Aug. 27, 1954, ch. 1009, § 10, 68 Stat. 873; Pub. L. 87–698, Sept. 25, 1962, 76 Stat. 597.)

REFERENCES IN TEXT

Herein, referred to in text, means act Aug. 27, 1954, ch. 1009, 68 Stat. 868, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1962—Pub. L. 87–698 inserted last paragraph providing that originally owned stock of corporate representative should not be subject to the usual processes of the law but that corporate distributions should be subject to them.

§ 677j. Advances or expenditures from tribal funds; restrictions on mixed-blood group until adoption of plan for terminating supervision

Notwithstanding any other provision of existing law, the tribal funds now on deposit or hereafter deposited in the United States Treasury to the credit of the tribe or either group thereof, shall be available for advance to the tribe or the respective groups, or for expenditure, for such purposes, including per capita payments, as may be designated by the Tribal Business Committee for the full-blood members, and by the authorized agents of the mixed-blood members, and in either event subject to the approval of the Secretary: *Provided*, That the aggregate amount of the expenditures and advances authorized by this section for the mixed-blood group shall not exceed 50 per centum of the total funds of said mixed-blood group after such division, until said mixed-blood group has adopted a plan approved by the Secretary for termination of Federal supervision of said mixed-blood group, as required under section 677*l* of this title. After such termination of Federal supervision, per capita payments to the mixed-blood group shall not be subject to approval of the Secretary.

(Aug. 27, 1954, ch. 1009, § 11, 68 Stat. 873.)

[1] So in original. Probably should be "of".

§ 677k. Adjustment of debts in making per capita payments to mixed-blood members; execution of mortgages on property

Fifty per centum of all per capita payments to any individual mixed-blood member made pursuant to any division or distribution hereunder shall have deducted therefrom any sum or sums of money owed by such member to the tribe, whether due or to become due, unless in the opinion of the Secretary said debts are not adequately secured in which event the entire per capita payment shall be subject to such offset. Any other division, partition or distribution of property to any individual mixed-blood member made pursuant to this subchapter shall be subject to a mortgage to be made in favor of the tribe securing the payment of all sums of money owed by him to the tribe on the date of such division, partition or distribution to such individual mixed-blood member. The Secretary shall require the execution of any mortgage required under this section as a condition to any such division, partition or distribution.

(Aug. 27, 1954, ch. 1009, § 12, 68 Stat. 874.)

REFERENCES IN TEXT

Hereunder, referred to in text, means act Aug. 27, 1954, ch. 1009, 68 Stat. 868, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

§ 677*l*. Distribution to individual members of mixed-blood group; preparation and approval of plan; assistance; provisions permitted in plan

After the adoption of a plan for the division of the assets between the two groups, a plan for distribution of the assets of the mixed-blood group to the individual members thereof shall be prepared and ratified by a majority of said group, within the period of six months from such adoption and presented to the Secretary for approval. The Secretary is authorized to provide such reasonable assistance, including necessary technical service of Government employees at Fort Duchesne, Utah, and arranging for necessary consultations with representatives of Federal departments and agencies, officials of the State of Utah and political subdivisions thereof, as may be required by the mixed-blood group in the preparation of such plan.

The plan for division of the assets among the members of the mixed-blood group may include:

(1) Complete disposition of all cash assets of said group, reserving, however, sufficient funds to cover—

(i) the proportionate share of said mixed-blood group in and to all expenses incurred in effecting the purposes of this subchapter, including, but not limited to, the necessary expense incurred under this section and section 677m of this title;

(ii) the just and proportionate share of the mixed-bloods in the expense incurred in the prosecution of the claims of the tribe, or the bands thereof, against the United States; and

(iii) the determinable and estimated administrative costs and expenses of any mixed-blood organization authorized by this subchapter, including lawful and reasonable salaries and fees of authorized agents, officers and employees of said mixed-blood group.

(2) Partition of the lands of the mixed-blood group, excepting all gas, oil, and mineral rights, to corporations, partnerships, or other legal entities, and to trustees, and the individual members of said groups, quality and quantity relatively considered, according to the respective rights and interests of the parties, located so as to embrace, as far as practicable, any improvements lawfully made by the person or persons receiving such land. The value of the improvements made, under a valid lease or assignment from the tribe, shall be excluded from the valuation in making allotments to the lessee or assignee, and the land must be valued without regard to such improvements unless the lease or assignment, under which said improvements were made, provided that such improvements should become the property of the tribe. In the making of any partition due consideration shall be given to all of the rights and interests of the person or persons receiving the property, and all of the rights and interests of the other members of the tribe. Two or more of the members of said mixed-blood group may obtain their share of property as tenants in common, as joint tenants, or in any other lawful manner when such members agree among themselves as to the manner in which they desire to receive such title. When it appears that an equitable partition cannot be made among the members of said mixed-blood group without prejudice to the rights and interests of some of them, and yet a partition is directed by the group, the members of said group may voluntarily determine compensation to be made by one party to another on account of the inequity. In all cases where equity is agreed upon by the members of said mixed-blood group, such compensatory adjustment among the parties, according to the principles of equity, must be approved by the Secretary. In the event of a failure to agree upon an equitable compensatory adjustment among the parties the Secretary shall make such adjustment and his decision shall be final.

(3) Organization of corporations for the grazing of livestock, handling of water and water rights, and the shares therein may be issued to the members of said group in proportion to their interests in the assets of such corporations. When, in the opinion of said mixed-blood group, it is to the best interest of said group to transfer a portion of the assets of said group to a corporation or other legal entity for any purpose, the Secretary is authorized to make such transfer.

(4) A transfer of assets to one or more trustees designated by said group who shall hold title to all or any part of the property of said group for management or liquidation purposes under terms and conditions prescribed by said mixed-blood group. The Secretary is authorized to make such transfer, and approve the trustees, and the terms and conditions of the trust.

(5) Sale of any portion of the assets of said group subject to the approval of the Secretary. In addition to the sales herein otherwise authorized, authority is granted to the authorized representatives of said group to sell any property of said group when, in the opinion of the majority of said mixed-blood group, a practicable partition cannot be made, or for any other reason it is deemed to the best interests of the group, and the proceeds of such sales shall be distributed equitably among the members of said mixed-blood group; after deducting reasonable cost of sale and distribution.

(Aug. 27, 1954, ch. 1009, § 13, 68 Stat. 874.)

§ 677m. Procedure by Secretary if distribution not completed within seven years from August 27, 1954

In the event all the tribal assets, susceptible to equitable and practicable distribution, distributed to the mixed-blood group under the provisions of section 677i of this title, are not, within seven years from August 27, 1954, distributed to the individual mixed-blood members as contemplated in the plan to be adopted in accordance with the provisions of section 677*l* of this title, so as to effectively terminate Federal supervision over said assets, then the Secretary shall proceed to make such distribution in a manner, in his discretion, deemed fair and equitable to all members of said group, or convey such assets to a trustee for liquidation and distribution of the net proceeds, or convey such assets to the persons entitled thereto as tenants in common.

(Aug. 27, 1954, ch. 1009, § 14, 68 Stat. 875.)

§ 677n. Disposal by mixed-blood members of their individual interests in tribal assets; requisites and conditions

Any member of the mixed-blood group may dispose of his interest in the tribal assets prior to termination of Federal supervision, subject to the approval of the Secretary. In the event a member of the mixed-blood group determines to dispose of his interest in any of said real property at any time within ten years from August 27, 1954, he shall first offer it to the members of the tribe, and no sale of any interest, prior to termination of Federal supervision, shall be authorized without such offer to said members of the tribe in such form as may be approved by the Secretary. After termination of Federal supervision the requirement of such offer, in form to be approved by the Secretary, shall be a covenant to run with the land for said ten-year period, and shall be expressly provided in any patent or deed issued prior to the expiration of said period.

(Aug. 27, 1954, ch. 1009, § 15, 68 Stat. 876.)

§ 677*o*. Termination of restrictions on individually owned property of the mixed-blood group

(a) Transfer of control of trust property; removal of sales restrictions

When any mixed-blood member of the tribe has received his distributive share of the tribal assets distributed to the mixed-blood group under the provisions of section 677i of this title, whether such distribution is made in part or in whole to a corporation, partnership, or trusteeship in which he is interested, or otherwise, the Secretary is authorized and directed to immediately transfer to him unrestricted control of all other property held in trust for such mixed-blood member by the United States, and shall further remove all restrictions on the sale or encumbrance of trust or restricted property owned by such member of the tribe, and Federal supervision of such member and his property shall thereby be terminated, except as to his remaining interest in tribal property in the form of any unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other tribal assets not susceptible to equitable and practicable distribution, all of which shall remain subject to the terms of this subchapter, notwithstanding anything contained herein to the contrary.

(b) Partition or sale by Secretary prior to removal of restrictions

Prior to the removal of restrictions in accordance with the provisions of subsection (a) of this section on land owned by more than one person, the Secretary may—

(1) upon request of any of the owners, partition the land and issue to each owner an unrestricted patent or deed for his individual share, unless such owner is a full-blood member of the tribe or other Indian who owns trust or restricted property, in which event a trust patent or restricted deed shall be issued and such trust may be terminated or such restrictions may be removed when the Secretary determines that the need therefor no longer exists;

(2) upon request of any of the owners and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That before a sale any one or more of the owners may elect to purchase the other interests in the land, or the tribe may elect to purchase the entire interest in the land, at not less than the appraised value thereof.

(Aug. 27, 1954, ch. 1009, § 16, 68 Stat. 876.)

REFERENCES IN TEXT

Herein, referred to in subsec. (a), means act Aug. 27, 1954, ch. 1009, 68 Stat. 868, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

§ 677p. Tax exemption; exceptions and time limits; valuation for income tax on gains or losses

No distribution of the assets made under the provisions of this subchapter shall be subject to any Federal or State income tax: *Provided*, That so much of any cash distribution made hereinunder as consists of a share of any interest earned on funds deposited in the Treasury of the United States shall not by virtue of this subchapter be exempt from individual income tax in the hands of the recipients for the year in

which paid. Property distributed to the mixed-blood group pursuant to the terms of this subchapter shall be exempt from property taxes for a period of seven years from August 27, 1954, unless the original distributee parts with title thereto, either by deed, descent, succession, foreclosure of mortgage, sheriff's sale or other conveyance: *Provided*, That the mortgaging, hypothecation, granting of a right-of-way, or other similar encumbrance of said property shall not be construed as a conveyance subjecting said property to taxation under the provisions of this section. After seven years from August 27, 1954, all property distributed to the mixed-blood members of the tribe under the provisions of this subchapter, and all income derived therefrom by the individual, corporation, or other legal entity, shall be subject to the same taxes, State and Federal, as in the case of non-Indians; except that any corporation organized by the mixed-blood members for the purpose of aiding in the joint management with the tribe and in the distribution of unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not susceptible to equitable and practicable distribution shall not be subject to corporate income taxes. Any valuation for purposes of Federal income tax on gains or losses shall take as the basis of the particular taxpayer the value of the property on the date title is transferred by the United States pursuant to this subchapter.

(Aug. 27, 1954, ch. 1009, § 17, 68 Stat. 876; Aug. 2, 1956, ch. 880, § 3, 70 Stat. 936.)

AMENDMENTS

1956—Act Aug. 2, 1956, included within exception clause provisions respecting exemption from corporate income taxes.

§ 677q. Applicability of decedents' estates laws to individual trust property of mixed-blood members

The laws of the United States with respect to probate of wills, determination of heirship, and the administration of estates shall apply to the individual trust property of mixed-blood members of the tribe until Federal supervision is terminated. Thereafter, the laws of the several States, Territories, possessions, and the District of Columbia within which such mixed-blood members reside at the time of their death shall apply.

(Aug. 27, 1954, ch. 1009, § 18, 68 Stat. 877.)

§ 677r. Indian claims unaffected

Nothing in this subchapter shall affect any claim heretofore filed against the United States by the tribe, or the individual bands comprising the tribe.

(Aug. 27, 1954, ch. 1009, § 19, 68 Stat. 877.)

§ 677s. Valid leases, permits, liens, etc., unaffected

Nothing in this subchapter shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved.

(Aug. 27, 1954, ch. 1009, § 20, 68 Stat. 877.)

§ 677t. Water rights

Nothing in this subchapter shall abrogate any water rights of the tribe or its members.

(Aug. 27, 1954, ch. 1009, § 21, 68 Stat. 877.)

§ 677u. Protection of minors, persons non compos mentis, and other members needing assistance; guardians

For the purposes of this subchapter, the Secretary shall protect the rights of members of the tribe who are minors, non compos mentis, or, in the opinion of the Secretary, in need of assistance in conducting their affairs, by such means as he may deem adequate, but appointment of guardians pursuant to State laws, in any case, shall not be required until Federal supervision has terminated.

(Aug. 27, 1954, ch. 1009, § 22, 68 Stat. 877.)

§ 677v. Termination of Federal trust; publication; termination of Federal services; application of Federal and State laws

Upon removal of Federal restrictions on the property of each individual mixed-blood member of the tribe, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to such individual is terminated. Thereafter, such individual shall not be entitled to any of the services performed for Indians because of his status as an Indian. All statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to such member over which supervision has been terminated, and the laws of the several States shall apply to such member in the same manner as they apply to other citizens within their jurisdiction.

(Aug. 27, 1954, ch. 1009, § 23, 68 Stat. 877.)

§ 677w. Presentation of development program for full-blood group to eventually terminate Federal supervision

Within three months after August 27, 1954, the business committee of the tribe representing the full-blood group thereof shall present to the Secretary a development program calculated to assist in making the tribe and the members thereof selfsupporting, without any special Government assistance, with a view of eventually terminating all Federal supervision of the tribe and its members.

(Aug. 27, 1954, ch. 1009, § 24, 68 Stat. 877; Pub. L. 93–608, § 1(15), Jan. 2, 1975, 88 Stat. 1969.)

AMENDMENTS

1975—Pub. L. 93–608 struck out requirement of an annual progress report, through the Secretary, by the tribal business committee representing the full-blood group.

§ 677x. Citizenship status unaffected

Nothing in this subchapter, shall affect the status of the members of the tribe as citizens of the United States.

(Aug. 27, 1954, ch. 1009, § 25, 68 Stat. 877.)

§ 677y. Execution by Secretary of patents, deeds, etc.

The Secretary shall have authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments, as may be necessary or appropriate to carry out the provisions of this subchapter, or to establish a marketable and recordable title to any property disposed of pursuant to this subchapter.

(Aug. 27, 1954, ch. 1009, § 26, 68 Stat. 877.)

§ 677z. Rules and regulations; tribal or group referenda

The Secretary is authorized to issue rules and regulations necessary to effectuate the purposes of this subchapter, and may, in his discretion, provide for tribal or group referenda on matters pertaining to management or disposition of tribal or group assets.

(Aug. 27, 1954, ch. 1009, § 27, 68 Stat. 878.)

§ 677aa. Procedure by Secretary upon non-agreement between mixed-blood and full-blood groups

Whenever any action pursuant to the provisions of this subchapter requires the agreement of the mixed-blood and full-blood groups and such agreement cannot be reached, the Secretary is authorized to proceed in any manner deemed by him to be in the best interests of both groups.

(Aug. 27, 1954, ch. 1009, § 28, 68 Stat. 878.)

SUBCHAPTER XXIX—RED LAKE BAND OF CHIPPEWA INDIANS OF MINNESOTA

§ 681. Per capita payment to tribal members; rules and regulations

The Secretary of the Interior is authorized to withdraw as much as may be necessary from the fund on deposit in the Treasury of the United States arising from the proceeds of the sale of timber and lumber within the Red Lake Reservation in Minnesota, according to the provisions of the Act of May 18, 1916 (39 Stat. 137), to the credit of the Red Lake Indians in Minnesota, and to pay therefrom $100 to each member of the Red Lake Band of Chippewa Indians of Minnesota who is living on June 19, 1952. Such payment shall be made under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That such payment shall be made first from any funds on deposit in the Treasury of the United States to the credit of the Red Lake Band of the Chippewa Indians, of Minnesota, drawing interest at the rate of 5 per centum and thereafter from funds drawing 4 per centum.

(June 19, 1952, ch. 445, § 1, 66 Stat. 139.)

REFERENCES IN TEXT

Act of May 18, 1916, referred to in text, is act May 18, 1916, ch. 125, 39 Stat. 123. Provisions of the act relating to the sale of timber are set out at 39 Stat. 137 and were not classified to the Code.

§ 682. Payment free of liens or claims

No money paid to Indians under sections 681 to 683 of this title shall be subject to any lien or claim of attorneys or other persons. Before any payment is made under said sections, the Red Lake Band of Chippewa Indians of Minnesota shall, in such manner as may be prescribed by the Secretary of the Interior, ratify and accept the provisions of said sections.

(June 19, 1952, ch. 445, § 2, 66 Stat. 139.)

§ 683. Payments not "other income and resources"

Payments made under sections 681 to 683 of this title shall not be held to be ''other income and resources'' as that term is used in sections 302(a)(7), 602(a)(7),[1] and 1202(a)(8) of title 42.

(June 19, 1952, ch. 445, § 3, 66 Stat. 140.)

REFERENCES IN TEXT

Section 602 of title 42, referred to in text, was repealed and a new section 602 enacted by Pub. L. 104–193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, subsec. (a)(7) no longer contains the term ''other income and resources''.

§ 684. Per capita payment to tribal members; installments; rules and regulations

The Secretary of the Interior is authorized to withdraw as much as may be necessary from the fund on deposit in the Treasury of the United States arising from the proceeds of the sale of timber and lumber within the Red Lake Reservation in Minnesota, according to the provisions of the Act of May 18, 1916 (39 Stat. 137), to the credit of the Red Lake Indians in Minnesota, and to pay therefrom $50 to each member of the Red Lake Band of Chippewa Indians of Minnesota who is living on August 27, 1954. Such payment shall be made in two installments of $25 each, the first to be made within thirty days of ratification by the Red Lake Band of Chippewa Indians of Minnesota as provided for in section 685 of this title, the second installment ninety days thereafter, and under such other rules and regulations as the Secretary of the Interior may prescribe.

(Aug. 27, 1954, ch. 1011, § 1, 68 Stat. 878.)

REFERENCES IN TEXT

Act of May 18, 1916, referred to in text, is act May 18, 1916, ch. 125, 39 Stat. 123. Provisions of the act relating to sale of timber are set out at 39 Stat. 137 and were not classified to the Code.

§ 685. Payment free of liens or claims

No money paid to Indians under sections 684 to 686 of this title shall be subject to any lien or claim of attorneys or other persons. Before any payment is made under said sections, the Red Lake Band of Chippewa Indians of Minnesota shall, in such manner as may be prescribed by the Secretary of the Interior, ratify and accept the provisions of said sections.

(Aug. 27, 1954, ch. 1011, § 2, 68 Stat. 879.)

§ 686. Payments not "other income and resources"

Payments made under sections 684 to 686 of this title shall not be held to be ''other income

[1] See References in Text note below.

and resources'' as that term is used in sections 302(a)(7), 602(a)(7),[1] and 1202(a)(8) of title 42.

(Aug. 27, 1954, ch. 1011, § 3, 68 Stat. 879.)

REFERENCES IN TEXT

Section 602 of title 42, referred to in text, was repealed and a new section 602 enacted by Pub. L. 104–193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, subsec. (a)(7) no longer contains the term ''other income and resources''.

§ 687. Per capita payment to tribal members; rules and regulations

The Secretary of the Interior is authorized to withdraw as much as may be necessary from the fund on deposit in the Treasury of the United States arising from the proceeds of the sale of timber and lumber within the Red Lake Reservation in Minnesota, according to the provisions of the Act of May 18, 1916 (39 Stat. 137), to the credit of the Red Lake Indians in Minnesota, and to pay therefrom $100 to each member of the Red Lake Band of Chippewa Indians of Minnesota who is living on August 28, 1958. Such payment shall be made under such rules and regulations as the Secretary of the Interior may prescribe.

(Pub. L. 85–794, § 1, Aug. 28, 1958, 72 Stat. 958.)

REFERENCES IN TEXT

Act of May 18, 1916, referred to in text, is act May 18, 1916, ch. 125, 39 Stat. 123. Provisions of the act relating to sale of timber are set out at 39 Stat. 137 and were not classified to the Code.

PER CAPITA PAYMENTS FROM NET PROCEEDS

Section 4 of Pub. L. 85–794 amended the nineteenth paragraph of section 9 of act May 18, 1916, ch. 125, 39 Stat. 138, to read as follows: ''After the payment of all expenses connected with the administration of these lands as herein provided, the net proceeds therefrom shall be covered into the Treasury of the United States to the credit of the Red Lake Indians and draw interest at the rate of 4 per centum per annum. Any part of such fund or the interest thereon that is in excess of reserve and operating requirements, as determined by the Secretary of the Interior, may be distributed per capita to the members of the Red Lake Band upon request of the tribal council and approval by the Secretary.''

ADMINISTRATION OF RED LAKE INDIAN FOREST

Section 5 of Pub. L. 85–794, amended act May 18, 1916, ch. 125, § 9(17), 39 Stat. 137, to read as follows: ''The Red Lake Indian Forest shall be administered by the Secretary of the Interior in accordance with principles of scientific forestry that will encourage the production of successive timber crops for the benefit of the Indians of the Red Lake Band, and he is hereby authorized (a) to harvest, sell, and manufacture such marketable timber from any tribal lands within the Red Lake Indian Reservation as he may deem to be advisable and, if the timber is the growth of Red Lake Indian Forest, in keeping with the foregoing principles, (b) to establish nurseries and otherwise provide for the reforestation of said lands, (c) to construct and operate sawmills and other facilities for the manufacture into marketable products of the timber harvested from said lands, (d) to purchase, harvest, and manufacture such additional timber standing on or severed from any other lands, including lands outside the reservation, as in his opinion may contribute to the profitable operation of such sawmills and other facilities as a tribal enterprise, subject to such limitations on expenditures as may be prescribed in annual appropriations acts, and (e) to employ such persons and use such means as he may find necessary to carry out the purposes of the foregoing provisions. Any proceeds derived from sales of timber or timber products under this paragraph may be expended in payment of the expenses of any of the activities authorized by this paragraph including construction expenses.''

[1] See References in Text note below.

§ 688. Payment free of liens or claims

No money paid to Indians under sections 687 to 689 of this title shall be subject to any lien or claim of attorneys, or other persons.

(Pub. L. 85–794, § 2, Aug. 28, 1958, 72 Stat. 958.)

§ 689. Payments not "other income and resources"

Payments made under sections 687 to 689 of this title shall not be held to be ''other income and resources'' as that term is used in sections 302(a)(7), 602(a)(7),[1] and 1202(a)(8) of title 42.

(Pub. L. 85–794, § 3, Aug. 28, 1958, 72 Stat. 958.)

REFERENCES IN TEXT

Section 602 of title 42, referred to in text, was repealed and a new section 602 enacted by Pub. L. 104–193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, subsec. (a)(7) no longer contains the term ''other income and resources''.

§ 690. Distribution of judgment fund; tax exemption of per capita payments

The funds on deposit in the Treasury of the United States to the credit of the Red Lake Band of Chippewa Indians that were appropriated by the Act of June 9, 1964, to pay a judgment by the Indian Claims Commission in docket 18A, and the interest thereon, after payment of attorney fees and expenses, may be advanced or expended for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior. Any part of such funds that may be distributed per capita to the members of the tribe shall not be subject to Federal or State income tax.

(Pub. L. 88–663, Oct. 13, 1964, 78 Stat. 1093.)

REFERENCES IN TEXT

Act of June 9, 1964, referred to in text, is act June 9, 1964, Pub. L. 88–317, 78 Stat. 204, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

SUBCHAPTER XXX—WESTERN OREGON INDIANS: TERMINATION OF FEDERAL SUPERVISION

§ 691. Purpose

The purpose of this subchapter is to provide for the termination of Federal supervision over the trust and restricted property of certain tribes and bands of Indians located in western Oregon and the individual members thereof, for the disposition of federally owned property acquired or withdrawn for the administration of the affairs of such Indians, and for a termi-

[1] See References in Text note below.

nation of Federal services furnished such Indians because of their status as Indians.

(Aug. 13, 1954, ch. 733, § 1, 68 Stat. 724.)

REPEAL OF INCONSISTENT LAWS

Section 19 of act Aug. 13, 1954, provided that: ''All Acts or parts of Acts inconsistent with this Act [this subchapter] are hereby repealed insofar as they affect a tribe or its members. The Act of June 18, 1934 (48 Stat. 948), as amended by the Act of June 15, 1935 (49 Stat. 378) [section 461 et seq. of this title], shall not apply to a tribe and its members after the date of the proclamation provided for in section 13 of this Act [section 703 of this title].''

SEPARABILITY

Section 20 of act Aug. 13, 1954, provided that: ''If any provision of this Act [this subchapter], or the application thereof to any person or circumstance, is held invalid, the remainder of the Act [this subchapter] and the application of such provision to other persons or circumstances shall not be affected thereby.''

RESTORATION OF FEDERAL SUPERVISION

Federal supervision over certain tribes and bands of Indians has been restored as follows:

Confederated Tribes of Siletz Indians of Oregon, see section 711 et seq. of this title.

Cow Creek Bank of Umpqua Tribe of Oregon, see section 712 et seq. of this title.

Confederated Tribes of the Grand Ronde Community of Oregon, see section 713 et seq. of this title.

Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, see section 714 et seq. of this title.

Coquille Indian Tribe of Oregon, see section 715 et seq. of this title.

§ 692. Definitions

For the purposes of this subchapter:

(a) ''Tribe'' means any of the tribes, bands, groups, or communities of Indians located west of the Cascade Mountains in Oregon, including the following: Confederated Tribes of the Grand Ronde Community, Confederated Tribes of Siletz Indians, Alsea, Applegate Creek, Calapooya, Chaftan, Chempho, Chetco, Chetlessington, Chinook, Clackamas, Clatskanie, Clatsop, Clowwewalla, Coos, Cow Creek, Euchees, Galic Creek, Grave, Joshua, Karok, Kathlamet, Kusotony, Kwatami or Sixes, Lakmiut, Long Tom Creek, Lower Coquille, Lower Umpqua, Maddy, Mackanotin, Mary's River, Multnomah, Munsel Creek, Naltunnetunne, Nehalem, Nestucca, Northern Molalla, Port Orford, Pudding River, Rogue River, Salmon River, Santiam, Scoton, Shasta, Shasta Costa, Siletz, Siuslaw, Skiloot, Southern Molalla, Takelma, Tillamook, Tolowa, Tualatin, Tututui, Upper Coquille, Upper Umpqua, Willamette Tumwater, Yamhill, Yaquina, and Yoncalla;

(b) ''Secretary'' means the Secretary of the Interior.

(c) ''Lands'' means real property interest therein, or improvements thereon, and includes water rights.

(d) ''Tribal property'' means any real or personal property, including water rights, or any interest in real or personal property, that belongs to the tribe and either is held by the United States in trust for the tribe or is subject to a restriction against alienation imposed by the United States.

(Aug. 13, 1954, ch. 733, § 2, 68 Stat. 724.)

§ 693. Membership roll; preparation and initial publication; eligibility for enrollment; appeal from inclusion or omission from roll; finality of determination; final publication

Within ninety days after August 13, 1954, the Secretary shall publish in the Federal Register (1) a list of those tribes for which membership rolls will be required for the purposes of this subchapter, and (2) a list of those tribes for which no membership rolls will be required for the purposes of this subchapter. Each tribe on each list shall have a period of six months from the date of publication of the notice in which to prepare and submit to the Secretary a proposed roll of the members of the tribe living on August 13, 1954, which shall be published in the Federal Register. In the absence of applicable law, or eligibility requirements in an approved constitution, bylaws, or membership ordinance, eligibility for enrollment shall be determined under such rules and regulations as the Secretary may prescribe. No person shall be enrolled on more than one tribal roll prepared pursuant to this subchapter. If a tribe on list one fails to submit such roll within the time specified in this section, the Secretary shall prepare a proposed roll for the tribe, which shall be published in the Federal Register. Any person claiming membership rights in the tribe or an interest in its assets, or a representative of the Secretary on behalf of any such person, may, within ninety days from the date of publication of the proposed roll, file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such roll. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals the roll of the tribe shall be published in the Federal Register and such roll shall be final for the purposes of this subchapter.

(Aug. 13, 1954, ch. 733, § 3, 68 Stat. 724.)

§ 694. Personal property rights; restrictions

Upon publication in the Federal Register of the final roll as provided in section 693 of this title, the rights or beneficial interests in tribal property of each person whose name appears on the roll shall constitute personal property which may be inherited or bequeathed, but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such tribal property as provided in section 695 of this title without the approval of the Secretary. Any contract made in violation of this section shall be null and void.

(Aug. 13, 1954, ch. 733, § 4, 68 Stat. 725.)

§ 695. Tribal property

(a) Procedure for transfer

Upon request of a tribe, the Secretary is authorized within two years from August 13, 1954, to transfer to a corporation or other legal entity organized by the tribe in a form satisfactory to the Secretary title to all or any part of the tribal property, real and personal, or to transfer to one or more trustees designated by the tribe and approved by the Secretary, title to all or any

part of such property to be held in trust for management or liquidation purposes under such terms and conditions as may be specified by the tribe and approved by the Secretary, or to sell all or any part of such property and make a pro rata distribution of the proceeds of sale among the members of the tribe after deducting, in his discretion, reasonable costs of sale and distribution.

(b) Property not transferred in accordance with recognized procedure; election to retain property

Title to any tribal property that is not transferred in accordance with the provisions of subsection (a) of this section shall be transferred by the Secretary to one or more trustees designated by him for the liquidation and distribution of assets among the members of the tribe under such terms and conditions as the Secretary may prescribe: *Provided*, That the trust agreement shall provide for the termination of the trust not more than three years from the date of such transfer unless the term of the trust is extended by order of a judge of a court of record designated in the trust agreement: *Provided further*, That the trust agreement shall provide that at any time before the sale of tribal property by the trustees the tribe may notify the trustees that it elects to retain such property and to transfer title thereto to a corporation, other legal entity, or trustee in accordance with the provisions of subsection (a) of this section, and that the trustees shall transfer title to such property in accordance with the notice from the tribe if it is approved by the Secretary.

(c) Compensation of agents or attorneys

The Secretary shall not approve any form of organization pursuant to subsection (a) of this section that provides for the transfer of stock or an undivided share in corporate assets as compensation for the services of agents or attorneys unless such transfer is based upon an appraisal of tribal assets that is satisfactory to the Secretary.

(d) Selection of trustees; approval by Secretary

When approving or disapproving the selection of trustees in accordance with the provisions of subsection (a) of this section, and when designating trustees pursuant to subsection (b) of this section, the Secretary shall give due regard to the laws of the State of Oregon that relate to the selection of trustees.

(Aug. 13, 1954, ch. 733, § 5, 68 Stat. 725.)

§ 696. Individual property

(a) Transfer of unrestricted control

The Secretary is authorized and directed to transfer within two years after August 13, 1954 to each member of each tribe unrestricted control of funds or other personal property held in trust for such member by the United States.

(b) Removal of restrictions on sales or encumbrances; fee simple title

All restrictions on the sale or encumbrance of trust or restricted land owned by members of the tribes (including allottees, purchasers, heirs, and devisees, either adult or minor) are removed two years after August 13, 1954 and the patents or deeds under which titles are then held shall pass the titles in fee simple, subject to any valid encumbrance. The titles to all interests in trust or restricted land acquired by members of the tribes by devise or inheritance two years or more after August 13, 1954 shall vest in such members in fee simple, subject to any valid encumbrance.

(c) Multiple land ownership; partition; sale; election to purchase; unlocated owners

Prior to the time provided in subsection (d)[1] of this section for the removal of restrictions on land owned by more than one member of a tribe, the Secretary may—

(1) upon request of any of the owners, partition the land and issue to each owner a patent or deed for his individual share that shall become unrestricted two years from August 13, 1954;

(2) upon request of any of the owners and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That any one or more of the owners may elect before a sale to purchase the other interests in the land at not less than the appraised value thereof, and the purchaser shall receive an unrestricted patent or deed to the land; and

(3) if the whereabouts of none of the owners can be ascertained, cause such lands to be sold and deposit the proceeds of sale in the Treasury of the United States for safekeeping.

(Aug. 13, 1954, ch. 733, § 6, 68 Stat. 725.)

§ 697. Property of deceased members

(a) Federal laws not applicable to probate

The Act of June 25, 1910 (36 Stat. 855), the Act of February 14, 1913 (37 Stat. 678), and other Acts amendatory thereto shall not apply to the probate of the trust and restricted property of the members of the tribes who die six months or more after August 13, 1954.

(b) State, etc., laws applicable to probate

The laws of the several States, Territories, possessions, and the District of Columbia with respect to the probate of wills, the determination of heirs, and the administration of decedents' estates shall apply to the individual property of members of the tribes who die six months or more after August 13, 1954.

(Aug. 13, 1954, ch. 733, § 7, 68 Stat. 726.)

REFERENCES IN TEXT

Act of June 25, 1910, referred to in subsec. (a), is act June 25, 1910, ch. 431, 36 Stat. 855, as amended, which enacted sections 47, 93, 151, 202, 337, 344a, 351, 352, 353, 372, 403, 406, 407, and 408 of this title, sections 6a–1 and 16a of Title 41, Public Contracts, and section 148 of Title 43, Public Lands, and amended sections 191, 312, 331, 333, and 336 of this title and sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure. Sections 104 and 107 of former title 18 were repealed and reenacted as sections 1853 and 1856 of Title 18, Crimes

[1] So in original. Probably should be subsection "(b)".

and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. For complete classification of this Act to the Code, see Tables.

Act of February 14, 1913, referred to in subsec. (a), is act Feb. 14, 1913, ch. 55, 37 Stat. 678, which amended section 373 of this title. For complete classification of this Act to the Code, see Tables.

§ 698. Transfer of federally owned property

The Secretary is authorized, in his discretion, to transfer to any tribe or any member or group of members thereof any federally owned property acquired, withdrawn, or used for the administration of the affairs of the tribes subject to this subchapter which he deems necessary for Indian use, or to transfer to a public or nonprofit body any such property which he deems necessary for public use and from which members of the tribes will derive benefits.

(Aug. 13, 1954, ch. 733, § 8, 68 Stat. 726.)

§ 699. Taxes; initial exemption; taxes following distribution; valuation for capital gains or losses

No property distributed under the provisions of this subchapter shall at the time of distribution be subject to Federal or State income tax. Following any distribution of property made under the provisions of this subchapter, such property and any income derived therefrom by the individual, corporation, or other legal entity shall be subject to the same taxes, State and Federal, as in the case of non-Indians: *Provided*, That for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation, or other legal entity.

(Aug. 13, 1954, ch. 733, § 9, 68 Stat. 726.)

§ 700. Protection of minors, persons non compos mentis and other members needing assistance; guardians; other adequate means

Prior to the transfer of title to, or the removal of restrictions from, property in accordance with the provisions of this subchapter, the Secretary shall protect the rights of members of the tribes who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs by causing the appointment of guardians for such members in courts of competent jurisdiction, or by such other means as he may deem adequate.

(Aug. 13, 1954, ch. 733, § 10, 68 Stat. 726.)

§ 701. Advances or expenditures from tribal funds

Pending the completion of the property dispositions provided for in this subchapter, the funds now on deposit, or hereafter deposited in the Treasury of the United States to the credit of a tribe shall be available for advance to the tribe, or for expenditure, for such purposes as may be designated by the governing body of the tribe and approved by the Secretary.

(Aug. 13, 1954, ch. 733, § 11, 68 Stat. 726.)

§ 702. Execution by Secretary of patents, deeds, etc.

The Secretary shall have authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments as may be necessary or appropriate to carry out the provisions of this subchapter, or to establish a marketable and recordable title to any property disposed of pursuant to this subchapter.

(Aug. 13, 1954, ch. 733, § 12, 68 Stat. 727.)

§ 703. Termination of Federal trust

(a) Publication; termination of Federal services; application of Federal and State laws

Upon removal of Federal restrictions on the property of each tribe and individual members thereof, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to the affairs of the tribe and its members has terminated. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians, excluding statutes that specifically refer to the tribe and its members, shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

(b) Citizenship status unaffected

Nothing in this subchapter shall affect the status of the members of a tribe as citizens of the United States.

(c) Education and training program; purposes; subjects; transportation; subsistence; contracts; other education programs

Prior to the issuance of a proclamation in accordance with the provisions of this section, the Secretary is authorized to undertake, within the limits of available appropriations, a special program of education and training designed to help the members of the tribe to earn a livelihood, to conduct their own affairs, and to assume their responsibilities as citizens without special services because of their status as Indians. Such program may include language training, orientation in non-Indian community customs and living standards, vocational training and related subjects, transportation to the place of training or instruction, and subsistence during the course of training or instruction. For the purposes of such program the Secretary is authorized to enter into contracts or agreements with any Federal, State, or local governmental agency, corporation, association, or person. Nothing in this section shall preclude any Federal agency from undertaking any other program for the education and training of Indians with funds appropriated to it.

(Aug. 13, 1954, ch. 733, § 13, 68 Stat. 727.)

§ 704. Omitted

CODIFICATION

Section, act Aug. 13, 1954, ch. 733, § 14, 68 Stat. 727, which revoked corporate charter of Confederated Tribes of Grand Ronde Community of Oregon and provided for termination of Federal power with regard to tribe, was omitted in view of Federal recognition and restoration of corporate charter of Confederated Tribes

of Grand Ronde Community of Oregon by section 713b of this title.

§ 705. Offset of individual indebtedness; credit

The Secretary is authorized to set off against any indebtedness payable to the tribe or to the United States by an individual member of the tribe, or payable to the United States by the tribe, any funds payable to such individual or tribe under this subchapter and to deposit the amount set off to the credit of the tribe or the United States as the case may be.

(Aug. 13, 1954, ch. 733, § 15, 68 Stat. 727.)

§ 706. Indian claims unaffected

Nothing in this subchapter shall affect any claim heretofore filed against the United States by any tribe.

(Aug. 13, 1954, ch. 733, § 16, 68 Stat. 727.)

§ 707. Valid leases, permits, liens, etc., unaffected

Nothing in this subchapter shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved. Whenever any such instrument places in or reserves to the Secretary any powers, duties, or other functions with respect to the property subject thereto, the Secretary may transfer such functions, in whole or in part, to any Federal agency with the consent of such agency.

(Aug. 13, 1954, ch. 733, § 17, 68 Stat. 728.)

§ 708. Rules and regulations; tribal referenda

The Secretary is authorized to issue rules and regulations necessary to effectuate the purposes of this subchapter, and may in his discretion provide for tribal referenda on matters pertaining to management or disposition of tribal assets.

(Aug. 13, 1954, ch. 733, § 18, 68 Stat. 728.)

SUBCHAPTER XXX–A—SILETZ INDIAN TRIBE: RESTORATION OF FEDERAL SUPERVISION

§ 711. Definitions

For the purposes of this subchapter—

(1) the term ''tribe'' means the Confederated Tribes of Siletz Indians of Oregon;

(2) the term ''Secretary'' means the Secretary of the Interior or his authorized representative;

(3) the term ''Interim Council'' means the council elected pursuant to section 711c of this title;

(4) the term ''member'', when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 711b of this title; and

(5) the term ''final membership roll'' means the final membership roll of the tribe published on July 20, 1956, on pages 5454–5462 of volume 21 of the Federal Register.

(Pub. L. 95–195, § 2, Nov. 18, 1977, 91 Stat. 1415.)

SHORT TITLE

Section 1 of Pub. L. 95–195 provided: ''That this Act [enacting this subchapter] may be cited as the 'Siletz Indian Tribe Restoration Act'.''

§ 711a. Federal recognition

(a) Extension; laws applicable; eligibility for Federal services and benefits

Federal recognition is hereby extended to the tribe, and the provisions of the Act of June 18, 1934 (48 Stat. 984) as amended [25 U.S.C. 461 et seq.], except as inconsistent with specific provisions of this subchapter, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon November 18, 1977, without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(b) Restoration of rights and privileges

Except as provided in subsection (c) of this section, all rights and privileges of the tribe and of members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which were diminished or lost under the Act of August 13, 1954 (68 Stat. 724) [25 U.S.C. 691 et seq.], are hereby restored, and such Act shall be inapplicable to the tribe and to members of the tribe after November 18, 1977.

(c) Hunting, fishing or trapping rights and tribal reservations not restored

This subchapter shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe, nor shall it be construed as granting, establishing, or restoring a reservation for the tribe.

(d) Effect on property rights or obligations, contractual rights or obligations, or obligations for taxes

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

(Pub. L. 95–195, § 3, Nov. 18, 1977, 91 Stat. 1415.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of August 13, 1954, referred to in subsec. (b), is act Aug. 13, 1954, ch. 733, 68 Stat. 724, which is classified generally to subchapter XXX (§ 691 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 711b. Membership roll

(a) Opening; duty of Secretary, Interim Council, and tribal officials

The final membership roll is declared open. The Secretary, the Interim Council, and tribal

officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

(b) Prerequisites for inclusion

(1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on August 13, 1954, to be on the final membership roll but his name was not listed on that roll; or

(C) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Siletz Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws shall govern membership in the tribe.

(c) Verification of descendancy, age, and blood; appeal; finality of determination; possession of enrollment records and materials

(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and any other material relating to enrollment matters, to the tribal governing body.

(d) Franchisement

For purposes of sections 711c and 711d of this title, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

(Pub. L. 95–195, § 4, Nov. 18, 1977, 91 Stat. 1416.)

§ 711c. Interim Council

(a) Nomination and election of members; notice; meetings; ballot requirements; approval by Secretary

Within forty-five days after November 18, 1977, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after November 18, 1977. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect nine members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 711b(d) of this title at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) Powers of Council

The Interim Council shall represent the tribe and its members in the implementation of this subchapter and shall be the acting tribal governing body until tribal officials are elected pursuant to section 711d(c) of this title and shall have no powers other than those given to it in accordance with this subchapter. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health and Human Services with respect to Federal services and benefits for the tribe and its members and to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office: *Provided*, That no authority to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Council vacancies; notice; meeting; election

Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 711b(d) of this title at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

(Pub. L. 95–195, § 5, Nov. 18, 1977, 91 Stat. 1416; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Wel-

fare'' in subsec. (b), pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 711d. Tribal constitution and bylaws

(a) Election; time and procedure

Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 476 of this title, for the purpose of adopting a constitution and bylaws for the tribes. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with section 711b(a), (b)(1), and (c)(1) of this title,

(2) made a final determination of all appeals filed under section 711b(c)(2) of this title, and

(3) published in the Federal Register a certification copy of the membership roll of the tribe.

(b) Pre-election distribution of proposed constitution and bylaws and brief impartial description; consultation by Interim Council with members of tribe

The Interim Council shall draft and distribute to each member described in section 711b(d) of this title, no later than thirty days before the election under subsection (a) of this section, a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief, impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) Majority vote necessary for adoption of constitution and bylaws

In any election held pursuant to subsection (a) of this section, the vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

(d) Election of tribal officials provided for in constitution and bylaws; ballot requirements

Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

(Pub. L. 95–195, § 6, Nov. 18, 1977, 91 Stat. 1417.)

§ 711e. Reservation

(a) Establishment

Any reservation for the tribe shall be established by an Act of Congress enacted after November 18, 1977.

(b) Plan; negotiation with tribe; approval by tribal officials; submittal to Congress

Inasmuch as the reservation of the tribe has been terminated, the Secretary shall negotiate with the tribe, or with representatives of the tribe chosen by the tribe, concerning the establishment of a reservation for the tribe and shall, in accordance with subsections (c) and (d) of this section and within two years after November 18, 1977, develop a plan for the establishment of a reservation for the tribe. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 711d of this title, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

(c) Notification and consultation

To assure that legitimate State and local interests are not prejudiced by the creation of a reservation for the tribe, the Secretary, in developing a plan under subsection (b) of this section for the establishment of a reservation, shall notify and consult with all appropriate officials of the State of Oregon, all appropriate local governmental officials in the State of Oregon and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the reservation;

(2) the effect the establishment of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Oregon with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(d) Provisions of plan

Any plan developed under this section for the establishment of a reservation for the tribe shall provide that—

(1) any real property transferred by the tribe or members of the tribe to the Secretary shall be taken in the name of the United States in trust for the benefit of the tribe and shall be the reservation for the tribe;

(2) the establishment of such a reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation;

(3) the Secretary shall not accept any real property in trust for the benefit of the tribe or its members unless such real property is located within Lincoln County, State of Oregon;

(4) any real property taken in trust by the Secretary for the benefit of the tribe or its members shall be subject to all rights existing at the time such property is taken in trust, including liens, outstanding Federal, State, and local taxes, mortgages, outstanding indebtedness of any kind, easements, and all other obligations, and shall be subject to foreclosure and sale in accordance with the laws of the State of Oregon;

(5) the transfer of any real property to the Secretary in trust for the benefit of the tribe

or its members shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(6) the State of Oregon shall have civil and criminal jurisdiction with respect to the reservation and persons on the reservation in accordance with section 1360 of title 28 and section 1162 of title 18.

(e) Statement

The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (c) of this section was carried out and shall include any written comments with respect to the establishment of a reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

(Pub. L. 95–195, § 7, Nov. 18, 1977, 91 Stat. 1418.)

AUTHORITY TO ERECT PERMANENT IMPROVEMENTS ON LAND ACQUIRED FOR CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

Pub. L. 97–38, Aug. 14, 1981, 95 Stat. 938, provided: ''That, notwithstanding any other provision of law or regulation, the Attorney General shall approve any deed or other instrument which—

''(1) conveys to the United States the land described in section 2 of the Act entitled 'An Act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon', approved September 4, 1980 (94 Stat. 1073) [set out below], and

''(2) incorporates by reference the terms of the agreement entered into on September 18, 1980, by the city of Siletz, Oregon, the Confederated Tribes of Siletz Indians of Oregon, and the United States of America.

The Secretary of the Interior or the Confederated Tribes of Siletz Indians of Oregon may erect permanent improvements, improvements of a substantial value, or any other improvements authorized by law on such land after such land is conveyed to the United States.''

ESTABLISHMENT OF RESERVATION FOR CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

Pub. L. 96–340, Sept. 4, 1980, 94 Stat. 1072, as amended by Pub. L. 103–435, § 3, Nov. 2, 1994, 108 Stat. 4567; Pub. L. 105–256, § 7, Oct. 14, 1998, 112 Stat. 1897, established a reservation for the Confederated Tribes of Siletz Indians of Oregon, particularly describing, subject to all valid liens, rights-of-way, agreements, licenses, permits, and easements as of Sept. 4, 1980, the parcel of land, consisting of approximately 3,630 acres in the State of Oregon as well as other parcels of land to be conveyed to the Secretary of the Interior, to be held in trust for the Confederated Tribes of Siletz Indians of Oregon, with all parcels of land subject to the provisions of section 461 et seq. of this title and the right of the Secretary of the Interior to establish, without compensation to such tribes, reasonable rights-of-way and easements to provide access to other Federal lands, no new or additional hunting, fishing, or trapping rights beyond the rights declared in the final judgment of the United States District Court in the action entitled Confederated Tribes of Siletz Indians of Oregon against State of Oregon, entered on May 2, 1980, be deemed, granted, or restored to the tribe or any member of the tribe, and civil and criminal jurisdiction, in accordance with section 1360 of Title 28, Judiciary and Judicial Procedure, and section 1162 of Title 18, Crimes and Criminal Procedure, to reside with the State of Oregon with respect to the reservation and any individual on the reservation.

§ 711f. Rules and regulations

The Secretary may make such rules and regulations as are necessary to carry out the purposes of this subchapter.

(Pub. L. 95–195, § 8, Nov. 18, 1977, 91 Stat. 1419.)

SUBCHAPTER XXX–B—COW CREEK BAND OF UMPQUA TRIBE OF OREGON

§ 712. Definitions

For the purposes of this subchapter—

(1) the term ''tribe'' means the Cow Creek Band of Umpqua Tribe of Indians; and

(2) the term ''member'', when used with respect to the tribe, means a person enrolled on the membership roll of the tribe in accordance with section 712c of this title.

(Pub. L. 97–391, § 2, Dec. 29, 1982, 96 Stat. 1960; Pub. L. 100–139, § 5(b), Oct. 26, 1987, 101 Stat. 827.)

AMENDMENTS

1987—Par. (1). Pub. L. 100–139 substituted ''Umpqua Tribe of Indians'' for ''Umpqua Tribe of Oregon''.

SHORT TITLE OF 1987 AMENDMENT

Section 1 of Pub. L. 100–139 provided: ''That this Act [amending this section and sections 712a to 712c of this title] may be cited as the 'Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987'.''

SHORT TITLE

Section 1 of Pub. L. 97–391 provided that: ''This Act [enacting this subchapter] may be cited as the 'Cow Creek Band of Umpqua Tribe of Indians Recognition Act'.''

§ 712a. Extension of Federal recognition, rights, and privileges

(a) Federal recognition

Notwithstanding any provision of the Act approved August 13, 1954 (25 U.S.C. 691 et seq.), or any other law, Federal recognition is extended to the Cow Creek Band of Umpqua Tribe of Indians. Except as otherwise provided in this subchapter, all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision of this subchapter shall be applicable to the tribe.

(b) Restoration of rights and privileges

All rights and privileges of the tribe and the members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other Federal authority, which may have been diminished or lost under the Act approved August 13, 1954 (25 U.S.C. 691 et seq.), are restored, and the provisions of such subchapter shall be inapplicable to the tribe and to members of the tribe after December 29, 1982.

(c) Federal services and benefits

Notwithstanding any other provision of law, the tribe and members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes upon December 29, 1982, without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation.

(d) Effect on property rights and other obligations

Except as otherwise specifically provided in this subchapter, no provision contained in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

(Pub. L. 97–391, § 3, Dec. 29, 1982, 96 Stat. 1960; Pub. L. 100–139, § 5(b), Oct. 26, 1987, 101 Stat. 827.)

REFERENCES IN TEXT

Act approved August 13, 1954, referred to in subsecs. (a) and (b), is act Aug. 13, 1954, ch. 733, 68 Stat. 724, which is classified generally to subchapter XXX (§ 691 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–139 substituted ''Umpqua Tribe of Indians'' for ''Umpqua Tribe of Oregon''.

§ 712b. Organization of tribe

(a) Organization and organic governing document

The tribe may organize for its common welfare and adopt an appropriate instrument, in writing, to govern the affairs of the tribe when acting in its governmental capacity. The tribe shall file with the Secretary of the Interior a copy of its organic governing document and any amendments thereto.

(b) New governing document or amendments or revisions of interim governing document; tribal election

Not less than one year following October 26, 1987, the tribe's governing body may propose a new governing document or amendments or revisions to the interim governing document, and the Secretary shall conduct a tribal election as to the adoption of that proposed document within one hundred twenty days from the date it is submitted to the Bureau of Indian Affairs.

(c) Approval of new governing document

The Secretary shall approve the new governing document if approved by a majority of the tribal voters unless he or she determines that such document is in violation of any laws of the United States.

(d) Interim governing document pending approval

Until the tribe adopts and the Secretary approves a new governing document, its interim governing document shall be the tribal bylaws entitled ''By-Laws of Cow Creek Band of Umpqua Tribe of Indians'' which bear an ''approved'' date of ''9–10–78,''.

(e) Governing body pending adoption of final document

Until the tribe adopts a final governing document, the tribe's governing body shall consist of its current board of directors elected at the tribe's annual meeting of August 10, 1986, or such new board members as are selected under election procedures of the interim governing document identified at subsection (d) of this section.

(Pub. L. 97–391, § 4, Dec. 29, 1982, 96 Stat. 1961; Pub. L. 100–139, § 7(a), Oct. 26, 1987, 101 Stat. 828.)

AMENDMENTS

1987—Pub. L. 100–139 amended section generally. Prior to amendment, section read as follows: ''The tribe may organize for its common welfare and adopt an appropriate instrument, in writing, to govern the affairs of the tribe when acting in its governmental capacity. The tribe shall file with the Secretary of the Interior a copy of its organic governing document and any amendments thereto.''

§ 712c. Tribal membership

(a) Membership

Until such time as the Secretary of the Interior publishes a tribal membership roll as mandated in subsection (b) of this section, the membership of the Cow Creek Band of Umpqua Tribe of Indians shall consist of all persons listed in the official tribal roll approved on September 13, 1980, by the tribe's Board of Directors, and their descendants. Following publication by the Secretary of the tribal membership roll mandated in subsection (b) of this section, the membership of the Cow Creek Band of Umpqua Tribe of Indians shall consist of all persons listed on such roll.

(b) Preparation of membership roll by Secretary; individuals to be included

Within three hundred and sixty-five days after October 26, 1987, the Secretary shall prepare in accordance with the regulations contained in part 61 of title 25 of the Code of Federal Regulations a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians. Such roll shall include all Cow Creek descendants or other Indian individuals who were not members of any other federally recognized Indian tribe on July 30, 1987 and who—

(1) are listed on the tribal roll referred to in subsection (a) of this section;

(2) are the descendants of any individuals listed pursuant to paragraph (1) born on or prior to December 29, 1982; or

(3)(A) are the descendants of any individual considered to be a member of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 18, 1853; (B) have applied to the Secretary for inclusion in the roll pursuant to subsection (c) of this section; and (C) meet the requirements for membership provided in the tribe's governing documents.

(c) Regulations governing application process

The Secretary shall devise regulations governing the application process under which individuals may apply to have their names placed on the tribal roll pursuant to paragraph 3[1] of subsection (b) of this section.

(d) Limitation; tribal discretion; additional requirements

After publication of the roll in the Federal Register, the membership of the tribe shall be limited to the persons listed on such roll and their descendants: *Provided*, That the tribe, at its discretion, may subsequently grant tribal membership to any individual of Cow Creek Band of Umpqua ancestry who pursuant to trib-

[1] So in original. Probably should be paragraph ''(3)''.

al procedures, has applied for membership in the tribe and has been determined by the tribe to meet the tribal requirements for membership in the tribe: *Provided further*, That nothing in this subchapter shall be interpreted as restricting the tribe's power to impose additional requirements for future membership in the tribe upon the adoption of a new constitution or amendments thereto as provided in section 712b of this title.

(Pub. L. 97–391, § 5, Dec. 29, 1982, 96 Stat. 1961; Pub. L. 100–139, § 5(a), Oct. 26, 1987, 101 Stat. 826; Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1794.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–446 inserted ''Cow Creek descendants or other'' before ''Indian individuals''.

1987—Pub. L. 100–139 amended section generally. Prior to amendment, section read as follows:

''(a) Membership in the tribe shall consist of every individual—

''(1) whose name appears on the tribal roll in effect on December 29, 1982; or

''(2) who is a descendant of any individual described in paragraph (1).

''(b) Membership in the tribe pursuant to subsection (a) of this section shall not entitle an individual, who is not otherwise entitled, to participate in any distribution of funds pursuant to a judgment under the Act approved May 26, 1980 (94 Stat. 372).''

§ 712d. Rules

The Secretary of the Interior may make such rules as are necessary to carry out the provisions of this subchapter.

(Pub. L. 97–391, § 6, Dec. 29, 1982, 96 Stat. 1961.)

§ 712e. Certain property taken into trust

The Secretary of the Interior shall accept title to 2000 acres of real property and may accept title to any additional number of acres of real property located in Umpqua River watershed upstream from Scottsburg, Oregon, or the northern slope of the Rogue River watershed upstream from Agness, Oregon, if such real property is conveyed or otherwise transferred to the United States by or on behalf of the Tribe. The Secretary shall take into trust for the benefit of the Tribe all real property conveyed or otherwise transferred to the United States pursuant to this section. Real property taken into trust pursuant to this section shall become part of the Tribe's reservation, and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust. Real property taken into trust pursuant to this section shall not be considered to have been taken into trust for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

(Pub. L. 97–391, § 7, as added Pub. L. 105–256, § 9, Oct. 14, 1998, 112 Stat. 1898; amended Pub. L. 108–204, title I, § 104, Mar. 2, 2004, 118 Stat. 543.)

REFERENCES IN TEXT

The Indian Gaming Regulatory Act, referred to in text, is Pub. L. 100–497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

2004—Pub. L. 108–204 inserted '', and shall be treated as on-reservation land for the purpose of processing acquisitions of real property into trust'' after ''part of the Tribe's reservation''.

SUBCHAPTER XXX–C—CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

§ 713. Definitions

For the purposes of this subchapter—

(1) the term ''tribe'' means the Confederated Tribes of the Grand Ronde Community of Oregon considered as one tribe in accordance with section 713a of this title;

(2) the term ''Secretary'' means the Secretary of the Interior or his designated representative;

(3) the term ''Interim Council'' means the council which is established under, and the members of which are elected pursuant to, section 713c of this title;

(4) the term ''tribal governing body'' means the governing body which is established under, and the members of which are elected pursuant to, the tribal constitution and bylaws adopted in accordance with section 713d of this title; and

(5) the term ''member'', when used with respect to the tribe, means an individual enrolled on the membership roll of the tribe in accordance with section 713e of this title.

(Pub. L. 98–165, § 2, Nov. 22, 1983, 97 Stat. 1064.)

SHORT TITLE

Section 1 of Pub. L. 98–165 provided that: ''This Act [enacting this subchapter] may be cited as the 'Grand Ronde Restoration Act'.''

§ 713a. Consideration of Confederated Tribes of Grand Ronde Community as one tribe

The Confederated Tribes of the Grand Ronde Community of Oregon shall be considered as one tribal unit for purposes of Federal recognition and eligibility for Federal benefits under section 713b of this title, the establishment of tribal self-government under sections 713c and 713d of this title, the compilation of a tribal membership roll under section 713e of this title, and the establishment of a tribal reservation under section 713f of this title.

(Pub. L. 98–165, § 3, Nov. 22, 1983, 97 Stat. 1064.)

§ 713b. Restoration of Federal recognition, rights, and privileges

(a) Federal recognition

Notwithstanding any provision of the Act approved August 13, 1954 (25 U.S.C. 691 et seq.) or any other law, Federal recognition is extended to the Confederated Tribes of the Grand Ronde Community of Oregon and the corporate charter of such tribe issued pursuant to section 477 of this title and ratified by the tribe on August 22, 1936, is reinstated. Except as otherwise provided in this subchapter, all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision

of this subchapter shall be applicable to the tribe.

(b) Restoration of rights and privileges

Except as provided in subsection (d) of this section, all rights and privileges of the tribe and the members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other Federal authority, which may have been diminished or lost under the Act approved August 13, 1954 (25 U.S.C. 691 et seq.) are restored, and the provisions of such subchapter shall be inapplicable to the tribe and to members of the tribe after November 22, 1983.

(c) Federal services and benefits

Notwithstanding any other provision of law, the tribe and its members shall be eligible, on and after November 22, 1983, for all Federal services and benefits furnished to federally recognized Indian tribes without regard to the existence of a reservation for the tribe. In the case of Federal services available to members of federally recognized Indian tribes residing on or near a reservation, members of the tribe residing in the following counties of the State of Oregon shall be deemed to be residing on or near a reservation:

(1) Washington County.
(2) Marion County.
(3) Yamhill County.
(4) Polk County.
(5) Tillamook County.
(6) Multnomah County.

Any member residing in any such county shall continue to be eligible to receive any such Federal service notwithstanding the establishment of any reservation for the tribe in accordance with any plan prepared pursuant to section 713f of this title.

(d) No hunting, fishing or trapping rights restored

No hunting, fishing, or trapping rights of any nature of the tribe or of any member, including any indirect or procedural right or advantage over individuals who are not members, are granted or restored under this subchapter.

(e) Effect on property rights and other obligations

Except as otherwise specifically provided in this subchapter, no provision contained in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

(Pub. L. 98–165, § 4, Nov. 22, 1983, 97 Stat. 1064.)

REFERENCES IN TEXT

Act approved August 13, 1954, referred to in subsecs. (a) and (b), is act Aug. 13, 1954, ch. 733, 68 Stat. 724, which is classified generally to subchapter XXX (§ 691 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 713c. Interim Council

(a) Establishment

There is established an Interim Council of the tribe which shall be composed of nine members. The Interim Council shall represent the tribe and its members in the implementation of this subchapter and shall be the governing body of the tribe until the tribal governing body established in accordance with section 713d of this title first convenes.

(b) Nomination and election of Interim Council members

(1) Within forty-five days after November 22, 1983, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within fifteen days of such announcement.

(2) Within forty-five days after such general council meeting, the Secretary shall hold an election by secret ballot to elect the members of the Interim Council from among the members nominated in such general council meeting. Absentee and write-in balloting shall be permitted.

(3) The Secretary shall approve the results of the Interim Council election conducted pursuant to this section if he is satisfied that the requirements of this section relating to the nomination and the election processes have been met. If he is not satisfied, he shall call for another general council meeting to be held within sixty days after such election to nominate candidates for election to the Interim Council and shall hold another election within forty-five days of such meeting.

(4) The Secretary shall take any action necessary to ensure that each member described in section 713e(d) of this title is given notice of the time, place, and purpose of each meeting and election held pursuant to this subsection at least ten days before such general meeting or election.

(c) Authority and capacity; termination

(1) The Interim Council shall have no powers other than those given it under this subchapter.

(2) With respect to any Federal service or benefit for which the tribe or any member is eligible, the Interim Council shall have full authority and capacity to receive grants and to enter into contracts.

(3)(A) Except as provided in subparagraph (B), the Interim Council and such Council's authority and capacity under this section shall cease to exist on the date the tribal governing body first convenes.

(B) With respect to any contractual right established and any obligation entered into by the Interim Council, such Council shall have the authority and capacity to bind the tribal governing body, as the successor in interest to the Interim Council, for a period of not more than six months beginning on the date such tribal governing body first convenes.

(d) Vacancy on Interim Council

Within thirty days after a vacancy occurs on the Interim Council and subject to the approval of the Secretary, the Interim Council shall hold a general council meeting to nominate a candidate for election to fill such vacancy and shall hold such election. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 713e(d) of this title at least ten days before each such general meeting or election.

(Pub. L. 98–165, § 5, Nov. 22, 1983, 97 Stat. 1065.)

§ 713d. Tribal constitution and bylaws; tribal governing body

(a) Adoption of proposed constitution and bylaws; election: time and procedure

(1) The Interim Council shall be responsible for preparing the tribal constitution and bylaws which shall provide for, at a minimum, the establishment of a tribal governing body and tribal membership qualifications. Such proposed constitution and bylaws shall be adopted by the Interim Council no later than six months after November 22, 1983.

(2) Upon the adoption of the proposed tribal constitution and bylaws by the Interim Council, the Council shall request the Secretary, in writing, to schedule an election to approve or disapprove the adoption of such constitution and bylaws. The Secretary shall conduct an election by secret ballot in accordance with section 476 of this title.

(b) Notice and consultation

Not less than thirty days before any election scheduled pursuant to subsection (a) of this section, a copy of the proposed tribal constitution and bylaws, as adopted by the Interim Council, along with a brief and impartial description of the proposed constitution and bylaws shall be sent to each member eligible to participate in such election under section 713e(d) of this title. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of such election.

(c) Majority vote for adoption; procedure in event of failure to adopt proposed constitution

(1) In any election held pursuant to subsection (a) of this section, a vote of a majority of those actually voting shall be necessary and sufficient for the approval of the adoption of the tribal constitution and bylaws.

(2) If in any such election such majority does not approve the adoption of the proposed tribal constitution and bylaws, the Interim Council shall be responsible for preparing another tribal constitution and other bylaws in the same manner provided in this section for the first proposed constitution and bylaws. Such new proposed constitution and bylaws shall be adopted by the Interim Council no later than six months after the date of the election in which the first proposed constitution and bylaws failed of adoption. An election on the question of the adoption of the new proposal of the Interim Council shall be conducted in the same manner provided in subsection (a)(2) of this section for the election on the first proposed constitution and bylaws.

(d) Election of tribal governing body

Not later than one hundred and twenty days after the tribe approves the adoption of the tribal constitution and bylaws and subject to the approval of the Secretary, the Interim Council shall conduct an election, by secret ballot, to elect the tribal governing body established under such constitution and bylaws. Notwithstanding any provision of the tribal constitution and bylaws, absentee and write-in balloting shall be permitted in an election under this subsection.

(Pub. L. 98–165, § 6, Nov. 22, 1983, 97 Stat. 1066.)

§ 713e. Membership rolls; voting rights of member

(a) Membership roll established and opened

The membership roll of the tribe is established and open.

(b) Criteria governing eligibility

(1) Until the first election of the tribal governing body is held pursuant to section 713d(d) of this title, any living individual may be enrolled on the membership roll of the tribe if—

(A) that individual's name was listed on the final membership roll of the tribe published on April 6, 1956, in volume 20, number 101, Federal Register, pages 3636 through 3642;

(B) that individual was entitled to be on the membership roll of the tribe on August 13, 1954, but was not listed; or

(C) that individual is a descendant of an individual, living or dead, described in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe, living or dead, or individuals who are or would have been eligible to be members under this paragraph.

(2) After the first election of the tribal governing body is held pursuant to section 713d(d) of this title, the provisions of the constitution and bylaws adopted in accordance with section 713d(a) of this title shall govern membership in the tribe.

(c) Procedures for verification of eligibility

(1) Before the election of the members of the Interim Council is held pursuant to section 713c(b) of this title, verification of (A) descendancy, for purposes of enrollment, and (B) age, for purposes of voting rights under subsection (d) of this section, shall be made upon oath before the Secretary whose determination thereon shall be final.

(2) After the election of the members of the Interim Council is held pursuant to section 713c(b) of this title, but before the first election of the members of the tribal governing body is held pursuant to section 713d(d) of this title, the verification of descendancy and age shall be made upon oath before the Interim Council, or its authorized representative. An individual may appeal the exclusion of his name from the membership roll of the tribe to the Secretary, who shall make a final determination of each such appeal within ninety days after such an appeal has been filed with him. The determination of the Secretary with respect to such an appeal shall be final.

(3) After the first election of the members of the tribal governing body is held pursuant to section 713d(d) of this title, the provisions of the constitution and bylaws adopted in accordance with section 713d(a) of this title shall govern the verification of any requirements for membership in the tribe. The Interim Council and the Secretary shall deliver their records and files and any other material relating to the enrollment of tribal members to such tribal governing body.

(4) Not less than sixty days before the election under section 713d(a) of this title, the Secretary shall publish in the Federal Register a certified copy of the membership roll of the tribe as of the date of such publication. Such membership roll shall include the names of all individuals who were enrolled by the Secretary, either directly under paragraph (1) or pursuant to an appeal under paragraph (2), and by the Interim Council under paragraph (2).

(d) Voting rights of member

Each member who is eighteen years of age or older shall be eligible to attend, participate in, and vote at each general council meeting. Each such member may nominate candidates for any office, run for any office, and vote in any election of members to the Interim Council and to such other tribal governing body as may be established under the constitution and bylaws adopted in accordance with section 713d of this title.

(Pub. L. 98–165, § 7, Nov. 22, 1983, 97 Stat. 1067.)

§ 713f. Establishment of tribal reservation

(a) Plan for establishment of reservation

(1) Any reservation for the tribe shall be established by an Act of Congress enacted after November 22, 1983.

(2) The Secretary shall enter into negotiations with the tribal governing body with respect to establishing a reservation for the tribe and, in accordance with this section and within two years of November 22, 1983, develop a plan for the establishment of such a reservation. Upon the approval of such plan by the tribal governing body (and after consultation with interested parties pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Clerk of the House of Representatives and the Secretary of the Senate for distribution to the committees of the respective Houses of the Congress with jurisdiction over the subject matter.

(b) Consultation with State and local officials required

To assure that legitimate State and local interests are not prejudiced by the proposed enlargement of the reservation, the Secretary shall notify and consult all appropriate officials of the State of Oregon, all appropriate local governmental officials in the State of Oregon, and any other interested party in developing any plan under subsection (a) of this section. The Secretary shall provide complete information on the proposed plan to such officials and interested parties, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as he may possess, and shall request comments and additional information, on the following subjects:

(1) The size and location of the proposed reservation.

(2) The anticipated effect of the establishment of the proposed reservation on State and local expenditures and tax revenues.

(3) The extent of any State or local service to the tribe, the reservation of the tribe, or members after the establishment of the proposed reservation.

(4) The extent of Federal services to be provided in the future to the tribe, the reservation of the tribe, or members.

(5) The extent of service to be provided in the future by the tribe to members residing on or off the reservation.

(c) Restrictions on plan

Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe and shall be a part of the reservation of the tribe;

(2) the establishment of the reservation shall not grant or restore to the tribe or any member any hunting, fishing, or trapping right of any kind on such reservation, including any indirect or procedural right or advantage over individuals who are not members of the tribe;

(3) the Secretary shall not accept any real property in trust for the benefit of the tribe or its members which is not located within the political boundaries of Polk, Yamhill, or Tillamook County, Oregon;

(4) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax, and

(B) foreclosure or sale in accordance with the laws of the State of Oregon pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary;

(5) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind;

(6) the State of Oregon shall exercise criminal and civil jurisdiction over the reservation, and over the individuals on the reservation, in accordance with section 1162 of title 18 and section 1360 of title 28, respectively; and

(7) any Federal real property transferred for the benefit of the tribe, pursuant to any reservation plan developed under subsection (a) of this section, shall come only from available public lands administered under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), and from lands held in trust by the United States for the tribe or for individual Indians.

(d) Appendix to plan submitted to the Congress

The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) describing the manner in which the Secretary notified all interested parties in accordance with subsection (b) of this section;

(2) naming each individual and official consulted in accordance with subsection (b) of this section;

(3) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(4) including any written comments or reports submitted to the Secretary by any party named in paragraph (2).

(Pub. L. 98–165, § 8, Nov. 22, 1983, 97 Stat. 1068.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(7), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON RESERVATION

Pub. L. 100–425, Sept. 9, 1988, 102 Stat. 1594, as amended by Pub. L. 100–581, title II, § 202, Nov. 1, 1988, 102 Stat. 2939; Pub. L. 101–301, § 4, May 24, 1990, 104 Stat. 207; Pub. L. 102–497, § 1, Oct. 24, 1992, 106 Stat. 3255; Pub. L. 103–263, § 5(a), May 31, 1994, 108 Stat. 708; Pub. L. 103–435, § 2, Nov. 2, 1994, 108 Stat. 4566; Pub. L. 105–256, § 2, Oct. 14, 1998, 112 Stat. 1896, established a reservation for Confederated Tribes of the Grand Ronde Community of Oregon, specifying hunting, fishing, and trapping rights and vesting civil and criminal jurisdiction in State of Oregon, directed treatment of certain lands as revested Oregon and California railroad grant lands, and provided economic development for the Tribes.

§ 713g. Regulations

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 98–165, § 9, Nov. 22, 1983, 97 Stat. 1070.)

SUBCHAPTER XXX–D—CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW INDIANS: RESTORATION OF FEDERAL SUPERVISION

§ 714. Definitions

For the purposes of this subchapter—

(1) ''Tribe'' means the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians;

(2) ''Secretary'' means the Secretary of the Interior or his authorized representative;

(3) ''Interim Council'' means the tribal council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, which serves pursuant to section 714c of this title; and

(4) ''member'' used with respect to the Tribe means a person enrolled on the membership roll of the Tribe provided for in section 714b of this title.

(Pub. L. 98–481, § 2, Oct. 17, 1984, 98 Stat. 2250.)

SHORT TITLE

Section 1 of Pub. L. 98–481 provided: ''That this Act [enacting this subchapter] may be cited as the 'Coos, Lower Umpqua, and Siuslaw Restoration Act'.''

§ 714a. Extension of Federal recognition, rights, and privileges

(a) Federal recognition

Federal recognition is hereby extended to the Tribe, and its members shall be eligible for all Federal services and benefits furnished to federally recognized tribes. Notwithstanding any provision to the contrary in any law establishing such services and benefits, eligibility of the Tribe and its members for such Federal services and benefits shall become effective on October 17, 1984, without regard to the existence of a reservation for the Tribe or the residence of the members of the Tribe on a reservation for such members who reside in the following counties of Oregon: Coos, Lane, Lincoln, Douglas, and Curry.

(b) Restoration of rights and privileges

Except as provided in subscription[1] (c) of this section, all rights and privileges of the Tribe and of members of the Tribe under any Federal treaty, Executive order, agreement or statute, or under any other authority, which were diminished or lost under the Act of August 13, 1954 (25 U.S.C. 691, et seq.), are hereby restored and the provisions of that Act are inapplicable to the Tribe and to members of the Tribe on October 17, 1984.

(c) Hunting, fishing, or trapping rights not granted or restored

This subchapter shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to any member of the Tribe, nor shall any presumption be created by this subchapter as to the existence or nonexistence of such rights.

(d) Effect on property rights and other obligations

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

(Pub. L. 98–481, § 3, Oct. 17, 1984, 98 Stat. 2250.)

REFERENCES IN TEXT

Act approved August 13, 1954, referred to in subsec. (b), is act Aug. 13, 1954, ch. 733, 68 Stat. 724, which is classified generally to subchapter XXX (§ 691 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsecs. (a) and (b), ''on October 17, 1984,'' the date of enactment of Pub. L. 98–481, substituted for ''upon passage of this Act''.

§ 714b. Membership rolls

(a) Opening; duty of Interim Council and tribal officials

The membership roll is declared open. The Interim Council and tribal officials under the Tribe's constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

(b) Criteria for enrollment

(1) Until a tribal constitution and bylaws are adopted, a person shall be a member of the Tribe and his name shall be placed on the membership roll if the individual is living and if—

(a) that individual's name was listed on the Tribe's Census Roll of 1940;

(b) that individual was entitled to be listed on the Tribe's Census Roll of January 1, 1940

[1] So in original. Probably should be ''subsection''.

but was not so listed. Any person placed on the membership roll must be listed on the January 1, 1940 Census Roll of the Grand Ronde-Siletz Indian Agency of nonreservation Indians as Coos, Lower Umpqua, or Siuslaw, be a descendant of such a person, or be a descendant of public domain allotee[1] of Western Oregon who was a member of one of these three tribes.

(c) that individual is a direct lineal descendant of an individual, living or dead, identified by subparagraph (a) or (b); and

(d) that individual or the lineal ancestor through whom he qualifies for membership under subparagraph (c) has never been an enrolled member of, or qualified for the payment of any money for the taking of land or otherwise through, any other Indian tribe, either federally recognized or acknowledged or not federally recognized or acknowledged.

(2) Until a tribal constitution and bylaws are adopted, a person shall be eligible for membership if the individual is living and meets the criteria established in subsections (b)(1)(a), (b) and (c) of this section. Such individual may submit an application for enrollment to the Interim Council for consideration and decision and the Interim Council shall place on the roll the name of all individuals who submitted an application and are meeting the criteria established under subsections (b)(1)(a), (b) and (c) of this section: *Provided*, That the Interim Council may reject the application of any person who is found to be a member or who is claiming membership in another Indian tribe. Nothing in this subchapter shall bar unsuccessful applicants for enrollment before the Interim Council from submitting an application for enrollment to the Tribe after the adoption of a tribal constitution and bylaws.

(3) After the adoption of a tribal constitution and bylaws, those documents shall govern membership in the Tribe.

(c) Verification of eligibility for enrollment; appeal; finality of determination; possession of enrollment records and materials

(1) Prior to any election pursuant to section 714d of this title, the Interim Council shall verify by tribal resolution the eligibility for enrollment and age of each member listed on the Tribe's membership roll, which resolution shall be forwarded to the Secretary.

(2) With regard to the exclusion of any name from the tribal membership roll, any member may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to such an appeal shall be final.

(d) Franchisement

A member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in elections of members to the interim council[2] and to other tribal councils.

[1] So in original. Probably should be ''allottee''.

[2] So in original. Probably should be ''Interim Council''.

(Pub. L. 98–481, § 4, Oct. 17, 1984, 98 Stat. 2251.)

§ 714c. Interim Council

Until such time as a new tribal constitution and bylaws are adopted in accordance with section 714d of this title, the Tribe shall be governed by an Interim Council, the membership of which shall consist of the members of the current council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, Incorporated or such new members as may be elected in accordance with election procedures followed by the tribal corporate body prior to October 17, 1984.

(Pub. L. 98–481, § 5, Oct. 17, 1984, 98 Stat. 2252.)

§ 714d. Tribal constitution and bylaws

(a) Election; time and procedure

Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to section 476 of this title, for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held after such written request and within sixty days after the Secretary has published in appropriate local media a certification copy of the Tribe's membership roll.

(b) Preelection distribution of proposed constitution and bylaws and brief, impartial description; consultation by Interim Council with members of Tribe

The Interim Council shall draft and distribute to each member described in section 714b(d) of this title, no later than thirty days before the election under subsection (a) of this section, a copy of the proposed constitution and bylaws of the Tribe, as proposed by the Interim Council, along with a brief, impartial description of the constitution and bylaws. The members of the Interim Council may freely consult with members of the Tribe, outside legal counsel and other consultants concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) Majority vote necessary for adoption of constitution and bylaws

In any election held pursuant to subsection (a) of this section, the vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws: *Provided*, That the total vote cast shall not be less than thirty percent of those entitled to vote.

(d) Election of tribal officials provided for in constitution and bylaws; ballot requirements

Not later than one hundred and twenty days after the tribe[1] adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal con-

[1] So in original. Probably should be capitalized.

stitution and bylaws to the contrary, absentee balloting shall be permitted.

(Pub. L. 98–481, § 6, Oct. 17, 1984, 98 Stat. 2252.)

§ 714e. Reservation

(a) Establishment

A reservation shall be established by this subchapter at no cost to the Federal Government.

(b) Legal description

So long as the lands are offered to the Federal Government free of purchase cost, the Secretary shall accept the following lands in trust for the tribe[1] as a reservation:

(1) In Coos County, Oregon, a parcel containing 1.02 acres and described as parcel 3200 of section 106B of township 25 south, range 12 west, Willamette meridian.

(2) In Coos County, Oregon, a parcel described as lots 10–18, block 13, Empire Commercial tracts K73 2K 81, A. N. Foley Donation Land Claim Numbered 38, section 20 of township 25 south, range 13 west, Willamette meridian. The Secretary shall not accept this parcel into trust until the date that is 1 year after October 17, 1984. If before the end of the ninety day period, a person or entity other than the tribe[1] files a lawsuit in a court of competent jurisdiction claiming an interest in such parcel or portion thereof, the Secretary shall not accept the parcel into trust until the final adjudication of this lawsuit. Nothing in this subchapter shall be construed to the prejudice of any parties to such lawsuit or be construed to prevent a court of competent jurisdiction from partitioning such parcel in the adjudication of such lawsuit. Notwithstanding any other provision of law, the United States District Court for the District of Oregon shall be deemed to have jurisdiction over any lawsuit filed to determine the rights to the above described parcel of land.

(3) In Curry County, Oregon, a parcel described as the southeast quarter of the southeast quarter of the southwest quarter of section 11 of township 32 south, range 15 west, Willamette meridian.

(4) In Lane County, Oregon, a parcel described as beginning at the common corner to sections 23, 24, 25, and 26 township 18 south, range 12 west, Willamette Meridian; then west 25 links; then north 2 chains and 50 links; then east 25 links to a point on the section line between sections 23 and 24; then south 2 chains and 50 links to the place of origin, and containing .062 of an acre, more or less, situated and lying in section 23, township 18 south, range 12 west, of Willamette Meridian.

(c) State of Oregon; criminal and civil jurisdiction

The State of Oregon shall exercise criminal and civil jurisdiction over the reservation, and over the individuals on the reservation, in accordance with section 1162 of title 18 and section 1360 of title 28, respectively.

(Pub. L. 98–481, § 7, Oct. 17, 1984, 98 Stat. 2253; Pub. L. 105–256, § 5, Oct. 14, 1998, 112 Stat. 1897.)

[1] So in original. Probably should be capitalized.

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105–256 added par. (4).

§ 714f. Regulations

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 98–481, § 8, Oct. 17, 1984, 98 Stat. 2254.)

SUBCHAPTER XXX–E—COQUILLE INDIAN TRIBE OF OREGON: RESTORATION OF FEDERAL SUPERVISION

§ 715. Definitions

For the purposes of this subchapter—

(1) ''Tribe'' means the Coquille Indian Tribe consisting of the Upper Coquille and the Lower Coquille Tribes of Indians;

(2) ''Secretary'' means the Secretary of the Interior or his designated representative;

(3) ''Interim Council'' means the governing body of the Coquille Tribe which serves pursuant to section 715f of this title;

(4) ''Member'' means those persons eligible for enrollment under section 715e of this title and after the adoption of a tribal constitution, those persons added to the roll pursuant to such constitution;

(5) ''service area'' means the area composed of Coos, Curry, Douglas, Jackson, and Lane Counties in the State of Oregon;

(6) ''State'' means the State of Oregon; and

(7) ''Reservation'' means those lands subsequently acquired and held in trust by the Secretary for the benefit of the Tribe.

(Pub. L. 101–42, § 2, June 28, 1989, 103 Stat. 91.)

SHORT TITLE

Section 1 of Pub. L. 101–42 provided that: ''This Act [enacting this subchapter] may be cited as the 'Coquille Restoration Act'.''

§ 715a. Restoration of Federal recognition, rights, and privileges

(a) Federal recognition

Notwithstanding any provision of law, Federal recognition is hereby extended to the Coquille Indian Tribe. Except as otherwise provided herein, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this subchapter shall be applicable to the Tribe and its Members.

(b) Restoration of rights and privileges

Except as provided in subsection (d) of this section, all rights and privileges of this Tribe and of its Members under any Federal treaty, Executive order, agreement or statute or under any other authority, which were diminished or lost under the Act of August 13, 1954 (68 Stat. 724) [25 U.S.C. 691 et seq.], are hereby restored and provisions of said Act shall be inapplicable to the Tribe and its Members after June 28, 1989.

(c) Federal services and benefits

Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its Members shall be eligible, on and after June 28, 1989, for all Federal serv-

ices and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized tribes residing on a reservation, Members of the Tribe in the Tribe's service area shall be deemed to be residing on a reservation. Notwithstanding any other provision of law, the Tribe shall be considered an Indian tribe for the purpose of the Indian Tribal Government Tax Status Act (26 U.S.C. 7871).

(d) Hunting, fishing, trapping, and water rights

Nothing in this subchapter shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its Members.

(e) Indian Reorganization Act applicability

The Act of June 18, 1934 (48 Stat. 984), as amended [25 U.S.C. 461 et seq.], shall be applicable to the Tribe and its Members.

(f) Certain rights not altered

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

(Pub. L. 101–42, § 3, June 28, 1989, 103 Stat. 91.)

REFERENCES IN TEXT

Act of August 13, 1954, referred to in subsec. (b), is act Aug. 13, 1954, ch. 733, 68 Stat. 724, which is classified generally to subchapter XXX (§ 691 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

The Indian Tribal Government Tax Status Act, referred to in subsec. (c), probably means the Indian Tribal Governmental Tax Status Act of 1982, title II of Pub. L. 97–473, Jan. 14, 1983, 96 Stat. 2607, as amended, which is classified principally to subchapter C (§ 7871) of chapter 80 of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see Short Title of 1983 Amendments note set out under section 1 of Title 26 and Tables.

Act of June 18, 1934, referred to in subsec. (e), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 715b. Economic development

(a) Plan for economic development

The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for this Tribe;

(2) in accordance with this section and not later than two years after the adoption of a tribal constitution as provided in section 715g of this title, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) Restrictions to be contained in plan

Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) of this section shall be consistent with the requirements of section 715c of this title.

(Pub. L. 101–42, § 4, June 28, 1989, 103 Stat. 92.)

§ 715c. Transfer of land to be held in trust

(a) Lands to be taken in trust

The Secretary shall accept any real property located in Coos and Curry Counties not to exceed one thousand acres for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary: *Provided*, That, at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to his authority under the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.].

(b) Lands to be part of reservation

Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the Tribe and shall be part of its reservation.

(c) Lands to be nontaxable

Any real property taken into trust for the benefit of the Tribe under this section shall be exempt from all local, State, and Federal taxation as of the date of transfer.

(d) Creation of Coquille Forest

(1) Definitions

In this subsection:

(A) the[1] term ''Coquille Forest'' means certain lands in Coos County, Oregon, comprising approximately 5,400 acres, as generally depicted on the map entitled ''Coquille Forest Proposal'', dated July 8, 1996.

(B) the[1] term ''Secretary'' means the Secretary of the Interior.

(C) the[1] term ''the Tribe'' means the Coquille Tribe of Coos County, Oregon.

(2) Map

The map described in subparagraph (d)(1)(A), and such additional legal descriptions which are applicable, shall be placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

(3) Interim period

From September 30, 1996, until two years after September 30, 1996, the Bureau of Land Management shall:

(A) retain Federal jurisdiction for the management of lands designated under this subsection as the Coquille Forest and continue to distribute revenues from such lands in a manner consistent with existing law; and,[2]

(B) prior to advertising, offering or awarding any timber sale contract on lands designated under this subsection as the Coquille Forest, obtain the approval of the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe.

(4) Transition planning and designation

(A) During the two year interim period provided for in paragraph (3), the Assistant Sec-

[1] So in original. Probably should be capitalized.

[2] So in original. The comma probably should not appear.

retary for Indian Affairs, acting on behalf of and in consultation with the Tribe, is authorized to initiate development of a forest management plan for the Coquille Forest. The Secretary, acting through the Director of the Bureau of Land Management, shall cooperate and assist in the development of such plan and in the transition of forestry management operations for the Coquille Forest to the Assistant Secretary for Indian Affairs.

(B) Two years after September 30, 1996, the Secretary shall take the lands identified under subparagraph (d)(1)(A) into trust, and shall hold such lands in trust, in perpetuity, for the Coquille Tribe. Such lands shall be thereafter designated as the Coquille Forest.

(C) So as to maintain the current flow of revenue from land subject to the Act entitled ''An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon'' (the O&C Act), approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary shall redesignate, from public domain lands within the tribe's service area, as defined in this subchapter, certain lands to be subject to the O&C Act. Lands redesignated under this subparagraph shall not exceed lands sufficient to constitute equivalent timber value as compared to lands constituting the Coquille Forest.

(5) Management

The Secretary of[3] Interior, acting through the Assistant Secretary for Indian Affairs, shall manage the Coquille Forest under applicable State and Federal forestry and environmental protection laws, and subject to critical habitat designations under the Endangered Species Act [16 U.S.C. 1531 et seq.], and subject to the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands, now and in the future. The Secretary shall otherwise manage the Coquille Forest in accordance with the laws pertaining to the management of Indian Trust[4] lands and shall distribute revenues in accord with Public Law 101–630, 25 U.S.C. 3107.

(A) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign Nations[4] that apply to unprocessed logs harvested from Federal lands.

(B) Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.

(6) Indian Self-Determination Act agreement

No sooner than two years after September 30, 1996, the Secretary may, upon a satisfactory showing of management competence and pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.], enter into a binding Indian self-determination agreement (agreement) with the Coquille Indian Tribe. Such agreement may provide for the tribe to carry out all or a portion of the forest management for the Coquille Forest.

(A) Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a binding memorandum of agreement (MOA) with the State of Oregon, as required under paragraph 7.[5]

(B) The authority of the Secretary to rescind the Indian self-determination agreement shall not be encumbered.

(i) The Secretary shall rescind the agreement upon a demonstration that the tribe and the State of Oregon are no longer engaged in a memorandum of agreement as required under paragraph 7.[5]

(ii) The Secretary may rescind the agreement on a showing that the Tribe has managed the Coquille Forest in a manner inconsistent with this subsection, or the Tribe is no longer managing, or capable of managing, the Coquille Forest in a manner consistent with this subsection.

(7) Memorandum of agreement

The Coquille Tribe shall enter into a memorandum of agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for managing the Coquille Forest in a manner consistent with paragraph (5) of this subsection, preserving public access, advancing jointly-held resource management goals, achieving tribal restoration objectives and establishing a coordinated management framework. Further, provisions set forth in the MOA shall be consistent with federal[6] trust responsibility requirements applicable to Indian trust lands and paragraph (5) of this subsection.

(8) Public access

The Coquille Forest shall remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state[6] or federal[6] law, or when the Coquille Indian Tribe and the State of Oregon agree in writing that restrictions on access are necessary or appropriate to prevent harm to natural resources, cultural resources or environmental quality;[7] *Provided*, That the State of Oregon's agreement shall not be required when immediate action is necessary to protect archaeological resources.

(9) Jurisdiction

(A) The United States District Court for the District of Oregon shall have jurisdiction over actions against the Secretary arising out of claims that this subsection has been violated. Consistent with existing precedents on standing to sue, any affected citizen may bring suit against the Secretary for violations of this subsection, except that suit may not be brought against the Secretary for claims that the MOA has been violated. The Court has the

[3] So in original. Probably should be followed by ''the''.

[4] So in original. Probably should not be capitalized.

[5] So in original. Probably should be paragraph ''(7)''.

[6] So in original. Probably should be capitalized.

[7] So in original. The semicolon probably should be a colon.

authority to hold unlawful and set aside actions pursuant to this subsection that are arbitrary and capricious, an abuse of discretion, or otherwise an abuse of law.

(B) The United States District Court for the District of Oregon shall have jurisdiction over actions between the State of Oregon and the Tribe arising out of claims of breach of the MOA.

(C) Unless otherwise provided for by law, remedies available under this subsection shall be limited to equitable relief and shall not include damages.

(10) State regulatory and civil jurisdiction

In addition to the jurisdiction described in paragraph 7[5] of this subsection, the State of Oregon may exercise exclusive regulatory civil jurisdiction, including but not limited to adoption and enforcement of administrative rules and orders, over the following subjects:

(A) management, allocation and administration of fish and wildlife resources, including but not limited to establishment and enforcement of hunting and fishing seasons, bag limits, limits on equipment and methods, issuance of permits and licenses, and approval or disapproval of hatcheries, game farms, and other breeding facilities;[7] *Provided*, That nothing herein shall be construed to permit the State of Oregon to manage fish or wildlife habitat on Coquille Forest lands;

(B) allocation and administration of water rights, appropriation of water and use of water;

(C) regulation of boating activities, including equipment and registration requirements, and protection of the public's right to use the waterways for purposes of boating or other navigation;

(D) fills and removals from waters of the State, as defined in Oregon law;

(E) protection and management of the State's proprietary interests in the beds and banks of navigable waterways;

(F) regulation of mining, mine reclamation activities, and exploration and drilling for oil and gas deposits;

(G) regulation of water quality, air quality (including smoke management), solid and hazardous waste, and remediation of releases of hazardous substances;

(H) regulation of the use of herbicides and pesticides; and

(I) enforcement of public health and safety standards, including standards for the protection of workers, well construction and codes governing the construction of bridges, buildings, and other structures.

(11) Savings clause, State authority

(A) Nothing in this subsection shall be construed to grant tribal authority over private or State-owned lands.

(B) To the extend[8] that the State of Oregon is regulating the foregoing areas pursuant to a delegated Federal authority or a Federal program, nothing in this subsection shall be construed to enlarge or diminish the State's authority under such law.

(C) Where both the State of Oregon and the United States are regulating, nothing herein shall be construed to alter their respective authorities.

(D) To the extent that Federal law authorizes the Coquille Indian Tribe to assume regulatory authority over an area, nothing herein shall be construed to enlarge or diminish the tribe's[9] authority to do so under such law.

(E) Unless and except to the extent that the tribe[9] has assumed jurisdiction over the Coquille Forest pursuant to Federal law, or otherwise with the consent of the State, the State of Oregon shall have jurisdiction and authority to enforce its laws addressing the subjects listed in subparagraph 10[10] of this subsection on the Coquille Forest against the Coquille Indian Tribe, its members and all other persons and entities, in the same manner and with the same remedies and protections and appeal rights as otherwise provided by general Oregon law. Where the State of Oregon and Coquille Indian Tribe agree regarding the exercise of tribal civil regulatory jurisdiction over activities on the Coquille Forest lands, the tribe[9] may exercise such jurisdiction as its[11] agreed upon.

(12) Conflict between laws

In the event of a conflict between Federal and State law under this subsection, Federal law shall control.

(Pub. L. 101–42, § 5, June 28, 1989, 103 Stat. 92; Pub. L. 104–208, div. B, title V, § 501, Sept. 30, 1996, 110 Stat. 3009–537.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

The O&C Act, referred to in subsec. (d)(4)(C), is act Aug. 28, 1937, ch. 876, 50 Stat. 874, as amended, which is classified generally to subchapter V (§ 1181a et seq.) of chapter 28 of Title 43, Public Lands. For complete classification of this Act to the Code, see Tables.

The Endangered Species Act, referred to in subsec. (d)(5), probably means the Endangered Species Act of 1973, Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

Public Law 101–630, 25 U.S.C. 3107, referred to in subsec. (d)(5), is probably a reference to section 308 of Pub. L. 101–630, which is classified to section 3107 of this title.

The Indian Self-Determination Act, referred to in subsec. (d)(6), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–208 added subsec. (d).

[8] So in original. Probably should be "extent".

[9] So in original. Probably should be capitalized.

[10] So in original. Probably should be "paragraph (10)".

[11] So in original. Probably should be "is".

§ 715d. Criminal and civil jurisdiction

The State shall exercise criminal and civil jurisdiction within the boundaries of the reservation, in accordance with section 1162 of title 18, and section 1360 of title 28, respectively. Retrocession of such jurisdiction may be obtained pursuant to section 1323 of this title.

(Pub. L. 101–42, § 6, June 28, 1989, 103 Stat. 92.)

§ 715e. Membership rolls

(a) Compilation of tribal membership roll

Within one year of June 28, 1989, the Secretary shall compile a roll of the Coquille Indian Tribe.

(b) Criteria for enrollments

(1) Until a tribal constitution is adopted, a person shall be placed on the membership roll if the individual is living, is not an enrolled member of another federally recognized tribe, is of Coquille ancestry, possesses at least one-eighth or more of Indian blood quantum and if—

(A) that individual's name was listed on the Coquille roll compiled and approved by the Bureau of Indian Affairs on August 29, 1960;

(B) that individual was not listed on but met the requirements that had to be met to be listed on the Coquille roll compiled and approved by the Bureau of Indian Affairs on August 29, 1960; or

(C) that individual is a lineal descendant of an individual, living or dead, identified by subparagraph (A) or (B).

(2) After adoption of a tribal constitution, said constitution shall govern membership in the Tribe: *Provided*, That in addition to meeting any other criteria imposed in such tribal constitution, any person added to the roll has to be of Coquille Indian ancestry and cannot be a member of another federally recognized Indian tribe.

(c) Conclusive proof of Coquille ancestry and degree of Indian blood quantum

For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Coquille ancestry and the required amount of Indian blood quantum. However, the Secretary shall accept as conclusive evidence of Coquille ancestry information contained in the Coquille roll compiled by the Bureau of Indian Affairs on August 29, 1960, and as conclusive evidence of Indian blood quantum the information contained in the January 1, 1940, census roll of nonreservation Indians of the Grand Ronde-Siletz Agency.

(Pub. L. 101–42, § 7, June 28, 1989, 103 Stat. 93.)

§ 715f. Interim government

Until a new tribal constitution and bylaws are adopted and become effective under section 715g of this title, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Coquille Tribe on June 28, 1989, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal bylaws adopted on April 23, 1979. Any new members filling vacancies on the Interim Council must meet the criteria for enrollment in section 715e(b) of this title and be elected in the same manner as are Tribal Council members under the April 23, 1979, bylaws.

(Pub. L. 101–42, § 8, June 28, 1989, 103 Stat. 93.)

§ 715g. Tribal constitution

(a) Election; time and procedure

Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution for the Tribe. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 476 of this title.

(b) Election of tribal officials; procedures

Not later than one hundred and twenty days after the Tribe adopts a constitution and bylaws, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the tribal constitution. Said election shall be conducted according to the procedures stated in paragraph[1] (a) of this section except to the extent that said procedures conflict with the tribal constitution.

(Pub. L. 101–42, § 9, June 28, 1989, 103 Stat. 93.)

SUBCHAPTER XXXI—ALABAMA AND COUSHATTA INDIANS OF TEXAS: TERMINATION OF FEDERAL SUPERVISION

§ 721. Transfer of property to Texas

The Secretary of the Interior is authorized to convey to the State of Texas the lands held in trust by the United States for the tribe of Indians organized and known as the Alabama and Coushatta Tribes of Texas, located in Polk County, Texas; and such tribe is authorized to convey to the State of Texas the lands purchased for and deeded to the Alabama Indians in accordance with an act of the legislature of the State of Texas approved February 3, 1854, located in Polk County, Texas. All of the lands so conveyed shall be held by the State of Texas in trust for the benefit of the Indians of the Alabama and Coushatta Tribes of Texas, subject to such conditions regarding management and use as the State of Texas may prescribe and the disposition of such lands shall be subject to approval of a majority of the adult members of the Alabama and Coushatta Tribes of Texas.

(Aug. 23, 1954, ch. 831, § 1, 68 Stat. 768.)

§ 722. Termination of Federal trust; publication; termination of Federal services; admission to hospitals and schools

Upon the conveyance to the State of Texas of the lands held in trust by the United States for the Alabama and Coushatta Tribes of Texas, the Secretary of the Interior shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to such tribe and its members has terminated. Thereafter such tribe and its members shall not be entitled to any of the services performed by the United States for Indians because of their status as In-

[1] So in original. Probably should be "subsection".

dians: *Provided*, That after August 21, 1954 such Indians shall be eligible for admission, on the same terms that apply to other Indians, to hospitals and schools maintained by the United States.

(Aug. 23, 1954, ch. 831, § 2, 68 Stat. 769.)

§ 723. Termination of Federal powers over tribe

Effective on the date of the proclamation provided for in section 722 of this title, all powers of the Secretary of the Interior or any other officer of the United States to take, review, or approve any action under the constitution and bylaws of the Alabama and Coushatta Tribes of Texas approved on August 19, 1938, pursuant to the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], are terminated. Any powers conferred upon the tribe by its constitution and bylaws that are inconsistent with the provisions of this subchapter are terminated. Such termination shall not affect the power of the tribe to take any action under its constitution and bylaws that is consistent with this subchapter without the participation of the Secretary or other officer of the United States in such action.

(Aug. 23, 1954, ch. 831, § 3, 68 Stat. 769.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 724. Cancellation of indebtedness

The indebtedness of the Alabama and Coushatta Tribes of Texas to the United States incurred under the provisions of the Act of May 29, 1928 (45 Stat. 883, 900), is canceled, effective on the date of the proclamation to be issued in accordance with the provisions of section 722 of this title.

(Aug. 23, 1954, ch. 831, § 4, 68 Stat. 769.)

REFERENCES IN TEXT

Act of May 29, 1928, referred to in text, is act May 29, 1928, ch. 853, 45 Stat. 883, known as the Second Deficiency Act, fiscal year, 1928. That portion of the act relating to indebtedness of Alabama and Coushatta Tribes is set out at 45 Stat. 900 and was not classified to the Code.

§ 725. Revocation of corporate charter

The corporate charter of the Alabama and Coushatta Tribes of Texas issued pursuant to the Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], ratified on October 17, 1939, is revoked, effective on the date of the proclamation to be issued in accordance with the provisions of section 722 of this title.

(Aug. 23, 1954, ch. 831, § 5, 68 Stat. 769.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 726. Applicability of Federal and State laws

On and after the date of the proclamation to be issued in accordance with the provisions of section 722 of this title, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the Alabama and Coushatta Tribes of Texas or the members thereof, except as provided in said section and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

(Aug. 23, 1954, ch. 831, § 6, 68 Stat. 769.)

§ 727. Citizenship status unaffected

Nothing in this subchapter shall affect the status of the members of the tribes as citizens of the United States.

(Aug. 23, 1954, ch. 831, § 7, 68 Stat. 769.)

§ 728. Protection of Alabama and Coushatta Indians and conservation of resources after issuance of proclamation

The Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 387) [25 U.S.C. 461 et seq.], shall not apply to the tribe and its members after the date of the proclamation to be issued in accordance with the provisions of section 722 of this title.

(Aug. 23, 1954, ch. 831, § 8, 68 Stat. 769.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

SUBCHAPTER XXXI–A—ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS: RESTORATION OF FEDERAL SUPERVISION

§ 731. Definitions

For purposes of this subchapter—

(1) the term ''tribe'' means the Alabama and Coushatta Indian Tribes of Texas (considered as one tribe in accordance with section 732 of this title);

(2) the term ''Secretary'' means the Secretary of the Interior or his designated representative;

(3) the term ''reservation'' means the Alabama and Coushatta Indian Reservation in Polk County, Texas, comprised of—

(A) the lands and other natural resources conveyed to the State of Texas by the Secretary pursuant to the provisions of section 721 of this title;

(B) the lands and other natural resources purchased for and deeded to the Alabama Indians in accordance with an act of the legislature of the State of Texas approved February 3, 1854; and

(C) lands subsequently acquired and held in trust by the Secretary for the benefit of the tribe;

(4) the term ''State'' means the State of Texas;

(5) the term ''constitution and bylaws'' means the constitution and bylaws of the tribe which were adopted on June 16, 1971; and

(6) the term ''Tribal Council'' means the governing body of the tribe under the constitution and bylaws.

(Pub. L. 100–89, title II, § 201, Aug. 18, 1987, 101 Stat. 669.)

SHORT TITLE

Section 1 of Pub. L. 100–89 provided that: ''This Act [enacting this subchapter and subchapter LXXVIII (§ 1300g et seq.) of this chapter and provisions set out below] may be cited as the 'Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act'.''

REGULATIONS

Section 2 of Pub. L. 100–89 provided that: ''The Secretary of the Interior or his designated representative may promulgate such regulations as may be necessary to carry out the provisions of this Act [see Short Title note above].''

§ 732. Alabama and Coushatta Indian Tribes of Texas considered as one tribe

The Alabama and Coushatta Indian Tribes of Texas shall be considered as one tribal unit for purposes of this subchapter and any other law or rule of law of the United States.

(Pub. L. 100–89, title II, § 202, Aug. 18, 1987, 101 Stat. 670.)

§ 733. Restoration of Federal trust relationship; Federal services and assistance

(a) Federal trust relationship

The Federal recognition of the tribe and of the trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this subchapter shall apply to the members of the tribe, the tribe, and the reservation.

(b) Restoration of rights and privileges

All rights and privileges of the tribe and members of the tribe under any Federal treaty, Executive order, agreement, statute, or under any other authority of the United States which may have been diminished or lost under the Act approved August 23, 1954 [68 Stat. 768; 25 U.S.C. 721 et seq.], are hereby restored and such subchapter shall not apply to the tribe or to members of the tribe after August 18, 1987.

(c) Federal benefits and services

Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after August 18, 1987, for all benefits and services furnished to federally recognized Indian tribes.

(d) Effect on property rights and other obligations

Except as otherwise specifically provided in this subchapter, the enactment of this subchapter shall not affect any property right or obligation or any contractual right or obligation in existence before August 18, 1987, or any obligation for taxes levied before August 18, 1987.

(Pub. L. 100–89, title II, § 203, Aug. 18, 1987, 101 Stat. 670.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act approved August 23, 1954, referred to in subsec. (b), was in the original a reference to the Act entitled ''An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes'' and approved August 23, 1954, which is classified generally to subchapter XXXI (§ 721 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 734. State and tribal authority

(a) State authority

Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefitting the tribe, and the State is authorized to perform any services benefitting the tribe that are not inconsistent with the provisions of this Act.

(b) Current constitution and bylaws to remain in effect

Subject to the provisions of section 733(a) of this title, the constitution and bylaws of the tribe on file with the Committee on Natural Resources of the House of Representatives is hereby declared to be approved for the purposes of section 476 of this title except that all reference to the Texas Indian Commission shall be considered as reference to the Secretary of the Interior.

(c) Authority and capacity of Tribal Council

No provision contained in this subchapter shall affect the power of the Tribal Council to take any action under the constitution and bylaws described in subsection (b) of this section. The Tribal Council shall represent the tribe and its members in the implementation of this subchapter and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency;

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement; and

(3) to bind any tribal governing body selected under any new constitution adopted in accordance with section 735 of this title as the successor in interest to the Tribal Council.

(Pub. L. 100–89, title II, § 204, Aug. 18, 1987, 101 Stat. 670; Pub. L. 103–437, § 10(d), Nov. 2, 1994, 108 Stat. 4589.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 100–89, Aug. 18, 1987, 101 Stat. 666, known as the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act, which enacted this subchapter and subchapter LXXVIII (§ 1300g et seq.) of this chapter and enacted provisions set out as notes under section 731 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 731 of this title and Tables.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted ''Natural Resources of the House of Representatives'' for ''Interior and Insular Affairs''.

CHANGE OF NAME

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 735. Adoption of new constitution and bylaws

Upon written request of the tribal council,[1] the Secretary shall hold an election for the members of the tribe for the purpose of adopting a new constitution and bylaws in accordance with section 476 of this title.

(Pub. L. 100–89, title II, § 205, Aug. 18, 1987, 101 Stat. 671.)

§ 736. Provisions relating to tribal reservation

(a) Federal reservation established

The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary.

(b) Conveyance of land by State

The Secretary shall—

(1) accept any offer from the State to convey title to any lands held in trust by the State or the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) shall hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) Conveyance of land by tribe

At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any lands within the reservation which are held by the tribe to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) Approval of deed by Attorney General

Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument from the State or the tribe which conveys title to lands within the reservation to the United States.

(e) Permanent improvements authorized

Notwithstanding any other provision of law or rule of law, the Secretary or the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) Civil and criminal jurisdiction within reservation

The State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 1321 and 1322 of this title.

(Pub. L. 100–89, title II, § 206, Aug. 18, 1987, 101 Stat. 671.)

§ 737. Gaming activities

(a) In general

All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the tribe's request in Tribal Resolution No. T.C.–86–07 which was approved and certified on March 10, 1986.

(b) No State regulatory jurisdiction

Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) Jurisdiction over enforcement against members

Notwithstanding section 736(f) of this title, the courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) of this section that is committed by the tribe, or by any member of the tribe, on the reservation or on lands of the tribe. However, nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section.

(Pub. L. 100–89, title II, § 207, Aug. 18, 1987, 101 Stat. 672.)

SUBCHAPTER XXXII—PAIUTE INDIANS OF UTAH: TERMINATION OF FEDERAL SUPERVISION

§ 741. Purpose

The purpose of this subchapter is to provide for the termination of Federal supervision over the trust and restricted property of certain tribes and bands of Indians located in the State of Utah and the individual members thereof, for the disposition of federally owned property acquired or withdrawn for the administration of the affairs of such Indians, and for a termination of Federal services furnished such Indians because of their status as Indians.

(Sept. 1, 1954, ch. 1207, § 1, 68 Stat. 1099.)

REPEAL OF INCONSISTENT LAWS

Section 20 of act Sept. 1, 1954, provided that: ''All Acts or parts of Acts inconsistent with this Act [this subchapter] are repealed insofar as they affect the tribe

[1] So in original. Probably should be ''Tribal Council,''.

or its members. The Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378) [section 461 et seq. of this title], shall not apply to the tribe and its members after the date of the proclamation provided for in section 17 of this Act [section 757 of this title].''

SEPARABILITY

Section 21 of act Sept. 1, 1954, provided that: ''If any provision of this Act [this subchapter], or the application thereof, to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.''

§ 742. Definitions

For the purposes of this subchapter—

(a) ''Tribe'' means any of the following tribes or bands of Indians located in the State of Utah: Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of the Paiute Indian Tribe.

(b) ''Secretary'' means the Secretary of the Interior.

(c) ''Lands'' means real property, interests therein, or improvements thereon, and includes water rights.

(d) ''Individual Indian'' means any individual Indian whose name appears on the final roll prepared pursuant to section 743 of this title.

(e) ''Tribal property'' means any real or personal property, including water rights, or any interest in real or personal property, that belongs to the tribe and either is held by the United States in trust for the tribe or is subject to a restriction against alienation imposed by the United States,

(Sept. 1, 1954, ch. 1207, § 2, 68 Stat. 1100.)

§ 743. Membership roll; preparation and initial publication; appeal from inclusion or omission from roll; finality of determination; final publication

Each tribe shall have a period of six months from September 1, 1954, in which to prepare and submit to the Secretary a proposed roll of the members of the tribe living on September 1, 1954, which shall be published in the Federal Register. If a tribe fails to submit such roll within the time specified in this section, the Secretary shall prepare a proposed role[1] for the tribe, which shall be published in the Federal Register. Any person claiming membership rights in the tribe or an interest in its assets, or a representative of the Secretary on behalf of any such person, may, within sixty days from the date of publication of the proposed roll, file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such roll. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals by the Secretary, the roll of the tribe shall be published in the Federal Register, and such roll shall be final for the purposes of this subchapter.

(Sept. 1, 1954, ch. 1207, § 3, 68 Stat. 1100.)

[1] So in original. Probably should be ''roll''.

§ 744. Personal property rights; restrictions

Upon publication in the Federal Register of the final roll as provided in section 743 of this title, the rights or beneficial interests in tribal property of each person whose name appears on the roll shall constitute personal property which may be inherited or bequeathed, but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such tribal property as provided in section 745 of this title without the approval of the Secretary. Any contract made in violation of this section shall be null and void.

(Sept. 1, 1954, ch. 1207, § 4, 68 Stat. 1100.)

§ 745. Tribal property

(a) Procedure for transfer; compensation of agents or attorneys

The Secretary shall, within six months after the publication of each final membership roll, notify the tribe of the period of time during which the tribe may study means of disposition of tribal property, real and personal, under supervision of the United States. Such period shall not be less than three months and not more than two years, including any authorized extension of the original periods. The Secretary is authorized to provide such reasonable assistance as may be requested by the tribe in the formulation of a plan for the disposition or future control and management of the property, including necessary consultations with representatives of Federal departments and agencies, officials of the State of Utah and political subdivisions thereof, and members of the tribe. During such period, the tribe may elect—

(1) to apply to the Secretary for the transfer to a corporation or other legal entity organized by the tribe in a form satisfactory to the Secretary of title to all or any part of the tribal property, and the Secretary is authorized to make such transfer: *Provided*, That the Secretary of the Interior shall not approve any form of organization that provides for the transfer of stock or an undivided share in corporate assets as compensation for services of agents or attorneys unless such transfer is based upon an appraisal of tribal assets that is satisfactory to the Secretary;

(2) to apply to the Secretary for the transfer to one or more trustees designated by the tribe of title to all or any part of the tribal property, real and personal, the title to be held by such trustee for management or liquidation purposes under terms and conditions prescribed by the tribe, and the Secretary is authorized to make such transfer if he approves the trustees and the terms and conditions of the trust;

(3) to apply to the Secretary for the sale of all or any part of the tribal property, and for the pro rata distribution among the members of the tribe of all or any part of the proceeds of sale or of any other tribal funds, and the Secretary is authorized and directed to sell such property upon such terms and conditions as he deems proper and to make such distribution among the members of the tribe after deducting, in his discretion, reasonable costs of sale and distribution; and

(4) to apply to the Secretary for a division of all or any part of the tribal land into parcels for members and for public purposes, together with a general plan for the subdivision showing the approximate size, location, and number of parcels, and the Secretary is authorized to issue patents for that purpose.

(b) Property not transferred in accordance with recognized procedure

Title to any tribal property that is not transferred in accordance with the provisions of subsection (a) of this section shall be transferred by the Secretary either to all members of the tribe as tenants in common or to one or more trustees designated by him for the liquidation and distribution of assets among the members of the tribe under such terms and conditions as the Secretary may prescribe: *Provided*, That the trust agreement shall provide for the termination of the trust not more than three years from the date of such transfer unless the term of the trust is extended by order of a judge of a court of record designated in the trust agreement.

(c) Selection of trustees; approval by Secretary; election to retain property

When approving or disapproving the selection of trustees in accordance with the provisions of subsection (a) of this section, and when designating trustees pursuant to subsection (b) of this section, the Secretary shall give due regard to the laws of the State of Utah that relate to the selection of trustees: *Provided further*, That the trust agreement shall provide that at any time before the sale of tribal property by the trustees the tribe may notify the trustees that it elects to retain such property and to transfer title thereto to a corporation, other legal entity, or trustee in accordance with the provisions of paragraphs (1) and (2) of subsection (a) of this section, and that the trustees shall transfer title to such property in accordance with the notice from the tribe if it is approved by the Secretary.

(d) Reservation of subsurface rights

Notwithstanding any other provision of this section, the Secretary is directed to reserve subsurface rights in tribal property from any sale or division of such property, and to require any trustee or trustees to whom title to tribal property is transferred to retain title to the subsurface rights in such property for not less than 10 years.

(Sept. 1, 1954, ch. 1207, § 5, 68 Stat. 1100.)

DISCONTINUANCE OF IRRIGATION WORKS; TRANSFER OF TITLE

Section 22 of act Sept. 1, 1954, provided that not later than two years after Sept. 1, 1954, the management and operation of irrigation works for Indian lands of the tribe by the Bureau of Indian Affairs was to be discontinued, and that, upon such discontinuance, the Secretary was to cancel the unpaid irrigation operation and maintenance assessments and reimbursable irrigation construction charges against such lands and transfer the title to such irrigation works to water users, water user's associations organized for such purpose, or to corporations organized, or trustees designated, as provided in this section.

§ 746. Individual property

(a) Transfer of unrestricted control

The Secretary is authorized and directed to transfer within two years after September 1, 1954 to each member of each tribe unrestricted control of funds or other personal property held in trust for such member by the United States.

(b) Removal of restrictions on sales or encumbrances; fee simple title

All restrictions on the sale or encumbrance of trust or restricted land owned by members of the tribe (including allottees, heirs, and devisees, either adult or minor) are removed two years after September 1, 1954, and the patents or deeds under which titles are then held shall pass the titles in fee simple, subject to any valid encumbrance: *Provided*, That the provisions of this subsection shall not apply to subsurface rights in such lands, and the Secretary is directed to transfer such subsurface rights to one or more trustees designated by him for management for a period not less than 10 years. The title to all interests in trust or restricted land acquired by members of the tribe by devise or inheritance two years or more after September 1, 1954 shall vest in such members in fee simple, subject to any valid encumbrance.

(c) Multiple land ownership; partition; sale; election to purchase; unlocated owner

Prior to the time provided in subsection (b) of this section for the removal of restrictions on land owned by more than one member of a tribe, the Secretary may—

(1) upon request of any of the owners, partition the land and issue to each owner a patent or deed for his individual share that shall become unrestricted two years from September 1, 1954;

(2) upon request of any of the owners and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That any one or more of the owners may elect before a sale to purchase the other interests in the land at not less than the appraised value thereof, and the purchaser shall receive an unrestricted patent or deed to the land; and

(3) if the whereabouts of none of the owners can be ascertained, cause such lands to be sold and deposit the proceeds of sale in the Treasury of the United States for safekeeping.

(Sept. 1, 1954, ch. 1207, § 6, 68 Stat. 1101.)

§ 747. Property of deceased members

(a) Federal laws inapplicable to probate

The Act of June 25, 1910 (36 Stat. 855), the Act of February 14, 1913 (37 Stat. 678), and other Acts amendatory thereto shall not apply to the probate of the trust and restricted property of the members of a tribe who die six months or more after September 1, 1954.

(b) State, etc., laws applicable to probate

The laws of the several States, Territories, possessions, and the District of Columbia with

respect to the probate of wills, the determination of heirs, and the administration of decedents' estates shall apply to the individual property of members of the tribe who die six months after September 1, 1954.

(Sept. 1, 1954, ch. 1207, § 7, 68 Stat. 1102.)

REFERENCES IN TEXT

Act of June 25, 1910, referred to in subsec. (a), is act June 25, 1910, ch. 431, 36 Stat. 855, as amended, which enacted sections 47, 93, 151, 202, 337, 344a, 351, 352, 353, 372, 403, 406, 407, and 408 of this title, sections 6a–1 and 16a of Title 41, Public Contracts, and section 148 of Title 43, Public Lands, and amended sections 191, 312, 331, 333, and 336 of this title and sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure. Sections 104 and 107 of former title 18 were repealed and reenacted as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, 62 Stat. 683. For complete classification of this Act to the Code, see Tables.

Act of February 14, 1913, referred to in subsec. (a), is act Feb. 14, 1913, ch. 55, 37 Stat. 678, which amended section 373 of this title. For complete classification of this Act to the Code, see Tables.

§ 748. Transfer of federally owned property

The Secretary is authorized, in his discretion, to transfer to a tribe or any member or group of members thereof any federally owned property acquired, withdrawn, or used for the administration of the affairs of the tribe which he deems necessary for Indian use, or to transfer to a public or nonprofit body any such property which he deems necessary to public use and from which members of the tribes will derive benefit.

(Sept. 1, 1954, ch. 1207, § 8, 68 Stat. 1102.)

KANOSH INDIANS, UTAH

Act July 11, 1956, ch. 569, 70 Stat. 528, provided: "That the following-described public domain is hereby declared to be held by the United States in trust for the Kanosh Bank of the Paiute Indian Tribe in Utah, subject to the provisions of the Act of September 1, 1954 (68 Stat. 1099) [this subchapter], with respect to the termination of Federal supervision over all property of such Indians: The southeast quarter, east half northeast quarter, and the northwest quarter northeast quarter, section 35, township 22 south, range 5 west; the west half west half, section 14, and the east half east half, section 15, township 23 south, range 5 west, Salt Lake meridian, Utah, containing 600 acres."

§ 749. Taxes; initial exemption; taxes following distribution; valuation for capital gains and losses

No property distributed under the provisions of this subchapter shall at the time of distribution be subject to Federal or State income tax. Following any distribution of property made under the provisions of this subchapter, such property and any income derived therefrom by the individual, corporation, or other legal entity shall be subject to the same taxes, State and Federal, as in the case of non-Indians: *Provided*, That for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation, or other legal entity.

(Sept. 1, 1954, ch. 1207, § 9, 68 Stat. 1102.)

§ 750. Indian claims unaffected

Nothing contained in this subchapter shall deprive any Indian tribe, band, or other identifiable group of American Indians of any right, privilege, or benefit granted by the Indian Claims Commission Act of August 13, 1946 (ch. 959, 60 Stat. 1049) [25 U.S.C. 70 et seq.], including the right to pursue claims against the United States as authorized by said Act.

(Sept. 1, 1954, ch. 1207, § 10, 68 Stat. 1103.)

REFERENCES IN TEXT

The Indian Claims Commission Act of August 13, 1946, referred to in text, is act Aug. 13, 1946, ch. 959, 60 Stat. 1049, as amended, which was classified to section 2A (§ 70 et seq.) of this title and was omitted because of the termination of the Indian Claims Commission on Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 751. Valid leases, permits, liens, etc., unaffected

Nothing in this subchapter shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved. Whenever any such instrument places in or reserves to the Secretary any powers, duties, or other functions with respect to the property subject thereto, the Secretary may transfer such functions, in whole or in part, to any Federal agency with the consent of such agency and may transfer such function, in whole or in part, to a State agency with the consent of such agency and the other party or parties to such instrument.

(Sept. 1, 1954, ch. 1207, § 11, 68 Stat. 1103.)

§ 752. Water rights

Nothing in this subchapter shall abrogate any water rights of a tribe or its members.

(Sept. 1, 1954, ch. 1207, § 12, 68 Stat. 1103.)

§ 753. Protection of minors, persons non compos mentis and other members needing assistance; guardians; other adequate means

Prior to the transfer of title to, or the removal of restrictions from, property in accordance with the provisions of this subchapter, the Secretary shall protect the rights of members of a tribe who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs by causing the appointment of guardians in courts of competent jurisdiction, or by such other means as he may deem adequate.

(Sept. 1, 1954, ch. 1207, § 13, 68 Stat. 1103.)

§ 754. Advances or expenditures from tribal funds

Pending the completion of the property dispositions provided for in this subchapter, the funds now on deposit, or hereafter deposited, in the United States Treasury to the credit of the tribe shall be available for advance to the tribe, or for expenditure, for such purposes as may be designated by the governing body of the tribe and approved by the Secretary.

(Sept. 1, 1954, ch. 1207, § 14, 68 Stat. 1103.)

§ 755. Execution by Secretary of patents, deeds, etc.

The Secretary shall have the authority to execute such patents, deeds, assignments, releases,

certificates, contracts, and other instruments as may be necessary or appropriate to carry out the provisions of this subchapter, or to establish a marketable and recordable title to any property disposed of pursuant to this subchapter.

(Sept. 1, 1954, ch. 1207, § 15, 68 Stat. 1103.)

§ 756. Cancellation of indebtedness

The Secretary is authorized and directed to cancel any indebtedness payable to the United States by the tribe arising out of any loan made by the United States to such tribe, and any indebtedness, whether payable to the United States or to the tribe, arising out of a loan made from the proceeds thereof to an individual Indian.

(Sept. 1, 1954, ch. 1207, § 16, 68 Stat. 1103.)

§ 757. Termination of Federal trust

(a) Publication; termination of Federal services; application of Federal and State laws

Upon removal of Federal restrictions on the property of each tribe and individual members thereof, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to the affairs of the tribe and its members has terminated. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

(b) Citizenship status unaffected

Nothing in this subchapter shall affect the status of the members of the tribe as citizens of the United States, or shall affect their rights, privileges, immunities, and obligations as such citizens.

(Sept. 1, 1954, ch. 1207, § 17, 68 Stat. 1103.)

§ 758. Status of Tribes

(a) Revocation of corporate charter

Effective on the date of the proclamation provided for in section 757 of this title, the corporate charter issued pursuant to the Act of June 18, 1934 (48 Stat. 984), as amended [25 U.S.C. 461 et seq.], to the Kanosh Band of Paiute Indians of the Kanosh Reservation, Utah, and ratified by the band on August 15, 1943, and to the Shivwits Band of Paiute Indians of the Shivwits Reservation, Utah, and ratified by the band on August 30, 1941, are revoked.

(b) Termination of Federal power

Effective on the date of the proclamation provided for in section 757 of this title, all powers of the Secretary or other officer of the United States to take, review, or approve any action under the constitution and bylaws of the tribe are terminated. Any powers conferred upon the tribe by such constitution which are inconsistent with the provisions of this subchapter are terminated. Such termination shall not affect the power of the tribe to take any action under its constitution and bylaws that is consistent with this subchapter without the participation of the Secretary or other officer of the United States.

(Sept. 1, 1954, ch. 1207, § 18, 68 Stat. 1104.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 759. Rules and regulations; tribal referenda

The Secretary is authorized to issue rules and regulations necessary to effectuate the purposes of this subchapter, and may in his discretion provide for tribal referenda on matters pertaining to management or disposition of tribal assets.

(Sept. 1, 1954, ch. 1207, § 19, 68 Stat. 1104.)

§ 760. Education and training program; purposes; subjects; transportation; subsistence; contracts; other education programs

Prior to the issuance of a proclamation in accordance with the provisions of section 757 of this title, the Secretary is authorized to undertake, within the limits of available appropriations, a special program of education and training designed to help the members of the tribe to earn a livelihood, to conduct their own affairs, and to assume their responsibilities as citizens without special services because of their status as Indians. Such program may include language training, orientation in non-Indian community customs and living standards, vocational training and related subjects, transportation to the place of training or instruction, and subsistence during the course of training or instruction. For the purposes of such program the Secretary is authorized to enter into contracts or agreements with any Federal, State, or local governmental agency, corporation, association, or person. Nothing in this section shall preclude any Federal agency from undertaking any other program for the education and training of Indians with funds appropriated to it.

(Sept. 1, 1954, ch. 1207, § 23, 68 Stat. 1104.)

SUBCHAPTER XXXII–A—PAIUTE INDIANS OF UTAH: RESTORATION OF FEDERAL SUPERVISION

§ 761. Definitions

For the purposes of this subchapter—

(1) the term ''tribe'' means the Cedar, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah;

(2) the term ''Secretary'' means the Secretary of the Interior or his authorized representative;

(3) the term ''Interim Council'' means the council elected pursuant to section 764 of this title;

(4) the term ''member'', when used with respect to the tribe, means a person enrolled on

the membership roll of the tribe, as provided in section 763 of this title; and

(5) the term ''final membership roll'' means the final membership roll of the tribe published on April 15, 1955, on pages 2499 through 2503 of volume 20 of the Federal Register and on April 14, 1956, on pages 2453 through 2456 of volume 21 of the Federal Register.

(Pub. L. 96–227, § 2, Apr. 3, 1980, 94 Stat. 317; Pub. L. 109–126, § 4, Dec. 7, 2005, 119 Stat. 2547.)

SHORT TITLE

Section 1 of Pub. L. 96–227 provided: ''That this act [enacting this subchapter] may be cited as the 'Paiute Indian Tribe of Utah Restoration Act'.''

AMENDMENTS

2005—Par. (1). Pub. L. 109–126 substituted ''Cedar'' for ''Cedar City''.

§ 762. Federal restoration of supervision

(a) Trust relationship restored or confirmed; statutory provisions applicable; eligibility for Federal services and benefits

The Federal trust relationship is restored to the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and restored or confirmed with respect to the Cedar Band of Paiute Indians of Utah. The provisions of the Act of June 18, 1934 (48 Stat. 984), as amended [25 U.S.C. 461 et seq.], except as inconsistent with specific provisions of this subchapter, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective April 3, 1980, without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation. For the purpose of providing for Federal services and benefits, the service area shall be Iron, Millard, Sevier, and Washington Counties, Utah, except that should lands in any other county be added to the reservation pursuant to section 766(c) of this title, the service area shall also include the area on or near the additions to the reservation.

(b) Restoration of rights and privileges

Except as provided in subsection (c) of this section, all rights and privileges of the tribe and of members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which were diminished or lost under the Act of September 1, 1954 (68 Stat. 1099) [25 U.S.C. 741 et seq.], are hereby restored, and such Act shall be inapplicable to the tribe and to members of the tribe after April 3, 1980.

(c) Hunting, fishing, or trapping rights not restored

This subchapter shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe.

(d) Effect on property rights or obligations, contractual rights or obligations, or obligations for taxes

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligations, or any obligation for taxes already levied.

(Pub. L. 96–227, § 3, Apr. 3, 1980, 94 Stat. 317; Pub. L. 109–126, § 4, Dec. 7, 2005, 119 Stat. 2547.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of September 1, 1954, referred to in subsec. (b), is act Sept. 1, 1954, ch. 1207, 68 Stat. 1099, which is classified generally to subchapter XXXII (§ 741 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–126 substituted ''Cedar'' for ''Cedar City''.

§ 763. Membership roll

(a) Opening; establishment of accuracy

The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

(b) Prerequisites for inclusion

(1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on September 1, 1954, to be on the final membership roll but his name was not listed on that roll;

(C) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors;

(D) his name is listed on the roll established pursuant to the Act of October 17, 1968 (82 Stat. 1147), for the disposition of judgment funds, as a member of the Cedar Band of Paiute Indians;

(E) he was entitled on October 17, 1968, to be on the judgment distribution roll as a member of the Cedar Band as specified in subparagraph (D) but his name was not listed on that roll; or

(F) he is a descendant of a person specified in subparagraph (D) or (E) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws shall govern membership in the tribe.

(c) Verification of descendancy, age, and blood; procedures applicable

(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be

made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and other material relating to enrollment matters, to the tribal governing body.

(d) Participation in elections and voting rights

For purposes of section 764 and 765 of this title, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

(Pub. L. 96–227, § 4, Apr. 3, 1980, 94 Stat. 318; Pub. L. 109–126, § 4, Dec. 7, 2005, 119 Stat. 2547.)

REFERENCES IN TEXT

Act of October 17, 1968, referred to in subsec. (b)(1)(D), is Pub. L. 90–584, Oct. 17, 1968, 82 Stat. 1147, which is not classified to the Code.

AMENDMENTS

2005—Subsec. (b)(1)(D), (E). Pub. L. 109–126 substituted ''Cedar'' for ''Cedar City''.

§ 764. Interim Council

(a) Nomination and election of members; notice; meetings; ballot requirements; approval by Secretary

Within forty-five days after April 3, 1980, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after April 3, 1980. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect six members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 763(d) of this title at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) Powers and authorities

The Interim Council shall represent the tribe and its members in the implementation of this subchapter and shall be the acting tribal governing body until tribal officials are elected pursuant to section 765(c) of this title and shall have no powers other than those given to it in accordance with this subchapter. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health and Human Services with respect to Federal services and benefits for the tribe and its members: *Provided*, That no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts. The Interim Council shall have the authority to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office.

(c) Vacancies; notice; meeting; election

Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 763(d) of this title at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

(Pub. L. 96–227, § 5, Apr. 3, 1980, 94 Stat. 319; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (b), pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 765. Tribal constitution and bylaws

(a) Election; time and preconditions

Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 476 of this title, for the purpose of adopting a constitution and bylaws for the tribe. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with sections 763(a), 763(b)(1), and 763(c)(1) of this title,

(2) made a final determination of all appeals filed under section 763(c)(2) of this title, and

(3) published in the Federal Register a certified copy of the membership roll of the tribe.

(b) Pre-election duties and functions of Interim Council

The Interim Council shall draft and distribute to each member described in section 763(d) of this title, no later than thirty days before the election under subsection (a) of this section, a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief and impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) Majority vote for adoption

In any election held pursuant to subsection (a) of this section, a vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

(d) Election of tribal officials pursuant to constitution and bylaws; ballot requirements

Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

(Pub. L. 96–227, § 6, Apr. 3, 1980, 94 Stat. 319.)

§ 766. Tribal reservation

(a) Transfer of real property to Secretary; existing rights applicable and status of property subsequent to transfer; taxation

The Secretary, within one year following April 3, 1980, shall accept the real property of members of the tribe or bands if conveyed or otherwise transferred to him, and real property held for the benefit of members of the tribe or bands if conveyed or otherwise transferred to him by the owner or owners of such land held for the benefit of the bands. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local and State), and mortgages. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Utah. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the tribe or bands to be held as Indian lands are held, and shall be part of their reservation. The transfer of real property authorized by this section shall be exempt from all local, State, and Federal taxation. All real property transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(b) Exercise of civil and criminal jurisdiction by Utah

The State of Utah shall exercise civil and criminal jurisdiction with respect to the reservation and persons on the reservation as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63–36–9 through 63–36–21 of the Utah State Code.

(c) Plan for enlargement of reservation; negotiation; development; scope and approval

Inasmuch as the Kanosh, Koosharem and Indian Peaks Bands of Paiute Indians lost land which had been their former reservations and the Cedar Band of Paiute Indians had never had a reservation, the Secretary shall negotiate with the tribe or bands, or with representatives of the tribe chosen by the tribe or bands, concerning the enlargement of the reservation for the tribe established pursuant to subsection (a) of this section and shall within two years after April 3, 1980, develop a plan for the enlargement of the reservation for the tribe. The plan shall include acquisition of not to exceed a total of fifteen thousand acres of land to be selected from available public, State, or private lands within Beaver, Iron, Millard, Sevier, or Washington Counties, Utah. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 765 of this title, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

(d) Notification and consultative requirements for enlargement plan

To assure that legitimate State and local interests are not prejudiced by the enlargement of the reservation for the tribe, the Secretary, in developing the plan under subsection (c) of this section for the enlargement of the reservation for the tribe, shall notify and consult with all appropriate officials of the State of Utah, all appropriate local government officials in the affected five county area in the State of Utah and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the additions to the reservation;

(2) the effect the enlargement of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Utah with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe, and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(e) Contents of enlargement plan

Any plan developed under this section for the enlargement of the reservation for the tribe shall provide that—

(1) the enlargement of the reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such addition to the reservation;

(2) the Secretary shall not accept any real property in trust for the benefit of the tribe or bands unless such real property is located either within Beaver, Iron, Millard, Sevier, or Washington Counties, State of Utah;

(3) the transfer of any real property to the Secretary in trust for the benefit of the tribe or bands as an addition to the reservation shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(4) the State of Utah shall exercise civil and criminal jurisdiction with respect to the addition to the reservation and persons on such lands as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63–36–9 through 63–36–21 of the Utah State Code.

(f) Statement appended to enlargement plan respecting implementation of notification and consultative requirements

The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (d) of this section was carried out and shall include any written comments with respect to the enlargement of the reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

(Pub. L. 96–227, § 7, Apr. 3, 1980, 94 Stat. 320; Pub. L. 109–126, § 4, Dec. 7, 2005, 119 Stat. 2547.)

REFERENCES IN TEXT

Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), referred to in subsecs. (b) and (e)(4), probably means section 7 of act Aug. 15, 1953, ch. 505, 67 Stat. 590, which was set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure, and was repealed by Pub. L. 90–284, title IV, § 403(b), Apr. 11, 1968, 82 Stat. 79. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2005—Subsec. (c). Pub. L. 109–126 substituted ''Cedar'' for ''Cedar City''.

CONVEYANCE OF LAND HELD IN TRUST FOR PAIUTE INDIAN TRIBE OF UTAH

Pub. L. 109–126, Dec. 7, 2005, 119 Stat. 2546, provided that:

''SECTION 1. LAND CONVEYANCE TO CITY.

''(a) AUTHORIZATION FOR CONVEYANCE.—Not later than 90 days after the Secretary receives a request from the Tribe and the City to convey all right, title, and interest of the United States and the Tribe in and to the Property to the City, the Secretary shall take the Property out of trust status and convey the Property to the City.

''(b) TERMS AND CONDITIONS.—The conveyance under subsection (a) shall be subject to the following conditions:

''(1) TRIBAL RESOLUTION.—Prior to conveying the Property under subsection (a), the Secretary shall ensure that the terms of the sale have been approved by a tribal resolution of the Tribe.

''(2) CONSIDERATION.—Consideration given by the City for the Property shall be not less than the appraised fair market value of the Property.

''(3) NO FEDERAL COST.—The City shall pay all costs related to the conveyance authorized under this section.

''(c) PROCEEDS OF SALE.—The proceeds from the conveyance of the Property under this section shall be given immediately to the Tribe.

''(d) FAILURE TO MAKE CONVEYANCE.—If after the Secretary takes the Property out of trust status pursuant to subsection (a) the City or the Tribe elect not to carry out the conveyance under that subsection, the Secretary shall take the Property back into trust for the benefit of the Tribe.

''SEC. 2. TRIBAL RESERVATION.

''Land acquired by the United States in trust for the Tribe after February 17, 1984, shall be part of the Tribe's reservation.

''SEC. 3. TRUST LAND FOR SHIVWITS OR KANOSH BANDS.

''If requested to do so by a tribal resolution of the Tribe, the Secretary shall take land held in trust by the United States for the benefit of the Tribe out of such trust status and take that land into trust for the Shivwits or Kanosh Bands of the Paiute Indian Tribe of Utah, as so requested by the Tribe.

''SEC. 4. CEDAR BAND OF PAIUTES TECHNICAL CORRECTION.

''The Paiute Indian Tribe of Utah Restoration Act (25 U.S.C. 761 [et seq.]) is amended by striking 'Cedar City' each place it appears and inserting 'Cedar'. Any reference in a law, map, regulation, document, paper, or other record of the United States to the 'Cedar City Band of Paiute Indians' shall be deemed to be a reference to the 'Cedar Band of Paiute Indians'.

''SEC. 5. DEFINITIONS.

''For the purposes of this Act:

''(1) CITY.—The term 'City' means the City of Richfield, Utah.

''(2) PROPERTY.—The term 'Property' means the parcel of land held by the United States in trust for the Paiute Indian Tribe of Utah located in Section 2, Township 24 South, Range 3 West, Salt Lake Base and Meridian, Sevier County, Utah and more particularly described as follows: Beginning at a point on the East line of the Highway which is West 0.50 chains, more or less, and South 8° 21° West, 491.6 feet from the Northeast Corner of the Southwest Quarter of Section 2, Township 24 South, Range 3 West, Salt Lake Base and Meridian, and running thence South 81° 39° East, perpendicular to the highway, 528.0 feet; thence South 26° 31° West, 354.6 feet; thence North 63° 29° West, 439.3 feet to said highway; thence North 8° 21° East, along Easterly line of said highway 200.0 feet to the point of beginning, containing 3.0 acres more or less.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(4) TRIBE.—The term 'Tribe' means the Paiute Indian Tribe of Utah.''

RESERVATION OF PAIUTE INDIAN TRIBE OF UTAH

Pub. L. 98–219, Feb. 17, 1984, 98 Stat. 11, as amended by Pub. L. 109–126, § 4, Dec. 7, 2005, 119 Stat. 2547, provided that:

''SECTION 1. (a) Subject to subsection (d), all right, title, and interest of the United States in the lands described in subsection (b) (including all improvements thereon and appurtenances thereto) are declared to be held in trust by the United States for the benefit of the respective bands of the Paiute Indian Tribe of Utah, as provided in subsection (b), and are declared to be part of the reservation of the Paiute Indian Tribe of Utah.

''(b) The lands subject to this section are parcels 1 through 5 of the lands depicted on the maps contained

in the draft document entitled 'Proposed Paiute Indian Tribe of Utah Reservation Plan', dated January 24, 1982, and published by the United States Department of the Interior, Bureau of Indian Affairs. Upon enactment of this Act [Feb. 17, 1984], the Secretary shall publish in the Federal Register the legal description of the lands so depicted. The Secretary is authorized to correct any technical errors in the descriptions of the subject lands. Such lands shall be held as follows:

''(1) To be held in trust for the Kanosh Band of the Paiute Tribe of Utah: Parcel numbered 2, figure 5, page 95, containing approximately five hundred and sixty acres; parcel numbered 3, figure 6, page 99, containing approximately five hundred and two acres.

''(2) To be held in trust for the Koosharem Band of the Paiute Tribe of Utah: Parcel numbered 4, figure 7, page 105, containing approximately five hundred and twenty acres; parcel numbered 5, figure 8, page 111, containing approximately seven hundred and fifteen acres.

''(3) To be held in trust for the Cedar Band of the Paiute Tribe of Utah: That portion of parcel numbered 1, figure 4, page 85, containing approximately two thousand forty-four acres.

''(4) To be held in trust for the Indian Peaks Band of the Paiute Indian Tribe of Utah: That portion of parcel numbered 1, figure 4, page 85, containing approximately four hundred and twenty-four acres.

''(c) Nothing in this section shall deprive any person of any existing legal right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the lands described in subsection (b).

''(d) Pursuant to the Act of June 14, 1934 (48 Stat. 985) [probably means section 5 of act June 18, 1934, 25 U.S.C. 465], the Secretary shall acquire, to the extent available, easements to and water rights for the lands described in subsection (b) as necessary for their use.

''(e) The Secretary shall consult with the town council of Joseph, Utah, and other appropriate local governmental entities prior to permitting the introduction of any point source of contamination pursuant to any proposed development on parcel numbered 4 as described in subsection (b)(2). The Secretary shall require a minimum of one thousand five hundred feet distance be maintained from the town well of the town of Joseph and any such point source of contamination and may, if he determines it is necessary to prevent contamination of said well, require the installation of an appropriate waste water disposal system as part of any proposed development on parcel 4.

''(f) Upon the effective date of this Act [Feb. 17, 1984], all valid leases, permits, rights-of-way, or other land use rights or authorizations, except mining claims, existing on the date of enactment of this Act [Feb. 17, 1984] in the lands described in subsection (b), including the right to receive compensation for use of the lands, shall cease to be the responsibility of, or enure to the benefit of, the United States, and shall become the responsibility of the Paiute Indian Tribe which shall succeed to the interests of the United States and shall continue to maintain them under the same terms and conditions as they were maintained by the United States.

''(g) All improvements on the lands described in subsection (b) in existence on the effective date of the Act [Feb. 17, 1984], under the authority of the land use rights or authorizations described in subsection (c), shall remain in the same status as to ownership and right of use as existed prior to the date of enactment of this Act [Feb. 17, 1984].

''(h) Nothing in this Act shall be construed as terminating any valid mining claim existing on the date of enactment of this Act [Feb. 17, 1984] on the lands described in subsection (b).

''(i) The mining claims described in subsection (c) shall carry all the rights incident to mining claims, including the rights of ingress and egress over the land described in subsection (b). Such mining claims shall carry the right to occupy and use so much of the surface of the land within their boundaries as is required for all purposes reasonably necessary to mine and remove the minerals, including the removal of timber for mining purposes. Such mining claims shall terminate when they are determined invalid under subsection (j) or are abandoned.

''(j) As soon as possible after enactment of this Act, the Secretary of the Interior shall determine the validity of the mining claims described in subsection (h) as of the date of enactment of this Act [Feb. 17, 1984]. Those mining claims which the Secretary determines to be valid shall be maintained thereafter in compliance with the mining laws of the United States but the holders of such claims shall not be entitled to a patent.

''(k) Nothing in this Act shall prevent the Paiute Indian Tribe from negotiating the accommodation of land use rights or authorizations described in this section through any method acceptable to the parties.

''SEC. 2. The lands which are declared to be held in trust for the benefit of the tribe or bands under this Act shall be subject to the laws of the United States relating to Indian land to the same extent and in the same manner as the lands comprising the reservation of the tribe or bands on the day before the date of the enactment of this Act [Feb. 17, 1984].

''SEC. 3. (a) The Secretary of Agriculture shall not deny the tribe or any member of the tribe the right to use and occupy, on a nonexclusive basis, the national forest land described in subsection (b) for religious and ceremonial purposes for such periods of time and under such reasonable terms and conditions as the Secretary may prescribe: *Provided*, That the Secretary shall permit the tribe to use and occupy, on an exclusive basis, so much of the national forest land in subsection (b) abutting Fish Lake as is necessary for such religious and ceremonial purposes during and including the second and third weeks of June and the first and second weeks of September of each year, under such reasonable terms and conditions as the Secretary may prescribe.

''(b) The land referred to in subsection (a) is the parcel of land depicted on the map contained in the document entitled 'Proposed Paiute Indian Tribe of Utah Reservation Plan', dated January 24, 1982, and published by the United States Department of the Interior, Bureau of Indian Affairs, as follows: Parcel numbered 6: Fish Lake; figure 9, page 117.

''SEC. 4. (a) There is hereby established in the Treasury of the United States a fund to be known as the Paiute Indian Tribe of Utah Economic Development and Tribal Government Fund. This Fund shall be held in trust for the benefit of the tribe and administered in accordance with this Act.

''(b)(1) One-half of the principal of the Fund shall be designated as the Economic Development Fund and the remaining one-half as the Tribal Government Fund. Each portion of the Fund shall be administered by the Secretary in accordance with reasonable terms established by the tribe and agreed to by the Secretary. The Secretary shall not agree to terms which provide for the investment of the Fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037) [25 U.S.C. 162a], unless the tribe first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment. Until such terms have been agreed upon, the Secretary shall fix the terms for the administration of any portion of the Fund as to which there is no agreement.

''(2) Under no circumstances shall any part of the principal of the Fund be distributed to the tribe, or to any member of the tribe, nor shall income accruing to the Fund be used for per capita payments to any member of the tribe.

''(3) The Secretary shall make available to the tribe in quarterly payments, without any deductions, any income received from the investment of each fund. The use of the income from the Tribal Government Fund shall be free of regulation by the Secretary. The use of the income from the Economic Development Fund shall be consistent with an economic development plan de-

veloped by the tribe and approved by the Secretary. The Secretary shall approve such plan within sixty days of its submission if he finds that it is reasonably related to the economic development of the tribe. If the Secretary does not approve such plan, he shall, at the time of his decision, set forth in writing the reasons for his disapproval. With the approval of the Secretary, the tribe may alter the economic development plan subject to the conditions set forth in this section.

''(c) There is authorized to be appropriated in fiscal year 1985 the sum of $2,500,000, which shall be deposited in the Fund. Not more than 5 per centum of any amount appropriated to the Fund under this section may be obligated or spent by the tribe under any contract or agreement relating to the employment of legal counsel.

''(d) The transfer of the approximately four thousand seven hundred and seventy acres of land and the appropriation of the $2,500,000 authorized by this Act shall be in complete fulfillment of the provisions of Public Law 96–227 [this subchapter] relating to the enlargement of the tribe's reservation.

''SEC. 5. For purposes of this Act—

''(1) the term 'tribe' means the Cedar, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah; and

''(2) except where otherwise specified, the term 'Secretary' means the Secretary of the Interior.''

§ 767. Legal claims barred for lands lost through tax or other sales since September 1, 1954

Any legal claims for lands owned by the Shivwits, Kanosh, Koosharem, or Indian Peaks Bands of Paiute Indians of Utah and lost through tax sales or any other sales to individuals, corporations, or the State of Utah since September 1, 1954, are hereby barred.

(Pub. L. 96–227, § 8, Apr. 3, 1980, 94 Stat. 322.)

§ 768. Rules and regulations

The Secretary may make such rules and regulations as are necessary to carry out the purposes of this subchapter.

(Pub. L. 96–227, § 9, Apr. 3, 1980, 94 Stat. 322.)

SUBCHAPTER XXXIII—INDIAN TRIBES OF OREGON

§ 771. Enrollment of descendants; determination of eligibility

The Secretary of the Interior, hereafter referred to as the ''Secretary'', is authorized and directed to prepare separate rolls of the Indians of the blood of the Molel or Molallalas Tribe of Oregon and of the Confederated Bands of the Umpqua Tribe of Indians and the Calappoias residing in the Umpqua Valley, and of the Tillamook, Coquille, Tootootoney, and Chetco Tribes of Oregon, living on August 30, 1954. Applications for enrollment shall be filed within one year of August 30, 1954. The determination of the Secretary of the eligibility of an applicant for enrollment shall be final and conclusive. No person shall be entitled to be enrolled on more than one roll.

(Aug. 30, 1954, ch. 1085, § 1, 68 Stat. 979.)

§ 772. Per capita payments to tribal members; tax exemption

The Secretary is authorized and directed to withdraw the funds on deposit in the Treasury of the United States to the credit of the respective tribes or bands, including those funds appropriated by Public Law 253 (Eighty-second Congress) approved November 1, 1951, in satisfaction of judgments obtained by the tribes or bands in the cases of Alcea Band of Tillamook, et al., against United States (119 C. Cls. 835), and Rogue River Tribes of Indians, et al., against United States (116 C. Cls. 454), and to make appropriate and equitable per capita payments therefrom to each person whose name appears on said approved rolls: *Provided*, That any amounts paid to or for individual members, or distributed to or for the legatees or next of kin of any enrollee, as provided in this subchapter, shall not be subject to Federal tax.

(Aug. 30, 1954, ch. 1085, § 2, 68 Stat. 979.)

REFERENCES IN TEXT

Public Law 253 (Eighty-second Congress), referred to in text, is act Nov. 1, 1951, ch. 664, 65 Stat. 736, known as the Supplemental Appropriations Act, 1952, which was not classified to the Code.

§ 773. Payments

(a) Enrollees, next of kin, or legatees

The Secretary shall make payments directly to a living enrollee. The Secretary shall distribute the share of a person determined to be eligible for enrollment, but who dies subsequent to August 30, 1954, and on whose behalf an application is filed and approved, and the share of a deceased enrollee, directly to his next of kin or legatees as determined by the laws of the domicile of the decedent, upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Minors and persons under legal disability; guardians

Payments due persons under twenty-one years of age or persons under legal disability shall be made in accordance with laws applicable to such persons in the State of domicile of the payee. The Secretary may apply to any court of competent jurisdiction for the appointment of a guardian to receive and administer payments due a person under twenty-one years of age or under legal disability, and may take such other action as he deems appropriate for the protection of the interests of any such person in connection with payments hereunder.

(c) Payments not subject to debts; time limits

No part of any payment hereunder shall be subject to any debt or debts created prior to August 30, 1954 by a beneficiary of Indian blood. Payment to living enrollees, unless under twenty-one years of age, or under legal disability, shall be completed within one year after approval of the tribal rolls. Payment to next of kin and legatees, and payment for the account of persons under twenty-one years of age or under legal disability shall be completed within the same period of time to the maximum extent possible.

(Aug. 30, 1954, ch. 1085, § 3, 68 Stat. 979.)

§ 774. Costs

All costs incurred by the Secretary in the preparation of such rolls and the payment of

such per capita shares shall be paid by appropriate withdrawals out of the fund or funds on deposit in the Treasury of the United States arising out of such judgments.

(Aug. 30, 1954, ch. 1085, § 4, 68 Stat. 980.)

§ 775. Rules and regulations

The Secretary is authorized to prescribe the necessary rules and regulations to carry out the purposes of this subchapter.

(Aug. 30, 1954, ch. 1085, § 5, 68 Stat. 980.)

SUBCHAPTER XXXIV—CREEK NATION OF INDIANS

§ 781. Distribution of funds

(a) Allotment equalization payments

The Secretary of the Interior is authorized and directed to use any funds on deposit in the Treasury of the United States to the credit of the Creek Nation to complete allotment equalization payments to persons with claims thereto that were filed and adjudicated in accordance with the provisions of section 18 in the Act of June 30, 1919 (41 Stat. 3, 24.)

(b) Per capita payments to enrollees, heirs, or legatees

The Secretary of the Interior is authorized to distribute per capita to the members of the Creek Nation whose names appear on the final rolls approved under the Act of April 26, 1906 (34 Stat. 137), or to their heirs or legatees, any funds heretofore or hereafter deposited in the Treasury of the United States to the credit of the Creek Nation that are not used for the purposes of subsection (a) of this section and that are not needed, in the judgment of the Secretary, for other tribal purposes except the proceeds of any final judgment entered in Docket No. 21, pending before the Indian Claims Commission, in which the Creek Nation (Oklahoma) is plaintiff, and McGhee et al., on behalf of the Creek Nation East of the Mississippi are intervenors, and the United States is defendant.

(c) Judgment payments

The Secretary of the Interior is authorized and directed to distribute among the persons entitled thereto the funds appropriated by chapter XII of the Third Supplemental Appropriation Act, 1952 (66 Stat. 101, 121), in payment of the judgment entered by the Indian Claims Commission in favor of the Loyal Creek Band or Group of Creek Indians et al., Docket No. 1. Such funds shall be paid to those persons whose names appear on the payroll prepared pursuant to the Act of March 3, 1903 (32 Stat. 982, 994), by J. Blair Schoenfelt, United States Indian Agent, or to their heirs or legatees, on a pro rata basis in proportion to the amounts appearing opposite their names on such payroll.

(Aug. 1, 1955, ch. 444, § 2, 69 Stat. 431.)

REFERENCES IN TEXT

Section 18 of the Act of June 30, 1919, referred to in subsec. (a), is act June 30, 1919, ch. 4, § 18, 41 Stat. 21, which is set out as a note under section 375 of this title.

Act of April 26, 1906, referred to in subsec. (b), is act Apr. 26, 1906, ch. 1876, 34 Stat. 137, which is set out as a note under section 355 of this title.

The Indian Claims Commission, referred to in subsecs. (b) and (c), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Act of March 3, 1903, referred to in subsec. (c), is act Mar. 3, 1903, ch. 994, 32 Stat. 982, 994, which was not classified to the Code.

Chapter XII of the Third Supplemental Appropriation Act, 1952, referred to in subsec. (c), is chapter XII of act June 5, 1952, ch. 369, 66 Stat. 101, which was not classified to this Code.

§ 782. Payment to heirs or legatees

(a) Laws governing

If a person entitled to a payment authorized by sections 781 to 785 of this title is deceased, such payment shall be made to his heirs or legatees determined in accordance with the laws, relating to the distribution of personal property, of the Creek Nation if the decedent died before January 1, 1898, or of the State of Arkansas in effect at the time of death if the decedent died before November 16, 1907, or of the State of Oklahoma in effect at the time of death if the decedent died on or after November 16, 1907. For the purposes of this section the decedent shall be regarded as an owner in possession of the payment at the time of his death.

(b) Proof of death and heirship or bequest

Before a payment authorized by sections 781 to 785 of this title is made to an heir or legatee of a deceased person, proof of death and heirship or bequest satisfactory to the Secretary of the Interior shall be submitted to him, and his findings with respect thereto shall be final and conclusive. Where satisfactory proof of death and heirship or bequest is already available to the Secretary, no additional submission shall be required.

(Aug. 1, 1955, ch. 444, § 3, 69 Stat. 432.)

§ 783. Payments to minors or persons under legal disability; liens, exception; tax exemption

Funds payable under sections 781 to 785 of this title to minors or to persons under legal disability shall be paid to such representatives and under such conditions as the Secretary of the Interior may direct. The distribution of funds under said sections shall not be subject to any lien, except for debts owed to the United States or to Indian organizations indebted to the United States, and shall not be taxable.

(Aug. 1, 1955, ch. 444, § 4, 69 Stat. 432.)

§ 784. Appropriations

There is authorized to be appropriated out of any money in the Treasury not otherwise appropriated the sum of $325,000 to remain available until expended, for necessary expenses incident to the distribution of funds authorized by sections 781 to 785 of this title.

(Aug. 1, 1955, ch. 444, § 5, 69 Stat. 432; Pub. L. 86–229, Sept. 8, 1959, 73 Stat. 456.)

AMENDMENTS

1959—Pub. L. 86–229 increased appropriation authorization from $200,000 to $325,000.

§ 785. Rules and regulations

The Secretary of the Interior is authorized to issue rules and regulations necessary for the purposes of sections 781 to 785 of this title.

(Aug. 1, 1955, ch. 444, § 6, 69 Stat. 432.)

§ 786. Credit of unclaimed and unpaid share of funds

The unclaimed and unpaid share of the funds, and the accrued interest thereon, appropriated by chapter XII of the Third Supplemental Appropriation Act, 1952 (66 Stat. 101, 121), in payment of the judgment entered by the Indian Claims Commission in favor of the Loyal Creek Band or Group of Indians et al., docket numbered 1, and which were authorized to be distributed by section 781(c) of this title, shall be deposited in the Treasury of the United States to the credit of the Creek Nation of Indians of Oklahoma.

(Pub. L. 90–76, § 1, Aug. 29, 1967, 81 Stat. 177.)

REFERENCES IN TEXT

Chapter XII of the Third Supplemental Appropriation Act, 1952, referred to in text, is chapter XII of Act June 5, 1952, ch. 369, 66 Stat. 101, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 787. Advances or expenditures from tribal funds

Funds that are deposited to the Creek Nation pursuant to sections 786 to 788 of this title, including interest and income therefrom, may be advanced or expended for any purpose that is authorized by the principal chief of the Creek Nation and the Secretary of the Interior.

(Pub. L. 90–76, § 2, Aug. 29, 1967, 81 Stat. 177.)

§ 788. Federal trust upon escheat of estates of members dying intestate without heirs

When, upon the final determination of a court having jurisdiction or by decision of the Secretary of the Interior after a period of five years from the death of the decedent, it is determined that a member of the Creek Nation or tribe of Oklahoma or a person of Creek Indian blood has died intestate without heirs, owning trust or restricted Indian lands or an interest therein in Oklahoma, such lands or interests owned, together with all rents and profits occurring therefrom, shall escheat to the Creek Nation of Indians of Oklahoma and be held thereafter in trust for said Indians by the United States.

(Pub. L. 90–76, § 3, Aug. 29, 1967, 81 Stat. 177.)

§ 788a. Disposition of judgment funds; preparation of Indian roll; eligibility

The Secretary of the Interior shall prepare a roll of all persons who meet the following requirements: (a) they were born on or prior to and were living on September 21, 1968; (b) their names or the names of lineal ancestors appear on any of the documents identified herein or on any available census rolls or other records acceptable to the Secretary, which identify the person as a Creek Indian, including ancient documents or records of the United States located in the National Archives, State or county records in the archives of the several States or counties therein or in the courthouses thereof, and other records that would be admissible as evidence in an action to determine Indian lineage:

(1) The Final Rolls of Creeks by Blood which were closed as of March 4, 1907;

(2) Claims of Friendly Creeks paid under the Act of March 3, 1817 (H.R. Doc. 200, 20:1, 1828);

(3) Census of the Creek Nation, 1833, made pursuant to article 2 of the treaty concluded March 24, 1832 (Senate Doc. 512, 1835, Emigration Correspondence, 1831–1833, pages 239–395);

(4) Land Location Registers of Creek Indian Lands, made pursuant to the Treaty of March 24, 1832;

(5) Any emigration or muster rolls of Creek Indians;

(6) Any lists of self-emigrant Creek claimants (including those contained in Senate Ex. Doc. 198, 50:1, 1888, and H.R. Ex. Doc. 238, 51:2, 1891).

Applications for enrollment must be filed with the Area Director of the Bureau of Indian Affairs, Muskogee, Oklahoma, in the manner and within the time limits prescribed for that purpose. The determination of the Secretary regarding the eligibility of an applicant shall be final.

(Pub. L. 90–504, § 1, Sept. 21, 1968, 82 Stat. 855.)

§ 788b. Distribution of funds; tax exemption; equal shares

After the deduction of attorney fees, litigation expenses, the costs of distribution, and the cost of preparing the roll pursuant to section 788a of this title, the funds, including interest, remaining to the credit of the Creek Nation as constituted August 9, 1814, which were appropriated by the Act of April 30, 1965, to pay a judgment obtained in Indian Claims Commission docket numbered 21, shall be distributed on a per capita basis to all persons whose names appear on the roll. The funds so distributed shall not be subject to Federal or State income taxes.

(Pub. L. 90–504, § 2, Sept. 21, 1968, 82 Stat. 855.)

REFERENCES IN TEXT

Act of April 30, 1965, referred to in text, is act Apr. 30, 1965, Pub. L. 89–16, 79 Stat. 81, known as the Second Supplemental Appropriations Act, 1965. That portion of the act which appropriated the funds referred to was not classified to the Code.

DISTRIBUTION OF CERTAIN UNDISTRIBUTED JUDGMENT FUNDS AWARDED TO CREEK NATION

Pub. L. 98–390, Aug. 21, 1984, 98 Stat. 1356, provided: "That, notwithstanding Public Law 90–506 [25 U.S.C. 788e et seq.] and any other provision of law, any funds appropriated by Public Law 89–697 [Oct. 27, 1966, 80 Stat. 1057] in satisfaction of a judgment awarded the Muscogee (Creek) Nation of Oklahoma in docket numbered 276 of the Indian Claims Commission which have not been distributed on the date of enactment of this Act [Aug. 21, 1984] (including all interest and investment income accrued thereon) shall be distributed by the Secretary of the Interior to the Muscogee (Creek) Nation of Oklahoma as needed to make expenditures for any

plan or program authorized by ordinance of such Nation.

''SEC. 2. (a) Notwithstanding Public Law 90–504 [25 U.S.C. 788a et seq.] and any other provision of law, any funds appropriated by Public Law 89–16 [Apr. 30, 1965, 79 Stat. 81] in satisfaction of a judgment awarded the Creek Nation of Indians in docket numbered 21 of the Indian Claims Commission which have not been distributed on the date of enactment of this Act [Aug. 21, 1984] (including all interest and investment income accrued thereon) shall be used and distributed in accordance with the provisions of this section.

''(b)(1) The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') shall allocate—

''(A) 81.6196 per centum of the funds described in subsection (a) to the Muscogee (Creek) Nation of Oklahoma, and

''(B) 18.3804 per centum of the funds described in subsection (a) to the Eastern Creeks.

''(2) The funds allocated to the Muscogee (Creek) Nation of Oklahoma under paragraph (1) shall be distributed to such Nation by the Secretary as needed to make expenditures for any plan or program authorized by ordinance of such Nation.

''(3)(A) The funds allocated to the Eastern Creeks under paragraph (1) shall be held in trust and invested by the Secretary for the benefit of the Eastern Creeks.

''SEC. 3. (a) If one or more of the Eastern Creek entities that have filed a petition for Federal acknowledgement are acknowledged to be an Indian tribe on or before December 30, 1984, such tribe or tribes shall be deemed to be a successor entity to the original Eastern Creek group for purposes of distribution of the residual funds in docket numbered 21, and the funds held in trust for the benefit of the Eastern Creeks under section 2 of this Act (including all interest and income accrued thereon) shall be distributed to such tribe or tribes by the Secretary as needed to make any expenditures for any plan or program authorized by ordinance or resolution of such tribe or tribes.

''(b) If more than one tribal entity is recognized by the Secretary, such funds shall be prorated between the tribes on the basis of their respective base membership rolls on the date of acknowledgement.

''(c) If none of the Eastern Creeks which have filed a petition for acknowledgement are recognized as an Indian tribe by the Secretary prior to December 30, 1984, the funds held in trust for the Eastern Creeks under this Act (including all interest and income accrued thereon) shall be distributed by the Secretary in the form of per capita payments in addition to any amount appropriated in satisfaction of a judgment awarded the Eastern Creeks in docket numbered 275 of the Indian Claims Commission.

''SEC. 4. If Federal recognition as an Indian tribe is extended to any Eastern Creek entity prior to distribution of the funds awarded in docket numbered 272 and 275, such tribe or tribes shall be entitled to amend the existing distribution plans for these awards by filing with the Secretary an alternative distribution plan for its proportionate share of funds in these dockets.''

§ 788c. Heirs of deceased enrollees

The Secretary shall distribute a share payable to a living enrollee directly to such enrollee or in such manner as is deemed by the Secretary to be in the enrollee's best interest, and he shall distribute the per capita share of a deceased enrollee to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive. Sums payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under legal disability shall be paid to the persons who the Secretary determines will best protect their interests.

(Pub. L. 90–504, § 3, Sept. 21, 1968, 82 Stat. 855.)

§ 788d. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of sections 788a to 788d of this title, including establishing an appropriate deadline for filing applications.

(Pub. L. 90–504, § 4, Sept. 21, 1968, 82 Stat. 855.)

§ 788e. Disposition of judgment funds

(a) Preparation of Indian roll; eligibility

The Secretary of the Interior shall prepare a roll of the Creek Indians who meet the following requirements: (1) they were born on or prior to and living on September 21, 1968, and (2) their names or the names of lineal ancestors through whom eligibility is claimed appear on either the 1857 or 1859 payment roll prepared pursuant to Article VI of the Treaty of August 7, 1856 (11 Stat. 699), or on the Final Roll of Creeks by Blood closed as of March 4, 1907, pursuant to statute.

(b) Applications for enrollment

Applications for enrollment shall be filed with the Area Director, Bureau of Indian Affairs, Muskogee, Oklahoma, in the manner, within the time limit, and on the form prescribed for that purpose. The determination of the Secretary of the eligibility for enrollment of an applicant shall be final.

(Pub. L. 90–506, § 1, Sept. 21, 1968, 82 Stat. 859.)

§ 788f. Distribution of funds; tax exemption; equal shares

All costs incident to carrying out the provisions of sections 788e to 788h of this title shall be paid by appropriate withdrawals from the judgment funds referred to in this section. After deducting attorney fees and all other costs, the remainder of the funds, including interest, to the credit of the Creek Nation appropriated by the Act of October 27, 1966 (80 Stat. 1057), shall be distributed in equal shares to those persons whose names appear on the roll prepared in accordance with section 788e of this title. The funds so distributed shall not be subject to Federal or State income taxes.

(Pub. L. 90–506, § 2, Sept. 21, 1968, 82 Stat. 859.)

REFERENCES IN TEXT

Act of October 27, 1966, referred to in text, is act Oct. 27, 1966, Pub. L. 89–697, 80 Stat. 1057. That portion of the act which appropriated the funds referred to was not classified to the Code.

§ 788g. Heirs of deceased enrollees

The Secretary shall distribute a share payable to a living enrollee directly to such enrollee or in such manner as is deemed by the Secretary to be in the enrollee's best interest and the per capita share of a deceased enrollee shall be paid to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive. Sums payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under legal disability shall be

paid to the persons whom the Secretary of the Interior determines will best protect their interests.

(Pub. L. 90–506, § 3, Sept. 21, 1968, 82 Stat. 859.)

§ 788h. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of sections 788e to 788h of this title, including an appropriate deadline for filing applications for enrollment.

(Pub. L. 90–506, § 4, Sept. 21, 1968, 82 Stat. 859.)

SUBCHAPTER XXXV—WYANDOTTE TRIBE OF OKLAHOMA: TERMINATION OF FEDERAL SUPERVISION

§§ 791 to 807. Repealed. Pub. L. 95–281, § 1(b)(1), May 15, 1978, 92 Stat. 246

Section 791, act Aug. 1, 1956, ch. 843, § 1, 70 Stat. 893, set out purpose of sections 791 to 807 of this title as termination of Federal supervision and services for tribe.

Section 792, act Aug. 1, 1956, ch. 843, § 2, 70 Stat. 893, defined ''tribe'', ''Secretary'', ''lands'', and ''tribal property''.

Section 793, act Aug. 1, 1956, ch. 843, § 3, 70 Stat. 893, related to preparation and publication of membership roll.

Section 794, act Aug. 1, 1956, ch. 843, § 4, 70 Stat. 893, restricted personal property rights upon publication of final membership roll.

Section 795, act Aug. 1, 1956, ch. 843, § 5, 70 Stat. 893, related to procedures for transfer of tribal property.

Section 796, act Aug. 1, 1956, ch. 843, § 6, 70 Stat. 894, related to transfers of individual property to members of tribe.

Section 797, act Aug. 1, 1956, ch. 843, § 7, 70 Stat. 894, provided for applicability of probate laws to property of deceased members.

Section 798, act Aug. 1, 1956, ch. 843, § 8, 70 Stat. 895, related to applicability of Federal or State tax laws to property distributions.

Section 799, act Aug. 1, 1956, ch. 843, § 9, 70 Stat. 895, provided for protection by Secretary of minors, etc., prior to transfers or removal of restrictions on property.

Section 800, act Aug. 1, 1956, ch. 843, § 10, 70 Stat. 895, provided for availability of tribal funds for advances or expenditures.

Section 801, act Aug. 1, 1956, ch. 843, § 11, 70 Stat. 895, authorized Secretary to execute patents, deeds, etc., as necessary for implementation of provisions for termination of supervision.

Section 802, act Aug. 1, 1956, ch. 843, § 12, 70 Stat. 895, provided for nonabrogation by termination of supervision of any valid lease, permit, license. etc.

Section 803, act Aug. 1, 1956, ch. 843, § 13, 70 Stat. 896, related to procedures for termination of Federal trust over tribal and individual property.

Section 804, act Aug. 1, 1956, ch. 843, § 14, 70 Stat. 896, provided for revocation of tribal corporate charter and termination of Federal powers over tribe.

Section 805, act Aug. 1, 1956, ch. 843, § 15, 70 Stat. 896, provided for termination of supervision as not affecting prior claims filed by tribe against United States.

Section 806, act Aug. 1, 1956, ch. 843, § 16, 70 Stat. 896, provided for nonabrogation by termination of supervision of tribal or individual water rights.

Section 807, act Aug. 1, 1956, ch. 843, § 17, 70 Stat. 896, authorized Secretary to issue rules and regulations and hold referendums for implementation of provisions relating to termination of supervision.

REPEAL OF INCONSISTENT LAWS

Section 18 of act Aug. 1, 1956, which related to repeal of inconsistent Acts, etc., was repealed by Pub. L. 95–281, § 1(b)(1), May 15, 1978, 92 Stat. 246.

SEPARABILITY

Section 19 of act Aug. 1, 1956, which provided for validity of remainder of act of Aug. 1, 1956, in event of determination of invalidity of any part of such act, was repealed by Pub. L. 95–281, § 1(b)(1), May 15, 1978, 92 Stat. 246.

SUBCHAPTER XXXVI—PEORIA TRIBE OF OKLAHOMA: TERMINATION OF FEDERAL SUPERVISION

§§ 821 to 826. Repealed Pub. L. 95–281, § 1(b)(2), May 15, 1978, 92 Stat. 246

Section 821, act Aug. 2, 1956, ch. 881, § 1, 70 Stat. 937, set out purpose of sections 821 to 826 of this title as termination of Federal supervision and services for tribe.

Section 822, act Aug. 2, 1956, ch. 881, § 2, 70 Stat. 937, related to removal of restrictions on sales or encumbrances and nature of title passed.

Section 823, act Aug. 2, 1956, ch. 881, § 3, 70 Stat. 937, related to termination of Federal trust and services.

Section 824, act Aug. 2, 1956, ch. 881, § 4, 70 Stat. 937, provided for revocation of tribal corporate charter and termination of Federal powers over tribe.

Section 825, act Aug. 2, 1956, ch. 881, § 5, 70 Stat. 938, provided for termination of supervision as not affecting prior claims filed by tribe against United States.

Section 826, act Aug. 2, 1956, ch. 881, § 6, 70 Stat. 938, related to preparation and publication of membership roll.

SUBCHAPTER XXXVII—OTTAWA TRIBE OF OKLAHOMA: TERMINATION OF FEDERAL SUPERVISION

§§ 841 to 853. Repealed. Pub. L. 95–281, § 1(b)(3), May 15, 1978, 92 Stat. 246

Section 841, act Aug. 3, 1956, ch. 909, § 1, 70 Stat. 963, set out purpose of sections 841 to 853 of this title as termination of Federal supervision and services for tribe.

Section 842, act Aug. 3, 1956, ch. 909, § 2, 70 Stat. 963, related to transfers of individual property to members of tribe.

Section 843, act Aug. 3, 1956, ch. 909, § 3, 70 Stat. 963, provided for applicability of probate laws to property of deceased members.

Section 844, act Aug. 3, 1956, ch. 909, § 4, 70 Stat. 964, provided for protection by Secretary of minors, etc., prior to transfers or removal of restrictions on property.

Section 845, act Aug. 3, 1956, ch. 909, § 5, 70 Stat. 964, provided for availability of tribal funds for advances or expenditures.

Section 846, act Aug. 3, 1956, ch. 909, § 6, 70 Stat. 964, authorized Secretary to execute patents, deeds, etc., as necessary for implementation of provisions for termination of supervision.

Section 847, act Aug. 3, 1956, ch. 909, § 7, 70 Stat. 964, provided for nonabrogation by termination of supervision of any valid lease, permit, license, etc.

Section 848, act Aug. 3, 1956, ch. 909, § 8, 70 Stat. 964, related to procedures for termination of Federal trust and services for tribe and individual members.

Section 849, act Aug. 3, 1956, ch. 909, § 9, 70 Stat. 965, provided for revocation of tribal corporate charter and termination of Federal powers over tribe.

Section 850, act Aug. 3, 1956, ch. 909, § 10, 70 Stat. 965, provided for termination of supervision as not affecting prior claims filed by tribe against United States.

Section 851, act Aug. 3, 1956, ch. 909, § 11, 70 Stat. 965, provided for nonabrogation by termination of supervision of tribal or individual water rights.

Section 852, act Aug. 3, 1956, ch. 909, § 12, 70 Stat. 965, authorized Secretary to issue rules and regulations and hold referendums for implementation of provisions relating to termination of supervision.

Section 853, act Aug. 3, 1956, ch. 909, § 15, 70 Stat. 965, related to preparation and publication of membership roll.

REPEAL OF INCONSISTENT LAWS

Section 13 of act Aug. 3, 1956, which related to repeal of inconsistent Acts, etc., was repealed by Pub. L. 95–281, §1(b)(3), May 15, 1978, 92 Stat. 246.

SEPARABILITY

Section 14 of act Aug. 3, 1956, which provided for validity of remainder of act of Aug. 3, 1956, in event of determination of invalidity of any part of such act, was repealed by Pub. L. 95–281, §1(b)(3), May 15, 1978, 92 Stat. 246.

SUBCHAPTER XXXVII–A—WYANDOTTE, PEORIA, OTTAWA, AND MODOC TRIBES OF OKLAHOMA: RESTORATION OF FEDERAL SUPERVISION

§ 861. Federal recognition of Wyandotte, Ottawa, and Peoria Tribes

(a) Extension or confirmation

Federal recognition is hereby extended or confirmed with respect to the Wyandotte Indian Tribe of Oklahoma, the Ottawa Indian Tribe of Oklahoma, and the Peoria Indian Tribe of Oklahoma, the provisions of the Acts repealed by subsection (b) of this section notwithstanding.

(b) Repeal of provisions terminating Federal supervision

The following Acts are hereby repealed:

(1) the Act of August 1, 1956 (70 Stat. 893; 25 U.S.C. 791–807), relating to the Wyandotte Tribe;

(2) the Act of August 2, 1956 (70 Stat. 937; 25 U.S.C. 821–826), relating to the Peoria Tribe; and

(3) the Act of August 3, 1956 (70 Stat. 963; 25 U.S.C. 841–853), relating to the Ottawa Tribe.

(c) Tribal rights and privileges; reinstatement and continuation

There are hereby reinstated all rights and privileges of each of the tribes described in subsection (a) of this section and their members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to the Act relating to them which is repealed by subsection (b) of this section. Nothing contained in this subchapter shall diminish any rights or privileges enjoyed by each of such tribes or their members now or prior to enactment of such Act, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this subchapter.

(d) Continuation of property or contractual rights or obligations and tax obligations

Except as specifically provided in this subchapter, nothing contained in this subchapter shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligation for taxes already levied.

(Pub. L. 95–281, §1, May 15, 1978, 92 Stat. 246.)

REFERENCES IN TEXT

Act of August 1, 1956, referred to in subsec. (b)(1), is act Aug. 1, 1956, ch. 843, 70 Stat. 893, which was classified generally to subchapter XXXV (§791 et seq.) of this chapter prior to its repeal by subsec. (b)(1) of this section. For complete classification of this Act to the Code, see Tables.

Act of August 2, 1956, referred to in subsec. (b)(2), is act Aug. 2, 1956, ch. 881, 70 Stat. 937, which was classified generally to subchapter XXXVI (§821 et seq.) of this chapter prior to its repeal by subsec. (b)(2) of this section. For complete classification of this Act to the Code, see Tables.

Act of August 3, 1956, referred to in subsec. (b)(3), is act Aug. 3, 1956, ch. 909, 70 Stat. 963, which was classified to subchapter XXXVII (§841 et seq.) of this chapter prior to its repeal by subsec. (b)(3) of this section. For complete classification of this Act to the Code, see Tables.

This subchapter, referred to in subsecs. (c) and (d), was in the original "this Act", meaning Pub. L. 95–281, May 15, 1978, 92 Stat. 246, which enacted this subchapter and repealed subchapter XXXV (§791 et seq.), subchapter XXXVI (§821 et seq.), and subchapter XXXVII (§841 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 861a. Organization of tribes

(a) Modoc Tribe; extension of Federal recognition and assistance; applicability of provisions relating to Klamath Tribe; membership requirements

(1) The Modoc Indian Tribe of Oklahoma is hereby recognized as a tribe of Indians residing in Oklahoma and the provisions of the Act of June 26, 1936, as amended (49 Stat. 1967; 25 U.S.C. 501–509), are hereby extended to such tribe and its members. The Secretary of the Interior shall promptly offer the said Modoc Tribe assistance to aid them in organizing under section 3 of said Act of June 26, 1936 (25 U.S.C. 503).

(2) The provisions of the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. 564–564w), hereafter shall not apply to the Modoc Tribe of Oklahoma or its members except for any right to share in the proceeds of any claim against the United States as provided in sections 6(c) and 21 of said Act, as amended [25 U.S.C. 564e(c), 564t].

(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of those Modocs removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary of the Interior, and the descendants of such Indians who otherwise meet the membership requirements adopted by the tribe.

(b) Ottawa and Peoria Tribes; extension of Federal assistance

The Secretary of the Interior shall promptly offer the Ottawa Tribe of Oklahoma and the Peoria Tribe of Oklahoma assistance to aid them in reorganizing under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), which Act [25 U.S.C. 501 et seq.] is re-extended to them and their members by this subchapter.

(c) Wyandotte Tribe; confirmation of validity of organization and continuation

The validity of the organization of the Wyandotte Indian Tribe of Oklahoma under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), and the continued application of said Act [25 U.S.C. 501 et seq.] to such tribe and its members is hereby confirmed.

(Pub. L. 95–281, §2, May 15, 1978, 92 Stat. 246.)

REFERENCES IN TEXT

Act of June 26, 1936, referred to in subsecs. (a)(1), (b), and (c), popularly known as the Oklahoma Welfare Act,

is classified generally to subchapter VIII (§ 501 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables.

Act of August 13, 1954, referred to in subsec. (a)(2), is act Aug. 13, 1954, ch. 732, 68 Stat. 718, as amended, which is classified generally to subchapter XIII (§ 564 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

Act of March 9, 1909, referred to in subsec. (a)(3), probably means the act of Mar. 3, 1909, ch. 253, 35 Stat. 751, which was not classified to the Code.

This subchapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 95–281, May 15, 1978, 92 Stat. 246, which enacted this subchapter and repealed subchapter XXXV (§ 791 et seq.), subchapter XXXVI (§ 821 et seq.), and subchapter XXXVII (§ 841 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 861b. Restoration of supervision as fulfilling other Federal statutory requirements

(a) Wyandotte, Peoria, and Ottawa Tribes; right or interest in tribal land

It is hereby declared that enactment of this subchapter fulfills the requirements of the first proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), with respect to the Wyandotte Tribe of Oklahoma, the Ottawa Tribe of Oklahoma, and the Peoria Tribe of Oklahoma.

(b) Modoc Tribe; right or interest in tribal land

It is hereby declared that the organization of the Modoc Tribe of Oklahoma as provided in subsection (a) of this section shall fulfill the requirements of the second proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921).

(c) Modoc Tribe; publication of notice in Federal Register of organization for purposes of compliance

Promptly after organization of the Modoc Tribe of Oklahoma, the Secretary of the Interior shall publish a notice of such fact in the Federal Register including a statement that such organization completes fulfillment of the requirements of the provisos in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), and that the land described in section 1 of said Act is held in trust by the United States for the eight tribes named in said Act.

(Pub. L. 95–281, § 3, May 15, 1978, 92 Stat. 247.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 95–281, May 15, 1978, 92 Stat. 246, which enacted this subchapter and repealed subchapter XXXV (§ 791 et seq.), subchapter XXXVI (§ 821 et seq.), and subchapter XXXVII (§ 841 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

Act of January 2, 1975, referred to in text, is Pub. L. 93–588, Jan. 2, 1975, 88 Stat. 1920, and is not classified to this Code. The provisos in section 2 of such Act relate to right or interest in tribal land of the enumerated tribes.

§ 861c. Programs and services by United States; participation in by tribes as result of return to status as Indians

The Wyandotte, Ottawa, Peoria, and Modoc Tribes of Oklahoma and their members shall be entitled to participate in the programs and services provided by the United States to Indians because of their status as Indians, including, but not limited to, those under section 13 of this title, and for purposes of sections 2005 to 2005f of title 42. The members of such tribes shall be deemed to be Indians for which hospital and medical care was being provided by or at the expense of the Public Health Service on August 16, 1957.

(Pub. L. 95–281, § 4, May 15, 1978, 92 Stat. 247.)

SUBCHAPTER XXXVIII—OTOE AND MISSOURIA INDIANS

§ 871. Membership roll; preparation; eligibility for enrollment; finality of determination

The Secretary of the Interior is authorized and directed to prepare a roll of the Indians of the blood of the Otoe and Missouria Tribe whose names appear on the allotment rolls of the tribe approved December 7, 1899, June 1, 1906, and January 17, 1907, and who are living on May 9, 1958, and the descendants of such allottees who are living on May 9, 1958, regardless of whether such allottees are living or deceased. Applications for enrollment shall be filed within six months after May 9, 1958. The determination of the Secretary regarding the eligibility of an applicant for enrollment shall be final and conclusive.

(Pub. L. 85–395, § 1, May 9, 1958, 72 Stat. 105.)

§ 872. Per capita distribution to tribal members

The Secretary is authorized and directed to withdraw the funds on deposit in the Treasury of the United States to the credit of the Otoe and Missouria Tribe appropriated by the Act of May 19, 1956 (70 Stat. 161, 176), together with accrued interest, in satisfaction of the judgment obtained in the Indian Claims Commission against the United States in docket numbered 11, and to distribute such funds per capita to the persons whose names appear on the roll prepared pursuant to section 871 of this title.

(Pub. L. 85–395, § 2, May 9, 1958, 72 Stat. 105.)

REFERENCES IN TEXT

Act of May 19, 1956, referred to in text, is act May 19, 1956, ch. 313, 70 Stat. 161, 176, known as the Second Supplemental Appropriation Act, 1956. That portion of the act which appropriated the funds referred to was not classified to the Code.

§ 873. Per capita payments

(a) Enrollees, next of kin or legatees

The Secretary shall make per capita payments directly to a living enrollee, except as provided in subsection (b) of this section. The Secretary shall distribute the share of a person determined to be eligible for enrollment but who dies subsequent to May 9, 1958, and on whose behalf the application is filed and approved, and the share of a deceased enrollee, directly to his next of kin or legatee as determined by the laws of the place of domicile of the decedent, upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Minors and persons under legal disability

Per capita payments due persons under twenty-one years of age or persons under legal dis-

ability shall be made in accordance with the laws of the place of domicile of such person, or in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons.

(c) Payments not subject to debts; tax exemption

No part of any per capita payment shall be subject to any debt or debts, other than to the United States, created prior to May 9, 1958, by a person of Indian blood, and such per capita payments shall not be taxable.

(Pub. L. 85–395, § 3, May 9, 1958, 72 Stat. 106; Pub. L. 86–540, June 29, 1960, 74 Stat. 252.)

AMENDMENTS

1960—Subsec. (b). Pub. L. 86–540 authorized per capita payments to be made in accordance with such procedures as the Secretary determines will adequately protect the best interests of the persons.

§ 874. Costs

All costs incurred by the Secretary in the preparation of such roll and in the payment of such per capita shares shall be paid from the judgment fund or the interest accruing thereon.

(Pub. L. 85–395, § 4, May 9, 1958, 72 Stat. 106.)

§ 875. Rules and regulations

The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this subchapter.

(Pub. L. 85–395, § 5, May 9, 1958, 72 Stat. 106.)

§ 876. Advances or expenditures from tribal funds; tax exemption

The unexpended balance of funds on deposit in the Treasury of the United States to the credit of the Otoe and Missouria Tribe of Indians that were appropriated by the Act of June 9, 1964, to pay a judgment by the Indian Claims Commission in docket numbered 11–A, and the interest thereon, less payment of attorney fees and expenses, may be advanced or expended for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior. Any part of such funds that may be distributed to the members of the tribe shall not be subject to Federal or State income taxes. The sum of $150,000, and any accrued interest thereon, shall be held in the United States Treasury pending final determination of the Yankton Sioux claim in docket numbered 332–A. Any portion of such sum that is determined to belong to the Otoe and Missouria Tribe shall thereupon become subject to the foregoing provisions of this section.

(Pub. L. 89–661, Oct. 14, 1966, 80 Stat. 911.)

REFERENCES IN TEXT

Act of June 9, 1964, referred to in text, is Pub. L. 88–317, June 9, 1964, 78 Stat. 204, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

Section was not enacted as part of Pub. L. 85–395, May 9, 1958, 72 Stat. 105, which comprises this subchapter.

SUBCHAPTER XXXIX—INDIANS OF OKLAHOMA

§ 881. Potawatomi Indians; disposition of judgment fund; deductions; advances or expenditures for authorized purposes; tax exemption

The funds on deposit in the Treasury of the United States to the credit of the Citizen Band of Potawatomi Indians of Oklahoma that were appropriated by the Act of July 22, 1969 (Public Law 91–47) to pay a judgment by the Indian Claims Commission in docket numbered 96 dated August 27, 1968, and the interest thereon, including the interest accruing thereon, after payment of attorney fees and expenses, may be advanced or expended for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior. Any part of such funds that may be distributed per capita to the members of the band shall not be subject to Federal or State income tax.

(Pub. L. 91–401, § 1, Sept. 16, 1970, 84 Stat. 838.)

REFERENCES IN TEXT

Act of July 22, 1969, referred to in text, is Pub. L. 91–47, July 22, 1969, 83 Stat. 49, known as the Second Supplemental Appropriation Act, 1969. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 881a. Trusts and other procedures for protection of minors and persons under legal disability

Sums payable to enrollees or their heirs or legatees who are less than twenty-one 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.

(Pub. L. 91–401, § 2, Sept. 16, 1970, 84 Stat. 838.)

§ 882. Sac and Fox Tribes; disposition of judgment fund; deductions; advances, expenditures, investments, or reinvestments for authorized purposes

The funds appropriated by the Act of June 19, 1968 (82 Stat. 239), to pay a judgment by the Indian Claims Commission in docket numbered 220, together with interest thereon, after payment of attorneys' fees and other litigation expenses, may be advanced, deposited, expended, invested, or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 91–404, § 1, Sept. 19, 1970, 84 Stat. 845.)

REFERENCES IN TEXT

Act of June 19, 1968, referred to in text, is Pub. L. 90–352, June 19, 1968, 82 Stat. 239, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 882a. Tax exemption

Any portion of such funds that may be distributed per capita to members of the tribe shall not be subject to Federal or State income tax.

(Pub. L. 91–404, § 2, Sept. 19, 1970, 84 Stat. 845.)

§ 883. Osage Tribe; disposition of judgment fund

(a) Persons eligible for allotments; excepted sums

The Secretary of the Interior is authorized and directed to distribute per capita to all persons whose names appear on the roll of the Osage Tribe of Indians approved by the Secretary of the Interior April 11, 1908, pursuant to the Act of June 28, 1906 (34 Stat. 539), all funds which were appropriated by the Act of January 8, 1971 (84 Stat. 1981), in satisfaction of a judgment that was obtained by the Osage Nation of Indians in the Indian Claims Commission against the United States in dockets numbered 105, 106, 107, and 108, together with interest thereon, except the sum of $1,000,000 and any funds that revert to the Osage Tribe and except the amount allowed for attorney fees and expenses and the cost of distribution.

(b) Education program; advances, expenditures, etc., for financing such program

The sum of $1,000,000 plus any funds that revert to the Osage Tribe may be advanced, expended, invested, or reinvested for the purpose of financing an education program of benefit to the Osage Tribe of Indians of Oklahoma, such program to be administered as authorized by the Secretary of the Interior.

(c) Withdrawal of funds for payment of costs of carrying out provisions

The Secretary of the Interior may make appropriate withdrawals from the judgment funds and interest thereon, using interest funds first, to pay costs incident to carrying out the provisions of sections 883 to 883d of this title.

(Pub. L. 92–586, § 1, Oct. 27, 1972, 86 Stat. 1295; Pub. L. 98–605, § 5, Oct. 30, 1984, 98 Stat. 3168.)

REFERENCES IN TEXT

Act of June 28, 1906, referred to in subsec. (a), is act June 28, 1906, ch. 3572, 34 Stat. 539, which was not classified to the Code.

Act of January 8, 1971, referred to in subsec. (a), is Pub. L. 91–665, Jan. 8, 1971, 84 Stat. 1981, which was not classified to the Code.

The Indian Claims Commission, referred to in subsec. (a), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–605 struck out ''or other socioeconomic programs'' after ''an education program'' and substituted ''such program'' for ''such programs''.

§ 883a. Payment of allotments

(a) Living original allottees

Except as provided in subsections (b) and (c) of this section, a share or proportional share payable to a living original Osage allottee shall be paid to such allottee.

(b) Distribution to heirs; heirship determinations; intestate succession; finality of determinations and distributions; reversion of minimal amounts

A share of a deceased Osage allottee having died prior to or after October 27, 1972, shall be distributed to his heirs of Osage Indian blood pursuant to an order determining heirs by the Secretary of the Interior or a court of competent jurisdiction of the State of Oklahoma, and such distributions by the Secretary of the Interior shall be final and conclusive. In the event the heirs of Osage Indian blood of an Osage Indian having died prior to or after October 27, 1972, have not been determined by the Secretary of the Interior or a court of competent jurisdiction of the State of Oklahoma, such share shall be distributed to the heirs of Osage Indian blood upon the filing of proof of death and inheritance in accordance with the Oklahoma law of intestate succession in a form satisfactory to the Secretary of the Interior whose findings and determinations upon such proof shall be final and conclusive: *Provided*, That when a person of Osage Indian blood receives an amount totaling less than $20 from one or more shares of one or more Osage allottees, that amount shall not be distributed to the individual, but will revert to the Osage Tribe.

(c) Minors and persons under guardianship; rules and regulations

A share or proportional share payable to a person of Osage Indian blood under eighteen years of age and any person under guardianship pursuant to an order of a court of competent jurisdiction notwithstanding the fact he has received a certificate of competency shall be disbursed under rules and regulations to be prescribed by the Secretary of the Interior.

(Pub. L. 92–586, § 2, Oct. 27, 1972, 86 Stat. 1295.)

§ 883b. Per capita shares; filing claims; reversion of unclaimed shares

All claims for per capita shares by heirs of Osage Indian blood shall be filed with the Superintendent, Osage Agency, Pawhuska, Oklahoma, not later than eighteen months from October 27, 1972. Thereafter, all claims and the right to file same shall be forever barred and the unclaimed shares shall revert to the Osage Tribe. Unclaimed shares of distributees shall revert to the Osage Tribe six months after determination by the Secretary of the Interior of their right to share.

(Pub. L. 92–586, § 3, Oct. 27, 1972, 86 Stat. 1296.)

§ 883c. Income tax exemption

None of the funds distributed per capita under the provisions of sections 883 to 883d of this title shall be subject to Federal or State income taxes.

(Pub. L. 92–586, § 4, Oct. 27, 1972, 86 Stat. 1296.)

§ 883d. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of sections 883 to 883d of this title.

(Pub. L. 92–586, § 5, Oct. 27, 1972, 86 Stat. 1296.)

SUBCHAPTER XL—MENOMINEE TRIBE OF WISCONSIN: TERMINATION OF FEDERAL SUPERVISION

§§ 891 to 902. Repealed. Pub. L. 93–197, § 3(b), Dec. 22, 1973, 87 Stat. 770

Section 891, act June 17, 1954, ch. 303, § 1, 68 Stat. 250, set out purpose of sections 891 to 902 as orderly termination of Federal supervision over property of Menominee Tribe.

Section 892, act June 17, 1954, ch. 303, § 2, 68 Stat. 250, defined ''Tribe'' and ''Secretary''.

Section 893, act June 17, 1954, ch. 303, § 3, 68 Stat. 250, set forth procedure for inclusion on tribal membership roll prior to its closure.

Section 894, act June 17, 1954, ch. 303, § 5, 68 Stat. 251, authorized payment of $1,500 to tribal members.

Section 895, acts June 17, 1954, ch. 303, § 6, 68 Stat. 251; July 14, 1956, ch. 601, 70 Stat. 544; July 2, 1958, Pub. L. 85–488, § 1(a), 72 Stat. 290, authorized hiring of management specialists by tribe to assist tribe in studying industrial programs for reservation.

Section 896, acts June 17, 1954, ch. 303, § 7, 68 Stat. 251; July 14, 1956, ch. 604, § 1, 70 Stat. 549; July 2, 1958, Pub. L. 85–488, § 1(b), 72 Stat. 290; Sept. 8, 1960, Pub. L. 86–733, § 1, 74 Stat. 867, required tribe to formulate and submit a plan to Secretary for control of tribal property and service functions conducted by United States.

Section 897, acts June 17, 1954, ch. 303, § 8, 68 Stat. 252; July 14, 1956, ch. 604, § 2, 70 Stat. 550; July 2, 1958, Pub. L. 85–488, § 1(c), 72 Stat. 291; Sept. 8, 1960, Pub. L. 86–733, § 2, 74 Stat. 867, authorized transfer of all tribal property by Secretary on or before Apr. 30, 1961, to tribal corporation or a trustee selected by Secretary.

Section 898, acts June 17, 1954, ch. 303, § 9, 68 Stat. 252; Sept. 8, 1960, Pub. L. 86–733, § 3, 74 Stat. 867, set forth conditions for tax exemptions for distributions, conveyances, and transfer of title to assets.

Section 899, act June 17, 1954, ch. 303, § 10, 68 Stat. 252, provided for publication in Federal Register by Secretary of a proclamation of transferred property.

Section 900, act June 17, 1954, ch. 303, § 11, 68 Stat. 252, related to protection of minors, etc. by Secretary prior to transfer of tribal property.

Section 901, act June 17, 1954, ch. 303, § 12, 68 Stat. 252, authorized Secretary to promulgate rules and regulations.

Section 902, act June 17, 1954, ch. 303, § 14, as added Sept. 8, 1960, Pub. L. 86–733, § 4, 74 Stat 867, authorized contracts with Wisconsin Department of Public Instruction for completion of any vocational or undergraduate college program prior to termination of Federal responsibilities.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 89–653, § 1, Oct. 15, 1966, 80 Stat. 903, authorized appropriations for the fiscal year ending June 30, 1967, and for each of the three succeeding fiscal years to compensate Wisconsin and its political subdivisions for extraordinary expenses occasioned by the termination of Federal supervision over the Menominee Tribe of Wisconsin by the act of June 17, 1954, ch. 303, 68 Stat. 250.

SUBCHAPTER XLI—MENOMINEE TRIBE OF WISCONSIN: RESTORATION OF FEDERAL SUPERVISION

§ 903. Definitions

For the purposes of this subchapter—

(1) The term ''tribe'' means the Menominee Indian Tribe of Wisconsin.

(2) The term ''Secretary'' means the Secretary of the Interior.

(3) The term ''Menominee Restoration Committee'' means that committee of nine Menominee Indians who shall be elected pursuant to subsections (a) and (b) of section 903b of this title.

(Pub. L. 93–197, § 2, Dec. 22, 1973, 87 Stat. 770.)

SHORT TITLE

Section 1 of Pub. L. 93–197 provided: ''That this Act [enacting this subchapter and repealing sections 891 to 902 of this title] may be cited as the 'Menominee Restoration Act'.''

§ 903a. Federal recognition

(a) Extension; laws applicable

Notwithstanding the provisions of the Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891–902), as amended, or any other law, Federal recognition is hereby extended to the Menominee Indian Tribe of Wisconsin and the provisions of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, are made applicable to it.

(b) Repeal of provisions terminating Federal supervision; reinstatement of tribal rights and privileges

The Act of June 17, 1954 (68 Stat. 250; 25 U.S.C. 891–902) as amended, is hereby repealed and there are hereby reinstated all rights and privileges of the tribe or its members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to such Act.

(c) Continuation of tribal rights and privileges

Nothing contained in this subchapter shall diminish any rights or privileges enjoyed by the tribe or its members now or prior to June 17, 1954, under Federal treaty, statute, or otherwise, which are now inconsistent with the provisions of this subchapter.

(d) Continuation of property or contractual rights or obligations and tax obligations

Except as specifically provided in this subchapter, nothing contained in this subchapter shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligations for taxes already levied.

(e) Grants for services entitled to upon Federal recognition; terms and conditions; power of Menominee Restoration Committee

In providing to the tribe such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary of the Interior and the Secretary of Health and Human Services, as appropriate, are authorized from funds appropriated pursuant to section 13 of this title, the Act of August 5, 1954 (68 Stat. 674), as amended [42 U.S.C. 2001 et seq.], or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the tribe and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated. The Menominee Restoration Committee shall have full authority and capacity to be a party to receive such grants[1] to make such contracts, and to bind the tribal governing body as the successor in interest to the Menominee Restoration Committee:

[1] So in original. Probably should be followed by a comma.

Provided, *however*, That the Menominee Restoration Committee shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.

(Pub. L. 93–197, § 3, Dec. 22, 1973, 87 Stat. 770; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

Act of June 17, 1954, referred to in subsecs. (a) and (b), which was classified to subchapter XL (§ 891 et seq.) of this chapter, was repealed by section 3(b) of Pub. L. 93–197, which is classified to subsec. (b) of this section.

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of August 5, 1954, referred to in subsec. (e), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in text, pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

§ 903b. Menominee Restoration Committee

(a) Nomination and election of members; time and procedure; ballot requirements; approval by Secretary; powers of Committee

Within fifteen days after December 22, 1973, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Menominee Restoration Committee. Such general council meeting shall be held within thirty days of December 22, 1973. Within forty-five days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Menominee Restoration Committee from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. The Secretary shall approve the Menominee Restoration Committee elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Menominee Restoration Committee shall represent the Menominee people in the implementation of this subchapter and shall have no powers other than those given to it in accordance with this subchapter. The Menominee Restoration Committee shall have no power or authority under this subchapter after the time which the duly-elected tribal governing body takes office: *Provided*, *however*, That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of section 903a(e) of this title.

(b) Eligible voters; notice by Secretary of nominating meeting and election

In the absence of a completed tribal roll prepared pursuant to subsection (c) of this section and solely for the purposes of the general council meeting and the election provided for in subsection (a) of this section, all living persons on the final roll of the tribe published under section 893[1] of this title, and all descendants, who are at least eighteen years of age and who possess at least one-quarter degree of Menominee Indian blood, of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting and such election. Verification of descendancy, age, and blood quantum shall be made upon oath before the Secretary or his authorized representative and his determination thereon shall be conclusive and final. The Secretary shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(c) Membership roll; opening; revision procedure; prerequisites for inclusion; possession and maintenance of enrollment records and materials; appeal; finality of determination

The membership roll of the tribe which was closed as of June 17, 1954, is hereby declared open. The Secretary, under contract with the Menominee Restoration Committee, shall proceed to make current the roll in accordance with the terms of this subchapter. The names of all enrollees who are deceased as of December 22, 1973, shall be stricken. The names of any descendants of an enrollee shall be added to the roll provided such descendant possesses at least one-quarter degree Menominee Indian blood. Upon installation of elected constitutional officers of the tribe, the Secretary and the Menominee Restoration Committee shall deliver their records, files, and any other material relating to enrollment matters to the tribal governing body. All further work in bringing and maintaining current the tribal roll shall be performed in such manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with the Secretary and his determination thereon shall be final. The Secretary shall make the final determination of each such appeal within ninety days after an appeal is initiated.

(Pub. L. 93–197, § 4, Dec. 22, 1973, 87 Stat. 771.)

REFERENCES IN TEXT

Section 893 of this title, referred to in subsec. (b), was repealed by section 3(b) of Pub. L. 93–197, which is classified to section 903a(b) of this title.

§ 903c. Tribal constitution and bylaws

(a) Election; time and procedure

Upon request from the Menominee Restoration Committee, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of the Act of June 18, 1934, as amended [25 U.S.C. 461 et seq.], for the purpose of determining the tribe's constitution and bylaws. The election shall be held within sixty days after final certification of the tribal roll.

[1] See References in Text note below.

(b) Distribution by Menominee Restoration Committee prior to election of proposed constitution and bylaws and brief impartial description; consultations by Committee with persons entitled to vote

The Menominee Restoration Committee shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and bylaws as drafted by the Menominee Restoration Committee which will be presented at the election, along with a brief impartial description of the constitution and bylaws. The Menominee Restoration Committee shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and bylaws. Such consultation shall not be carried on within fifty feet of the polling places on the date of the election.

(c) Election of tribal officers provided for in constitution and bylaws; time and procedure for initial election; subsequent elections governed by constitution, bylaws and ordinances

Within one hundred and twenty days after the tribe adopts a constitution and bylaws, the Menominee Restoration Committee shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this initial election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted and all tribal members who are eighteen years of age or over shall be entitled to vote in the election. All further elections of tribal officers shall be as provided in the tribal constitution and bylaws and ordinances adopted thereunder.

(d) Majority vote necessary for passage and initial election of tribal governing body; minimum number of voters required to vote

In any election held pursuant to this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and bylaws and the initial election of the tribe's governing body, so long as, in each such election, the total vote cast is at least 30 per centum of those entitled to vote.

(e) Revision of time periods pursuant to agreement of Secretary and Menominee Restoration Committee

The time periods set forth in section 903b(c) of this title and subsections (a) and (c) of this section may be changed by the written agreement of the Secretary and the Menominee Restoration Committee.

(Pub. L. 93–197, § 5, Dec. 22, 1973, 87 Stat. 772.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 903d. Transfer of assets of Menominee Enterprises, Inc.

(a) Negotiation and development of plan for assumption of assets; submittal of plan to Congress

The Secretary shall negotiate with the elected members of the Menominee Common Stock and Voting Trust and the Board of Directors of Menominee Enterprises, Incorporated, or their authorized representatives, to develop a plan for the assumption of the assets of the corporation. The Secretary shall submit such plan to the Congress within one year from December 22, 1973.

(b) Acceptance of assets by Secretary; prerequisites; preexisting rights and obligations in assets; United States as trustee for land transferred; exemption from taxation for transfer of assets and assets transferred

If neither House of Congress shall have passed a resolution of disapproval of the plan within sixty days of the date the plan is submitted to Congress, the Secretary shall, subject to the terms and conditions of the plan negotiated pursuant to subsection (a) of this section, accept the assets (excluding any real property not located in or adjacent to the territory, constituting, on December 22, 1973, the county of Menominee, Wisconsin) of Menominee Enterprises, Incorporated, but only if transferred to him by the Board of Directors of Menominee Enterprises, Incorporated, subject to the approval of the shareholders as required by the laws of Wisconsin. Such assets shall be subject to all valid existing rights, including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, outstanding corporate indebtedness of all types, and any other obligation. The land and other assets transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(c) Transfer to Secretary of real property of Menominee Tribe members; necessity for transfer by Menominee owner or owners; preexisting rights and obligations in land; United States as trustee for land transferred; exemption from taxation for transfer of assets and assets transferred

The Secretary shall accept the real property (excluding any real property not located in or adjacent to the territory constituting, on December 22, 1973, the county of Menominee, Wisconsin) of members of the Menominee Tribe, but only if transferred to him by the Menominee owner or owners. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, and any other obliga-

tions. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Wisconsin. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the Menominee Tribe of Wisconsin and shall be part of their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(d) Consultation by Secretary and Menominee Restoration Committee with appropriate State and local government officials for nonimpairment of necessary governmental services upon transfer of assets

The Secretary and the Menominee Restoration Committee shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services is not impaired as a result of the transfer of assets provided for in this section.

(e) Establishment of local government bodies, etc., by Wisconsin to provide necessary governmental services in Menominee County

For the purpose of implementing subsection (d) of this section, the State of Wisconsin may establish such local government bodies, political subdivisions, and service arrangements as will best provide the State or local government services required by the people in the territory constituting, on December 22, 1973, the county of Menominee.

(Pub. L. 93–197, § 6, Dec. 22, 1973, 87 Stat. 772.)

§ 903e. Rules and regulations

The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this subchapter.

(Pub. L. 93–197, § 7, Dec. 22, 1973, 87 Stat. 773.)

§ 903f. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 93–197, § 8, Dec. 22, 1973, 87 Stat. 773.)

SUBCHAPTER XLII—QUAPAW TRIBE: DISTRIBUTION OF JUDGMENT FUND

§ 911. Membership roll; preparation; eligibility for enrollment; applications for enrollment; protests; finality of determination

The Secretary of the Interior is authorized and directed to prepare a roll of the persons whose names appear on the Quapaw membership roll forwarded under date of January 4, 1890, and whose membership in the tribe was then based upon Quapaw blood rather than solely upon adoption, and the descendants of such persons, who are living on July 17, 1959. Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Muskogee, Oklahoma, on forms prescribed by the Secretary, within six months after July 17, 1959. For a period of three months thereafter, the Secretary shall permit the examination of the applications by the Quapaw Tribal Business Committee or by persons having a material interest therein for the purpose of lodging protests against any application. The determination of the Secretary regarding the eligibility of an applicant shall be final.

(Pub. L. 86–97, § 1, July 17, 1959, 73 Stat. 221.)

§ 912. Per capita payments to enrollees, heirs or legatees; tax exemption

The Secretary shall distribute on a pro rata basis to the persons whose names appear on the roll prepared pursuant to section 911 of this title, or their heirs or legatees, the balance of the funds on deposit in the Treasury of the United States to the credit of the Quapaw Indians that were appropriated by the Act of August 26, 1954 (68 Stat. 801), in satisfaction of a judgment against the United States that was obtained by the tribe in the Indian Claims Commission on May 7, 1954, and accrued interest thereon. The funds so distributed shall not be subject to Federal or State income tax.

(Pub. L. 86–97, § 2, July 17, 1959, 73 Stat. 222.)

REFERENCES IN TEXT

Act of August 26, 1954, referred to in text, is act Aug. 26, 1954, ch. 935, 68 Stat. 801, known as the Supplemental Appropriation Act, 1955. That portion of the act which appropriated the funds referred to was not classified to the Code.

§ 913. Distribution of shares

(a) Payments to enrollees, next of kin, or legatees

Except as provided in subsection (b) of this section, the Secretary shall distribute a share payable to a living enrollee directly to such enrollee, and the Secretary shall distribute a share payable to a deceased enrollee directly to his next of kin or legatees as determined by the laws of the place of domicile of the decedent, upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Payments to minors or persons under legal disability

A share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with the laws applicable to such person in the place of his domicile, or in the discretion of the Secretary to the natural parent or guardian of such person.

(Pub. L. 86–97, § 3, July 17, 1959, 73 Stat. 222.)

§ 914. Costs

All costs incurred by the Secretary in the preparation of the roll and in the payment of shares in accordance with the provisions of this subchapter shall be paid by appropriate withdrawals from the judgment fund, but the cost and expense of any litigation that may arise from the preparation of the roll or the payment of shares shall be paid by the United States.

(Pub. L. 86–97, § 4, July 17, 1959, 73 Stat. 222.)

SUBCHAPTER XLIII—CATAWBA TRIBE OF SOUTH CAROLINA: DIVISION OF ASSETS

§§931 to 938. Repealed. Pub. L. 103–116, §4(c), Oct. 27, 1993, 107 Stat. 1121

Section 931, Pub. L. 86–322, §1, Sept. 21, 1959, 73 Stat. 592, related to publication of notice of agreement to division of assets, closure of roll, preparation of roll, protest against inclusion or omission from roll, finality of determinations, and final publication.

Section 932, Pub. L. 86–322, §2, Sept. 21, 1959, 73 Stat. 592, related to personal property rights of enrolled members and restrictions on alienation.

Section 933, Pub. L. 86–322, §3, Sept. 21, 1959, 73 Stat. 592, related to distribution of tribal assets.

Section 934, Pub. L. 86–322, §4, Sept. 21, 1959, 73 Stat. 593, related to land surveys and execution of conveyances by Secretary and title of grantees.

Section 935, Pub. L. 86–322, §5, Sept. 21, 1959, 73 Stat. 593, related to revocation of tribal constitution, termination of Federal services, application of Federal and State laws, and effect on citizenship status.

Section 936, Pub. L. 86–322, §6, Sept. 21, 1959, 73 Stat. 593, provided that rights, privileges, and obligations under South Carolina laws would be unaffected.

Section 937, Pub. L. 86–322, §7, Sept. 21, 1959, 73 Stat. 593, related to applicability of Federal or State income taxes on distributed property.

Section 938, Pub. L. 86–322, §8, Sept. 21, 1959, 73 Stat. 594, related to education and training program, purposes, subjects, transportation, subsistence, contracts, and other education programs.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 17 of Pub. L. 103–116, set out as an Effective Date note under section 941 of this title.

SUBCHAPTER XLIII–A—CATAWBA INDIAN TRIBE OF SOUTH CAROLINA; RESTORATION OF FEDERAL TRUST RELATIONSHIP

§941. Declaration of policy, Congressional findings and purpose

(a) Findings

The Congress declares and finds that:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) There is pending before the United States District Court for the District of South Carolina a lawsuit disputing ownership of approximately 140,000 acres of land in the State of South Carolina and other rights of the Catawba Indian Tribe under Federal law.

(3) The Catawba Indian Tribe initiated a related lawsuit against the United States in the United States Court of Federal Claims seeking monetary damages.

(4) Some of the significant historical events which have led to the present situation include:

(A) In treaties with the Crown in 1760 and 1763, the Tribe ceded vast portions of its aboriginal territory in the present States of North and South Carolina in return for guarantees of being quietly settled on a 144,000-acre reservation.

(B) The Tribe's district court suit contended that in 1840 the Tribe and the State entered into an agreement without Federal approval or participation whereby the Tribe ceded its treaty reservation to the State, thereby giving rise to the Tribe's claim that it was dispossessed of its lands in violation of Federal law.

(C) In 1943, the United States entered into an agreement with the Tribe and the State to provide services to the Tribe and its members. The State purchased 3,434 acres of land and conveyed it to the Secretary in trust for the Tribe and the Tribe organized under the Indian Reorganization Act [25 U.S.C. 461 et seq.].

(D) In 1959, when Congress enacted the Catawba Tribe of South Carolina Division of Assets Act (25 U.S.C. 931–938), Federal agents assured the Tribe that if the Tribe would release the Government from its obligation under the 1943 agreement and agree to Federal legislation terminating the Federal trust relationship and liquidating the 1943 reservation, the status of the Tribe's land claim would not be jeopardized by termination.

(E) In 1980, the Tribe initiated Federal court litigation to regain possession of its treaty lands and in 1986, the United States Supreme Court ruled in South Carolina against Catawba Indian Tribe that the 1959 Act resulted in the application of State statutes of limitations to the Tribe's land claim. Two subsequent decisions of the United States Court of Appeals for the Fourth Circuit have held that some portion of the Tribe's claim is barred by State statutes of limitations and that some portion is not barred.

(5) The pendency of these lawsuits has led to substantial economic and social hardship for a large number of landowners, citizens and communities in the State of South Carolina, including the Catawba Indian Tribe. Congress recognizes that if these claims are not resolved, further litigation against tens of thousands of landowners would be likely; that any final resolution of pending disputes through a process of litigation would take many years and entail great expenses to all parties; continue economically and socially damaging controversies; prolong uncertainty as to the ownership of property; and seriously impair long-term economic planning and development for all parties.

(6) The 102d Congress has enacted legislation suspending until October 1, 1993, the running of any unexpired statute of limitation applicable to the Tribe's land claim in order to provide additional time to negotiate settlement of these claims.

(7) It is recognized that both Indian and non-Indian parties enter into this settlement to resolve the disputes raised in these lawsuits and to derive certain benefits. The parties' Settlement Agreement constitutes a good faith effort to resolve these lawsuits and other claims and requires implementing legislation by the Congress of the United States, the General Assembly of the State of South Carolina, and the governing bodies of the South Carolina counties of York and Lancaster.

(8) To advance the goals of the Federal policy of Indian self-determination and restoration of terminated Indian Tribes, and in recognition of the United States obligation to the Tribe and the Federal policy of settling historical Indian claims through comprehensive settlement agreements, it is appropriate that the United States participate in the funding and implementation of the Settlement Agreement.

(b) Purpose

It is the purpose of this subchapter—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the non-Indian settlement parties and the Tribe, except as otherwise provided by this subchapter;

(2) to authorize and direct the Secretary to implement the terms of such Settlement Agreement;

(3) to authorize the actions and appropriations necessary to implement the provisions of the Settlement Agreement and this subchapter;

(4) to remove the cloud on titles in the State of South Carolina resulting from the Tribe's land claim; and

(5) to restore the trust relationship between the Tribe and the United States.

(Pub. L. 103–116, § 2, Oct. 27, 1993, 107 Stat. 1118.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in subsec. (a)(4)(C), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

The Catawba Tribe of South Carolina Division of Assets Act and the 1959 Act, referred to in subsec. (a)(4)(D), (E), probably mean Pub. L. 86–322, Sept. 21, 1959, 73 Stat. 592, which was classified generally to subchapter XLIII (§ 931 et seq.) of this chapter prior to repeal by Pub. L. 103–116, § 4(c), Oct. 27, 1993, 107 Stat. 1121.

Legislation suspending until October 1, 1993, the running of any unexpired statute of limitation applicable to the Tribe's land claim, referred to in subsec. (a)(6), is Pub. L. 102–339, § 3, Aug. 11, 1992, 106 Stat. 869, which is not classified to the Code.

This subchapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 103–116, Oct. 27, 1993, 107 Stat. 1118, known as the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Section 17 of Pub. L. 103–116 provided that: "Except for sections 7, 8, and 12 [enacting sections 941e, 941f and 941j of this title], the provisions of this Act [see Short Title note below] shall become effective upon the transfer of the Existing Reservation under section 12 [enacting section 941j of this title] to the Secretary."

[In accordance with the provisions of Pub. L. 103–116, a quitclaim deed transferring the existing reservation to the United States as Trustee for the Tribe was executed on Nov. 29, 1993. This conveyance was accepted on behalf of the United States, in trust, on Jan. 19, 1994. The deed was recorded Jan. 20, 1994.]

SHORT TITLE

Section 1 of Pub. L. 103–116 provided that: "This Act [enacting this subchapter and repealing subchapter XLIII (§ 931 et seq.) of this chapter] may be cited as the 'Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993'."

§ 941a. Definitions

For purposes of this subchapter:

(1) The term "Tribe" means the Catawba Indian Tribe of South Carolina as constituted in aboriginal times, which was party to the Treaty of Pine Tree Hill in 1760 as confirmed by the Treaty of Augusta in 1763, which was party also to the Treaty of Nation Ford in 1840, and which was the subject of the Termination Act, and all predecessors and successors in interest, including the Catawba Indian Tribe of South Carolina, Inc.

(2) The term "claim" or "claims" means any claim which was asserted by the Tribe in either Suit, and any other claim which could have been asserted by the Tribe or any Catawba Indian of a right, title or interest in property, to trespass or property damages, or of hunting, fishing or other rights to natural resources, if such claim is based upon aboriginal title, recognized title, or title by grant, patent, or treaty including the Treaty of Pine Tree Hill of 1760, the Treaty of Augusta of 1763, or the Treaty of Nation Ford of 1840.

(3) The term "Executive Committee" means the body of the Tribe composed of the Tribe's executive officers as selected by the Tribe in accordance with its constitution.

(4) The term "Existing Reservation" means that tract of approximately 630 acres conveyed to the State in trust for the Tribe by J.M. Doby on December 24, 1842, by deed recorded in York County Deed Book N, pp. 340–341.

(5) The term "General Council" means the membership of the Tribe convened as the Tribe's governing body for the purpose of conducting tribal business pursuant to the Tribe's constitution.

(6) The term "Member" means individuals who are currently members of the Tribe or who are enrolled in accordance with this subchapter.

(7) The term "Reservation" or "Expanded Reservation" means the Existing Reservation and the lands added to the Existing Reservation in accordance with section 941j of this title, which are to be held in trust by the Secretary in accordance with this subchapter.

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

(9) The term "service area" means the area composed of the State of South Carolina and Cabarrus, Cleveland, Gaston, Mecklenburg, Rutherford, and Union counties in the State of North Carolina.

(10) The term "Settlement Agreement" means the document entitled "Agreement in Principle" between the Tribe and the State of South Carolina and attached to the copy of the State Act and filed with the Secretary of State of the State of South Carolina, as amended to conform to this subchapter and printed in the Congressional Record.

(11) The term "State" means, except for section 941d(a) through (f) of this title, the State of South Carolina.

(12) The term "State Act" means the Act enacted into law by the State of South Carolina on June 14, 1993, and codified as S.C. Code Ann., sections 27–16–10 through 27–16–140, to implement the Settlement Agreement.

(13) The term ''Suit'' or ''Suits'' means Catawba Indian Tribe of South Carolina v. State of South Carolina, et al., docketed as Civil Action No. 80–2050 and filed in the United States District Court for the District of South Carolina; and Catawba Indian Tribe of South Carolina v. The United States of America, docketed as Civil Action No. 90–553L and filed in the United States Court of Federal Claims.

(14) The term ''Termination Act'' means the Act entitled ''An Act to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the Tribe and for other purposes'', approved September 21, 1959 (73 Stat. 592; 25 U.S.C. 931–938).

(15) The term ''transfer'' includes (but is not limited to) any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event or circumstance that resulted in a change in title to, possession of, dominion over, or control of land, water, minerals, timber, or other natural resources.

(16) The term ''Trust Funds'' means the trust funds established by section 941i of this title.

(Pub. L. 103–116, § 3, Oct. 27, 1993, 107 Stat. 1120.)

REFERENCES IN TEXT

The Agreement in Principle, referred to in par. (10), is set out at Cong. Rec., vol. 139, part 16, p. 22583.

The Act entitled ''An Act to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the Tribe and for other purposes'', approved September 21, 1959, referred to in par. (14), is Pub. L. 86–322, Sept. 21, 1959, 73 Stat. 592, which was classified generally to subchapter XLIII (§ 931 et seq.) of this chapter prior to repeal by Pub. L. 103–116, § 4(c), Oct. 27, 1993, 107 Stat. 1121.

§ 941b. Restoration of Federal trust relationship

(a) Restoration of Federal trust relationship and approval, ratification, and confirmation of Settlement Agreement

On the effective date of this subchapter—

(1) the trust relationship between the Tribe and the United States is restored; and

(2) the Settlement Agreement and the State Act are approved, ratified, and confirmed by the United States to effectuate the purposes of this subchapter, and shall be complied with in the same manner and to the same extent as if they had been enacted into Federal law.

(b) Eligibility for Federal benefits and services

Notwithstanding any other provision of law, on the effective date of this subchapter, the Tribe and the Members shall be eligible for all benefits and services furnished to federally recognized Indian tribes and their members because of their status as Indians. On the effective date of this subchapter, the Secretary shall enter the Tribe on the list of federally recognized bands and tribes maintained by the Department of the Interior; and its members shall be eligible to special services, educational benefits, medical care, and welfare assistance provided by the United States to Indians because of their status as Indians, and the Tribe shall be eligible to the special services performed by the United States for tribes because of their status as Indian tribes. For the purpose of eligibility for Federal services made available to members of federally recognized Indian tribes because of their status as Indian tribal members, Members of the Tribe in the Tribe's service area shall be deemed to be residing on or near a reservation.

(c) Repeal of Termination Act

The Termination Act is repealed.

(d) Effect on property rights and other obligations

Except as otherwise specifically provided in this subchapter, this subchapter shall not affect any property right or obligation or any contractual right or obligation in existence before the effective date of this subchapter, or any obligation for taxes levied before that date.

(e) Extent of jurisdiction

This subchapter shall not be construed to empower the Tribe with special jurisdiction or to deprive the State of jurisdiction other than as expressly provided by this subchapter or by the State Act. The jurisdiction and governmental powers of the Tribe shall be solely those set forth in this subchapter and the State Act.

(Pub. L. 103–116, § 4, Oct. 27, 1993, 107 Stat. 1121.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsecs. (a), (b), and (d), see Effective Date note set out under section 941 of this title.

§ 941c. Settlement funds

(a) Authorization for appropriation

There is hereby authorized to be appropriated $32,000,000 for the Federal share which shall be deposited in the trust funds established pursuant to section 941i of this title or paid pursuant to section 941d(g) of this title.

(b) Disbursement in accordance with Settlement Agreement

The Federal funds appropriated pursuant to this subchapter shall be disbursed in four equal annual installments of $8,000,000 beginning in the fiscal year following October 27, 1993. Funds transferred to the Secretary from other sources shall be deposited in the trust funds established pursuant to section 941i of this title or paid pursuant to section 941d(g) of this title within 30 days of receipt by the Secretary.

(c) Federal, State, local and private contributions held in trust by Secretary

The Secretary shall, on behalf of the Tribe, collect those contributions toward settlement appropriated or received by the State pursuant to section 5.2 of the Settlement Agreement and shall either hold such funds totalling $18,000,000, together with the Federal funds appropriated pursuant to this subchapter, in trust for the Tribe pursuant to the provisions of section 941i of this title or pay such funds pursuant to section 941d(g) of this title.

(d) Nonpayment of State, local, or private contributions

The Secretary shall not be accountable or incur any liability for the collection, deposit, or

management of the non-Federal contributions made pursuant to section 5.2 of the Settlement Agreement, or payment of such funds pursuant to section 941d(g) of this title, until such time as such funds are received by the Secretary.

(Pub. L. 103–116, § 5, Oct. 27, 1993, 107 Stat. 1122.)

§ 941d. Ratification of prior transfers; extinguishment of aboriginal title, rights and claims

(a) Ratification of transfers

Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Tribe, any one or more of its Members, or anyone purporting to be a Member, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, and Congress hereby approves and ratifies any such transfer effective as of the date of such transfer. Nothing in this section shall be construed to affect, eliminate, or revive the personal claim of any individual Member (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(b) Aboriginal title

To the extent that any transfer of land or natural resources described in subsection (a) of this section may involve land or natural resources to which the Tribe, any of its Members, or anyone purporting to be a Member, or any other Indian, Indian nation, or Tribe or band of Indians had aboriginal title, subsection (a) of this section shall be regarded as an extinguishment of aboriginal title as of the date of such transfer.

(c) Extinguishment of claims

By virtue of the approval and ratification of any transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Tribe, any of its Members, or anyone purporting to be a Member, or any predecessors or successors in interest thereof or any other Indian, Indian Nation, or tribe or band of Indians, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

(d) Extinguishment of title

(1) All claims and all right, title, and interest that the Tribe, its Members, or any person or group of persons purporting to be Catawba Indians may have to aboriginal title, recognized title, or title by grant, patent, or treaty to the lands located anywhere in the United States are hereby extinguished.

(2) This extinguishment of claims shall also extinguish title to any hunting, fishing, or water rights or rights to any other natural resource claimed by the Tribe or a Member based on aboriginal or treaty recognized title, and all trespass damages and other damages associated with use, occupancy or possession, or entry upon such lands.

(e) Bar to future claims

The United States is hereby barred from asserting by or on behalf of the Tribe or any of its Members, or anyone purporting to be a Member, any claim arising before the effective date of this subchapter from the transfer of any land or natural resources by deed or other grant, or by treaty, compact, or act of law, on the grounds that such transfer was not made in accordance with the laws of South Carolina or the Constitution or laws of the United States.

(f) No derogation of fee simple in Existing Reservation, or effect on Members' fee interests

Nothing in this subchapter shall be construed to diminish or derogate from the Tribe's estate in the Existing Reservation; or to divest or disturb title in any land conveyed to any person or entity as a result of the Termination Act and the liquidation and partition of tribal lands; or to divest or disturb the right, title and interest of any Member in any fee simple, leasehold or remainder estate or any equitable or beneficial right or interest any such Member may own individually and not as a Member of the Tribe.

(g) Costs and attorneys' fees

The parties to the Suits shall bear their own costs and attorneys' fees. As provided by section 6.4 of the Settlement Agreement, the Secretary shall pay to the Tribe's attorneys in the Suits attorneys' fees and expenses from, and not to exceed 10 percent of, the $50,000,000 obligated for payment to the Tribe by Federal, State, local, and private parties pursuant to section 5 of the Settlement Agreement.

(h) Personal claims not affected

Nothing in this section shall be deemed to affect, diminish, or eliminate the personal claim of any individual Indian which is pursued under any law of general applicability (other than Federal common law fraud) that protects non-Indians as well as Indians.

(i) Federal payment

In the event any of the Federal payments are not paid as set forth in section 941c of this title, such failure to pay shall give rise to a cause of action by the Tribe against the United States for money damages for the amount authorized to be paid to the Tribe in section 941c(a) of this title in settlement of the Tribe's claim, and the Tribe is authorized to bring an action in the United States Court of Claims for such funds plus applicable interest. The United States hereby waives any affirmative defense to such action.

(j) State payment

In the event any of the State payments are not paid as set forth in section 941c of this title, such failure to pay shall give rise to a cause of action in the United States District Court for the District of South Carolina by the Tribe against the State of South Carolina for money damages for the amount authorized to be paid to the Tribe by the State in § 27–16–50(A) of the State Act in settlement of the Tribe's claim.

Pursuant to § 27–16–50(E) of the State Act, the State of South Carolina waives any Eleventh Amendment immunity to such action.

(Pub. L. 103–116, § 6, Oct. 27, 1993, 107 Stat. 1122.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (e), see Effective Date note set out under section 941 of this title.

§ 941e. Base membership roll

(a) Base membership roll criteria

Within one year after October 27, 1993, the Tribe shall submit to the Secretary, for approval, its base membership roll. An individual is eligible for inclusion on the base membership roll if that individual is living on October 27, 1993, and—

(1) is listed on the membership roll published by the Secretary in the Federal Register on February 25, 1961 (26 FR 1680–1688, ''Notice of Final Membership Roll''), and is not excluded under the provisions of subsection (c) of this section;

(2) the Executive Committee determines, based on the criteria used to compile the roll referred to in paragraph (1), that the individual should have been included on the membership roll at that time, but was not; or

(3) is a lineal descendant of a Member whose name appeared or should have appeared on the membership roll referred to in paragraph (1).

(b) Base membership roll notice

Within 90 days after October 27, 1993, the Secretary shall publish in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, a notice stating—

(1) that a base membership roll is being prepared by the Tribe and that the current membership roll is open and will remain open for a period of 90 days;

(2) the requirements for inclusion on the base membership roll;

(3) the final membership roll published by the Secretary in the Federal Register on February 25, 1961;

(4) the current membership roll as prepared by the Executive Committee and approved by the General Council; and

(5) the name and address of the tribal or Federal official to whom inquiries should be made.

(c) Completion of base membership roll

Within 120 days after publication of notice under subsection (b) of this section, the Secretary, after consultation with the Tribe, shall prepare and publish in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, a proposed final base membership roll of the Tribe. Within 60 days from the date of publication of the proposed final base membership roll, an appeal may be filed with the Executive Committee under rules made by the Executive Committee in consultation with the Secretary. Such an appeal may be filed by a Member with respect to the inclusion of any name on the proposed final base membership roll and by any person with respect to the exclusion of his or her name from the final base membership roll. The Executive Committee shall review such appeals and render a decision, subject to the Secretary's approval. If the Executive Committee and the Secretary disagree, the Secretary's decision will be final. All such appeals shall be resolved within 90 days following publication of the proposed roll. The final base membership roll of the Tribe shall then be published in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, and shall be final for purposes of the distribution of funds from the Per Capita Trust Fund established under section 941i(h) of this title.

(d) Future membership in Tribe

The Tribe shall have the right to determine future membership in the Tribe; however, in no event may an individual be enrolled as a tribal member unless the individual is a lineal descendant of a person on the final base membership roll and has continued to maintain political relations with the Tribe.

(Pub. L. 103–116, § 7, Oct. 27, 1993, 107 Stat. 1124.)

§ 941f. Transitional and provisional government

(a) Future tribal government

The Tribe shall adopt a new constitution within 24 months after the effective date of this subchapter.

(b) Executive Committee as transitional body

(1) Until the Tribe has adopted a constitution, the existing tribal constitution shall remain in effect and the Executive Committee is recognized as the provisional and transitional governing body of the Tribe. Until an election of tribal officers under the new constitution, the Executive Committee shall—

(A) represent the Tribe and its Members in the implementation of this subchapter; and

(B) during such period—

(i) have full authority to enter into contracts, grant agreements and other arrangements with any Federal department or agency; and

(ii) have full authority to administer or operate any program under such contracts or agreements.

(2) Until the initial election of tribal officers under a new constitution and bylaws, the Executive Committee shall—

(A) determine tribal membership in accordance with the provisions of section 941e of this title; and

(B) oversee and implement the revision and proposal to the Tribe of a new constitution and conduct such tribal meetings and elections as are required by this subchapter.

(Pub. L. 103–116, § 8, Oct. 27, 1993, 107 Stat. 1125.)

§ 941g. Tribal constitution and governance

(a) Indian Reorganization Act

If the Tribe so elects, it may organize under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the ''Indian Reorganization Act''). The Tribe shall be subject to such Act except to the extent such sections are inconsistent with this subchapter.

(b) Adoption of new tribal constitution

Within 180 days after the effective date of this subchapter, the Executive Committee shall draft and distribute to each Member eligible to vote under the tribal constitution in effect on the effective date of this subchapter, a proposed constitution and bylaws for the Tribe together with a brief, impartial description of the proposed constitution and bylaws and a notice of the date, time and location of the election under this subsection. Not sooner than 30 days or later than 90 days after the distribution of the proposed constitution, the Executive Committee shall conduct a secret-ballot election to adopt a new constitution and bylaws.

(c) Majority vote for adoption; procedure in event of failure to adopt proposed constitution

(1) The tribal constitution and bylaws shall be ratified and adopted if—

(A) not less than 30 percent of those entitled to vote do vote; and

(B) approved by a majority of those actually voting.

(2) If in any such election such majority does not approve the adoption of the proposed constitution and bylaws, the Executive Committee shall prepare another proposed constitution and bylaws and present it to the Tribe in the same manner provided in this section for the first constitution and bylaws. Such new proposed constitution and bylaws shall be distributed to the eligible voters of the Tribe no later than 180 days after the date of the election in which the first proposed constitution and bylaws failed of adoption. An election on the question of the adoption of the new proposal of the Executive Committee shall be conducted in the same manner provided in subsection (b) of this section for the election on the first proposed constitution and bylaws.

(d) Election of tribal officers

Within 120 days after the Tribe ratifies and adopts a constitution and bylaws, the Executive Committee shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution and bylaws. Subsequent elections shall be held in accordance with the Tribe's constitution and bylaws.

(e) Extension of time

Any time periods prescribed in subsections (b) and (c) of this section may be altered by written agreement between the Executive Committee and the Secretary.

(Pub. L. 103–116, § 9, Oct. 27, 1993, 107 Stat. 1125.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in subsec. (a), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

For the effective date of this subchapter, referred to in subsec. (b), see Effective Date note set out under section 941 of this title.

§ 941h. Administrative provisions relating to jurisdiction, taxation, and other matters

In the administration of this subchapter:

(1) All matters involving tribal powers, immunities, and jurisdiction, whether criminal, civil, or regulatory, shall be governed by the terms and provisions of the Settlement Agreement and the State Act, unless otherwise provided in this subchapter.

(2) All matters pertaining to governance and regulation of the reservation (including environmental regulation and riparian rights) shall be governed by the terms and provisions of the Settlement Agreement and the State Act, including, but not limited to, section 17 of the Settlement Agreement and section 27–16–120 of the State Act, unless otherwise provided in this subchapter.

(3) The Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.) shall apply to Catawba Indian children except as provided in the Settlement Agreement.

(4) Whether or not the Tribe, under section 941g(a) of this title, elects to organize under the Act of June 18, 1934 [25 U.S.C. 461 et seq.], the Tribe, in any constitution adopted by the Tribe, may be authorized to exercise such authority as is consistent with the Settlement Agreement and the State Act.

(5) In no event may the Tribe pledge or hypothecate the income or principal of the Catawba Education or Social Services and Elderly Trust Funds or otherwise use them as security or a source of payment for bonds the Tribe may issue.

(6) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall apply to the Tribe except to the extent that such application may be inconsistent with this subchapter or the Settlement Agreement.

(Pub. L. 103–116, § 10, Oct. 27, 1993, 107 Stat. 1126.)

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978, referred to in par. (3), is Pub. L. 95–608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§ 1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

Act of June 18, 1934, referred to in par. (4), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, popularly known as the Indian Reorganization Act, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in par. (6), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 941i. Tribal trust funds

(a) Purposes of trust funds

All funds paid pursuant to section 941c of this title, except for payments made pursuant to section 941d(g) of this title, shall be deposited with the Secretary in trust for the benefit of the Tribe. Separate trust funds shall be established for the following purposes: economic development, land acquisition, education, social services and elderly assistance, and per capita pay-

ments. Except as provided in this section, the Tribe, in consultation with the Secretary, shall determine the share of settlement payments to be deposited in each Trust Fund, and define, consistently with the provisions of this section, the purposes of each Trust Fund and provisions for administering each, specifically including provisions for periodic distribution of current and accumulated income, and for invasion and restoration of principal.

(b) Outside management option

(1) The Tribe, in consultation with and subject to the approval of the Secretary, as set forth in this section, is authorized to place any of the Trust Funds under professional management, outside the Department of the Interior.

(2) If the Tribe elects to place any of the Trust Funds under professional management outside the Department of the Interior, it may engage a consulting or advisory firm to assist in the selection of an independent professional investment management firm, and it shall engage, with the approval of the Secretary, an independent investment management firm of proven competence and experience established in the business of counseling large endowments, trusts, or pension funds.

(3) The Secretary shall have 45 days to approve or reject any independent investment management firm selected by the Tribe. If the Secretary fails to approve or reject the firm selected by the Tribe within 45 days, the investment management firm selected by the Tribe shall be deemed to have been approved by the Secretary.

(4) Secretarial approval of an investment management firm shall not be unreasonably withheld, and any Secretarial disapproval of an investment management firm shall be accompanied by a detailed explanation setting forth the Secretary's reasons for such disapproval.

(5)(A) For funds placed under professional management, the Tribe, in consultation with the Secretary and its investment manager, shall develop—

(i) current operating and long-term capital budgets; and

(ii) a plan for managing, investing, and distributing income and principal from the Trust Funds to match the requirements of the Tribe's operating and capital budgets.

(B) For each Trust Fund which the Tribe elects to place under outside professional management, the investment plan shall provide for investment of Trust Fund assets so as to serve the purposes described in this section and in the Trust Fund provisions which the Tribe shall establish in consultation with the Secretary and the independent investment management firm.

(C) Distributions from each Trust Fund shall not exceed the limits on the use of principal and income imposed by the applicable provisions of this subchapter for that particular Trust Fund.

(D)(i) The Tribe's investment management plan shall not become effective until approved by the Secretary.

(ii) Upon submission of the plan by the Tribe to the Secretary for approval, the Secretary shall have 45 days to approve or reject the plan. If the Secretary fails to approve or disapprove the plan within 45 days, the plan shall be deemed to have been approved by the Secretary and shall become effective immediately.

(iii) Secretarial approval of the plan shall not be unreasonably withheld and any secretarial rejection of the plan shall be accompanied by a detailed explanation setting forth the Secretary's reasons for rejecting the plan.

(E) Until the selection of an established investment management firm of proven competence and experience, the Tribe shall rely on the management, investment, and administration of the Trust Funds by the Secretary pursuant to the provisions of this section.

(c) Transfer of trust funds; exculpation of Secretary

Upon the Secretary's approval of the Tribe's investment management firm and an investment management plan, all funds previously deposited in trust funds held by the Secretary and all funds subsequently paid into the trust funds, which are chosen for outside management, shall be transferred to the accounts established by an investment management firm in accordance with the approved investment management plan. The Secretary shall be exculpated by the Tribe from liability for any loss of principal or interest resulting from investment decisions made by the investment management firm. Any Trust Fund transferred to an investment management firm shall be returned to the Secretary upon written request of the Tribe, and the Secretary shall manage such funds for the benefit of the Tribe.

(d) Land Acquisition Trust

(1) The Secretary shall establish and maintain a Catawba Land Acquisition Trust Fund, and until the Tribe engages an outside firm for investment management of this trust fund, the Secretary shall manage, invest, and administer this trust fund. The original principal amount of the Land Acquisition Trust Fund shall be determined by the Tribe in consultation with the Secretary.

(2) The principal and income of the Land Acquisition Trust Fund may be used for the purchase and development of Reservation and non-Reservation land pursuant to the Settlement Agreement, costs related to land acquisition, and costs of construction of infrastructure and development of the Reservation and non-Reservation land.

(3)(A) Upon acquisition of the maximum amount of land allowed for expansion of the Reservation, or upon request of the Tribe and approval of the Secretary pursuant to the Secretarial approval provisions set forth in subsection (b)(5)(D) of this section, all or part of the balance of this trust fund may be merged into one or more of the Economic Development Trust Fund, the Education Trust Fund, or the Social Services and Elderly Assistance Trust Fund.

(B) Alternatively, at the Tribe's election, the Land Acquisition Trust Fund may remain in existence after all the Reservation land is purchased in order to pay for the purchase of non-Reservation land.

(4)(A) The Tribe may pledge or hypothecate the income and principal of the Land Acquisition Trust Fund to secure loans for the purchase of Reservation and non-Reservation lands.

(B) Following the effective date of this subchapter and before the final annual disbursement is made as provided in section 941c of this title, the Tribe may pledge or hypothecate up to 50 percent of the unpaid annual installments required to be paid to this Trust Fund, the Economic Development Trust Fund and the Social Services and Elderly Assistance Trust Fund by section 941c of this title and by section 5 of the Settlement Agreement, to secure loans to finance the acquisition of Reservation or non-Reservation land or infrastructure improvements on such lands.

(e) Economic Development Trust

(1) The Secretary shall establish and maintain a Catawba Economic Development Trust Fund, and until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer this Trust Fund. The original principal amount of the Economic Development Trust Fund shall be determined by the Tribe in consultation with the Secretary. The principal and income of this Trust Fund may be used to support tribal economic development activities, including but not limited to infrastructure improvements and tribal business ventures and commercial investments benefiting the Tribe.

(2) The Tribe, in consultation with the Secretary, may pledge or hypothecate future income and up to 50 percent of the principal of this Trust Fund to secure loans for economic development. In defining the provisions for administration of this Trust Fund, and before pledging or hypothecating future income or principal, the Tribe and the Secretary shall agree on rules and standards for the invasion of principal and for repayment or restoration of principal, which shall encourage preservation of principal, and provide that, if feasible, a portion of all profits derived from activities funded by principal be applied to repayment of the Trust Fund.

(3) Following the effective date of this subchapter and before the final annual disbursement is made as provided in section 941c of this title, the Tribe may pledge or hypothecate up to 50 percent of the unpaid annual installments required to be paid by section 941c of this title and by section 5 of the Settlement Agreement to secure loans to finance economic development activities of the Tribe, including (but not limited to) infrastructure improvements on Reservation and non-Reservation lands.

(4) If the Tribe develops sound lending guidelines approved by the Secretary, a portion of the income from this Trust Fund may also be used to fund a revolving credit account for loans to support tribal businesses or business enterprises of tribal members.

(f) Education Trust

The Secretary shall establish and maintain a Catawba Education Trust Fund, and until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer this Trust Fund. The original principal amount of this Trust Fund shall be determined by the Tribe in consultation with the Secretary; subject to the requirement that upon completion of all payments into the Trust Funds, an amount equal to at least ⅓ of all State, local, and private contributions made pursuant to the Settlement Agreement shall have been paid into the Education Trust Fund. Income from this Trust Fund shall be distributed in a manner consistent with the terms of the Settlement Agreement. The principal of this Trust Fund shall not be invaded or transferred to any other Trust Fund, nor shall it be pledged or encumbered as security.

(g) Social Services and Elderly Assistance Trust

(1) The Secretary shall establish and maintain a Catawba Social Services and Elderly Assistance Trust Fund and, until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer the Social Services and Elderly Assistance Trust Fund. The original principal amount of this Trust Fund shall be determined by the Tribe in consultation with the Secretary.

(2) The income of this Trust Fund shall be periodically distributed to the Tribe to support social services programs, including (but not limited to) housing, care of elderly, or physically or mentally disabled Members, child care, supplemental health care, education, cultural preservation, burial and cemetery maintenance, and operation of tribal government.

(3) The Tribe, in consultation with the Secretary, shall establish eligibility criteria and procedures to carry out this subsection.

(h) Per Capita Payment Trust Fund

(1) The Secretary shall establish and maintain a Catawba Per Capita Payment Trust Fund in an amount equal to 15 percent of the settlement funds paid pursuant to section 5 of the Settlement Agreement. Until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer the Catawba Per Capita Payment Trust Fund.

(2) Each person (or their estate) whose name appears on the final base membership roll of the Tribe published by the Secretary pursuant to section 941e(c) of this title will receive a one-time, non-recurring payment from this Trust Fund.

(3) The amount payable to each member[1] shall be determined by dividing the trust principal and any accrued interest thereon by the number of Members on the final base membership roll.

(4)(A) Subject to the provisions of this paragraph, each enrolled member[1] who has reached the age of 21 years on the date the final roll is published shall receive the payment on the date of distribution, which shall be as soon as practicable after date of publication of the final base membership roll. Adult Members shall be paid their pro rata share of this Trust Fund on the date of distribution unless they elect in writing to leave their pro rata share in the Trust Fund, in which case such share shall not be distributed.

(B) The pro rata share of adult Members who elect not to withdraw their payment from this Trust Fund shall be managed, invested and administered, together with the funds of Members who have not attained the age of 21 years on the date the final base membership roll is published,

[1] So in original. Probably should be capitalized.

until such Member requests in writing that their pro rata share be distributed, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of distribution.

(C) No member[1] may elect to have their pro rata share managed by this Trust Fund for a period of more than 21 years after the date of publication of the final base membership roll.

(5)(A) Subject to the provisions of this paragraph, the pro rata share of any Member who has not attained the age of 21 years on the date the final base membership roll is published shall be managed, invested and administered pursuant to the provisions of this section until such Member has attained the age of 21 years, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of payment. Such Members shall be paid their pro rata share of this Trust Fund on the date they attain 21 years of age unless they elect in writing to leave their pro rata share in the Trust Fund, in which case such share shall not be distributed.

(B) The pro rata share of such Members who elect not to withdraw their payment from this Trust Fund shall be managed, invested and administered, together with the funds of members[1] who have not attained the age of 21 years on the date the final base membership roll is published, until such Member requests in writing that their pro rata share be distributed, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of distribution.

(C) No Member may elect to have their pro rata share retained and managed by this Trust Fund beyond the expiration of the period of 21 years after the date of publication of the final base membership roll.

(6) After payments have been made to all Members entitled to receive payments, this Trust Fund shall terminate, and any balance remaining in this Trust Fund shall be merged into the Economic Development Trust Fund, the Education Trust Fund, or the Social Services and Elderly Assistance Trust Fund, as the Tribe may determine.

(i) Duration of trust funds

Subject to the provisions of this section and with the exception of the Catawba Per Capita Payment Trust Fund, the Trust Funds established in accordance with this section shall continue in existence so long as the Tribe exists and is recognized by the United States. The principal of these Trust Funds shall not be invaded or distributed except as expressly authorized in this subchapter or in the Settlement Agreement.

(j) Transfer of money among trust funds

The Tribe, in consultation with the Secretary, shall have the authority to transfer principal and accumulated income between Trust Funds only as follows:

(1) Funds may be transferred among the Catawba Economic Development Trust Fund, the Catawba Land Acquisition Trust Fund, and the Catawba Social Services and Elderly Assistance Trust Fund, and from any of those three Trust Funds into the Catawba Education Trust Fund; except, that the mandatory share of State, local, and private sector funds invested in the original corpus of the Catawba Education Trust Fund shall not be transferred to any other Trust Fund.

(2) Any Trust Fund, except for the Catawba Education Trust Fund, may be dissolved by a vote of two-thirds of those Members eligible to vote, and the assets in such Trust Fund shall be transferred to the remaining Trust Funds; except, that (A) no assets shall be transferred from any of the Trust Funds into the Catawba Per Capita Payment Trust Fund, and (B) the mandatory share of State, local and private funds invested in the original corpus of the Catawba Education Trust Fund may not be transferred or used for any non-educational purposes.

(3) The dissolution of any Trust Fund shall require the approval of the Secretary pursuant to the Secretarial approval provisions set forth in subsection (b)(5)(D) of this section.

(k) Trust fund accounting

(1) The Secretary shall account to the Tribe periodically, and at least annually, for all Catawba Trust Funds being managed and administered by the Secretary. The accounting shall—

(A) identify the assets in which the Trust Funds have been invested during the relevant period;

(B) report income earned during the period, distinguishing current income and capital gains;

(C) indicate dates and amounts of distributions to the Tribe, separately distinguishing current income, accumulated income, and distributions of principal; and

(D) identify any invasions or repayments of principal during the relevant period and record provisions the Tribe has made for repayment or restoration of principal.

(2)(A) Any outside investment management firm engaged by the Tribe shall account to the Tribe and separately to the Secretary at periodic intervals, at least quarterly. Its accounting shall—

(i) identify the assets in which the Trust Funds have been invested during the relevant period;

(ii) report income earned during the period, separating current income and capital gains;

(iii) indicate dates and amounts of distributions to the Tribe, distinguishing current income, accumulated income, and distributions of principal; and

(iv) identify any invasions or repayments of principal during the relevant period and record provisions the Tribe has made for repayment or restoration of principal.

(B) Prior to distributing principal from any Trust Fund, the investment management firm shall notify the Secretary of the proposed distribution and the Tribe's proposed use of such funds, following procedures to be agreed upon by the investment management firm, the Secretary, and the Tribe. The Secretary shall have

15 days within which to object in writing to any such invasion of principal. Failure to object will be deemed approval of the distribution.

(C) All Trust Funds held and managed by any investment management firm shall be audited annually by a certified public accounting firm approved by the Secretary, and a copy of the annual audit shall be submitted to the Tribe and to the Secretary within four months following the close of the Trust Funds' fiscal year.

(*l*) Replacement of investment management firm and modification of investment management plan

The Tribe shall not replace the investment management firm approved by the Secretary without prior written notification to the Secretary and approval by the Secretary of any investment management firm chosen by the Tribe as a replacement. Such Secretarial approval shall be given or denied in accordance with the Secretarial approval provisions contained in subsection (b)(5)(D) of this section. The Tribe and its investment management firm shall also notify the Secretary in writing of any revisions in the investment management plan which materially increase investment risk or significantly change the investment management plan, or the agreement, made in consultation with the Secretary pursuant to which the outside management firm was retained.

(m) Trust funds not counted for certain purposes; use as matching funds

None of the funds, assets, income, payments, or distributions from the Trust Funds established pursuant to this section shall at any time affect the eligibility of the Tribe or its Members for, or be used as a basis for denying or reducing funds to the Tribe or its Members under any Federal, State, or local program. Distributions from these Trust Funds may be used as matching funds, where appropriate, for Federal grants or loans.

(Pub. L. 103–116, § 11, Oct. 27, 1993, 107 Stat. 1127.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsecs. (d)(4)(B) and (e)(3), see Effective Date note set out under section 941 of this title.

§ 941j. Establishment of Expanded Reservation

(a) Existing Reservation

The Secretary is authorized to receive from the State, by such transfer document as the Secretary and the State shall approve, all rights, title, and interests of the State in and to the Existing Reservation to be held by the United States as trustee for the Tribe, and, effective on the date of such transfer, the obligation of the State as trustee for the Tribe with respect to such land shall cease.

(b) Expanded Reservation

(1) The Existing Reservation shall be expanded in the manner prescribed by the Settlement Agreement.

(2) Within 180 days following October 27, 1993, the Secretary, after consulting with the Tribe, shall ascertain the boundaries and area of the existing reservation.[1] In addition, the Secretary, after consulting with the Tribe, shall engage a professional land planning firm as provided in the Settlement Agreement. The Secretary shall bear the cost of all services rendered pursuant to this section.

(3) The Tribe may identify, purchase and request that the Secretary place into reservation status, tracts of lands in the manner prescribed by the Settlement Agreement. The Tribe may not request that any land be placed in reservation status, unless those lands were acquired by the Tribe and qualify for reservation status in full compliance with the Settlement Agreement, including section 14 thereof.

(4) The Secretary shall bear the cost of all title examinations, preliminary subsurface soil investigations, and level one environmental audits to be performed on each parcel contemplated for purchase by the Tribe or the Secretary for the Expanded Reservation, and shall report the results to the Tribe. The Secretary's or the Tribe's payment of any option fee and the purchase price may be drawn from the Catawba Land Acquisition Trust Fund.

(5) The total area of the Expanded Reservation shall be limited to 3,000 acres, including the Existing Reservation, but the Tribe may exclude from this limit up to 600 acres of additional land under the conditions set forth in the Settlement Agreement. The Tribe may seek to have the permissible area of the Expanded Reservation enlarged by an additional 600 acres as set forth in the Settlement Agreement.

(6) All lands acquired for the Expanded Reservation may be held in trust together with the Existing Reservation which the State is to convey to the United States.

(7) Nothing in this subchapter shall prohibit the Secretary from providing technical and financial assistance to the Tribe to fulfill the purposes of this section.

(c) Expansion zones

(1) Subject to the conditions, criteria, and procedures set forth in the Settlement Agreement, the Tribe shall endeavor at the outset to acquire contiguous tracts for the Expanded Reservation in the ''Catawba Reservation Primary Expansion Zone'', as defined in the Settlement Agreement.

(2) Subject to the conditions, criteria, and procedures set forth in the Settlement Agreement, the Tribe may elect to purchase contiguous tracts in an alternative area, the ''Catawba Reservation Secondary Expansion Zone'', as defined in the Settlement Agreement.

(3) The Tribe may propose different or additional expansion zones subject to the authorizations required in the Settlement Agreement and the State Act.

(d) Non-contiguous tracts

The Tribe, in consultation with the Secretary, shall take such actions as are reasonable to expand the Existing Reservation by assembling a composite tract of contiguous parcels that border and surround the Existing Reservation. Before requesting that any non-contiguous tract be placed in Reservation status, the Tribe shall comply with section 14 of the Settlement Agreement. Upon the approval of the Tribe's application under and in accordance with section 14 of

[1] So in original. Probably should be capitalized.

the Settlement Agreement, the Secretary, in consultation with the Tribe, may proceed to place non-contiguous tracts in Reservation status. No purchases of non-contiguous tracts shall be made for the Reservation except as set forth in the Settlement Agreement and the State Act.

(e) Voluntary land purchases

(1) The power of eminent domain shall not be used by the Secretary or any governmental authority in acquiring parcels of land for the benefit of the Tribe, whether or not the parcels are to be part of the Reservation. All such purchases shall be made only from willing sellers by voluntary conveyances subject to the terms of the Settlement Agreement.

(2) Notwithstanding any other provision of this section and the provisions of sections 3113 and 3114(a) to (d) of title 40, the Secretary or the Tribe may acquire a fractional interest in land otherwise qualifying under section 14 of the Settlement Agreement for treatment as Reservation land for the benefit of the Tribe from the ostensible owner of the land if the Secretary or the Tribe and the ostensible owner have agreed upon the identity of the land to be sold and upon the purchase price and other terms of sale. If the ostensible owner agrees to the sale, the Secretary may use condemnation proceedings to perfect or clear title and to acquire any interests of putative co-tenants whose address is unknown or the interests of unknown or unborn heirs or persons subject to mental disability.

(f) Terms and conditions of acquisition

All properties acquired by the Tribe shall be acquired subject to the terms and conditions set forth in the Settlement Agreement. The Tribe and the Secretary, acting on behalf of the Tribe and with its consent, are also authorized to acquire Reservation and non-Reservation lands using the methods of financing described in the Settlement Agreement.

(g) Authority to erect permanent improvements on Existing and Expanded Reservation land and non-Reservation land held in trust

Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument which conveys to the United States lands purchased pursuant to the provisions of this section and the Settlement Agreement. The Secretary or the Tribe may erect permanent improvements of a substantial value, or any other improvements authorized by law on such land after such land is conveyed to the United States.

(h) Easements over Reservation

(1) The acquisition of lands for the Expanded Reservation shall not extinguish any easements or rights-of-way then encumbering such lands unless the Secretary or the Tribe enters into a written agreement with the owners terminating such easements or rights-of-way.

(2)(A) The Tribe, with the approval of the Secretary, shall have the power to grant or convey easements and rights-of-way, in a manner consistent with the Settlement Agreement.

(B) Unless the Tribe and the State agree upon a valuation formula for pricing easements over the Reservation, the Secretary shall be subject to proceedings for condemnation and eminent domain to acquire easements and rights of way for public purposes through the Reservation under the laws of the State in circumstances where no other reasonable access is available.

(C) With the approval of the Tribe, the Secretary may grant easements or rights-of-way over the Reservation for private purposes, and implied easements of necessity shall apply to all lands acquired by the Tribe, unless expressly excluded by the parties.

(i) Jurisdictional status

Only land made part of the Reservation shall be governed by the special jurisdictional provisions set forth in the Settlement Agreement and the State Act.

(j) Sale and transfer of Reservation lands

With the approval of the Secretary, the Tribe may sell, exchange, or lease lands within the Reservation, and sell timber or other natural resources on the Reservation under circumstances and in the manner prescribed by the Settlement Agreement and the State Act.

(k) Time limit on acquisitions

All acquisitions of contiguous land to expand the Reservation or of non-contiguous lands to be placed in Reservation status shall be completed or under contract of purchase within 10 years from the date the last payment is made into the Land Acquisition Trust; except that for a period of 20 years after the date the last payment is made into the Catawba Land Acquisition Trust Fund, the Tribe may, subject to the limitation on the total size of the Reservation, continue to add parcels to up to two Reservation areas so long as the parcels acquired are contiguous to one of those two Reservation areas.

(*l*) Leases of Reservation lands

The provisions of section 415 of this title shall not apply to the Tribe and its Reservation. The Tribe is authorized to lease its Reservation lands for terms up to but not exceeding 99 years, with or without the approval of the Secretary. With regard to any lease of Reservation lands not approved by the Secretary, the Secretary shall be exculpated by the Tribe from any liability arising out of any loss incurred by the Tribe as a result of the unapproved lease.

(m) Non-applicability of BIA land acquisition regulations

The general land acquisition regulations of the Bureau of Indian Affairs, contained in part 151 of title 25, Code of Federal Regulations, shall not apply to the acquisition of lands authorized by this section.

(Pub. L. 103–116, § 12, Oct. 27, 1993, 107 Stat. 1133.)

CODIFICATION

''Sections 3113 and 3114(a) to (d) of title 40'' substituted in subsec. (e)(2) for ''the first section of the Act of August 1, 1888 (ch. 728, 25 Stat. 357; 40 U.S.C. 257), and the first section of the Act of February 26, 1931 (ch. 307, 46 Stat. 1421; 40 U.S.C. 258a)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 941k. Non-Reservation properties

(a) Acquisition of non-Reservation properties

The Tribe may draw upon the corpus or accumulated income of the Catawba Land Acquisition Trust Fund or the Catawba Economic Development Trust Fund to acquire and hold parcels of real estate outside the Reservation for the purposes and in the manner delineated in the Settlement Agreement. Jurisdiction and status of all non-Reservation lands shall be governed by section 15 of the Settlement Agreement.

(b) Authority to dispose of lands

Notwithstanding any other provision of law, the Tribe may lease, sell, mortgage, restrict, encumber, or otherwise dispose of such non-Reservation lands in the same manner as other persons and entities under State law, and the Tribe as land owner shall be subject to the same obligations and responsibilities as other persons and entities under State, Federal, and local law.

(c) Restrictions

Ownership and transfer of non-Reservation parcels shall not be subject to Federal law restrictions on alienation, including (but not limited to) the restrictions imposed by Federal common law and the provisions of section 177 of this title.

(Pub. L. 103–116, § 13, Oct. 27, 1993, 107 Stat. 1136.)

§ 941*l*. Games of chance

(a) Inapplicability of Indian Gaming Regulatory Act

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall not apply to the Tribe.

(b) Games of chance generally

The Tribe shall have the rights and responsibilities set forth in the Settlement Agreement and the State Act with respect to the conduct of games of chance. Except as specifically set forth in the Settlement Agreement and the State Act, all laws, ordinances, and regulations of the State, and its political subdivisions, shall govern the regulation of gambling devices and the conduct of gambling or wagering by the Tribe on and off the Reservation.

(Pub. L. 103–116, § 14, Oct. 27, 1993, 107 Stat. 1136.)

REFERENCES IN TEXT

The Indian Gaming Regulatory Act, referred to in subsec. (a), is Pub. L. 100–497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (§ 2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 941m. General provisions

(a) Severability

If any provision of section 941b(a), 941c, or 941d of this title is rendered invalid by the final action of a court, then all of this subchapter is invalid. Should any other section of this subchapter be rendered invalid by the final action of a court, the remaining sections of this subchapter shall remain in full force and effect.

(b) Interpretation consistent with Settlement Agreement

To the extent possible, this subchapter shall be construed in a manner consistent with the Settlement Agreement and the State Act. In the event of a conflict between the provisions of this subchapter and the Settlement Agreement or the State Act, the terms of this subchapter shall govern. In the event of a conflict between the State Act and the Settlement Agreement, the terms of the State Act shall govern. The Settlement Agreement and the State Act shall be maintained on file and available for public inspection at the Department of the Interior.

(c) Laws and regulations of United States

The provisions of any Federal law enacted after October 27, 1993, for the benefit of Indians, Indian nations, tribes, or bands of Indians, which would affect or preempt the application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this subchapter and the South Carolina State Implementing Act, shall not apply within the State of South Carolina, unless such provision of such subsequently enacted Federal law is specifcally[1] made applicable within the State of South Carolina.

(d) Eligibility for consideration to become enterprise zone or general purpose foreign trade zone

Notwithstanding the provisions of any other law or regulation, the Tribe shall be eligible to become, sponsor and operate (1) an ''enterprise zone'' pursuant to title VII of the Housing and Community Development Act of 1987 (42 U.S.C. 11501–11505) or any other applicable Federal (or State) laws or regulations; or (2) a ''foreign-trade zone'' or ''subzone'' pursuant to the Foreign Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u) and the regulations thereunder, to the same extent as other federally recognized Indian Tribes.

(e) General applicability of State law

Consistent with the provisions of section 941b(a)(2) of this title, the provisions of South Carolina Code Annotated, section 27–16–40, and section 19.1 of the Settlement Agreement are approved, ratified, and confirmed by the United States, and shall be complied with in the same manner and to the same extent as if they had been enacted into Federal law.

(f) Subsequent amendments to Settlement Agreement or State Act

Consent is hereby given to the Tribe and the State to amend the Settlement Agreement and the State Act if consent to such amendment is given by both the State and the Tribe, and if such amendment relates to—

(1) the jurisdiction, enforcement, or application of civil, criminal, regulatory, or tax laws of the Tribe and the State;

(2) the allocation or determination of governmental responsibility of the State and the Tribe over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the Tribe;

(3) the allocation of jurisdiction between the tribal courts and the State courts; or

[1] So in original. Probably should be ''specifically''.

(4) technical and other corrections and revisions to conform the State Act and the Agreement in Principle attached to the State Act to the Settlement Agreement.

(Pub. L. 103–116, § 15, Oct. 27, 1993, 107 Stat. 1136.)

REFERENCES IN TEXT

The Housing and Community Development Act of 1987, referred to in subsec. (d), is Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1815, as amended. Title VII of the Act is classified principally to chapter 120 (§ 11501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note under section 5301 of Title 42 and Tables.

The Foreign Trade Zones Act of 1934, referred to in subsec. (d), probably means act June 18, 1934, ch. 590, 48 Stat. 998, as amended, popularly known as the Foreign Trade Zones Act, which is classified generally to chapter 1A (§ 81a et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Tables.

§ 941n. Tax treatment of income and transactions

Notwithstanding any provision of the State Act, the Settlement Agreement, or this subchapter (including any amendment made under section 941m(f) of this title), nothing in this subchapter, the State Act, or the Settlement Agreement—

(1) shall amend or alter title 26, as amended, or any rules or regulations promulgated thereunder, or

(2) shall affect the treatment under title 26 of any person or transaction other than by reason of the restoration of the trust relationship between the United States and the Tribe.

(Pub. L. 103–116, § 16, Oct. 27, 1993, 107 Stat. 1137.)

SUBCHAPTER XLIV—AGUA CALIENTE (PALM SPRINGS) RESERVATION OF CALIFORNIA: EQUALIZATION OF ALLOTMENTS

§ 951. Authority to equalize allotments

The Secretary of the Interior (hereinafter called the ''Secretary'') is authorized and directed to do whatever is necessary and proper to equalize as nearly as possible the values of all allotments of land on the Agua Caliente (Palm Springs) Reservation in California in accordance with the provisions of this subchapter.

(Pub. L. 86–339, § 1, Sept. 21, 1959, 73 Stat. 602.)

SHORT TITLE

Pub. L. 86–339, Sept. 21, 1959, 73 Stat. 602, as amended, which enacted this subchapter, is popularly known as the ''Aqua Caliente Equalization Act of 1959''.

EXPIRATION OF RESTRICTION ON DISTRIBUTION OF REVENUES FROM MINERAL SPRINGS PARCEL

Pub. L. 105–308, Oct. 30, 1998, 112 Stat. 2932, provided that:

''SECTION 1. FINDINGS.

''Congress finds that—

''(1) among its purposes, the Act entitled 'An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes', approved September 21, 1959, commonly known as the 'Agua Caliente Equalization Act of 1959' (25 U.S.C. 951 et seq.) (referred to in this section as the 'Act') was intended to provide for a reasonable degree of equalization of the value of allotments made to members of the Agua Caliente Band of Cahuilla Indians;

''(2) the Act was enacted in response to litigation in Federal courts in Segundo, et al. v. United States, 123 F. Supp. 554 (1954);

''(3) the case referred to in paragraph (2) was appealed under the case name United States v. Pierce, 235 F. 2d 885 (1956) and that case affirmed the entitlement of certain members of the Band to allotments of approximately equal value to lands allotted to other members of the Band;

''(4)(A) to achieve the equalization referred to in paragraph (3), section 3 of the Act (25 U.S.C. 953) provided for the allotment or sale of all remaining tribal lands, with the exception of several specifically designated parcels, including 2 parcels in the Mineral Springs area known as parcel A and parcel B;

''(B) section 3 of the Act restricted the distribution of any net rents, profits, or other revenues derived from parcel B to members of the Band and their heirs entitled to equalization of the value of the allotments of those members;

''(C) from 1959 through 1984, each annual budget of the Band, as approved by the Bureau of Indian Affairs, provided for expenditure of all revenues derived from both parcel A and parcel B solely for tribal governmental purposes; and

''(D) as a result of the annual budgets referred to in subparagraph (C), no net revenues from parcel B were available for distribution to tribal members entitled to equalization under section 3 of the Act referred to in paragraph (1);

''(5) by letter of December 6, 1961, the Director of the Sacramento Area Office of the Bureau of Indian Affairs informed the regional solicitor of the Bureau of Indian Affairs that the equalization of allotments on the Agua Caliente Reservation with respect to those members of the Band who were eligible for equalization had been completed using all available excess tribal land in a manner consistent with—

''(A) the decree of the court in the case referred to in paragraph (2); and

''(B) the Act;

''(6) in 1968, the files of the Department of the Interior with respect to the case referred to in paragraph (3), the closure of which was contingent upon completion of the equalization program, were retired to the Federal Record Center, where they were subsequently destroyed;

''(7) on March 16, 1983, the Secretary of the Interior published notice in the Federal Register that full equalization had been achieved within the meaning of section 7 of the Act (25 U.S.C. 957);

''(8) section 7 of the Act states that 'allotments in accordance with the provisions of this Act shall be deemed complete and full equalization of allotments on the Agua Caliente Reservation'; and

''(9) the regulations governing the equalization of allotments under the Act referred to in paragraph (1) were rescinded by the Secretary, effective March 31, 1983.

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) BAND.—The term 'Band' means the Agua Caliente Band.

''(2) PARCEL B.—The term 'parcel B' means the parcel of land in the Mineral Springs area referred to as 'parcel B' in section 3(b) of the Act entitled 'An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes', approved September 21, 1959, commonly known as the 'Agua Caliente Equalization Act of 1959' (25 U.S.C. 953(b)).

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''SEC. 3. EQUALIZATION OF ALLOTMENTS.

''(a) IN GENERAL.—The full equalization of allotments within the meaning of section 7 of the Act entitled 'An Act to provide for the equalization of allotments on the

Agua Caliente (Palm Springs) Reservation in California, and for other purposes', approved September 21, 1959, commonly known as the 'Agua Caliente Equalization Act of 1959' (25 U.S.C. 957) is deemed to have been completed.

''(b) EXPIRATION OF ENTITLEMENT.—By reason of the achievement of the full equalization of allotments described in subsection (a), the entitlement of holders of equalized allotments to distribution of net revenues from parcel B under section 3(b) of the Act entitled 'An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes', approved September 21, 1959, commonly known as the 'Agua Caliente Equalization Act of 1959' (25 U.S.C. 953(b)) shall be deemed to have expired.

''SEC. 4. REMOVAL OF RESTRICTION.

''(a) IN GENERAL.—[Amended section 953(b) of this title.]

''(b) APPLICABILITY.—The amendment made by subsection (a) shall apply as if this section had been enacted on March 31, 1983.

''(c) SUBSEQUENT DISTRIBUTIONS.—Any per capita distribution of tribal revenues of the Band made after the date of enactment of this Act [Oct. 30, 1998] shall be made to all members of the Band in equal amounts.''

§ 952. Members entitled to allotment; prohibition against further allotments

Any member of the Agua Caliente Band (hereinafter called the ''band'') who is living on September 21, 1959, and who has not received an allotment of land shall be given an allotment in accordance with the provisions of law existing prior to this Act. No further allotments of land shall thereafter be made to any other or future born members of the band, or to their heirs or devisees, except for the purpose of equalization. This prohibition against further allotments shall not be construed as a closing of the band's membership rolls.

(Pub. L. 86–339, § 2, Sept. 21, 1959, 73 Stat. 602.)

REFERENCES IN TEXT

The words ''prior to this Act'', referred to in text, mean prior to enactment of Act Sept. 21, 1959, Pub. L. 86–339.

§ 953. Lands

(a) Determination of value of unallotted and allotted lands; exclusion of deceased allottees' allotments

The Secretary shall determine on the basis of the contract appraisals that were made in 1957 and 1958 (1) the value of all unallotted tribal land, and (2) the value of the allotment of each allottee who is living on September 21, 1959, excluding the value of any improvements thereon. Where lands of a living allottee have been sold under the supervision of the Secretary, their value for the purpose of equalization shall be the amount received from such sale, excluding the value assigned to any improvements thereon. Where lands of a living allottee have been fee patented to and sold by the allottee, their value for the purpose of equalization shall be the appraised value of the lands, excluding improvements, as of the time of the sale, regardless of the amount received from the sale. The allotments of allottees who are not living on September 21, 1959 shall be excluded from the equalization program. All values so determined by the Secretary shall be final and conclusive for the purposes of this subchapter.

(b) Lands not subject to allotment

In no event shall the following tribal lands be subject to allotment, and they shall henceforth be set apart and designated as tribal reserves for the benefit and use of the band:

Cemetery numbered 1, block 235, section 14, township 4 south, range 4 east.

Cemetery numbered 2, as now constituted pursuant to secretarial order, comprising approximately two acres.

Roman Catholic Church, as now constituted pursuant to secretarial order, comprising approximately two acres.

Mineral Springs, lots 3a, 4a, 13, and 14, section 14, township 4 south, range 4 east.

San Andreas Canyon, west half southeast quarter, southeast quarter southeast quarter section 3, township 5 south, range 4 east.

Palm Canyon, south half and south half north half section 14, township 5 south, range 4 east; all section 24, township 5 south, range 4 east.

Tahquitz Canyon, southwest quarter section 22, township 4 south, range 4 east; north half section 28, township 4 south, range 4 east.

Murray Canyon, east half section 10, township 5 south, range 4 east.

(c) Equalization for living members by allotment without regard to acreage limitations; creation of right by selection and approval; allotments made subject to laws and regulations

On the basis of such values, the Secretary shall determine the highest level of equalization that is feasible for the members of the band who are living at the time of this Act by allotting all of the unallotted tribal land, except the reserved areas listed in subsection (b) of this section, without regard to acreage limitations heretofore imposed by law. Such unallotted tribal land shall then be allotted to those members who have received allotments with a value that is less than the equalization figure deemed feasible in accordance with procedures prescribed by the Secretary. No selection of an allotment pursuant to such procedures shall create a vested right in the land until all selections authorized by this subchapter have been made, included in one schedule, and approved by the Secretary. Allotments thereafter made shall be subject to the same laws and regulations that apply to other trust allotments on the Agua Caliente Reservation.

(d) Portions in airport subject to allotment unless sold; procedure for sale; payment of sale proceeds in lieu of allotment

The unallotted portions of section 18, township 4 south, range 5 east, and section 12, township 4 south, range 4 east, that are in the municipal airport for the city of Palm Springs shall be subject to allotment as a part of the equalization program, subject to the following qualifications: If within thirty days after September 21, 1959, a majority of the adult members of the band who are eligible to vote agree, the Secretary may offer to sell such land to the city for its appraised value on September 21, 1959, and the Secretary shall cause an independent appraisal

thereof to be made by an appraiser he shall select who shall be approved jointly by the band and the city before proceeding with such appraisal, the costs for the appraisal to be shared by the band and the city; thereafter the Secretary shall review the completed appraisal and shall, if approved, then submit copies to both the band and the city for their approval which shall be either accepted or rejected in writing within thirty days; and if within three hundred and sixty-five days after joint acceptance of such appraisal by the band and the city, the city accepts the offer and tenders payment in full, the Secretary shall complete the sale, and any allottees who may have made or who may thereafter make an equalization selection from the lands sold to the city shall receive in lieu of the allotment selected his proportionate share of the proceeds of the sale.

(Pub. L. 86–339, §3, Sept. 21, 1959, 73 Stat. 602; Pub. L. 105–308, §4(a), Oct. 30, 1998, 112 Stat. 2934.)

REFERENCES IN TEXT

The words ''at the time of this Act'', referred to in subsec. (c), mean at Sept. 21, 1959, the date of enactment of this subchapter.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–308, in undesignated par. relating to Mineral Springs, substituted ''east.'' for ''east: *Provided*, That no distribution to member of the band of the net rents, profits, and other revenues derived from that portion of these lands which is designated as 'parcel B' in the supplement dated September 8, 1958, to the lease by and between the Agua Caliente Band of Mission Indians and Palm Springs Spa dated January 21, 1958, or of the net income derived from the investment of such net rents, profits, and other revenues or from the sale of said lands or of assets purchased with the net rents, profits, and other revenues aforesaid or with the net income from the investment thereof shall be made except to those enrolled members who are entitled to an equalization allotment or to a cash payment in satisfaction thereof under this subchapter or, in the case of such a member who died after September 21, 1959, to those entitled to participate in his estate, and any such distribution shall be per capita to living enrolled members and per stirpes to participants in the estate of a deceased member.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–308 applicable as if it had been enacted on Mar. 31, 1983, see section 4(b) of Pub. L. 105–308, set out as an Expiration of Restriction on Distribution of Revenues From Mineral Springs Parcel note under section 951 of this title.

§954. Powers and duties of guardians

(a) Appointment and continuance in office; notice to Secretary of State court proceedings; appearance

No guardian or other fiduciary shall be appointed under State law for the estate of any member of the band, or continued in office, except with approval of the Secretary: *Provided*, That no conservator for any member of the band shall be appointed under State law or continued in office after the effective date of this Act, unless the individual Indian concerned, with the approval of the Secretary, personally petitions for the appointment or continuation of such appointment. The Secretary shall be given notice of all proceedings in the State court with respect to the estate of any member of the band which is being administered, and he may at any time appear as a party in such proceedings, and may exercise all rights accorded to a party under State law.

(b) Management and disposition of trust property and property subject to restrictions against alienation by guardians, conservators, or fiduciaries; approved activities; approval of activities

No guardian, conservator or other fiduciary appointed under State law shall, in his official capacity, participate in the management or disposition of any property or interest therein which is held in trust by the United States for a member of the band or is subject to restrictions against alienation imposed by the laws of the United States, execute or approve any use, expenditure, investment, deposit, or disposition of such property or interest therein, or proceeds therefrom, or receive any fee or other compensation for services hereafter performed with respect to such property or interest therein. The provisions of this subsection shall not preclude any such person, in his private capacity, from participating in the management or disposition of such property or interest therein with the specific approval of the Secretary of the Interior. Actions with respect to the use, expenditure, investment, deposit, or disposition of such property or interests therein, or proceeds therefrom, shall be valid and efficacious in all respects without participation of affirmation by any guardian, conservator, or other fiduciary appointed under State law.

(c) Reports by guardians; failure or refusal to report; fraudulent, capricious, arbitrary or grossly erroneous reports; prosecution; appropriate relief

The Secretary, at any time, may require any guardian, conservator, or other fiduciary appointed under State law for a member of the band to submit a full and complete report concerning his handling of the estate during the preceding six years. If any person or entity required to do so by the Secretary fails or refuses to so report, or, if having reported, the Secretary concludes that any action connected therewith is fraudulent, or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, he may request the Attorney General to cause an action to be brought in the name of the United States in the United States District Court for the Central District of California or in any such district court having jurisdiction over the person, or persons, and subject matter, for such relief as may be appropriate, and said courts are hereby granted jurisdiction to hear and determine such action.

(d) Delivery to Secretary of money or property at termination of fiduciary relationship

The Secretary may require any money or property in the possession of a fiduciary at the time the fiduciary relationship is terminated, or which is recovered pursuant to this subchapter, to be delivered to him to be held in trust for the individual Indian concerned.

(e) Use and disposition of money or property held in trust by the United States by the Secretary; consent by competent Indian; determination of competency; applicability of administrative procedure under title 5; time and place of hearing; judicial review

Under such regulations as he shall provide, and with the consent of the individual Indian concerned, unless the Secretary determines such Indian to be incompetent by reason of minority or otherwise, in which case such consent shall not be required, the Secretary may use, advance, expend, exchange, deposit, dispose of, invest and reinvest, in any manner and for any purpose, any money or other property held by the United States in trust for such Indian. The Secretary shall make no determination that an adult Indian is incompetent except after according him an opportunity to be heard upon reasonable notice, in accordance with the provisions of subchapter II of chapter 5 of title 5. Unless the Indian otherwise agrees, the hearing shall be held in the State of California within sixty days of the date of notice. A person aggrieved by a determination of incompetency made by the Secretary shall be entitled to judicial review of such determination in accordance with sections 701 to 706 of title 5.

(f) Authority of the Secretary under other provisions unaffected

Nothing herein shall be deemed to limit any authority possessed by the Secretary under any other provisions of law.

(Pub. L. 86–339, § 4, Sept. 21, 1959, 73 Stat. 604; Pub. L. 90–597, Oct. 17, 1968, 82 Stat. 1164.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (a), probably means the date of enactment of Pub. L. 86–339, which was approved Sept. 21, 1959.

CODIFICATION

In subsec. (e), ''subchapter II of chapter 5 of title 5'' substituted for ''the Administrative Procedure Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–597 substituted provisions requiring Secretary to approve any guardian or other fiduciary appointed under State law for estate of any member of band or continued in office as guardian of estate, and provisions requiring Secretary to be given notice of State court proceedings involving estate of any member of band and power to appear in such proceedings, for provisions requiring Secretary to request appointment of a guardian of estate of minor allottees and adult allottees needing assistance.

Subsecs. (b) to (f). Pub. L. 90–597 added subsecs. (b) to (f).

§ 955. Tax exemption

(a) The right to an equalization allotment or to a cash payment in lieu thereof pursuant to section 953(d) of this title, shall be transferable by will or descent in the same manner as are trust payments under existing law and shall not be subject to State or Federal inheritance, estate, legacy, or succession taxes.

(b) A cash payment made in lieu of an equalization allotment pursuant to section 953(d) of this title shall not be regarded as income or capital gain for purposes of Federal or State income taxation and shall not, as long as it remains in the form of cash or a bank deposit in the ownership of the allottee, be subject to taxation as personal property. A payment and the income derived therefrom heretofore or hereafter made to an allottee as compensation for the acquisition of part or all of the allottee's allotment for a public purpose is—

(1) deemed a cash payment in lieu of an allotment for purposes of this subsection;

(2) deemed a right under subsection (a) of this section; and

(3) subject to sections 409a and 410 of this title.

(Pub. L. 86–339, § 5, Sept. 21, 1959, 73 Stat. 604; Pub. L. 100–581, title II, § 216, Nov. 1, 1988, 102 Stat. 2941.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–581 inserted sentence at end relating to payment and income derived therefrom made as compensation for acquisition of part of all of allottee's allotment for public purpose.

§ 956. Claims against allotments

(a) Assignment, sale, hypothecation, attachment or levy void unless approved

Equalization allotments made pursuant to this subchapter shall not be subject to assignment, sale, or hypothecation or to any attachment or levy for claims or debts created before or after September 21, 1959, without the written approval of the Secretary, and any such assignment, sale, hypothecation, attachment, or levy that has not been so approved by the Secretary shall be absolutely null and void.

(b) Liens and lis pendens; legal services

No equalization allotment made pursuant to this subchapter, and no basic allotment made prior to this Act, shall be subject to an equitable charging lien or other charge or lien or enforced sale for any advantage or benefit which the allottee has received or will receive under or as a consequence of enactment of this subchapter, nor shall any lis pendens heretofore or hereafter filed upon such lands while in a restricted status be of any effect or constitute notice of any action. Whoever directly or indirectly accepts or receives any money or other form of compensation for legal services in connection with such restricted lands from any person who has not expressly employed him as his attorney shall be liable, in a civil action brought by the payor or his heirs or devisees or by the United States on his behalf, for twice the amount so accepted or received unless, prior to the time of acceptance or receipt of said compensation, the right to such compensation has been determined and the amount thereof fixed by a formal order of the Federal court having jurisdiction to make such order. Nothing herein provided shall be construed to prevent any attorney from petitioning the Federal court having jurisdiction to fix and determine the fees to which he is entitled and to pursue and enforce payment thereof in any lawful manner after the court has made such order.

(Pub. L. 86–339, § 6, Sept. 21, 1959, 73 Stat. 604.)

REFERENCES IN TEXT

The words ''prior to this Act'', referred to in subsec. (b), mean prior to enactment of Act Sept. 21, 1959, Pub. L. 86–339.

§ 957. Allotments deemed full equalization

Allotments in accordance with the provisions of this subchapter shall be deemed complete and full equalization of allotments on the Agua Caliente Reservation.

(Pub. L. 86–339, § 7, Sept. 21, 1959, 73 Stat. 605.)

§ 958. Organization and transfer of title to legal entity

The band may, at any time it wishes to do so, organize a legal entity under the laws of the State of California and request the Secretary to transfer to such legal entity title to the lands in the reserves established by section 953(b) of this title. The Secretary shall transfer an unrestricted title to such property if the organization of the legal entity and request for the transfer have been approved by a majority of the adult members of the band who are eligible to vote, and if in the judgment of the Secretary the legal entity is organized in a form and manner that is fair to all members of the band: *Provided, however*, That if the lands to which the proviso to the fourth item in section 953(b) of this title is applicable are transferred to such an entity, they shall be held by it subject to the terms provided in said proviso, and the rights and duties therein set forth shall be preserved and reflected in any distribution of securities of, or other evidences of participation in, said entity.

(Pub. L. 86–339, § 8, Sept. 21, 1959, 73 Stat. 605.)

SUBCHAPTER XLV—OMAHA TRIBE: DISTRIBUTION OF JUDGMENT FUND

§ 961. Membership roll; preparation; eligibility for enrollment; applications for enrollment; protests; finality of determination

The Secretary of the Interior is authorized and directed, pursuant to such regulations as may be issued by him, to prepare a roll of Omaha Indians whose names appear on the Omaha allotment rolls finally approved pursuant to the Acts of Congress of August 7, 1882, (22 Stat. 341) and March 3, 1893 (27 Stat. 612), and who are living on September 14, 1961, and the descendants of such allottees who are born and living on September 14, 1961 and who possess Omaha blood of the degree of one-fourth or more regardless of whether such allottees are living or deceased: *Provided*, That no person who is enrolled with any other tribe of Indians or who has received an allotment of land on any other reservation shall be enrolled under the provisions of this subchapter unless the application for enrollment by such person is approved by a two-thirds vote of the governing body of the Omaha Tribe of Nebraska. Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Aberdeen, South Dakota, within four months after September 14, 1961. For a period of three months thereafter, the Secretary shall permit the examination of the applications by the governing body of the Omaha Tribe of Nebraska for the purpose of lodging protests against any application. The determination of the Secretary regarding the eligibility of an applicant shall be final.

(Pub. L. 87–235, § 1, Sept. 14, 1961, 75 Stat. 508.)

REFERENCES IN TEXT

Acts of Congress of August 7, 1882, and March 3, 1893, referred to in text, are acts Aug. 7, 1882, ch. 434, 22 Stat. 341, and Mar. 3, 1893, ch. 209, 27 Stat. 612, respectively, which were not classified to the Code.

§ 962. Membership roll; enrollment of children born after September 14, 1961

The roll prepared pursuant to section 961 of this title shall constitute the membership roll of the Omaha Tribe of Nebraska as of September 14, 1961, notwithstanding the provisions of article II, section 1 of the tribal constitution, and children who are born after September 14, 1961, may be enrolled if they meet the requirements of section 1(b) of article II of the tribal constitution, applicable to children born after the date that amendment I to said constitution was approved, or any amendment thereof.

(Pub. L. 87–235, § 2, Sept. 14, 1961, 75 Stat. 508.)

§ 963. Per capita distributions to tribal members; attorneys' fees and expenses; advances or expenditures from tribal funds; tax exemption

Of the funds on deposit in the Treasury of the United States to the credit of the Omaha Tribe of Nebraska that were appropriated to pay a judgment by the Indian Claims Commission dated February 11, 1960, and the interest thereon, after payment of attorneys' fees and expenses, the Secretary of the Interior shall make a per capita distribution of a sum up to a maximum of $750, to the extent available, to each person whose name appears on the roll prepared pursuant to section 961 of this title; and the balance of such funds after making payment of or provision for such per capita distribution and accrued and accruing interest, if any, may be advanced or expended for any purpose that is authorized by the tribal governing body and approved in writing by the Secretary. The funds so distributed shall not be subject to Federal or State income taxes.

(Pub. L. 87–235, § 3, Sept. 14, 1961, 75 Stat. 508.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 964. Distribution of shares

(a) Payments to enrollees, next of kin, or legatees

Except as provided in subsection (b) of this section, the Secretary shall distribute a per capita share payable to a living enrollee directly to such enrollee, and the Secretary shall distribute a per capita share payable to a deceased enrollee directly to his next of kin or legatees as determined by the laws of the place of domicile of the decedent upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Payments to minors or persons under legal disability

A share payable to a person under twenty-one years of age or to a person under a legal disability shall be paid in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons.

(Pub. L. 87–235, § 4, Sept. 14, 1961, 75 Stat. 508.)

§ 965. Payments not subject to liens, debts, or claims; exception

No part of any of the funds which may be so distributed shall be subject to any lien, debt, or claim of any nature whatsoever against the tribe or individual Indians except delinquent debts owed by the tribe to the United States or owed by individual Indians to the tribe or to the United States.

(Pub. L. 87–235, § 5, Sept. 14, 1961, 75 Stat. 509.)

§ 966. Costs

All costs incurred by the Secretary in the preparation of the roll and in the payment of the per capita shares in accordance with provisions of this subchapter shall be paid by appropriate withdrawals from the judgment fund.

(Pub. L. 87–235, § 6, Sept. 14, 1961, 75 Stat. 509.)

§ 967. Rules and regulations

The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this subchapter.

(Pub. L. 87–235, § 7, Sept. 14, 1961, 75 Stat. 509.)

§ 967a. Per capita payments to enrolled tribal members; use of balance of funds

From the funds on deposit in the Treasury of the United States to the credit of the Omaha Tribe of Nebraska that were appropriated by the Act of June 9, 1964, to pay a judgment obtained by the tribe in Indian Claims Commission docket numbered 138, after deduction of attorney fees, litigation expenses, and such sums as may be required to distribute individual shares, the Secretary of the Interior shall make a per capita distribution of no more than $270 to each person living on November 2, 1966, whose name appears on the roll of the tribe prepared pursuant to section 961 of this title, and to each child living on November 2, 1966, who was born after September 14, 1961, and who possesses aboriginal Omaha blood of the degree of one-fourth or more except for any such child who is enrolled with any other tribe of Indians. The balance of such funds, and the interest thereon, may be advanced or expended for any purpose that is authorized by the tribal governing body and approved by the Secretary. The amount of $150,000 of said funds and any interest thereon shall not be distributed, advanced or expended until said $150,000 and any interest thereon becomes available for disbursement pursuant to the terms of the final judgment dated April 14, 1964, by the Indian Claims Commission in docket numbered 138.

(Pub. L. 89–717, § 1, Nov. 2, 1966, 80 Stat. 1114.)

REFERENCES IN TEXT

Act of June 9, 1964, referred to in text, is Pub. L. 88–317, June 9, 1964, 78 Stat. 204, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

Section was not enacted as part of Pub. L. 87–235, Sept. 14, 1961, 75 Stat. 508, which comprises this subchapter.

§ 967b. Payments to minors and persons under legal disability; shares under certain amount to revert to tribe

Sums payable to persons or to their heirs or legatees who are less than twenty-one years of age or who are under a legal disability shall be paid in accordance with such procedures as the Secretary, after consultation with the tribal governing body, determines will adequately protect their best interests. Proportional shares of heirs or legatees amounting to $5 or less shall not be distributed and such amounts shall escheat to the Omaha Tribe of Nebraska.

(Pub. L. 89–717, § 2, Nov. 2, 1966, 80 Stat. 1115.)

CODIFICATION

Section was not enacted as part of Pub. L. 87–235, Sept. 14, 1961, 75 Stat. 508, which comprises this subchapter.

§ 967c. Tax exemption

The funds distributed under the provisions of sections 967a to 967d of this title shall not be subject to Federal or State income taxes.

(Pub. L. 89–717, § 3, Nov. 2, 1966, 80 Stat. 1115.)

CODIFICATION

Section was not enacted as part of Pub. L. 87–235, Sept. 14, 1961, 75 Stat. 508, which comprises this subchapter.

§ 967d. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of sections 967a to 967d of this title.

(Pub. L. 89–717, § 4, Nov. 2, 1966, 80 Stat. 1115.)

CODIFICATION

Section was not enacted as part of Pub. L. 87–235, Sept. 14, 1961, 75 Stat. 508, which comprises this subchapter.

SUBCHAPTER XLVI—PONCA TRIBE OF NEBRASKA: TERMINATION OF FEDERAL SUPERVISION

§ 971. Membership roll; preparation; eligibility for enrollment; protests against inclusion or omission from roll; finality of determination; publication of roll; publication of notice of agreement to division of assets; finality of roll

The Secretary of the Interior shall, with the advice and assistance of the Ponca Tribe of Native Americans of Nebraska and pursuant to such regulations as he may prescribe, prepare a roll of the members of the tribe and record

thereon persons whose names appeared on the census roll of April 1, 1934, and the supplement thereto of January 1, 1935, and their descendants of not less than one-quarter degree Indian blood of the Ponca Tribe, regardless of place of residence, who are living on September 5, 1962. He shall provide a reasonable opportunity for any person to protest against the inclusion or omission of any name on or from the roll and his decision on such protests shall be final and conclusive. After all protests are disposed of, the roll shall be published in the Federal Register. The Secretary shall thereupon give the adult members of the tribe whose names appear on the roll an opportunity to indicate their agreement or disagreement with a division of tribal assets in accordance with the provisions of this subchapter. If a majority of those indicating agreement or disagreement are favorable to such division, the Secretary shall publish in the Federal Register a notice of the fact and the roll prepared by him shall thereupon become final and sections 972 to 980 of this title shall become effective.

(Pub. L. 87–629, § 1, Sept. 5, 1962, 76 Stat. 429.)

§ 972. Personal property rights; restrictions

Each member whose name appears on the final roll of the tribe as published in the Federal Register shall be entitled to receive in accordance with the provisions of this subchapter an equal share of the tribe's assets that are held in trust by the United States. This right shall constitute personal property which may be inherited or bequeathed, but it shall not otherwise be subject to alienation or encumbrance.

(Pub. L. 87–629, § 2, Sept. 5, 1962, 76 Stat. 429.)

§ 973. Distribution of assets

(a) Tribal assets; time limitation

All property of the United States used for the benefit of the Ponca Tribe of Native Americans of Nebraska is declared to be a part of the assets of the tribe, and all of the tribe's assets shall be distributed in accordance with the provisions of this section. The distribution shall be completed within three years from September 5, 1962, or as soon thereafter as practicable.

(b) Designation of property for church, park, playground, or cemetery

The tribe shall designate any part of the tribe's property that is to be set aside for church, park, playground, or cemetery purposes, and the Secretary is authorized to convey such property to trustees or agencies designated by the tribe for that purpose and approved by the Secretary.

(c) Homesites; market value; improvements

Each member may select for homesite purposes and receive title to not to exceed five acres of tribal land that is being used for homesite purposes by such member. The member shall pay the current market value of the homesite selection excluding any improvements or repairs constructed by such member, his wife, children, or ancestor, as determined by the Secretary of the Interior.

(d) Sale of assets not selected; bidding

All assets of the tribe that are not selected and conveyed to members shall be sold by competitive bid at not less than the current market value, and any member shall have the right to purchase property offered for sale for a price not less than the highest acceptable bid therefor. If more than one member exercises such right, the property shall be sold to the member exercising the right who offers the highest price.

(e) Proceeds and tribal funds for payment of tribal debts; distributive share; set off; member purchases of tribal property

The net proceeds of all sales of tribal property, and all other tribal funds, shall be used to pay, as authorized by the Secretary, any debts of the tribe. The remainder of such proceeds and funds shall be divided equally among the members whose names are on the final roll, or their heirs or legatees. Any debt owed by a member, heir, or legatee to the tribe or to the United States may be set off as authorized by the Secretary against the distributive share of such person. Any member of the tribe who purchases tribal property in accordance with this section may apply on the purchase price his share of the proceeds of all sales of tribal property, and the Secretary of the Interior shall adopt sales procedures that permit such action.

(Pub. L. 87–629, § 3, Sept. 5, 1962, 76 Stat. 429.)

§ 974. Sale of trust lands

(a) Requisite owners' request; time limitation; bidding; member purchases; reservation of mineral rights; representation of minors, incompetents and missing owners

The Secretary of the Interior is authorized to partition or to sell the complete interest (including any unrestricted interest) in any land in which an undivided interest is owned by a member of the Ponca Tribe of Native Americans of Nebraska in a trust or restricted status, provided the partition or sale is requested by the owners of a 25 per centum interest in the land, and the partition or sale is made within three years from September 5, 1962. Any such sale shall be by competitive bid, except that with the concurrence of the owners of a 25 per centum interest in the land any owner of an interest in the land shall have the right to purchase the land within a reasonable time fixed by the Secretary of the Interior prior to a competitive sale at not less than its current market value. If more than one preference right is exercised, the sale shall be by competitive bid limited to the persons entitled to a preference. If the owners of a 25 per centum interest in the land so request, mineral rights may be reserved to the owners in an unrestricted status. The Secretary of the Interior may represent for the purposes of this section any Indian owner who is a minor, or who is non compos mentis, and, after giving reasonable notice of the proposed partition or sale by publication, he may represent an Indian owner who cannot be located.

(b) Removal of restrictions; title to lands

All restrictions on the alienation or taxation of interests in land that are owned by members

of the Ponca Tribe of Native Americans of Nebraska three years after September 5, 1962 shall be deemed removed by operation of law, and an unrestricted title shall be vested in each such member.

(Pub. L. 87–629, § 4, Sept. 5, 1962, 76 Stat. 430.)

§ 975. Land surveys and execution of conveyances by Secretary; title of grantee

The Secretary of the Interior is authorized to make such land surveys and to execute such conveyancing instruments as he deems necessary to convey marketable and recordable title to the individual and tribal assets disposed of pursuant to this subchapter. Each grantee shall receive an unrestricted title to the property conveyed.

(Pub. L. 87–629, § 5, Sept. 5, 1962, 76 Stat. 430.)

§ 976. Indian claims unaffected

Nothing in this subchapter shall affect any claims heretofore filed against the United States by the Ponca Tribe of Native Americans of Nebraska.

(Pub. L. 87–629, § 6, Sept. 5, 1962, 76 Stat. 430.)

§ 977. Rights, privileges, and obligations under Nebraska laws unaffected

Nothing in this subchapter shall affect the rights, privileges, or obligations of the tribe and its members under the laws of Nebraska.

(Pub. L. 87–629, § 7, Sept. 5, 1962, 76 Stat. 430.)

§ 978. Taxes; initial exemption; taxes following distribution; valuation for capital gains or losses

No property distributed under the provisions of this subchapter shall at the time of distribution be subject to any Federal or State income tax. Following any distribution of property made under the provisions of this subchapter, such property and income derived therefrom by the distributee shall be subject to the same taxes, State and Federal as in the case of non-Indians: *Provided*, That for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the grantee.

(Pub. L. 87–629, § 8, Sept. 5, 1962, 76 Stat. 430.)

§ 979. Expenses; appropriation authorization

Such amounts of tribal funds as may be needed to meet the expenses of the tribe under this subchapter, as approved by the Secretary of the Interior, shall be available for expenditure. There is authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated such sums as may be necessary to reimburse the tribe for such expenditures, and carry out the responsibilities of the Secretary under the provisions of this subchapter.

(Pub. L. 87–629, § 9, Sept. 5, 1962, 76 Stat. 430.)

§ 980. Termination of Federal trust; publication; termination of Federal services; application of Federal and State laws; citizenship status unaffected

When the distribution of tribal assets in accordance with the provisions of this subchapter has been completed, the Secretary of the Interior shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to such tribe and its members has terminated. Thereafter, the tribe and its members shall not be entitled to any of the special services performed by the United States for Indians or Indian tribes because of their Indian status, all statutes of the United States that affect Indians or Indian tribes because of their Indian status shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner they apply to other persons or citizens within their jurisdiction. Nothing in this subchapter, however, shall affect the status of any Indian as a citizen of the United States.

(Pub. L. 87–629, § 10, Sept. 5, 1962, 76 Stat. 431.)

SUBCHAPTER XLVI–A—PONCA TRIBE OF NEBRASKA: RESTORATION OF RIGHTS AND PRIVILEGES

§ 983. Definitions

For purposes of this subchapter—

(1) The term ''Tribe'' means the Ponca Tribe of Nebraska.

(2) The term ''Secretary'' means the Secretary of the Interior or the designated representative of the Secretary of the Interior.

(3) The term ''Interim Council'' means the Board of Directors of the Northern Ponca Restoration Committee, Inc.

(4) The term ''member'' means a person who is enrolled on the membership roll of the Tribe of June 10, 1965, that was compiled by the Bureau of Indian Affairs or is entitled to be enrolled as a member of the Tribe under section 983e of this title.

(5) The term ''State'' means the State of Nebraska.

(Pub. L. 101–484, § 2, Oct. 31, 1990, 104 Stat. 1167.)

SHORT TITLE

Section 1 of Pub. L. 101–484 provided that: ''This Act [enacting this subchapter] may be cited as the 'Ponca Restoration Act'.''

§ 983a. Federal recognition

Federal recognition is hereby extended to the Ponca Tribe of Nebraska. All Federal laws of general application to Indians and Indian tribes (including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461, et seq.), popularly known as the Indian Reorganization Act) shall apply with respect to the Tribe and to the members.

(Pub. L. 101–484, § 3, Oct. 31, 1990, 104 Stat. 1167.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 983b. Restoration of rights

(a) Rights abrogated or diminished

All rights and privileges of the Tribe which may have been abrogated or diminished before October 31, 1990, by reason of any provision of

Public Law 87–629 [25 U.S.C. 971 et seq.] are hereby restored and such law shall no longer apply with respect to the Tribe or the members.

(b) Rights existing prior to restoration

Nothing in this subchapter may be construed to diminish any rights or privileges of the Tribe, or of the members, that exist prior to October 31, 1990.

(c) Acceptance by Secretary of real property transferred for benefit of Tribe; exemption from taxation

The Secretary shall accept not more than 1,500 acres of any real property located in Knox or Boyd Counties, Nebraska, that is transferred to the Secretary for the benefit of the Tribe. Such real property shall be accepted by the Secretary (subject to any rights, liens, or taxes that exist prior to the date of such transfer) in the name of the United States in trust for the benefit of the Tribe and shall be exempt from all taxes imposed by the Federal Government or any State or local government after such transfer. The Secretary may accept any additional acreage in Knox or Boyd Counties pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(d) Effect on existing rights and obligations

Except as otherwise specifically provided in any other provision of this subchapter, nothing in this subchapter may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or the members, or

(4) any obligation to pay a tax levied before October 31, 1990.

(e) Reservation status

Reservation status shall not be granted any land acquired by or for the Tribe.

(Pub. L. 101–484, § 4, Oct. 31, 1990, 104 Stat. 1167.)

REFERENCES IN TEXT

Public Law 87–629, referred to in subsec. (a), is Pub. L. 87–629, Sept. 5, 1962, 76 Stat. 429, which is classified generally to subchapter XLVI (§ 971 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

Act of June 18, 1934, referred to in subsec. (c), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 983c. Services

Notwithstanding any other provision of law, the Tribe and its members shall be eligible, on or after October 31, 1990, for all Federal services and benefits furnished to federally recognized tribes without regard to the existence of a reservation for the Tribe. In the case of Federal services available to members of federally recognized tribes residing on or near a reservation, members of the Tribe residing in Sarpy, Burt, Platte, Stanton, Holt, Hall, Wayne, Knox, Boyd, Madison, Douglas, or Lancaster Counties of Nebraska, Woodbury or Pottawattomie Counties of Iowa, or Charles Mix County of South Dakota shall be deemed to be residing on or near a reservation.

(Pub. L. 101–484, § 5, Oct. 31, 1990, 104 Stat. 1168; Pub. L. 104–109, § 12, Feb. 12, 1996, 110 Stat. 765.)

AMENDMENTS

1996—Pub. L. 104–109 inserted ''Sarpy, Burt, Platte, Stanton, Holt, Hall, Wayne,'' before ''Knox'' and substituted '', Woodbury or Pottawattomie Counties of Iowa, or Charles Mix County'' for ''or Charles Mix County''.

§ 983d. Interim government

Until such time as a constitution for the Tribe is adopted in accordance with section 983f(a) of this title and tribal officials are elected under section 983f(b) of this title, the Tribe shall be governed by the Interim Council.

(Pub. L. 101–484, § 6, Oct. 31, 1990, 104 Stat. 1168.)

§ 983e. Membership roll

(a) Accuracy pending adoption of tribal constitution

Until a tribal constitution is adopted in accordance with section 983f of this title, the Interim Council shall take such measures as will insure the continuing accuracy of the membership roll of the Tribe.

(b) Eligibility pending adoption of tribal constitution; appeal of exclusion

(1) Until a tribal constitution is adopted in accordance with section 983f of this title, an individual shall be eligible for membership in the Tribe, and the name of the individual shall be placed on the membership roll of the Tribe, if—

(A) the individual is living and is not an enrolled member of another Indian tribe that is recognized by the Federal Government, and

(B) the individual—

(i) was listed on the tribal membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs,

(ii) notwithstanding the application or appeal deadline dates, was entitled to be listed on the membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs, but was not listed, or

(iii) is a lineal descendant of an individual, living or deceased, who is described in clause (i) or (ii).

(2) Any individual who is excluded from the membership roll of the Tribe by the Interim Council may appeal to the Secretary for a determination of the eligibility of the individual for membership in the Tribe. Such determination by the Secretary shall be final. The Interim Council shall include on the membership roll any such individual that the Secretary determines in such an appeal to be eligible for membership in the Tribe.

(c) Constitution as governing

After adoption of a tribal constitution in accordance with section 983f of this title, the constitution of the Tribe shall govern membership in the Tribe.

(Pub. L. 101–484, § 7, Oct. 31, 1990, 104 Stat. 1168.)

§ 983f. Tribal constitution

(a) Adoption by secret ballot; absentee balloting

Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Such constitution shall be submitted by the Interim Council to the Secretary no later than 1 year following October 31, 1990. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 476 of this title.

(b) Election of tribal officials

Not later than 120 days after the Tribe adopts a tribal constitution, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution. Said election shall be conducted according to the procedures stated in subsection (a) of this section except to the extent that said procedures conflict with the tribal constitution.

(c) Governing body treated as Indian tribal government for purposes of taxation

Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution of the Tribe that is adopted under subsection (a) of this section shall be treated as an Indian tribal government for purposes of title 26.

(Pub. L. 101–484, § 8, Oct. 31, 1990, 104 Stat. 1169.)

§ 983g. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 101–484, § 9, Oct. 31, 1990, 104 Stat. 1169.)

§ 983h. Economic development plan

(a) Establishment; submittal to Congress

The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe to establish a plan for economic development for the Tribe;

(2) in accordance with this section, establish such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe (and after consultation with the State and local officials pursuant to subsection (b) of this section), shall[1] submit such plan to the Congress by no later than the date that is 3 years after October 31, 1990.

(b) Consultation with State and local officials

(1) To ensure that legitimate State and local interests are not prejudiced by the economic development plan established under subsection (a) of this section, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State with respect to the proposed economic development plan. The Secretary shall provide complete information on the proposed economic development plan to such officials, including the restrictions imposed on such plan by subsection (c) of this section.

(2) During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess and shall request comments and additional information on the extent of any State or local service to the Tribe.

(c) Required provisions

Any economic development plan established by the Secretary under subsection (a) of this section shall provide that—

(1) real property acquired by or for the Tribe located in Knox or Boyd Counties, Nebraska, shall be taken by the Secretary in the name of the United States in trust for the benefit of the Tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land held by any person at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax, and

(B) foreclosure or sale in accordance with the laws of the State of Nebraska pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) Statement regarding individuals consulted, and testimony or comments received by Secretary

The Secretary shall append to the economic development plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any individual named in paragraph (1).

(Pub. L. 101–484, § 10, Oct. 31, 1990, 104 Stat. 1169; Pub. L. 102–497, § 2, Oct. 24, 1992, 106 Stat. 3255.)

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102–497 substituted "3 years" for "2 years".

SUBCHAPTER XLVII—CHEROKEE NATION: DISTRIBUTION OF JUDGMENT FUND

§ 991. Per capita payments to tribal members; closure of rolls; appropriations; accrued interest; deductions

The Secretary of the Interior is authorized and directed to distribute per capita to all persons whose names appear on the rolls of the Cherokee Nation, which rolls were closed and made final as of March 4, 1907, pursuant to the Act of April 26, 1906 (34 Stat. 137), and subsequent additions

[1] So in original. The word "shall" probably should not appear.

thereto, all funds which were appropriated by the Act of September 30, 1961 (75 Stat. 733), in satisfaction of a judgment that was obtained by the Cherokee Tribe in the Indian Claims Commission against the United States in docket numbered 173, together with the interest accrued thereon, except $1,432,084.17 which by stipulation of the parties has been set aside for the payments of any offsets that are finally determined to be due the United States, and except the amount allowed for attorney fees and expenses.

(Pub. L. 87–775, § 1, Oct. 9, 1962, 76 Stat. 776.)

REFERENCES IN TEXT

Act of April 26, 1906, referred to in text, is act Apr. 26, 1906, ch. 1876, 34 Stat. 137, which is set out as a note under section 355 of this title.

Act of September 30, 1961, referred to in text, is act Sept. 30, 1961, Pub. L. 87–322, 75 Stat. 733. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 992. Payments to adults, heirs or legatees; shares under certain amounts to revert to tribe; protection of minors and persons under legal disability

(a) Except as provided in subsections (b) and (c) of this section, a share or proportional share payable to a living adult shall be paid directly to such adult; (b) a share payable to a deceased enrollee shall be distributed to his heirs or legatees upon the filing of proof of death and inheritance satisfactory to the Secretary of the Interior, or his authorized representative, whose findings and determinations upon such proof shall be final and conclusive: *Provided*, That proportional shares of deceased heirs amounting to $10 or less shall not be distributed, and no inherited share amounting to $5 or less shall be paid, and the money shall revert to the tribe; (c) a share or proportional share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons.

(Pub. L. 87–775, § 2, Oct. 9, 1962, 76 Stat. 776.)

§ 993. Claims

(a) Time for filing; reversion of funds upon failure to file

All claims for per capita shares, whether by a living enrollee or by the heirs or legatees of a deceased enrollee, shall be filed with the Area Director of the Bureau of Indian Affairs, Muskogee, Oklahoma, not later than three years from October 9, 1962. Thereafter, all claims and the right to file same shall be forever barred and the unclaimed shares shall revert to the tribe.

(b) Use of reverted funds

Tribal funds that revert to the tribe pursuant to this subchapter, including interest and income therefrom, may be advanced or expended for any purpose that is authorized by the principal chief of the Cherokee Nation and approved by the Secretary of the Interior.

(Pub. L. 87–775, § 3, Oct. 9, 1962, 76 Stat. 776.)

§ 994. Tax exemption

No part of any funds which may be distributed in accordance with the provisions of this subchapter shall be subject to Federal or State income tax.

(Pub. L. 87–775, § 4, Oct. 9, 1962, 76 Stat. 776.)

§ 995. Payments not subject to liens, debts, or claims; exception

No part of any of the funds which may be so distributed shall be subject to any lien, debt, or claim of any nature whatsoever against the tribe or individual Indians except delinquent debts owed by the tribe to the United States, or owed by individual Indians to the tribe or to the United States.

(Pub. L. 87–775, § 5, Oct. 9, 1962, 76 Stat. 776.)

§ 996. Payments not "other income and resources"

Payments made under this subchapter shall not be held to be ''other income and resources'', as that term is used in sections 302(a)(10)(A), 602(a)(7),[1] 1202(a)(8), and 1352(a)(8) of title 42.

(Pub. L. 87–775, § 6, Oct. 9, 1962, 76 Stat. 776.)

REFERENCES IN TEXT

Section 602 of title 42, referred to in text, was repealed and a new section 602 enacted by Pub. L. 104–193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, subsec. (a)(7) no longer contains the term ''other income and resources''.

§ 997. Costs

All costs incident to making the payments authorized by this subchapter shall be paid by appropriate withdrawals from the judgment fund and interest on the judgment fund, using the interest fund first.

(Pub. L. 87–775, § 7, Oct. 9, 1962, 76 Stat. 777.)

§ 998. Rules and regulations

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

(Pub. L. 87–775, § 8, Oct. 9, 1962, 76 Stat. 777.)

SUBCHAPTER XLVIII—SNAKE OR PAIUTE INDIANS OF OREGON: DISTRIBUTION OF JUDGMENT FUND

§ 1011. Membership roll; preparation; eligibility for enrollment; time for filing application; finality of Secretary's determination

The Secretary of the Interior shall prepare a roll of the persons of Snake or Paiute Indian ancestry who meet the following requirements for eligibility: (1) They were born on or prior to and living on August 20, 1964; and (2) they were members of or are lineal descendants of members of the bands whose chiefs and headmen We-you-wewa (Wewa), Gaha-nee, E-hi-gant (Egan), Po-nee, Chaw-wat-na-nee, Owits (Oits), and Tash-e-go,

[1] See References in Text note below.

signed the unratified Treaty of December 10, 1868; and (3) they do not elect to participate as beneficiaries of any awards granted in the docket numbered 87 claim of the Northern Paiute Nation. Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Portland, Oregon, within nine months after August 20, 1964 on forms prescribed for that purpose. The determination of the Secretary regarding utilization of available rolls or records and the eligibility for enrollment of an applicant shall be final.

(Pub. L. 88–464, § 1, Aug. 20, 1964, 78 Stat. 563.)

§ 1012. Authorization to withdraw, prorate and distribute funds

The Secretary is authorized and directed to withdraw the funds on deposit in the Treasury of the United States to the credit of the Snake or Paiute Tribe that were appropriated by the Act of April 13, 1960 (74 Stat. 42), in satisfaction of a judgment that was obtained by the tribe in the Indian Claims Commission against the United States in docket numbered 17 together with the interest accrued thereon, after payment of attorney fees and expenses, as well as all other expenses, and to prorate such funds among those persons whose names appear on the roll prepared pursuant to section 1011 of this title for distribution as hereinafter provided.

(Pub. L. 88–464, § 2, Aug. 20, 1964, 78 Stat. 563.)

REFERENCES IN TEXT

Act of April 13, 1960, referred to in text, is Pub. L. 86–424, Apr. 13, 1960, 74 Stat. 42. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1013. Distribution; persons entitled; considerations; tax exemption

The Secretary shall distribute shares payable to living persons enrolled pursuant to section 1011 of this title and shares payable to the heirs or legatees of deceased persons enrolled pursuant to section 1011 of this title according to rules and regulations which he shall prescribe, taking into account that in some instances a planned individual or group program for the use of shares may more properly serve the long-term interest of the enrollees than would direct, unsupervised per capita payment. The funds so distributed shall not be subject to Federal or State income tax.

(Pub. L. 88–464, § 3, Aug. 20, 1964, 78 Stat. 563.)

§ 1014. Costs

All costs incurred by the Secretary in the preparation of the rolls and in the distribution of payment of pro rata shares in accordance with the provisions of this subchapter shall be paid by appropriate withdrawals from the judgment fund.

(Pub. L. 88–464, § 4, Aug. 20, 1964, 78 Stat. 563.)

§ 1015. Rules and regulations

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

(Pub. L. 88–464, § 5, Aug. 20, 1964, 78 Stat. 563.)

SUBCHAPTER XLIX—SHAWNEE TRIBE OR NATION: DISTRIBUTION OF JUDGMENT FUND

§ 1031. Disposition of funds

The funds on deposit in the Treasury of the United States to the credit of the Shawnee Tribe or Nation that were appropriated by the Act of September 30, 1961 (75 Stat. 733), to pay a judgment that was obtained by the tribe or nation in the Indian Claims Commission for inadequate compensation for lands ceded to the United States under the treaty of May 10, 1854 (10 Stat. 1053), and the interest thereon, shall be divided on the basis of 514/1378ths to the Absentee Band of Shawnee Indians of Oklahoma; 747/1378ths to the Cherokee Band of Shawnee Indians of Oklahoma; and 117/1378ths to the Eastern Band of Shawnee Indians of Oklahoma, after payment of attorney fees and expenses of litigation.

(Pub. L. 88–457, § 1, Aug. 20, 1964, 78 Stat. 555.)

REFERENCES IN TEXT

Act of September 30, 1961, referred to in text, is Pub. L. 87–332, Sept. 30, 1961, 75 Stat. 733. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1032. Absentee and Eastern Bands; authorization for use of funds by tribal governing bodies; approval of Secretary of the Interior

The funds placed to the credit of the Absentee and the Eastern Bands of Shawnee Indians in the United States Treasury, and the interest thereon may be advanced or expended for any purpose and in such manner as the respective tribal governing bodies authorize and the Secretary of the Interior approves.

(Pub. L. 88–457, § 2, Aug. 20, 1964, 78 Stat. 555.)

§ 1033. Cherokee Band; preparation of roll; eligibility for enrollment; rules and regulations

For the purpose of determining individual interests in the funds placed to the credit of the Cherokee Band of Shawnee Indians pursuant to section 1031 of this title, the Secretary shall prepare a new roll based on the roll of Cherokee Shawnees prepared in accordance with the Act of March 2, 1889 (25 Stat. 994). Eligible for inclusion on this new payment roll shall be all persons living on August 20, 1964, (a) who are, themselves, listed on the 1889 roll and (b) who are direct lineal descendants of persons listed on the 1889 roll. The Secretary may promulgate such rules and regulations as he considers necessary to carry out the purposes of this section.

(Pub. L. 88–457, § 3, Aug. 20, 1964, 78 Stat. 555.)

REFERENCES IN TEXT

Act of March 2, 1889, referred to in text, is act Mar. 2, 1889, ch. 412, 25 Stat. 994. Provisions of the act relating to roll of the Cherokee Shawnee were not classified to the Code.

§ 1034. Cherokee Band; per capita distribution

When the roll prepared pursuant to section 1033 of this title has been completed and finally

approved, the Secretary shall withdraw from the Treasury the funds placed to the credit of the Cherokee Band of Shawnee Indians in accordance with section 1031 of this title, together with the interest accumulated thereon, and shall distribute them in equal per capita shares to persons whose names appear on the roll: *Provided*, That no person who receives a per capita payment from funds credited to the Cherokee Band of Shawnee Indians shall be permitted to share in any per capita distribution of the funds credited to the Absentee and Eastern Bands of Shawnee Indians.

(Pub. L. 88–457, § 4, Aug. 20, 1964, 78 Stat. 555.)

§ 1035. Distribution of shares

(a) Payments to enrollees, next of kin, or legatees

Except as provided in subsection (b) of this section, the Secretary shall distribute a per capita share payable to a living enrollee directly to such enrollee, and the Secretary shall distribute a per capita share payable to a deceased enrollee directly to his next of kin or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Payments to minors or persons under legal disability

A share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons.

(Pub. L. 88–457, § 5, Aug. 20, 1964, 78 Stat. 555.)

§ 1036. Taxes

No part of any of the funds distributed in accordance with this subchapter shall be subject to Federal or State income tax.

(Pub. L. 88–457, § 6, Aug. 20, 1964, 78 Stat. 556.)

§ 1037. Costs

All costs incurred by the Secretary in the preparation of the roll and in the payment of the per capita shares in accordance with the provisions of this subchapter shall be paid by withdrawals from the judgment fund of the appropriate band.

(Pub. L. 88–457, § 7, Aug. 20, 1964, 78 Stat. 556.)

§ 1038. Rules and regulations

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

(Pub. L. 88–457, § 8, Aug. 20, 1964, 78 Stat. 556.)

SUBCHAPTER XLIX–A—SHAWNEE TRIBE STATUS

§ 1041. Findings

Congress finds the following:

(1) The Cherokee Shawnees, also known as the Loyal Shawnees, are recognized as the descendants of the Shawnee Tribe which was incorporated into the Cherokee Nation of Indians of Oklahoma pursuant to an agreement entered into by and between the Shawnee Tribe and the Cherokee Nation on June 7, 1869, and approved by the President on June 9, 1869, in accordance with Article XV of the July 19, 1866, Treaty between the United States and the Cherokee Nation (14 Stat. 799).

(2) The Shawnee Tribe from and after its incorporation and its merger with the Cherokee Nation has continued to maintain the Shawnee Tribe's separate culture, language, religion, and organization, and a separate membership roll.

(3) The Shawnee Tribe and the Cherokee Nation have concluded that it is in the best interests of the Shawnee Tribe and the Cherokee Nation that the Shawnee Tribe be restored to its position as a separate federally recognized Indian tribe and all current and historical responsibilities, jurisdiction, and sovereignty as it relates to the Shawnee Tribe, the Cherokee-Shawnee people, and their properties everywhere, provided that civil and criminal jurisdiction over Shawnee individually owned restricted and trust lands, Shawnee tribal trust lands, dependent Indian communities, and all other forms of Indian country within the jurisdictional territory of the Cherokee Nation and located within the State of Oklahoma shall remain with the Cherokee Nation, unless consent is obtained by the Shawnee Tribe from the Cherokee Nation to assume all or any portion of such jurisdiction.

(4) On August 12, 1996, the Tribal Council of the Cherokee Nation unanimously adopted Resolution 96–09 supporting the termination by the Secretary of the Interior of the 1869 Agreement.

(5) On July 23, 1996, the Shawnee Tribal Business Committee concurred in such resolution.

(6) On March 13, 2000, a second resolution was adopted by the Tribal Council of the Cherokee Nation (Resolution 15–00) supporting the submission of this legislation to Congress for enactment.

(Pub. L. 106–568, title VII, § 702, Dec. 27, 2000, 114 Stat. 2913.)

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–568, title VII, § 701, Dec. 27, 2000, 114 Stat. 2913, provided that: ''This title [enacting this subchapter] may be cited as the 'Shawnee Tribe Status Act of 2000'.''

§ 1041a. Definitions

In this subchapter:

(1) Cherokee Nation

The term ''Cherokee Nation'' means the Cherokee Nation, with its headquarters located in Tahlequah, Oklahoma.

(2) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(3) Tribe

The term ''Tribe'' means the Shawnee Tribe, known also as the ''Loyal Shawnee'' or ''Cherokee Shawnee'', which was a party to the 1869 Agreement between the Cherokee Nation and the Shawnee Tribe of Indians.

(4) Trust land

The term ''trust land'' means land, the title to which is held by the United States in trust for the benefit of an Indian tribe or individual.

(5) Restricted land

The term ''restricted land'' means any land, the title to which is held in the name of an Indian or Indian tribe subject to restrictions by the United States against alienation.

(Pub. L. 106–568, title VII, § 703, Dec. 27, 2000, 114 Stat. 2913.)

§ 1041b. Federal recognition, trust relationship, and program eligibility

(a) Federal recognition

The Federal recognition of the Tribe and the trust relationship between the United States and the Tribe are hereby reaffirmed. Except as otherwise provided in this subchapter, the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 501 et seq.) (commonly known as the ''Oklahoma Indian Welfare Act''), and all laws and rules of law of the United States of general application to Indians, Indian tribes, or Indian reservations which are not inconsistent with this subchapter shall apply to the Tribe, and to its members and lands. The Tribe is hereby recognized as an independent tribal entity, separate from the Cherokee Nation or any other Indian tribe.

(b) Program eligibility

(1) In general

Subject to the provisions of this subsection, the Tribe and its members are eligible for all special programs and services provided by the United States to Indians because of their status as Indians.

(2) Continuation of benefits

Except as provided in paragraph (3), the members of the Tribe who are residing on land recognized by the Secretary to be within the Cherokee Nation and eligible for Federal program services or benefits through the Cherokee Nation shall receive such services or benefits through the Cherokee Nation.

(3) Administration by Tribe

The Tribe shall be eligible to apply for and administer the special programs and services provided by the United States to Indians because of their status as Indians, including such programs and services within land recognized by the Secretary to be within the Cherokee Nation, in accordance with applicable laws and regulations to the same extent that the Cherokee Nation is eligible to apply for and administer programs and services, but only—

(A) if the Cherokee Nation consents to the operation by the Tribe of federally funded programs and services;

(B) if the benefits of such programs or services are to be provided to members of the Tribe in areas recognized by the Secretary to be under the jurisdiction of the Tribe and outside of land recognized by the Secretary to be within the Cherokee Nation, so long as those members are not receiving such programs or services from another Indian tribe; or

(C) if under applicable provisions of Federal law, the Cherokee Nation is not eligible to apply for and administer such programs or services.

(4) Duplication of services not allowed

The Tribe shall not be eligible to apply for or administer any Federal programs or services on behalf of Indians[1] recipients if such recipients are receiving or are eligible to receive the same federally funded programs or services from the Cherokee Nation.

(5) Cooperative agreements

Nothing in this section shall restrict the Tribe and the Cherokee Nation from entering into cooperative agreements to provide such programs or services and such funding agreements shall be honored by Federal agencies, unless otherwise prohibited by law.

(Pub. L. 106–568, title VII, § 704, Dec. 27, 2000, 114 Stat. 2914.)

REFERENCES IN TEXT

The Oklahoma Indian Welfare Act, referred to in subsec. (a), is act June 26, 1936, ch. 831, 49 Stat. 1967, as amended, also popularly known as the Oklahoma Welfare Act, which is classified generally to subchapter VIII (§ 501 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables.

§ 1041c. Establishment of a tribal roll

(a) Approval of base roll

Not later than 180 days after December 27, 2000, the Tribe shall submit to the Secretary for approval its base membership roll, which shall include only individuals who are not members of any other federally recognized Indian tribe or who have relinquished membership in such tribe and are eligible for membership under subsection (b) of this section.

(b) Base roll eligibility

An individual is eligible for enrollment on the base membership roll of the Tribe if that individual—

(1) is on, or eligible to be on, the membership roll of Cherokee Shawnees maintained by the Tribe prior to December 27, 2000, which is separate from the membership roll of the Cherokee Nation; or

(2) is a lineal descendant of any person—

(A) who was issued a restricted fee patent to land pursuant to Article 2 of the Treaty of May 10, 1854, between the United States and the Tribe (10 Stat. 1053); or

(B) whose name was included on the 1871 Register of names of those members of the Tribe who moved to, and located in, the Cherokee Nation in Indian Territory pursuant to the Agreement entered into by and between the Tribe and the Cherokee Nation on June 7, 1869.

(c) Future membership

Future membership in the Tribe shall be as determined under the eligibility requirements set out in subsection (b)(2) of this section or under such future membership ordinance as the Tribe may adopt.

[1] So in original. Probably should be ''Indian''.

(Pub. L. 106–568, title VII, § 705, Dec. 27, 2000, 114 Stat. 2915.)

§ 1041d. Organization of the Tribe; tribal constitution

(a) Existing constitution and governing body

The existing constitution and bylaws of the Cherokee Shawnee and the officers and members of the Shawnee Tribal Business Committee, as constituted on December 27, 2000, are hereby recognized respectively as the governing documents and governing body of the Tribe.

(b) Constitution

Notwithstanding subsection (a) of this section, the Tribe shall have a right to reorganize its tribal government pursuant to section 503 of this title.

(Pub. L. 106–568, title VII, § 706, Dec. 27, 2000, 114 Stat. 2915.)

§ 1041e. Tribal land

(a) Land acquisition

The Tribe shall be eligible to have land acquired in trust for its benefit pursuant to section 465 of this title and section 501 of this title.

(b) Restriction

No land recognized by the Secretary to be within the Cherokee Nation or any other Indian tribe may be taken into trust for the benefit of the Tribe under this section without the consent of the Cherokee Nation or such other tribe, respectively.

(Pub. L. 106–568, title VII, § 707, Dec. 27, 2000, 114 Stat. 2915; Pub. L. 109–59, title X, § 10213, Aug. 10, 2005, 119 Stat. 1939.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59 struck out ''(1) In general'' before ''The Tribe'' and heading and text of par. (2). Text read as follows: ''Notwithstanding any other provision of law but subject to subsection (b) of this section, if the Tribe transfers any land within the boundaries of the State of Oklahoma to the Secretary, the Secretary shall take such land into trust for the benefit of the Tribe.''

§ 1041f. Jurisdiction

(a) In general

The Tribe shall have jurisdiction over trust land and restricted land of the Tribe and its members to the same extent that the Cherokee Nation has jurisdiction over land recognized by the Secretary to be within the Cherokee Nation and its members, but only if such land—

(1) is not recognized by the Secretary to be within the jurisdiction of another federally recognized tribe; or

(2) has been placed in trust or restricted status with the consent of the federally recognized tribe within whose jurisdiction the Secretary recognizes the land to be, and only to the extent that the Tribe's jurisdiction has been agreed to by that host tribe.

(b) Rule of construction

Nothing in this subchapter shall be construed to diminish or otherwise limit the jurisdiction of any Indian tribe that is federally recognized on the day before December 27, 2000, over trust land, restricted land, or other forms of Indian country of that Indian tribe on such date.

(Pub. L. 106–568, title VII, § 708, Dec. 27, 2000, 114 Stat. 2916.)

§ 1041g. Individual Indian land

Nothing in this subchapter shall be construed to affect the restrictions against alienation of any individual Indian's land and those restrictions shall continue in force and effect.

(Pub. L. 106–568, title VII, § 709, Dec. 27, 2000, 114 Stat. 2916.)

§ 1041h. Treaties not affected

No provision of this subchapter shall be construed to constitute an amendment, modification, or interpretation of any treaty to which a tribe referred to in this subchapter is a party nor to any right secured to such a tribe or to any other tribe by any treaty.

(Pub. L. 106–568, title VII, § 710, Dec. 27, 2000, 114 Stat. 2916.)

SUBCHAPTER L—TILLAMOOK AND NEHALEM BANDS OF THE TILLAMOOK INDIANS: DISTRIBUTION OF JUDGMENT FUND

§ 1051. Membership roll; preparation; eligibility for enrollment; filing of applications; finality of Secretary's decision

The Secretary of the Interior shall prepare a roll of all persons who meet both of the following requirements for eligibility: (1) They were born on or prior to and living on August 30, 1964; and (2) their name or the name of an ancestor through whom they claim eligibility appears either on the census roll of the Naalem (Nehalem) Band of Tillamook Indians dated January 28, 1898, or on the annuity payment roll of the Tillamook Band of Tillamook Indians prepared in 1914 under the provisions of the Act of August 24, 1912 (37 Stat. L., 519–535). Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Portland, Oregon, within six months after August 30, 1964, on forms prescribed for that purpose. The determination of the Secretary regarding the eligibility for enrollment of an applicant shall be final.

(Pub. L. 88–506, § 1, Aug. 30, 1964, 78 Stat. 639.)

REFERENCES IN TEXT

Act of August 24, 1912, referred to in text, is act Aug. 24, 1912, ch. 388, 37 Stat. 519–534. Provisions of the act relating to the annuity payment roll of the Tillamook Band of the Tillamook Indians were not classified to the Code.

§ 1052. Distribution of funds; pro rata basis

The Secretary is authorized and directed to withdraw the funds on deposit in the Treasury of the United States to the credit of the Nehalem and Tillamook Bands of Indians that were appropriated by the Act of May 17, 1963 (77 Stat. 43), in satisfaction of a judgment obtained by the bands in the Indian Claims Commission against the United States in Docket Numbered

240 together with the interest accrued thereon and to pro rate such funds among those persons whose names appear on the roll prepared pursuant to section 1051 of this title. The Secretary shall distribute shares payable to living persons enrolled pursuant to section 1051 of this title and shares payable to the heirs and legatees of deceased persons enrolled pursuant to section 1051 of this title according to such rules and regulations as he may prescribe.

(Pub. L. 88–506, § 2, Aug. 30, 1964, 78 Stat. 639.)

REFERENCES IN TEXT

Act of May 17, 1963, referred to in text, is Pub. L. 88–25, May 17, 1963, 77 Stat. 43. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1053. Taxes

The funds distributed in accordance with this subchapter shall not be subject to the Federal or State income tax.

(Pub. L. 88–506, § 3, Aug. 30, 1964, 78 Stat. 639.)

§ 1054. Costs

Any costs incurred by the Secretary in the preparation of the rolls and in the distribution of payment of pro rata shares in accordance with the provisions of this subchapter shall be paid by appropriate withdrawals from the judgment fund.

(Pub. L. 88–506, § 4, Aug. 30, 1964, 78 Stat. 639.)

§ 1055. Rules and regulations

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

(Pub. L. 88–506, § 5, Aug. 30, 1964, 78 Stat. 639.)

SUBCHAPTER LI—CONFEDERATED TRIBES OF THE COLVILLE RESERVATION: DISTRIBUTION OF JUDGMENT FUND

§ 1071. Per capita payments to enrolled tribal members; tax exemption

The funds on deposit in the Treasury of the United States to the credit of the Colville Tribe, San Poeils-Nespelem Tribe, Okanogan Tribe, Methow Tribe, and Lake Tribe (certain constituent groups of the Confederated Tribes of the Colville Reservation) that were appropriated to pay a judgment of the Indian Claims Commission dated March 1, 1960, in docket numbered 181, and the funds which may be deposited in the Treasury of the United States to the credit of the said constituent groups or any other constituent groups of the Confederated Tribes of the Colville Reservation to pay any judgments arising out of claims presently pending before the Indian Claims Commission and the interest on said judgments, after payment of attorney fees and expenses, shall be credited to the account of the Confederated Tribes of the Colville Reservation and the Secretary of the Interior is authorized and directed to make a per capita distribution from such funds of $350, to the extent that such funds are available, to each enrolled member of the Confederated Tribes of the Colville Reservation. Any part of such funds distributed per capita to the members of the tribes shall not be subject to Federal or State income tax.

(Pub. L. 88–551, Aug. 31, 1964, 78 Stat. 755.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

Section was not enacted as part of Pub. L. 92–244, Mar. 9, 1972, 86 Stat. 56, which comprises this subchapter.

LITIGATION WITH YAKIMA TRIBES OF INDIANS OF THE YAKIMA RESERVATION

Authority to commence or defend in the United States Court of Claims an action to determine claims against judgment fund, see sections 609 and 609a of this title.

§ 1072. Per capita distribution; limitation of $950 per share

The funds deposited to the credit of the Confederated Tribes of the Colville Reservation to pay a judgment arising out of proceedings before the Indian Claims Commission in docket numbered 178 and the funds appropriated by the Act of July 6, 1970 (84 Stat. 376), to pay a judgment in favor of the Confederated Tribes of the Colville Reservation, and others, in Indian Claims Commission docket numbered 179, and apportioned to the Confederated Tribes under the Act of April 24, 1961 (75 Stat. 45), and interest thereon, after payment of attorney fees and other litigation expenses, shall be distributed on a per capita basis, each share amounting to not more than $950, to the extent such funds are available, to each person born on or prior to and living on March 9, 1972, who meets the requirements for membership in the Confederated Tribes of the Colville Reservation. The remaining balance of such funds, and the interest thereon, shall be combined and distributed with any other tribal funds that may hereafter become available for per capita distribution.

(Pub. L. 92–244, § 1, Mar. 9, 1972, 86 Stat. 56.)

REFERENCES IN TEXT

Act of July 6, 1970, referred to in text, is act July 6, 1970, Pub. L. 91–305 84 Stat. 376, which was not classified to the Code.

Act of April 24, 1961, referred to in text, is act Apr. 24, 1961, Pub. L. 87–24 75 Stat. 45, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1073. Tax exemption; payments to minors and persons under legal disabilities

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income tax. Any per capita share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures, including the establishment of

trusts, as the Secretary determines will adequately protect the best interest of such persons.

(Pub. L. 92–244, § 2, Mar. 9, 1972, 86 Stat. 57.)

SUBCHAPTER LII—QUILEUTE AND HOH TRIBES OF WASHINGTON: DISTRIBUTION OF JUDGMENT FUND

§ 1081. Division of funds on basis of tribal membership rolls; advances or expenditures from tribal funds

The unexpended balance of funds on deposit in the Treasury of the United States to the credit of the Quileute and Hoh Tribes that were appropriated by the Act of January 6, 1964 (77 Stat. 857), to pay a judgment by the Indian Claims Commission in docket numbered 155, and the interest thereon, after payment of attorney fees and expenses, shall be divided on the basis of tribal membership rolls for the respective groups after approval of such rolls by the Secretary of the Interior, and the funds so divided, including the interest thereon, may be advanced or expended for any purpose that is authorized by the respective tribal governing bodies and approved by the Secretary of the Interior: *Provided*, That until the Hoh Indians develop a formal organization with a recognized governing body, their share of the judgment funds, and any other Hoh tribal funds, may be expended by the Secretary for the benefit of the Hoh Reservation and the Hoh tribal members, upon approval by him of plans adopted by a majority of the adult Hoh Indians voting at a general meeting of the tribal membership called by the Secretary.

(Pub. L. 89–655, § 1, Oct. 14, 1966, 80 Stat. 905.)

REFERENCES IN TEXT

Act of January 6, 1964, referred to in text, is act Jan 6, 1964, Pub. L. 88–258, 77 Stat. 857. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1082. Membership rolls; preparation; eligibility for enrollment; relinquishment of membership with other tribes

The Secretary of the Interior shall prepare membership rolls for the Quileute and Hoh Tribes. No person shall be eligible to have his name placed on either membership roll who at the same time is a member of any other tribe, and no person shall be permitted to be enrolled in both the Quileute and Hoh Tribes: *Provided*, That persons eligible for enrollment or already enrolled with other tribes may relinquish that membership through filing a formal statement of relinquishment with the Secretary according to rules and regulations which he may prescribe.

(Pub. L. 89–655, § 2, Oct. 14, 1966, 80 Stat. 905.)

§ 1083. Quileute base roll

When preparing a Quileute tribal roll, the Secretary shall employ the criteria in article II of the approved constitution and bylaws of the Quileute Tribe of the Quileute Reservation, except that, in the absence of the 1935 census referred to in article II, section 1(a) of the constitution and bylaws, the Secretary, with the assistance of the governing body of the Quileute Tribe, shall construct a base roll from pertinent records, including other census data, of the same period. No person shall be eligible to have his name placed thereon if born after December 31, 1940. Upon approval of such base roll by the Secretary and the Quileute tribal governing body, it shall henceforth serve as the Quileute base roll for all purposes, the provisions of article II, section 1(a) notwithstanding.

(Pub. L. 89–655, § 3, Oct. 14, 1966, 80 Stat. 905.)

§ 1084. Hoh base roll

When preparing a Hoh tribal base roll, the Secretary shall include only the names of applicants who demonstrate that their names or the names of lineal ancestors from whom they are descended appear on the Census of the Hoh Indians of Neah Bay Agency, Washington, June 30, 1894. Upon approval by the Secretary, such roll shall henceforth serve as the Hoh base roll for all purposes.

(Pub. L. 89–655, § 4, Oct. 14, 1966, 80 Stat. 905.)

§ 1085. Tribal organizational document: development and adoption

Upon completion of a Hoh base roll in accordance with section 1084 of this title, the Secretary shall assist the Hoh Indians in developing a tribal organizational document and shall call an election for the purpose of voting on the adoption of such document.

(Pub. L. 89–655, § 5, Oct. 14, 1966, 80 Stat. 905.)

§ 1086. Advances or expenditures from tribal funds

The Secretary is authorized to advance or expend, as provided in section 1081 of this title, the Hoh tribal funds now on deposit, or hereafter placed on deposit, in the Treasury of the United States under the following symbols and titles:

14X7235 Proceeds of Labor, Hoh Indians, Washington;

14X7735 Interest and Accruals on Interest, Proceeds of Labor, Hoh Indians, Washington.

(Pub. L. 89–655, § 6, Oct. 14, 1966, 80 Stat. 905.)

§ 1087. Tax exemption

Any part of the funds that may be distributed to individual members of the Quileute and Hoh Tribes under the provisions of this subchapter shall not be subject to Federal or State income taxes.

(Pub. L. 89–655, § 7, Oct. 14, 1966, 80 Stat. 906.)

§ 1088. Rules and regulations

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

(Pub. L. 89–655, § 8, Oct. 14, 1966, 80 Stat. 906.)

SUBCHAPTER LIII—NOOKSACK TRIBE OF WASHINGTON: DISTRIBUTION OF JUDGMENT FUND

§ 1101. Membership roll; preparation; eligibility for enrollment; filing of applications; finality of determination

The Secretary of the Interior shall prepare a roll of all persons who meet the following requirements for eligibility: (a) They were born on or prior to and were living on October 14, 1966, and (b) they are descendants of members of the Nooksack Tribe as it existed in 1855. Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Portland, Oregon, on forms prescribed for that purpose. The determination of the Secretary regarding the utilization of available rolls or records and the eligibility for enrollment of an applicant shall be final.

(Pub. L. 89–656, § 1, Oct. 14, 1966, 80 Stat. 906.)

§ 1102. Distribution of funds; persons entitled

After the deduction of attorney fees, litigation expenses, the costs of roll preparation, and such sums as may be required to distribute individual shares, the funds, including interest, remaining to the credit of the Nooksack Tribe, which were appropriated by the Act of April 30, 1965 (Public Law 89–16), shall be distributed in equal shares to those persons whose names appear on the roll prepared in accordance with section 1101 of this title.

(Pub. L. 89–656, § 2, Oct. 14, 1966, 80 Stat. 906.)

REFERENCES IN TEXT

Act of April 30, 1965, referred to in text, is act Apr. 30, 1965, Pub. L. 89–16, 79 Stat. 92, known as the Second Supplemental Appropriations Act, 1965. That portion of the act which appropriated the funds referred to was not classified to the Code.

§ 1103. Payments to enrollees, heirs or legatees; protection of minors and persons under legal disability; credits of shares under certain amounts; escheat

The Secretary shall distribute a share payable to a living enrollee directly to such enrollee or in such manner as is deemed by the Secretary to be in the enrollee's best interest. The Secretary shall distribute the per capita share of a deceased enrollee to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary whose findings upon such proof shall be final and conclusive. Sums payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under a legal disability shall be paid to the persons whom the Secretary determines will best protect their interests. Proportional shares of heirs or legatees amounting to $5 or less shall not be distributed and shall remain to the credit of the Nooksack Tribe. Any sum of money remaining to the credit of the Nooksack Tribe as a result of this judgment, three years after October 14, 1966, shall escheat to the United States and shall be deposited in the Treasury of the United States in miscellaneous receipts.

(Pub. L. 89–656, § 3, Oct. 14, 1966, 80 Stat. 906.)

§ 1104. Tax exemption

The funds distributed under the provisions of this subchapter shall not be subject to Federal or State income taxes.

(Pub. L. 89–656, § 4, Oct. 14, 1966, 80 Stat. 906.)

§ 1105. Rules and regulations

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

(Pub. L. 89–656, § 5, Oct. 14, 1966, 80 Stat. 906.)

SUBCHAPTER LIV—MIAMI INDIANS OF INDIANA AND OKLAHOMA: DISTRIBUTION OF JUDGMENT FUND

§ 1111. Distribution and use of funds

The Secretary of the Interior shall take the necessary steps to provide for the distribution and use of the money appropriated to the Miami Indians of Indiana and Oklahoma in satisfaction of judgments awarded by the Indian Claims Commission in dockets numbered 67 and 124, 124–A, and 251 as hereinafter provided.

(Pub. L. 89–659, § 1, Oct. 14, 1966, 80 Stat. 909.)

§ 1112. Advances or expenditures from funds of Miami Tribe of Oklahoma; persons entitled

The funds on deposit in the Treasury of the United States to the credit of the Miami Tribe of Oklahoma that were appropriated by the Act of September 30, 1961 (75 Stat. 747), to pay a judgment by the Indian Claims Commission in docket numbered 251, together with the interest thereon, after payment of attorney fees and expenses, shall be advanced or expended in accordance with plans adopted by the governing body of the Miami Tribe of Oklahoma and approved by the Secretary of the Interior. The persons entitled to share in any per capita payment authorized by the governing body and approved by the Secretary shall be all individuals who are enrolled members of the Miami Tribe of Oklahoma, as organized under the Oklahoma Welfare Act (49 Stat. 1967) [25 U.S.C. 501 et seq.].

(Pub. L. 89–659, § 2, Oct. 14, 1966, 80 Stat. 909.)

REFERENCES IN TEXT

Act of September 30, 1961, referred to in text, is act Sept. 30, 1961, Pub. L. 87–322, 75 Stat. 747. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

The Oklahoma Welfare Act, referred to in text, is act June 26, 1936, ch. 831, 49 Stat. 1967, as amended, which is classified generally to subchapter VIII (§ 501 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 1113. Miami Indians of Indiana; membership roll; preparation; eligibility for enrollment

For the purpose of determining entitlement to the judgment awarded in Indian Claims Commission docket numbered 124–A to the Miami Indians of Indiana and appropriated by the Act of September 30, 1961 (75 Stat. 747), the Secretary shall prepare a roll of all persons of Miami In-

dian ancestry who meet the following requirements for eligibility:

(a) They were born on or prior to, and living on, October 14, 1966; and

(b) Their name or the name of an ancestor from whom they claim eligibility appears on the roll of Miami Indians of Indiana of June 12, 1895, or the roll of ''Miami Indians of Indiana, now living in Kansas, Quapaw Agency, I.T., and Oklahoma Territory,'' prepared and completed pursuant to the Act of March 2, 1895 (28 Stat. 903), or the roll of the Eel River Miami Tribe of Indians of May 27, 1889, prepared and completed pursuant to the Act of June 29, 1888 (25 Stat. 223). No person whose name appears on the current tribal roll of the Miami Tribe of Oklahoma shall be eligible to be enrolled under this section.

(Pub. L. 89–659, § 3, Oct. 14, 1966, 80 Stat. 909.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Act of September 30, 1961, referred to in subsec. (a), is act Sept. 30, 1961, Pub. L. 87–322, 75 Stat. 747. That portion of the act which appropriated the funds referred to was not classified to the Code.

Act of March 2, 1895, referred to in subsec. (b), is act Mar. 2, 1895, ch. 188, 28 Stat. 903. Provisions of the act relating to the roll of the Miami Indians of Indiana were not classified to the Code.

Act of June 29, 1888, referred to in subsec. (b), is act June 29, 1888, ch. 503, 25 Stat. 223. Provisions of the act relating to the roll of the Eel River Miami Tribe of Indians of May 27, 1889, were not classified to the Code.

§ 1114. Miami Indians of Oklahoma; membership roll; preparation; eligibility for enrollment

For the purpose of determining entitlement to the judgment awarded in Indian Claims Commission dockets numbered 67 and 124 and appropriated by the Act of May 17, 1963 (77 Stat. 43), the Secretary of the Interior shall prepare a roll of all persons of Miami Indian ancestry who meet the following requirements for eligibility:

(a) They were born on or prior to, and living on, October 14, 1966; and

(b) Their name or the name of an ancestor from whom they claim eligibility appears on any of the rolls cited in section 1113(b) of this title, or on the roll of the Western Miami Tribe of Indians of June 12, 1891, prepared and completed pursuant to the Act of March 3, 1891 (26 Stat. 1000).

(Pub. L. 89–659, § 4, Oct. 14, 1966, 80 Stat. 909.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Act of May 17, 1963, referred to in text, is act May 17, 1963, Pub. L. 88–25, 77 Stat. 43. That portion of the act which appropriated the funds referred to was not classified to the Code.

Act of March 3, 1891, referred to in text, is act Mar. 3, 1891, ch. 543, 26 Stat. 1000. Provisions of the act relating to the roll of the Western Miami Tribe of June 12, 1891, were not classified to the Code.

§ 1115. Applications; place for filing; finality of determination

Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Muskogee, Oklahoma, on forms prescribed for that purpose. The determination of the Secretary regarding the eligibility of an applicant shall be final.

(Pub. L. 89–659, § 5, Oct. 14, 1966, 80 Stat. 909.)

§ 1116. Distribution of funds of Miami Indians of Indiana; persons entitled

The funds on deposit in the Treasury of the United States to the credit of the Miami Indians of Indiana that were appropriated by the Act of September 30, 1961 (75 Stat. 747), to pay a judgment in Indian Claims Commission docket numbered 124–A, and the interest thereon, after payment of attorney fees and expenses, shall be distributed to the individuals whose names appear on the roll prepared pursuant to section 1113 of this title, and in accordance with the instructions contained in sections 1118 and 1119 of this title.

(Pub. L. 89–659, § 6, Oct. 14, 1966, 80 Stat. 909.)

REFERENCES IN TEXT

Act of September 30, 1961, referred to in text, is act Sept. 30, 1961, Pub. L. 87–322, 75 Stat. 747. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1117. Distribution of funds of Miami Indians of Oklahoma; persons entitled

The funds on deposit in the Treasury of the United States to the credit of the ''Miami Tribe of Oklahoma'' that were appropriated by the Act of May 17, 1963 (77 Stat. 43), to pay a judgment in Indian Claims Commission dockets numbered 67 and 124, and the interest thereon, after payment of attorney fees and expenses, shall be distributed to the persons whose names appear on the roll prepared pursuant to section 1114 of this title, and in accordance with the instructions contained in sections 1118 and 1119 of this title.

(Pub. L. 89–659, § 7, Oct. 14, 1966, 80 Stat. 910.)

REFERENCES IN TEXT

Act of May 17, 1963, referred to in text, is act May 17, 1963, Pub. L. 88–25, 77 Stat. 43. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1118. Distribution of shares

(a) Payments to enrollees, next of kin, or legatees

Except as provided in subsection (b) of this section, the Secretary shall distribute a per capita share payable to a living enrollee directly to such enrollee, and the Secretary shall distribute a per capita share payable to a deceased enrollee directly to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Payments to minors or persons under legal disability

A share payable to a person under twenty-one years of age or to a person under legal disability

shall be paid in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons.

(Pub. L. 89–659, § 8, Oct. 14, 1966, 80 Stat. 910.)

§ 1119. Reserve funds for expenses

(a) Establishment

Prior to making any distribution of the funds credited to the Miami Tribe or Nation and the Miami Tribe of Indiana or approving any expenditures of the funds credited to the Miami Tribe of Oklahoma, pursuant to this subchapter, the Secretary is authorized to reserve in the Treasury of the United States a part of such funds sufficient, in his judgment, to meet the litigation expenses, exclusive of attorney fees, of the remaining cases which each has pending before the Indian Claims Commission.

(b) Availability

The funds reserved shall be available for appropriate withdrawal by the Secretary.

(Pub. L. 89–659, § 9, Oct. 14, 1966, 80 Stat. 910.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in subsec. (a), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1120. Tax exemption; costs

The funds distributed under the provisions of this subchapter shall not be subject to Federal or State income taxes, and any costs incurred by the Secretary in the preparation of the rolls and in the distribution of per capita shares in accordance with the provisions of this subchapter shall be paid by appropriate withdrawals from the judgment funds.

(Pub. L. 89–659, § 10, Oct. 14, 1966, 80 Stat. 910.)

§ 1121. Rules and regulations

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

(Pub. L. 89–659, § 11, Oct. 14, 1966, 80 Stat. 910.)

§ 1122. Payment and distribution of judgment funds

The funds appropriated by the Acts of July 22, 1969 (83 Stat. 49), and January 8, 1971 (84 Stat. 1981), to pay judgments awarded to the Miami Tribe of Oklahoma and the Miami Indians of Indiana in Indian Claims Commission dockets numbered 255 and 124–C, dockets numbered 256, 124–D, E, and F, and dockets numbered 131 and 253, and to pay a judgment awarded to the Miami Tribe of Oklahoma in docket numbered 251–A, together with interest thereon, after payment of attorney fees and litigation expenses, shall be distributed as provided in sections 1122 to 1130 of this title.

(Pub. L. 92–309, § 1, June 2, 1972, 86 Stat. 199.)

REFERENCES IN TEXT

Acts of July 22, 1969, and January 8, 1971, referred to in text, are Pub. L. 91–47, July 22, 1969, 83 Stat. 49, and Pub. L. 91–665, Jan. 8, 1971, 84 Stat. 1981, respectively, which were not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

Section was not enacted as part of Pub. L. 89–659, Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

§ 1123. Costs

The Secretary may make appropriate withdrawals from the judgment funds and interest thereon, using interest funds first, to pay costs incident to carrying out the provisions of sections 1122 to 1130 of this title.

(Pub. L. 92–309, § 2, June 2, 1972, 86 Stat. 199.)

CODIFICATION

Section was not enacted as part of Pub. L. 89–659, Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

§ 1124. Revision of enrollment list

The Secretary of the Interior shall bring current to June 2, 1972, the roll prepared pursuant to section 1114 of this title, by (a) adding the names of persons living on June 2, 1972, who were eligible for enrollment under section 1114 of this title but were not enrolled, (b) by adding the names of children born to enrollees on or prior to June 2, 1972, and who are living on said date, (c) by adding the names of children born to persons who were eligible for enrollment under section 1114 of this title but who were not enrolled, regardless of whether such persons are living or deceased on June 2, 1972, provided said children of such persons are living on June 2, 1972, and (d) by deleting the names of persons who are deceased as of June 2, 1972.

(Pub. L. 92–309, § 3, June 2, 1972, 86 Stat. 200.)

CODIFICATION

Section was not enacted as part of Pub. L. 89–659. Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

§ 1125. Applications for enrollment

An application for addition of a name to the roll pursuant to section 1124 of this title must be filed with the area director of the Bureau of Indian Affairs, Muskogee, Oklahoma, on forms prescribed for that purpose. The determination of the Secretary regarding the eligibility of an applicant shall be final.

(Pub. L. 92–309, § 4, June 2, 1972, 86 Stat. 200.)

CODIFICATION

Section was not enacted as part of Pub. L. 89–659, Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

§ 1126. Equal distribution to individuals enrolled

On completion of the roll by the Secretary of the Interior, the balance of the funds appropriated to satisfy the judgments in dockets numbered 255 and 124–C, dockets numbered 256, 124–D, E, and F, and dockets numbered 131 and 253, and interest accumulated thereon, shall be distributed equally to the individuals enrolled.

(Pub. L. 92–309, § 5, June 2, 1972, 86 Stat. 200.)

CODIFICATION

Section was not enacted as part of Pub. L. 89–659, Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

§ 1127. Use of appropriated funds; approval by Secretary on receipt of recommendations from tribal governing body

The funds on deposit in the Treasury of the United States to the credit of the Miami Tribe of Oklahoma that were appropriated by the Act of July 22, 1969 (83 Stat. 49), to pay a judgment by the Indian Claims Commission in docket numbered 251–A, together with the interest thereon, after payment of attorney fees and expenses, may be advanced or expended for any purpose that is authorized by the tribal governing body of the Miami Tribe of Oklahoma, and approved by the Secretary of the Interior.

(Pub. L. 92–309, § 6, June 2, 1972, 86 Stat. 200.)

REFERENCES IN TEXT

Act of July 22, 1969, referred to in text, is act July 22, 1969, Pub. L. 91–665, 83 Stat. 49, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

Section was not enacted as part of Pub. L. 89–659, Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

§ 1128. Distribution of shares

(a) Payments to enrollees, next of kin, or legatees

Except as provided in subsection (b) of this section, the Secretary of the Interior shall distribute a per capita share payable to a living enrollee directly to such enrollee, and shall distribute a per capita share payable to a deceased enrollee directly to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Payments to minors or persons under legal disability

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 interest of such persons.

(Pub. L. 92–309, § 7, June 2, 1972, 86 Stat. 200.)

CODIFICATION

Section was not enacted as part of Pub. L. 89–659, Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

§ 1129. Tax exemption

None of the funds distributed under the provisions of sections 1122 to 1130 of this title shall be subject to Federal or State income taxes.

(Pub. L. 92–309, § 8, June 2, 1972, 86 Stat. 200.)

CODIFICATION

Section was not enacted as part of Pub. L. 89–659, Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

§ 1130. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of sections 1122 to 1130 of this title, including the establishment of deadlines.

(Pub. L. 92–309, § 9, June 2, 1972, 86 Stat. 200.)

CODIFICATION

Section was not enacted as part of Pub. L. 89–659, Oct. 14, 1966, 80 Stat. 909, which comprises this subchapter.

SUBCHAPTER LV—DUWAMISH TRIBE OF WASHINGTON: DISTRIBUTION OF JUDGMENT FUND

§ 1131. Membership roll; preparation; eligibility for enrollment; applications; place for filing; finality of determination

The Secretary of the Interior shall prepare a roll of all persons who meet the following requirements for eligibility: (a) They were born on or prior to and living on October 14, 1966, and (b) they are descendants of members of the Duwamish Tribe as it existed in 1855. Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Portland, Oregon, on forms prescribed for that purpose. The determination of the Secretary regarding the utilization of available rolls or records and the eligibility for enrollment of an applicant shall be final.

(Pub. L. 89–660, § 1, Oct. 14, 1966, 80 Stat. 910.)

§ 1132. Equal share distribution; persons entitled

After the deduction of attorney fees, litigation expenses, the costs of roll preparation, and such sums as may be required to distribute individual shares, the funds, including interest, remaining to the credit of the Duwamish Tribe, which were appropriated by the Act of June 9, 1964 (78 Stat. 213), shall be distributed in equal shares to those persons whose names appear on the roll prepared in accordance with section 1131 of this title.

(Pub. L. 89–660, § 2, Oct. 14, 1966, 80 Stat. 911.)

REFERENCES IN TEXT

Act of June 9, 1964, referred to in text, is act June 9, 1964, Pub. L. 88–317, 78 Stat. 213, which was not classified to the Code.

§ 1133. Payments to enrollees, heirs, or legatees; protection of minors and persons under legal disability; escheats

The Secretary shall distribute a share payable to a living enrollee directly to such enrollee or in such manner as is deemed by the Secretary to be in the enrollee's best interest. The Secretary shall distribute the per capita share of a deceased enrollee to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary whose findings upon such proof shall be final and conclusive. Sums payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under a legal disability shall be paid to the persons whom the Secretary determines will best protect their interests. Proportional shares of heirs or legatees amounting to $5 or less shall not be distributed, and shall escheat to the United States. In the event that the sum of money reserved by the Secretary to pay the costs of distributing the individual shares exceeds the amount actually necessary to accomplish this purpose, such funds shall also escheat to the United States.

(Pub. L. 89–660, § 3, Oct. 14, 1966, 80 Stat. 911.)

§ 1134. Tax exemption

The funds distributed under the provisions of this subchapter shall not be subject to Federal or State income taxes.

(Pub. L. 89–660, § 4, Oct. 14, 1966, 80 Stat. 911.)

§ 1135. Rules and regulations

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

(Pub. L. 89–660, § 5, Oct. 14, 1966, 80 Stat. 911.)

SUBCHAPTER LVI—EMIGRANT NEW YORK INDIANS: DISTRIBUTION OF JUDGMENT FUND

§ 1141. Distribution of funds; attorney's fees and expenses

The funds on deposit in the Treasury of the United States to the credit of the Emigrant New York Indians that were appropriated by the Act of May 29, 1967 (81 Stat. 50), to pay a judgment by the Indian Claims Commission in Docket Numbered 75, and the interest thereon, after payment of attorney fees and expenses, shall be distributed as determined in sections 1144 and 1145 of this title.

(Pub. L. 90–93, § 1, Sept. 27, 1967, 81 Stat. 229.)

REFERENCES IN TEXT

Act of May 29, 1967, referred to in text, is act May 29, 1967, Pub. L. 90–21, 81 Stat. 50. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1142. Membership rolls; Oneida Tribe of Wisconsin; Stockbridge-Munsee Indian Community of Wisconsin; Brotherton Indians of Wisconsin

The Secretary of the Interior shall prepare rolls of all persons born on or prior to and living on September 27, 1967 (a) whose names appear on the membership roll of the Oneida Tribe of Indians of Wisconsin; or (b) whose names appear on the membership roll of the Stockbridge-Munsee Indian Community of Wisconsin; or (c) who are Brotherton Indians of Wisconsin of at least one-fourth degree Emigrant New York Indian blood and not members of either of the organized groups mentioned in (a) or (b).

(Pub. L. 90–93, § 2, Sept. 27, 1967, 81 Stat. 229.)

§ 1143. Assistance of Secretary in preparing membership rolls; applications for enrollment

For the purposes of expediting the enrollment of persons referred to in section 1142(a) and (b) of this title, the governing bodies of the Oneida Tribe of Indians of Wisconsin and the Stockbridge-Munsee Indian Community of Wisconsin shall, with the assistance of the Secretary, prepare membership rolls of their respective bands. Applications for enrollment under section 1142(c) of this title must be filed with the Superintendent of the Great Lakes Agency, Ashland, Wisconsin 54806, on forms prescribed for that purpose. The determination of the Secretary regarding the eligibility of the applicant shall be final.

(Pub. L. 90–93, § 3, Sept. 27, 1967, 81 Stat. 229.)

§ 1144. Apportionment; ratio of apportioned shares

The Secretary of the Interior shall apportion to each group mentioned in section 1142 of this title so much of the aforementioned judgment and accrued interest as the ratio of its enrollees bears to the total enrollees of all of said groups.

(Pub. L. 90–93, § 4, Sept. 27, 1967, 81 Stat. 229.)

§ 1145. Disposition of apportioned shares

The funds apportioned to the Oneida Tribe of Indians of Wisconsin and the Stockbridge-Munsee Indian Community of Wisconsin shall be placed to their credit and may be used, advanced, expended, deposited, invested, or reinvested for any purposes that are authorized by the tribal governing bodies thereof and approved by the Secretary of the Interior. The funds apportioned to the group mentioned in section 1142(c) of this title shall be available for distribution in equal shares to the enrollees or their heirs or legatees. Payment may be made directly to each enrollee except that a share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons.

(Pub. L. 90–93, § 5, Sept. 27, 1967, 81 Stat. 229.)

§ 1146. Federal and State income taxes

None of the funds that may be distributed per capita shall be subject to Federal or State income taxes.

(Pub. L. 90–93, § 6, Sept. 27, 1967, 81 Stat. 230.)

§ 1147. Rules and regulations

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

(Pub. L. 90–93, § 7, Sept. 27, 1967, 81 Stat. 230.)

SUBCHAPTER LVII—UPPER AND LOWER CHEHALIS TRIBES: DISTRIBUTION OF JUDGMENT FUND

§ 1151. Membership roll; preparation; eligibility for enrollment; applications; finality of determination

The Secretary of the Interior shall prepare a roll of all persons who meet the following requirements for eligibility: (a) They were alive on October 24, 1967, and (b) they are descendants of members of the Upper and Lower Chehalis Tribes as they existed in 1855. Applications for enrollment must be filed with the Superintendent, Western Washington Agency, Everett, Washington, on forms prescribed for that purpose. The determination of the Secretary regarding the utilization of available rolls or records and the eligibility for enrollment of an applicant shall be final.

(Pub. L. 90–114, § 1, Oct. 24, 1967, 81 Stat. 335.)

§ 1152. Distribution in equal shares

After the deduction of attorney fees, litigation expenses, the costs of roll preparation, and such sums as may be required to distribute individual shares, the funds, including interest, remaining to the credit of the Upper and Lower Chehalis Tribes, which were appropriated by the Act of June 9, 1964 (78 Stat. 213), shall be distributed in equal shares to those persons whose names appear on the roll prepared in accordance with section 1151 of this title.

(Pub. L. 90–114, § 2, Oct. 24, 1967, 81 Stat. 335.)

REFERENCES IN TEXT

Act of June 9, 1964, referred to in text, is act June 9, 1964, Pub. L. 88–317, 78 Stat. 213, which was not classified to the Code.

§ 1153. Payments to minors and persons under legal disabilities; escheats

Sums payable to enrollees or to their heirs or legatees who are less than twenty-one years of age or who are under a legal disability shall be held in trust by the Secretary of the Interior with use limited to emergency medical care and direct educational expenses, until such minor becomes of age or disability ceases. Proportional shares of heirs or legatees amounting to $5 or less shall not be distributed, and shall escheat to the United States. In the event that the sum of money reserved by the Secretary to pay the costs of distributing the individual shares exceeds the amount actually necessary to accomplish this purpose, the money remaining shall also be distributed per capita unless individual shares would have a value of less than $5. Individual shares or proportional shares of heirs or legatees amounting to $5 or less shall not be distributed, but shall escheat to the United States.

(Pub. L. 90–114, § 3, Oct. 24, 1967, 81 Stat. 335.)

§ 1154. Tax exemption

The funds distributed under the provisions of this subchapter shall not be subject to Federal or State income taxes.

(Pub. L. 90–114, § 4, Oct. 24, 1967, 81 Stat. 335.)

§ 1155. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this subchapter, including appropriate deadline for filing enrollment applications.

(Pub. L. 90–114, § 5, Oct. 24, 1967, 81 Stat. 335.)

SUBCHAPTER LVIII—CHEYENNE-ARAPAHO INDIANS OF OKLAHOMA: DISTRIBUTION OF JUDGMENT FUND

§ 1161. Authorization for distribution of funds

The Secretary of the Interior is authorized and directed to distribute and expend the funds on deposit in the Treasury of the United States to the credit of the Cheyenne-Arapaho Tribes of Oklahoma that were appropriated by the Act of October 31, 1965 (79 Stat. 1133), in satisfaction of the settlement and compromise of claims of said tribes against the United States in the Indian Claims Commission in dockets numbered 329A and 329B, together with the interest accrued thereon, as herein provided.

(Pub. L. 90–117, § 1, Oct. 31, 1967, 81 Stat. 337.)

REFERENCES IN TEXT

Act of October 31, 1965, referred to in text, is act Oct. 31, 1965, Pub. L. 89–309, 79 Stat. 1133. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1162. Trust; education and scholarships; approval of agreement

Five hundred thousand dollars of said funds shall be held in trust for the purpose of providing education and scholarships for members of said tribes pursuant to a trust agreement to be made and entered into by and between said tribes, as grantor, and a national banking association located in the State of Oklahoma, as trustee, which trust agreement shall be authorized and approved by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 90–117, § 2, Oct. 31, 1967, 81 Stat. 337.)

§ 1163. Payments to enrollees, heirs or legatees; trust for minors and persons under legal disability; approval of agreement

The Secretary of the Interior shall distribute remaining funds per capita to all persons alive on October 31, 1967, whose names appear on the membership roll of the Cheyenne-Arapaho Tribes of Oklahoma or who, on October 31, 1967, were eligible for membership, hereinafter referred to as ''enrollees'', as follows:

(a) A share payable to an enrollee not less than eighteen years of age shall be paid directly in one payment to such enrollee, except as provided in subsections (b) and (c) of this section;

(b) A share payable to an enrollee dying after October 31, 1967, shall be distributed to his heirs or legatees upon the filing of proof of death and inheritance satisfactory to the Secretary of the Interior, or his authorized representative, whose findings and determinations upon such proof shall be final and conclusive: *Provided*, That if a share of such deceased enrollee, or a portion thereof, is payable to an heir or legatee under eighteen years of age or to an heir or legatee under legal disability other than because of age, the same shall be paid and held in trust pursuant to subsection (c) of this section;

(c) A share or proportional share payable to an enrollee or person under eighteen years of age or to an enrollee or person under legal disability other than because of age shall be paid and held in trust for such enrollee or person pursuant to a trust agreement to be made and entered into by and between the Cheyenne-Arapaho Tribes of Oklahoma, as grantor, and a national banking association located in the State of Oklahoma, as Trustee, which trust agreement shall be authorized and approved

by the tribal governing body and approved by the Secretary of the Interior. The Secretary of the Interior is authorized to approve amendments to trust agreements entered into pursuant to this subchapter, to permit the distribution of assets to, and the termination of trusts for, minor beneficiaries, not under other legal disability, who have attained or who shall hereafter attain the age of eighteen years.

(Pub. L. 90–117, § 3, Oct. 31, 1967, 81 Stat. 337; Pub. L. 92–439, Sept. 29, 1972, 86 Stat. 742.)

AMENDMENTS

1972—Pub. L. 92–439 lowered period of minority from twenty-one to eighteen years of age in subsecs. (a) to (c), qualified the legal disability in subsecs. (b) and (c) to a disability other than one of age, and provided for subsec. (c) authorization of amendments to trust agreements, distribution of assets, and termination of trusts for beneficiaries eighteen years of age without any other legal disability.

§ 1164. Claims

(a) Time for filing; reversion of funds upon failure to file

All claims for per capita shares, whether by a living enrollee or by the heirs or legatees of a deceased enrollee, shall be filed with the area director of the Bureau of Indian Affairs, Anadarko, Oklahoma, not later than three years from October 31, 1967. Thereafter, all claims and the right to file same shall be forever barred and the unclaimed shares shall revert to the tribes.

(b) Use of reverted funds

Tribal funds that revert to the tribes pursuant to subsection (a) of this section, including interest and income therefrom, may be advanced or expended for any purpose that is authorized by the tribal governing body.

(Pub. L. 90–117, § 4, Oct. 31, 1967, 81 Stat. 338.)

§ 1165. Tax exemption

No part of any funds distributed or held in trust under the provisions of this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 90–117, § 5, Oct. 31, 1967, 81 Stat. 338.)

§ 1166. Costs

(a) Payment from judgment fund

All costs incident to making the payments authorized by this subchapter including the costs of payment roll preparation and such sums as may be required to distribute said funds, shall be paid by appropriate withdrawals from the judgment fund and interest on the judgment fund, using the interest fund first.

(b) Use of reverted funds

In the event that the sum of money reserved by the Secretary of the Interior to pay the costs of distributing said funds exceeds the amount actually necessary to accomplish this purpose, the money remaining shall revert to the tribes and may be advanced or expended for any purpose that is authorized and approved by the tribal governing body.

(Pub. L. 90–117, § 6, Oct. 31, 1967, 81 Stat. 338.)

§ 1167. Rules and regulations

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

(Pub. L. 90–117, § 7, Oct. 31, 1967, 81 Stat. 338.)

SUBCHAPTER LIX—IOWA TRIBES OF KANSAS AND NEBRASKA AND OF OKLAHOMA: DISTRIBUTION OF JUDGMENT FUND

§ 1171. Distribution of funds; authorized spending; per capita payment; tax exemption

The funds on deposit in the United States Treasury to the credit of the Iowa Tribes of Kansas and Nebraska and of Oklahoma that were appropriated by the Act of April 30, 1965 (79 Stat. 81), to pay a judgment by the Indian Claims Commission in dockets numbered 138 and 79, and the interest thereon, after payment of attorney fees and other litigation expenses, shall be divided on the basis of 171/279ths (61.29 per centum) to the Iowas of Kansas and Nebraska and 108/279ths (38.71 per centum) to the Iowas of Oklahoma, and the funds so divided, including interest accruing thereon, may be invested or expended for any purpose that is authorized by the respective tribal governing bodies and approved by the Secretary of the Interior. Any per capita distribution of any part of the funds placed to the credit of the Iowa Tribes of Kansas and Nebraska and of Oklahoma shall be payable only to those persons who meet the membership requirements specified in the respective tribal constitutions, and such per capita payments shall not be subject to Federal or State income tax.

(Pub. L. 90–199, Dec. 14, 1967, 81 Stat. 583.)

REFERENCES IN TEXT

Act of April 30, 1965, referred to in text, is act Apr. 30, 1965, Pub. L. 89–16, 79 Stat. 81, known as the Second Supplemental Appropriation Act, 1965. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

SUBCHAPTER LX—DELAWARE NATION OF INDIANS

§ 1181. Distribution of judgment fund; preparation of Indian roll; eligibility

The Secretary of the Interior shall prepare a roll of all persons who meet the following requirements for eligibility: (a) They were born on or prior to and living on September 21, 1968; (b) their name or the name of a lineal ancestor appears on the Delaware Indian per capita payroll approved by the Secretary on April 20, 1906, or (c) their name or the name of a lineal ancestor is on or is eligible to be on the constructed base census roll as of 1940 of the Absentee Delaware Tribe of Western Oklahoma, approved by the Secretary of the Interior, or (d) they are lineal descendants of Delaware Indians who were members of the Delaware Nation of Indians as constituted at the time of the Treaty of October 3, 1818 (7 Stat. 188), and their name or the name of a lineal ancestor appears on any available cen-

sus roll or any other records acceptable to the Secretary. No person shall be eligible to be enrolled under this section who is not a citizen of the United States. Applications for enrollment must be filed with the Area Director of the Bureau of Indian Affairs, Muskogee, Oklahoma, or the Area Director of the Bureau of Indian Affairs, Anadarko, Oklahoma, on forms prescribed for that purpose. All applications filed shall be reviewed and a judgment of the eligibility of each applicant will be made and recommendation given in writing to the respective area directors by a committee composed of representatives of the two Oklahoma Delaware groups prior to submission of names to the Secretary of the Interior for acceptance on the distribution roll. The determination of the Secretary regarding the utilization of available rolls or records and the eligibility for enrollment of an applicant shall be final.

(Pub. L. 90–508, § 1, Sept. 21, 1968, 82 Stat. 861.)

§ 1182. Division between Cherokee Delawares and the Delaware Tribe of Indians of Western Oklahoma

There shall be withdrawn from the funds on deposit in the Treasury of the United States to the credit of the Delaware Nation that were appropriated by the Act of October 7, 1964 (78 Stat. 1033), and the interest accrued thereon, using the interest fund first, $7,000, which shall be divided equally between the Cherokee Delawares and the Delaware Tribe of Indians of Western Oklahoma, and shall be available for claims expenses incurred by the duly authorized personnel of the two tribal groups, as set forth in their joint resolution numbered 4–68 adopted on September 9, 1967.

(Pub. L. 90–508, § 2, Sept. 21, 1968, 82 Stat. 861.)

REFERENCES IN TEXT

Act of October 7, 1964, referred to in text, is act Oct. 7, 1964, Pub. L. 88–635, 78 Stat. 1033, known as the Supplemental Appropriation Act, 1965. That portion of the act which appropriated the funds referred to was not classified to the Code.

§ 1183. Equal share distribution

After the deduction of attorney fees and expenses, litigation expenses, all costs incident to the provisions of this subchapter, and to making the payments authorized by this subchapter, including the cost of roll preparation, which shall be paid by appropriate withdrawals from the judgment fund, the unexpended balance of the funds on deposit in the Treasury shall be distributed in equal shares to those persons whose names appear on the roll prepared in accordance with section 1181 of this title. No person shall be entitled to more than one per capita share of the funds.

(Pub. L. 90–508, § 3, Sept. 21, 1968, 82 Stat. 862.)

§ 1184. Heirs of deceased enrollees

The Secretary shall distribute a share payable to a living enrollee directly to such enrollee. The Secretary shall distribute the per capita share of a deceased enrollee to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary whose findings upon such proof shall be final and conclusive. Sums payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under a legal disability shall be paid in accordance with such procedures as the Secretary determines will best protect their interests.

(Pub. L. 90–508, § 4, Sept. 21, 1968, 82 Stat. 862.)

§ 1185. Tax exemption

The funds distributed under the provisions of this subchapter shall not be subject to Federal or State income tax.

(Pub. L. 90–508, § 5, Sept. 21, 1968, 82 Stat. 862.)

§ 1186. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this subchapter, including a deadline for filing enrollment applications.

(Pub. L. 90–508, § 6, Sept. 21, 1968, 82 Stat. 862.)

SUBCHAPTER LXI—CONFEDERATED TRIBES OF UMATILLA RESERVATION: DISTRIBUTION OF JUDGMENT FUND

§ 1191. Per capita distribution; trusts for minors and incompetents; payments to heirs or legatees

The entire unexpended balance of funds that were appropriated by the Act of May 13, 1966 (80 Stat. 141) to pay a judgment by the Indian Claims Commission entered in docket numbers 264, 264A, and 264B in favor of the Confederated Tribes of the Umatilla Indian Reservation, and the interest thereon, less litigation expenses, estimated costs of distribution, and $200,000 to be used as provided in section 1195 of this title, shall be distributed, per capita, in equal shares to all eligible members of the Confederated Tribes as defined in this subchapter under such terms and conditions as are authorized by the tribal governing body and approved by the Secretary of the Interior, including the establishment of trusts for minors and incompetents. Payments to heirs or legatees shall be made upon proof of death and inheritance satisfactory to the Secretary, whose findings shall be final and conclusive. Such per capita distribution shall be made in three installments of approximately equal amount, the first installment to be made as soon as possible after May 21, 1970, and the next two installments to be made at six-month intervals.

(Pub. L. 91–259, § 1, May 21, 1970, 84 Stat. 253.)

REFERENCES IN TEXT

Act of May 13, 1966, referred to in text, is act May 13, 1966, Pub. L. 89–426, 80 Stat. 141, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1192. Eligibility for per capita payments

The persons eligible to receive such per capita payments shall be all persons who were living on December 17, 1965, and whose names appear on any of the following:

(a) The membership roll of the Confederated Tribes as of June 15, 1957, as approved by the Bureau of Indian Affairs on January 10, 1958, or

(b) The supplemental membership roll as of April 12, 1960, approved by the Bureau of Indian Affairs on January 27, 1961, and also any other persons born after July 1, 1949, and living on or at any time between December 17, 1965, and May 21, 1970, who were either enrolled as of May 21, 1970, or became entitled to enrollment under section (b), article IV of the constitution and bylaws of the Confederated Tribes adopted November 4, 1949, as determined by the Secretary of the Interior or his authorized representative.

(Pub. L. 91–259, § 2, May 21, 1970, 84 Stat. 254.)

§ 1193. Status of funds pending distribution

Until distributed such funds shall remain tribal funds and the shares herein designated for the eligible members shall constitute inheritable property from and after December 17, 1965.

(Pub. L. 91–259, § 3, May 21, 1970, 84 Stat. 254.)

§ 1194. Per capita distributions as exempt from taxation

The per capita distributions of such funds shall not be subject to Federal or State income tax.

(Pub. L. 91–259, § 4, May 21, 1970, 84 Stat. 254.)

§ 1195. Disposition of funds withheld from per capita distribution

The $200,000 withheld from per capita distribution pursuant to section 1191 of this title shall be invested or placed in trust with an institutional trustee by the Secretary of the Interior, under terms and conditions approved by the tribal governing body. The income from the investment or trust, together with such invasions of the principal or trust corpus as the Secretary deems desirable, shall be used for the education of members of the tribe until such time as the tribal governing body, with the approval of the Secretary, determines that the funds should be used in some other manner.

(Pub. L. 91–259, § 5, May 21, 1970, 84 Stat. 254.)

SUBCHAPTER LXII—SIOUX TRIBE OF MONTANA: DISTRIBUTION OF JUDGMENT FUND

§ 1201. Per capita distributions to tribal members; attorney's fees, expenses, and other deductions; eligibility of members

The funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Sioux Tribe of the Fort Peck Reservation, Montana, in Indian Claims Commission Docket Numbered 279A and the interest thereon, after payment of attorney's fees and all appropriate expenses, and after deducting $50,000 to be used as provided in section 1205 of this title, and after deducting the estimated costs of distribution, shall be distributed per capita to each person born on or before, and living on, June 19, 1970, who is a citizen of the United States and duly enrolled, on a roll approved by the Secretary of the Interior, as a member of the Sioux Tribe of the Fort Peck Reservation, in accordance with eligibility requirements and procedures agreed upon by the Secretary of the Interior and the tribe, or its authorized representatives.

(Pub. L. 91–283, § 1, June 19, 1970, 84 Stat. 313.)

REFERENCES IN TEXT

Act of October 21, 1968, referred to in text, is act Oct. 21, 1968, Pub. L. 90–608, 82 Stat. 1190, known as the Supplemental Appropriation Act, 1969. Chapter XII of act Oct. 21, 1968, set out at 82 Stat. 1198, appropriated the funds referred to and was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1202. Per capita shares; reversion to tribe; use of reverted funds

The per capita shares shall be determined on the basis of the number of persons eligible for per capitas and the number of persons rejected for per capitas who have taken a timely appeal. The shares of those persons whose appeals are denied shall revert to the Sioux Tribe of the Fort Peck Reservation, Montana, to be expended for any purpose designated by the tribe and approved by the Secretary.

(Pub. L. 91–283, § 2, June 19, 1970, 84 Stat. 313.)

§ 1203. Protection of minors and persons under legal disability

Sums payable to enrollees or their heirs or legatees who are less than twenty-one 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.

(Pub. L. 91–283, § 3, June 19, 1970, 84 Stat. 313.)

§ 1204. Tax exemption

The funds distributed under the provisions of this subchapter shall not be subject to Federal or State income taxes.

(Pub. L. 91–283, § 4, June 19, 1970, 84 Stat. 313.)

§ 1205. Amount of agreed contribution to joint account for expenditure for official salaries and expenses of Fort Peck Tribes; discretionary per capita distributions

Upon agreement by the Fort Peck Sioux Tribe and the Fort Peck Assiniboine Tribe on the amount each agrees to contribute from any award to each tribe in Indian Claims Commission Docket No. 279A, the agreed contribution of the Fort Peck Sioux Tribe shall be withdrawn from the $50,000, and interest thereon, withheld from per capita distribution pursuant to section 1201 of this title, and credited to the joint account for expenditure pursuant to the Act of June 29, 1954 (68 Stat. 329): *Provided*, That upon request of the Fort Peck Sioux Tribe the Secretary of the Interior in his discretion may distribute all or part of the aforesaid $50,000 and interest thereon per capita to each person eligible under section 1201 of this title.

(Pub. L. 91–283, § 5, June 19, 1970, 84 Stat. 313.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Act of June 29, 1954, referred to in text, is act June 29, 1954, ch. 421, 68 Stat. 329, which was not classified to the Code.

SUBCHAPTER LXIII—TLINGIT AND HAIDA INDIANS OF ALASKA

§ 1211. Distribution of fund; authorized spending; tax exemption

The unexpended funds and interest thereon on deposit in the Treasury of the United States to the credit of and otherwise invested by the Secretary of the Interior for the account of the Tlingit and Haida Indians of Alaska which were appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case entitled. The Tlingit and Haida Indians of Alaska, et al. versus The United States, numbered 47900, after payment of attorney fees and expenses, may be advanced, expended, invested or used for any purpose and in any manner authorized by the Central Council of the Tlingit and Haida Indians of Alaska and approved by the Secretary of the Interior. Any of such funds that may be distributed under the provisions of this subchapter shall not be subject to Federal or State income taxes.

(Pub. L. 91–335, July 13, 1970, 84 Stat. 431.)

REFERENCES IN TEXT

Act of July 9, 1968, referred to in text, is act July 9, 1968, Pub. L. 90–392, 82 Stat. 307, known as the Second Supplemental Appropriation Act, 1968. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Court of Claims, referred to in text, and the Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 1212. Findings

The Congress finds and declares that—

(1) the United States has acknowledged the Central Council of Tlingit and Haida Indian Tribes of Alaska pursuant to the Act of June 19, 1935 (49 Stat. 388, as amended, commonly referred to as the ''Jurisdiction Act''), as a federally recognized Indian tribe;

(2) on October 21, 1993, the Secretary of the Interior published a list of federally recognized Indian tribes pursuant to part 83 of title 25 of the Code of Federal Regulations which omitted the Central Council of Tlingit and Haida Indian Tribes of Alaska;

(3) the Secretary does not have the authority to terminate the federally recognized status of an Indian tribe as determined by Congress;

(4) the Secretary may not administratively diminish the privileges and immunities of federally recognized Indian tribes without the consent of Congress; and

(5) the Central Council of Tlingit and Haida Indian Tribes of Alaska continues to be a federally recognized Indian tribe.

(Pub. L. 103–454, title II, § 202, Nov. 2, 1994, 108 Stat. 4792.)

REFERENCES IN TEXT

Act of June 19, 1935, referred to in par. (1), is act June 19, 1935, ch. 275, 49 Stat. 388, as amended, which is not classified to the Code.

SHORT TITLE

Section 201 of title II of Pub. L. 103–454 provided that: ''This title [enacting this section and sections 1213 to 1215 of this title] may be cited as the 'Tlingit and Haida Status Clarification Act'.''

§ 1213. Reaffirmation of tribal status

The Congress reaffirms and acknowledges that the Central Council of Tlingit and Haida Indian Tribes of Alaska is a federally recognized Indian tribe.

(Pub. L. 103–454, title II, § 203, Nov. 2, 1994, 108 Stat. 4792.)

§ 1214. Disclaimer

(a) In general

Nothing in sections 1212 to 1215 of this title shall be interpreted to diminish or interfere with the government-to-government relationship between the United States and other federally recognized Alaska Native tribes, nor to vest any power, authority, or jurisdiction in the Central Council of Tlingit and Haida Indian Tribes of Alaska over other federally recognized Alaska Native tribes.

(b) Constitution of Central Council of Tlingit and Haida Indian Tribes of Alaska

Nothing in sections 1212 to 1215 of this title shall be construed as codifying the Constitution of the Central Council of the Tlingit and Haida Indian Tribes of Alaska into Federal law.

(Pub. L. 103–454, title II, § 204, Nov. 2, 1994, 108 Stat. 4793.)

§ 1215. Prohibition against duplicative services

Other federally recognized tribes in Southeast Alaska shall have precedence over the Central Council of Tlingit and Haida Indian Tribes of Alaska in the award of a Federal compact, contract or grant to the extent that their service population overlaps with that of the Central Council of Tlingit and Haida Indian Tribes of Alaska. In no event shall dually enrolled members result in duplication of Federal service funding.

(Pub. L. 103–454, title II, § 205, Nov. 2, 1994, 108 Stat. 4793; Pub. L. 104–109, § 10, Feb. 12, 1996, 110 Stat. 765.)

AMENDMENTS

1996—Pub. L. 104–109 substituted ''Indian Tribes of Alaska.'' for ''Indian tribes of Alaska.''

SUBCHAPTER LXIV — CONFEDERATED TRIBES OF WEAS, PIANKASHAWS, PEORIAS, AND KASKASKIAS: DISTRIBUTION OF JUDGMENT FUND

§ 1221. Membership roll

(a) Preparation; eligibility for enrollment

The Secretary of the Interior shall prepare a roll of all persons who meet the following requirements: (1) they were born on or prior to and were living on July 31, 1970; (2) their names or the name of a lineal ancestor from whom they claim eligibility appears on (a) the final roll of the Peoria Tribe of Indians of Oklahoma, pursuant to the Act of August 2, 1956 (70 Stat. 937) [25 U.S.C. 821 et seq.], or (b) the January 1, 1937, census of the Peoria Tribe, or (c) the 1920 census of the Peoria Tribe, or (d) the Indian or Citizen Class lists pursuant to the Treaty of February 23, 1867 (15 Stat. 520), or (e) the Schedule of Persons or Families composing the United Tribes of Weas, Piankashaws, Peorias, and Kaskaskias, annexed to the Treaty of May 30, 1854.

(b) Applications; finality of determination

Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Muskogee, Oklahoma, in the manner and within the time limits prescribed for that purpose by the Secretary of the Interior. The determination of the Secretary regarding the eligibility of an applicant shall be final.

(Pub. L. 91–364, § 1, July 31, 1970, 84 Stat. 688.)

REFERENCES IN TEXT

Act of August 2, 1956, referred to in subsec. (a), is act Aug. 2, 1956, ch. 881, 70 Stat. 937, which was classified generally to subchapter XXXVI (§ 821 et seq.) of this title and was repealed by Pub. L. 95–281, § 1(b)(2), May 15, 1978, 92 Stat. 246.

§ 1222. Disposition of funds: improvement and maintenance of Peoria Indian Cemetery; distribution of balance in equal shares

After the deduction of attorneys' fees and expenses and the administrative costs involved in the preparation of the roll and the distribution of the individual shares, the remaining funds on deposit in the United States Treasury to the credit of the Peoria Tribe on behalf of the Wea Nation that were appropriated by the Acts of May 13, 1966 (80 Stat. 141, 150), and June 19, 1968 (82 Stat. 239), in satisfaction of judgments that were obtained by the Peoria Tribe on behalf of the Wea Nation in Indian Claims Commission dockets numbered 314, amended, and 314–E, respectively, and the funds to the credit of the Peoria Tribe of Oklahoma on behalf of the Wea, Piankashaw, Peoria, and Kaskaskia Nations that were appropriated by the Act of July 22, 1969 (83 Stat. 49, 62), in satisfaction of a judgment in docket numbered 65, shall be disposed of in the following manner: The Secretary shall pay $3,000 of such funds to the Peoria Tribe of Oklahoma for improvement and maintenance of the Peoria Indian Cemetery located approximately ten miles northeast of Miami, Oklahoma, and shall distribute the balance of such funds in equal shares to those persons whose names appear on the roll prepared pursuant to section 1221 of this title.

(Pub. L. 91–364, § 2, July 31, 1970, 84 Stat. 688.)

REFERENCES IN TEXT

Act of May 13, 1966, referred to in text, is act May 13, 1966, Pub. L. 89–426, 80 Stat. 141, known as the Second Supplemental Appropriation Act, 1966. Chapter XI of the act set out at 80 Stat. 150, appropriated the funds referred to and was not classified to the Code.

Act of June 19, 1968, referred to in text, is act June 19, 1968, Pub. L. 90–352, 82 Stat. 239, which was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Act of July 22, 1969, referred to in text, is act July 22, 1969, Pub. L. 91–47, 83 Stat. 49, known as the Second Supplemental Appropriation Act, 1969. Chapter XIII of the act set out at 83 Stat. 62, appropriated the funds referred to and was not classified to the Code.

§ 1223. Distribution of shares

(a) Payments to enrollees, next of kin, or legatees

Except as provided is subsection (b) of this section, the Secretary shall distribute a share payable to a living enrollee directly to such enrollee and the Secretary shall distribute a per capita share of a deceased enrollee directly to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Payments to minors or persons under legal disability

A share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines will adequately protect the best interest of such person.

(Pub. L. 91–364, § 3, July 31, 1970, 84 Stat. 688.)

§ 1224. Subsequent judgment funds; distribution; preparation of current membership roll

Funds that may hereafter be deposited in the United States Treasury to the credit of the Peoria Tribe on behalf of the Wea, Kaskaskia, Piankashaw, or Peoria Nation, to pay any judgment arising out of proceedings presently pending before the Indian Claims Commission in dockets numbered 99, 289, 313, 314–A, B, C, and D, and 338 and the interest accrued thereon, after payment of attorneys' fees and expenses and all costs incident to bringing the roll current as provided is[1] this section and distributing the shares, shall be distributed on a per capita basis in accordance with section 1223 of this title to persons whose names appear on the roll prepared under section 1221 of this title, after the roll has been brought current to the date the funds are appropriated by adding names of persons to the roll who were born after July 31, 1970, but on or prior to and living on the date the funds are appropriated, and by deleting names of enrollees who died between July 31, 1970, and the date the funds are appropriated.

(Pub. L. 91–364, § 4, July 31, 1970, 84 Stat. 688.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

[1] So in original.

§ 1225. Tax exemption

The funds distributed under the provisions of this subchapter shall not be subject to Federal or State income taxes.

(Pub. L. 91–364, § 5, July 31, 1970, 84 Stat. 689.)

§ 1226. Shares not distributed within two years; unexpended funds; reversion; bar of claims

Any per capita share, whether payable to a living enrollee or to the heirs or legatees of a deceased enrollee, which the Secretary of the Interior is unable to deliver within two years after the date the check is issued, and all unexpended tribal and judgment funds set aside for tribal roll preparation and distribution, shall revert to the Peoria Tribe, and all claims for such per capita shall thereafter be barred forever.

(Pub. L. 91–364, § 6, July 31, 1970, 84 Stat. 689.)

§ 1227. Rules and regulations

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

(Pub. L. 91–364, § 7, July 31, 1970, 84 Stat. 689.)

SUBCHAPTER LXV—CHEMEHUEVI TRIBE: DISTRIBUTION OF JUDGMENT FUND

§ 1231. Persons eligible for equal share payments

The funds on deposit in the Treasury of the United States to the credit of the Chemehuevi Tribe of Indians which were appropriated (by the Act entitled ''An Act making supplemental appropriations for the fiscal year ending June 30, 1965, and for other purposes'', approved April 30, 1965 (79 Stat. 81)), to pay the judgment awarded by the Indian Claims Commission (dockets numbered 351 and 351–A), together with interest thereon, shall be distributed by the Secretary of the Interior (hereafter in this subchapter referred to as ''Secretary'') in equal shares to those persons whose names appear on the roll prepared in accordance with section 1232 of this title.

(Pub. L. 91–417, § 1, Sept. 25, 1970, 84 Stat. 868.)

REFERENCES IN TEXT

The Act entitled ''An Act making supplemental appropriations for the fiscal year ending June 30, 1965, and for other purposes'', approved April 30, 1965 (79 Stat. 81), referred to in text, is Pub. L. 89–16, Apr. 30, 1965, 79 Stat. 81. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1232. Enrollment

(a) Preparation of roll; applications; finality of determination

(1) The Secretary shall prepare a roll of all persons—

(A) who were born on or prior to and living on September 25, 1970;

(B) who are lineal descendants of members of the Chemehuevi Tribe as it existed in 1860; and

(C) whose name or the name of a lineal ancestor appears as a Chemehuevi Indian on any available census roll or other record or evidence acceptable to the Secretary.

(2) Applications for enrollment must be filed in the manner and within the time limits prescribed by the Secretary for that purpose. The determination of the Secretary regarding the utilization of available rolls or records and the eligibility for enrollment of an applicant shall be final.

(b) Dual awards

Any person who has applied for and has been determined as eligible to share in the awards granted by the Indian Claims Commission in dockets numbered 88, 330, and 330–A, to the Southern Paiute Indian Nation or in dockets numbered 31, 37, 80, 80–D, 176, 215, 333, and 347, to ''Certain Indians of California'' shall not be entitled to share in the awards granted under this subchapter.

(Pub. L. 91–417, § 2, Sept. 25, 1970, 84 Stat. 868.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in subsec. (b), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1233. Payments to enrollees; per capita shares to heirs or legatees; trusts and other procedures for protection of minors and persons under legal disability

The Secretary shall distribute a share payable to a living enrollee directly to such enrollee. The Secretary shall distribute the per capita share of a deceased enrollee to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary. Sums payable to enrollees or their heirs or legatees who are less than twenty-one 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 determines to be appropriate to protect their best interests.

(Pub. L. 91–417, § 3, Sept. 25, 1970, 84 Stat. 868.)

§ 1234. Tax exemption

No part of any funds distributed under this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 91–417, § 4, Sept. 25, 1970, 84 Stat. 868.)

§ 1235. Identity of eligibility roll and membership roll

The roll prepared by the Secretary of the Interior pursuant to this subchapter shall not be deemed to constitute the membership roll of the Chemehuevi Tribe.

(Pub. L. 91–417, § 5, Sept. 25, 1970, 84 Stat. 868.)

§ 1236. Costs

The Secretary may make appropriate withdrawals from the judgment funds and interest thereon, using interest funds first, to pay costs incident to carrying out the provisions of this subchapter.

(Pub. L. 91–417, § 6, Sept. 25, 1970, 84 Stat. 868.)

SUBCHAPTER LXVI—PEMBINA BAND OF CHIPPEWA INDIANS: DISTRIBUTION OF JUDGMENT FUND

§ 1241. Distribution of funds; attorney fees and expenses

The funds appropriated by the Act of June 9, 1964 (78 Stat. 204, 213), to pay a judgment to the Pembina Band of Chippewa Indians in Indian Claims Commission dockets numbered 18–A, 113, and 191, together with the interest thereon, after payment of attorney fees and litigation expenses, and such expenses as may be necessary in carrying out the provisions of this subchapter, shall be distributed as provided herein.

(Pub. L. 92–59, § 1, July 29, 1971, 85 Stat. 158.)

REFERENCES IN TEXT

Act of June 9, 1964, referred to in text, is act June 9, 1964, Pub. L. 88–317, 78 Stat. 204, known as the Deficiency Appropriation Act, 1964. Chapter XI of the act set out at 78 Stat. 213, appropriated the funds referred to and was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1242. Membership rolls; preparation; eligibility; excluded persons

The Secretary of the Interior shall prepare a roll of all persons born on or prior to and living on July 29, 1971, who are lineal descendants of members of the Pembina Band as it was constituted in 1863, except that persons in the following categories shall not be so enrolled:

a. those who are not citizens of the United States;

b. those who are members of the Red Lake Band of Chippewa Indians; and

c. those who participated in the Mississippi, Pillager, and Lake Winnibigoshish Chippewa Band awards under the provisions of sections 594 and 594a of this title.

(Pub. L. 92–59, § 2, July 29, 1971, 85 Stat. 158).

§ 1243. Enrollment applications; filing; finality of determination

Applications for enrollment shall be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota, in the manner and within the time limits prescribed for that purpose. The determination of the Secretary of the Interior regarding the utilization of available rolls and records and the eligibility for enrollment of an applicant shall be final.

(Pub. L. 92–59, § 3, July 29, 1971, 85 Stat. 158.)

§ 1244. Apportionment of funds; members and descendants of Minnesota Chippewa Tribe, the Turtle Mountain Band of Chippewas of North Dakota, the Chippewa-Cree Tribe of Montana

In developing the roll of Pembina descendants, the Secretary of the Interior shall determine which enrollees are members of the Minnesota Chippewa Tribe, the Turtle Mountain Band of Chippewas of North Dakota, or the Chippewa-Cree Tribe of Montana, and subsequent to the establishment of the descendancy roll shall apportion funds to the three cited tribes on the basis of the numbers of descendants having membership with these tribes. Fund not apportioned in this manner shall be distributed in equal shares to those enrolled descendants who are not members of the three cited tribes.

(Pub. L. 92–59, § 4, July 29, 1971, 85 Stat. 158.)

§ 1245. Use of funds apportioned; approval by Secretary on receipt of recommendations from certain tribal organizations

The funds apportioned to the Minnesota Chippewa Tribe, the Turtle Mountain Band, and the Chippewa-Cree Tribe may be advanced, expended, invested, or reinvested for any purpose authorized by the respective tribal governing bodies and approved by the Secretary of the Interior: *Provided*, That the governing body of the Minnesota Chippewa Tribe shall act in concert with the General Council of the Pembina Band of Chippewa Indians of the White Earth Reservation for the purpose of making recommendations to the Secretary; *And provided further*, That the Pembina descendants within the Turtle Mountain Band shall be authorized to establish pursuant to regulations set by the Secretary the Pembina Descendants Committee and that the tribal governing body shall be required to work in concert with such committee for the purpose of making recommendations to the Secretary and only those members of the three cited tribes who are enrolled as Pembina descendants under the provisions of this subchapter shall be permitted to share in any per capita distribution of the funds accruing to the tribes.

(Pub. L. 92–59, § 5, July 29, 1971, 85 Stat. 158.)

§ 1246. Tax exemption

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 92–59, § 6, July 29, 1971, 85 Stat. 159.)

§ 1247. Payments to enrollees, heirs, or legatees; protection of the interests of minors and persons under legal disability

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 twenty-one years of age or who are under 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.

(Pub. L. 92–59, § 7, July 29, 1971, 85 Stat. 159.)

§ 1248. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to effect the provisions of this subchapter, including the establishment of deadlines.

(Pub. L. 92–59, § 8, July 29, 1971, 85 Stat. 159.)

SUBCHAPTER LXVII—CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, MONTANA: DISTRIBUTION OF JUDGMENT FUND

§ 1251. Distribution of funds; attorney fees and expenses

The funds appropriated to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in satisfaction of judgments awarded in paragraphs 7 and 10 in docket numbered 50233, United States Court of Claims, including interest thereon, after payment of attorneys fees and other litigation expenses, shall be used as follows: 85 per centum thereof shall be distributed in equal per capita shares to each person who is enrolled or entitled to be enrolled on March 17, 1972; the remainder may be advanced, expended, invested or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 92–253, § 1, Mar. 17, 1972, 86 Stat. 64.)

REFERENCES IN TEXT

The United States Court of Claims, referred to in text, and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 1252. Tax exemption

Any part of such funds that may be distributed to members of the Tribes shall not be subject to Federal or State income tax.

(Pub. L. 92–253, § 2, Mar. 17, 1972, 86 Stat. 64.)

REFERENCES IN TEXT

Such funds, referred to in text, are the funds provided for in this subchapter.

§ 1253. Payments to minors

Sums payable under this subchapter 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.

(Pub. L. 92–253, § 3, Mar. 17, 1972, 86 Stat. 64.)

SUBCHAPTER LXVIII—BLACKFEET AND GROS VENTRE TRIBES: DISTRIBUTION OF JUDGMENT FUND

§ 1261. Distribution of funds; attorney fees and expenses

The funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Blackfeet Tribe of the Blackfeet Indian Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana, in Indian Claims Commission docket numbered 279–A, together with interest thereon, after payment of attorney fees, litigation expenses, and the cost of carrying out the provisions of this subchapter, shall be divided by the Secretary of the Interior on the basis of 73.2 per centum to the Blackfeet Tribe and 26.8 per centum to the Gros Ventre Tribe.

(Pub. L. 92–254, § 1, Mar. 18, 1972, 86 Stat. 64.)

REFERENCES IN TEXT

Act of October 21, 1968, referred to in text, is act Oct. 21, 1968, Pub. L. 90–608, 82 Stat. 1190, known as the Supplemental Appropriation Act, 1969. Chapter XII of the act set out at 82 Stat. 1198, appropriated the funds referred to and was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1262. Membership roll; per capita distribution; minors

The sum of $5,671,156 from the funds credited to the Blackfeet Tribe under section 1261 of this title shall be distributed per capita to each person whose name appears on or is entitled to appear on the membership roll of the Blackfeet Tribe, and who was born on or prior to and is living on March 18, 1972. The sum of $2,100,000 from the funds credited to the Gros Ventre Tribe under section 1261 of this title shall be distributed per capita to all members of the Fort Belknap Community who were born on or prior to and are living on March 18, 1972, and (a) whose names appear on the February 5, 1937, payment roll of the Gros Ventre Tribe of the Fort Belknap Reservation, or (b) who are descended from a person whose name appears on said roll, if such member possesses a greater degree of Gros Ventre blood than Assiniboine blood. If such member possesses equal quantums of Gros Ventre and Assiniboine blood he may elect to participate in the per capita distribution authorized by this section, in which event he shall not be eligible to participate in any per capita distribution of an Assiniboine judgment. A share or interest payable to enrollees or their heirs or legatees who are less than eighteen years of age or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines appropriate to protect the best interest of such persons.

(Pub. L. 92–254, § 2, Mar. 18, 1972, 86 Stat. 64.)

§ 1263. Use of funds; authorization and approval

The balance of each tribe's share of the funds may be advanced, expended, invested, or reinvested for any purposes that are authorized by the respective tribal governing bodies and approved by the Secretary of the Interior.

(Pub. L. 92–254, § 3, Mar. 18, 1972, 86 Stat. 65.)

§ 1264. Tax exemption; Social Security eligibility

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act [42 U.S.C. 301 et seq.]. The provision of this section regarding eligibility for as-

sistance under the Social Security Act is enacted in recognition of unique circumstances applicable to the tribes involved, and shall not be regarded as a precedent or as a general policy for application to other tribes.

(Pub. L. 92–254, § 4, Mar. 18, 1972, 86 Stat. 65.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified principally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§ 1265. Rules and regulations

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

(Pub. L. 92–254, § 5, Mar. 18, 1972, 86 Stat. 65.)

SUBCHAPTER LXIX—JICARILLA APACHE TRIBE: DISTRIBUTION OF JUDGMENT FUND

§ 1271. Disposition of judgment funds

The funds appropriated to pay a judgment to the Jicarilla Apache Tribe in Indian Claims Commission docket numbered 22–A, together with the interest thereon, after payment of attorney fees and other litigation expenses, may be advanced, expended, invested, or reinvested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 92–295, § 1, May 16, 1972, 86 Stat. 139.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1272. Protection of minors and persons under legal disability

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.

(Pub. L. 92–295, § 2, May 16, 1972, 86 Stat. 139.)

§ 1273. Tax exemption

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 92–295, § 3, May 16, 1972, 86 Stat. 139.)

§ 1274. Rules and regulations

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

(Pub. L. 92–295, § 4, May 16, 1972, 86 Stat. 139.)

SUBCHAPTER LXX—HAVASUPAI TRIBE OF ARIZONA: DISTRIBUTION OF JUDGMENT FUND

§ 1281. Disposition of funds

The funds appropriated by the Act of December 26, 1969 (83 Stat. 447), to pay a judgment to the Havasupai Tribe in Indian Claims Commission docket numbered 91, together with interest thereon, after payment of attorney fees and litigation expenses, may be advanced, expended, invested, or reinvested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior.

(Pub. L. 92–438, § 1, Sept. 29, 1972, 86 Stat. 741.)

REFERENCES IN TEXT

Act of December 26, 1969, referred to in text, is act Dec. 26, 1969, Pub. L. 91–166, 83 Stat. 447, known as the Supplemental Appropriation Act, 1970. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1282. Tax exemption

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 92–438, § 2, Sept. 29, 1972, 86 Stat. 741.)

§ 1283. Payments to adults; trusts for minors and persons under legal disability

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 trusts, as the Secretary determines appropriate to protect the best interests of such persons.

(Pub. L. 92–438, § 3, Sept. 29, 1972, 86 Stat. 741.)

§ 1284. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to effect the provisions of this subchapter.

(Pub. L. 92–438, § 4, Sept. 29, 1972, 86 Stat. 741.)

SUBCHAPTER LXXI—DELAWARE TRIBE AND ABSENTEE DELAWARE TRIBE OF WESTERN OKLAHOMA: DISTRIBUTION OF JUDGMENT FUND

§ 1291. Disposition of funds

The funds appropriated by the Act of December 26, 1969 (83 Stat. 447, 453), to pay a judgment in favor of the petitioners, the Delaware Tribe of Indians in docket 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in docket 72, together with any interest thereon, after payment of attorney fees, litigation expenses, and such expenses as may be necessary in effecting the provisions of this subchapter, shall be distributed as provided herein.

(Pub. L. 92–456, § 1, Oct. 3, 1972, 86 Stat. 762.)

REFERENCES IN TEXT

Act of December 26, 1969, referred to in text, is act Dec. 26, 1969, Pub. L. 91–166, 83 Stat. 447, known as the Supplemental Appropriation Act, 1970. Chapter IX of the act, set out at 83 Stat. 453, appropriated the funds referred to and was not classified to the Code.

§ 1292. Membership roll requirements

The Secretary of the Interior shall prepare a roll of all persons who meet the following requirements:

(a) they were born on or prior to and were living on October 3, 1972; and

(b) they are citizens of the United States; and

(c)(1) their name or the name of a lineal ancestor appears on the Delaware Indian per capita payroll approved by the Secretary on April 20, 1906, or

(2) their name or the name of a lineal ancestor is on or is eligible to be on the constructed base census roll as of 1940 of the Absentee Delaware Tribe of Western Oklahoma, approved by the Secretary.

(Pub. L. 92–456, § 2, Oct. 3, 1972, 86 Stat. 762.)

§ 1293. Applications for enrollment; filing date and place; notice and appeal of rejections; review

All applications for enrollment must be filed either with the Area Director of the Bureau of Indian Affairs, Muskogee, Oklahoma, or with the Area Director of the Bureau of Indian Affairs, Anadarko, Oklahoma, on or before the last day of the fourth full month following October 3, 1972, and no application shall be accepted thereafter. The Secretary of the Interior shall give a rejection notice within sixty days after receipt of an application if the applicant is ineligible for enrollment. An appeal from a rejected application must be filed with the Area Director not later than thirty days from receipt of the notice of rejection. The Secretary shall make a final determination on each appeal not later than sixty days from the date it is filed. Each application and each appeal filed with the Area Director shall be reviewed by a committee composed of representatives of the two Oklahoma Delaware groups prior to submission of the application or appeal to the Secretary, and the committee shall advise the Area Director in writing of its judgment regarding the eligibility of the applicant.

(Pub. L. 92–456, § 3, Oct. 3, 1972, 86 Stat. 762.)

§ 1294. Apportionment, credit, and disposition of funds

(a) Authority of Secretary

The Secretary of the Interior shall apportion to the Absentee Delaware Tribe of Western Oklahoma, as presently constituted, so much of the judgment fund and accrued interest as the ratio of the persons enrolled pursuant to section 1292(c)(2) of this title bears to the total number of persons enrolled pursuant to section 1292 of this title. The funds so apportioned to the Absentee Delaware Tribe of Western Oklahoma shall be placed to the credit of the tribe in the United States Treasury and shall be used in the following manner: 90 per centum of such funds shall be distributed in equal shares to each person enrolled pursuant to section 1292(c)(2) of this title, and 10 per centum shall remain to the credit of the tribe in the United States Treasury, and may be advanced, expended, invested, or reinvested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior.

(b) Manner of payment

The funds not apportioned to the Absentee Delaware Tribe of Western Oklahoma shall be placed to the credit of the Delaware Tribe of Indians in the United States Treasury and shall be used in the following manner: 90 per centum of such funds shall be distributed in equal shares to each person enrolled pursuant to section 1292(c)(1) of this title, and 10 per centum shall remain to the credit of the tribe in the United States Treasury and may be advanced, expended, invested, or reinvested for any purpose that is authorized by the tribal governing body: *Provided*, That the Secretary of the Interior shall not approve the use of the funds remaining to the credit of the tribe until the tribe has organized a legal entity which in the judgment of the Secretary adequately protects the interests of its members.

(Pub. L. 92–456, § 4, Oct. 3, 1972, 86 Stat. 762.)

§ 1295. Payments to adults; trusts for minors and persons under legal disability

Sums payable to living enrollees age eighteen or older or to heirs or legatees of deceased enrollees age eighteen or older shall be paid directly to such persons. Sums payable to enrollees or their heirs or legatees who are under age eighteen or who are under legal disability other than minority 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.

(Pub. L. 92–456, § 5, Oct. 3, 1972, 86 Stat. 763.)

§ 1296. Income tax exemption

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 92–456, § 6, Oct. 3, 1972, 86 Stat. 763.)

§ 1297. Rules and regulations

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

(Pub. L. 92–456, § 7, Oct. 3, 1972, 86 Stat. 763.)

SUBCHAPTER LXXII—YAVAPAI APACHE TRIBE OF ARIZONA: DISTRIBUTION OF JUDGMENT FUND

§ 1300. Distribution of funds; attorney fees and expenses

The funds appropriated by the Act of July 22, 1969 (83 Stat. 49, 62), to pay a judgment to the Yavapai Indians in Indian Claims Commission dockets numbered 22–E and 22–F, together with any interest thereon, after payment of attorney fees and litigation expenses and the costs of carrying out the provisions of this subchapter, shall be distributed as provided in such sections.

(Pub. L. 92–461, § 1, Oct. 6, 1972, 86 Stat. 768.)

REFERENCES IN TEXT

Act of July 22, 1969, referred to in text, is act July 22, 1969, Pub. L. 91–47, 83 Stat. 49, known as the Second

Supplemental Appropriation Act, 1969. Chapter XIII of the act, set out at 83 Stat. 62, appropriated the funds referred to and was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1300a. Percentage of funds for Payson Indian Band

The Secretary of the Interior shall set aside for the benefit of the Payson Indian Band, at Payson, Arizona, 3.5 per centum of the net judgment funds described in section 1300 of this title, which shall be disposed of pursuant to section 1300a–2 of this title.

(Pub. L. 92–461, § 2, Oct. 6, 1972, 86 Stat. 769.)

§ 1300a–1. Membership roll; preparation; eligibility for enrollment; verification; approval

For the purposes of apportioning the funds, the Yavapai Apache Indian Community of the Camp Verde Reservation, the Fort McDowell Mohave-Apache Community, and the Yavapai-Prescott Community shall prepare rolls of all persons who were born on or prior to and living on October 6, 1972, and who are enrolled or entitled to be enrolled in accordance with the respective tribal constitutions or articles of association, as the case may be, in effect on April 1, 1972. The Secretary of the Interior shall verify and approve the rolls.

(Pub. L. 92–461, § 3, Oct. 6, 1972, 86 Stat. 769.)

§ 1300a–2. Apportionment of funds; advances, expenditures, investments, or reinvestments; utilization of funds for Payson Band

Upon completion and approval of the rolls as provided in section 1300a–1 of this title, the balance of the funds not set aside pursuant to section 1300a of this title shall be apportioned among the cited groups in section 1300a–1 of this title on the basis of the number of enrollees in each group. The funds so apportioned shall be redeposited in the Treasury of the United States to the credit of the respective groups and may be advanced, expended, invested, or reinvested in any manner authorized by the governing bodies and approved by the Secretary. All funds so accruing to the Payson Band pursuant to section 1300a of this title shall be utilized pursuant to a plan agreed upon between the governing body elected by the Payson Indian community or by the members thereof at a meeting called in accordance with the rules prescribed by the Secretary of the Interior.

(Pub. L. 92–461, § 4, Oct. 6, 1972, 86 Stat. 769.)

§ 1300a–3. Tax exemption; trusts and other procedures for protection of minors and persons under legal disability

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes. Sums payable to enrollees or 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 determines appropriate to protect the best interests of such persons.

(Pub. L. 92–461, § 5, Oct. 6, 1972, 86 Stat. 769.)

§ 1300a–4. Rules and regulations

The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this subchapter.

(Pub. L. 92–461, § 6, Oct. 6, 1972, 86 Stat. 769.)

SUBCHAPTER LXXIII—KICKAPOO INDIANS OF KANSAS AND OKLAHOMA: DISTRIBUTION OF JUDGMENT FUND

§ 1300b. Disposition of judgment funds; division of funds on basis of tribal membership rolls; net tribal credits

The funds on deposit in the Treasury of the United States to the credit of the Kickapoo Indians of Kansas and Oklahoma to pay judgments by the Indian Claims Commission in dockets 316, 316–A, 317, 145, and 193, together with interest thereon, after payment of attorney fees and litigation expenses, shall be divided on the basis of membership of the respective tribes current as of October 6, 1972. For the purpose of adjusting the offsets allowed in docket 316, the Secretary of the Interior shall use the gross award (land value) as a basis for his computation, deduct therefrom the consideration paid, the offsets expended for the Kickapoo Tribe prior to its separation into two tribal entities, attorney fees and litigation expenses, and, after making the division of the balance as provided herein, shall deduct $44,759.45 from the proportionate share of the Kickapoo Tribe of Kansas and $118,661.24 from the proportionate share of the Kickapoo Tribe of Oklahoma. The balances remaining shall be the net amount to be placed to the credit of the respective tribes.

(Pub. L. 92–467, § 1, Oct. 6, 1972, 86 Stat. 781.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1300b–1. Distribution of shares

(a) Per capita shares to tribal members

The funds divided and credited under section 1300b of this title, and the funds appropriated to pay a judgment recovered by the Kickapoo Indians of Oklahoma in docket numbered 318, including the interest thereon, after the payment of attorney fees and other litigation expenses, shall be used as follows: 75 per centum shall be distributed in equal per capita shares to each person whose name appears on or is entitled to appear on the membership roll of the Kickapoo Tribe of Oklahoma and 90 per centum shall be distributed in equal per capita shares to each person whose name appears on or is entitled to appear on the membership roll of the Kickapoo Tribe of Kansas if such person was born on or prior to and is living on October 6, 1972.

(b) Use of balance for advances, etc.

The balance of each tribe's share of the funds may be advanced, expended, invested, or reinvested for any purposes that are authorized by the tribal governing bodies and approved by the Secretary of the Interior.

(Pub. L. 92–467, § 2, Oct. 6, 1972, 86 Stat. 781.)

§ 1300b–2. Approval of plans for use of money after submission to Congressional committees

The Secretary of the Interior shall approve no plans for the use of the money specified in section 1300b–1(b) of this title for the Kickapoo Tribes of Kansas and Oklahoma until at least thirty days after the plans have been submitted by the Secretary to the Committees on Interior and Insular Affairs of the Senate and House of Representatives.

(Pub. L. 92–467, § 3, Oct. 6, 1972, 86 Stat. 781.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4, Ninety-fifth Congress (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977. Section 105 of Senate Resolution No. 4 established a temporary Select Committee on Indian Affairs having jurisdiction over matters relating to Indian affairs (such matters previously having been within the jurisdiction of the Committee on Interior and Insular Affairs). Senate Resolution No. 127, June 6, 1984, Ninety-eighth Congress, established the Select Committee on Indian Affairs as a permanent committee of the Senate, and section 25 of Senate Resolution No. 71, Feb. 25, 1993, One Hundred Third Congress, redesignated the Select Committee on Indian Affairs as the Committee on Indian Affairs.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress. Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 1300b–3. Per capita payments; trusts and other procedures for protection of minors and persons under legal disability

Any sums payable per capita to persons who are less than twenty-one 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.

(Pub. L. 92–467, § 4, Oct. 6, 1972, 86 Stat. 781.)

§ 1300b–4. Tax exemption

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 92–467, § 5, Oct. 6, 1972, 86 Stat. 781.)

§ 1300b–5. Rules and regulations

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

(Pub. L. 92–467, § 6, Oct. 6, 1972, 86 Stat. 781.)

SUBCHAPTER LXXIII–A—TEXAS BAND OF KICKAPOO INDIANS

§ 1300b–11. Congressional findings and declaration of policy

(a) Findings

Congress finds that the Texas Band of Kickapoo Indians is a subgroup of the Kickapoo Tribe of Oklahoma; that many years ago, the Band was forced to migrate from its ancestral lands to what is now the State of Texas and the nation of Mexico; that, although many members of the band[1] meet the requirements for United States citizenship, some of them cannot prove that they are United States citizens; that, although the Band resides in the State of Texas, it owns no land there; that, because the Band owns no land in Texas, members of the Band are considered ineligible for services which the United States provides to other Indians who are members of federally recognized tribes because of their status as Indians except when the members of the Band are on or near the reservation of the Kickapoo Tribe of Oklahoma; that members of the Band live under conditions that pose serious threats to their health; and that, because their culture is derived from three different cultures, they have unique needs including, especially, educational needs.

(b) Declarations

Congress therefore declares that the Band should be recognized by the United States; that the right of the members of the Band to pass and repass the borders of the United States should be clarified; that services which the United States provides to Indians because of their status as Indians should be provided to members of the Band in Maverick County, Texas; and, that land in the State of Texas should be taken in trust by the United States for the benefit of the Band.

(Pub. L. 97–429, § 2, Jan. 8, 1983, 96 Stat. 2269.)

SHORT TITLE

Section 1 of Pub. L. 97–429 provided: ''That this Act [enacting this subchapter] may be cited as the 'Texas Band of Kickapoo Act'.''

§ 1300b–12. Definitions

For purposes of this subchapter—

(a) ''Band'' means the Texas Band of Kickapoo Indians, a subgroup of the Kickapoo Tribe of Oklahoma;

(b) ''Tribe'' means the Kickapoo Tribe of Oklahoma; and

(c) ''Secretary'' means the Secretary of the Interior.

(Pub. L. 97–429, § 3, Jan. 8, 1983, 96 Stat. 2269.)

§ 1300b–13. Band roll

(a) Establishment; publication in Federal Register

Within one year of January 8, 1983, the Secretary shall, after consultation with the Tribe, compile a roll of those members of the Tribe who possess Kickapoo blood and who are also

[1] So in original. Probably should be capitalized.

members of the Band. When said roll is complete, the Secretary shall immediately publish notice in the Federal Register stating that the roll has been completed. The Secretary shall ensure that the roll, once completed, is maintained and that it is current.

(b) Report to Congress

If the Secretary does not compile the roll within the period prescribed in subsection (a) of this section, he shall submit a report to Congress setting forth the reasons he did not do so.

(c) Citizenship for applicants

For a period of five years after the publication of the Federal Register notice required under subsection (a) of this section, any member of the Band whose name appears on the roll compiled by the Secretary, may, at his option, apply for United States citizenship. Such application shall be made to the Immigration and Naturalization Service and, upon receipt of the application, citizenship shall promptly be granted to the applicant.

(d) Border crossing, living and working rights

Notwithstanding the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], all members of the Band shall be entitled to freely pass and repass the borders of the United States and to live and work in the United States.

(Pub. L. 97–429, § 4, Jan. 8, 1983, 96 Stat. 2269.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (d), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 1300b–14. Land acquisition

(a) Statutory provisions applicable

The Act of June 18, 1934 (48 Stat. 984) [25 U.S.C. 461 et seq.], is hereby made applicable to the Band: *Provided*, *however*, That the Secretary is only authorized to exercise his authority under section 5 of that Act [25 U.S.C. 465] with respect to lands located in Maverick County, Texas.

(b) Authority of Secretary

The Secretary is authorized and directed to accept no more than one hundred acres of land in Maverick County, Texas which shall be offered for the benefit of the Band with the approval of the Tribe. Nothing in this subsection shall be construed as limiting the authority of the Secretary under section 5 of the Act of June 18, 1934 (48 Stat. 985) [25 U.S.C. 465].

(Pub. L. 97–429, § 5, Jan. 8, 1983, 96 Stat. 2270.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300b–15. Jurisdiction

The State of Texas shall exercise jurisdiction over civil causes of action and criminal offenses arising on the Band's trust lands in accordance with section 1360 of title 28 and section 1162 of title 18 as if it had assumed jurisdiction pursuant to sections 1321 and 1322 of this title. The provisions of section 1323 of this title, shall be applicable and available to the State of Texas.

(Pub. L. 97–429, § 6, Jan. 8, 1983, 96 Stat. 2270.)

§ 1300b–16. Provision of Federal Indian services

(a) Eligibility for Federal Indian services

Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, the Band and its members in Maverick County, Texas shall be eligible for such programs and services without regard to the existence of a reservation, the residence of members of the Band on or near a reservation, or the compilation of the roll pursuant to section 1300b–13(a) of this title.

(b) Cooperation with Mexican Government and joint funding agreements for meeting special agricultural needs of the Band

In providing services pursuant to subsection (a) of this section, the Secretary and the head of each department and agency shall consult and cooperate with appropriate officials or agencies of the Mexican Government to the greatest extent possible to ensure that such services meet the special tricultural needs of the Band and its members. Such consultation and cooperation may include, whenever practicable, joint funding agreements between such agency or department of the United States and the appropriate agencies and officials of the Mexican Government.

(Pub. L. 97–429, § 7, Jan. 8, 1983, 96 Stat. 2270.)

SUBCHAPTER LXXIV—YANKTON SIOUX TRIBE: DISTRIBUTION OF JUDGMENT FUND

§ 1300c. Distribution of funds; attorney fees and expenses

The funds appropriated by the Act of July 22, 1969 (83 Stat. 49), to pay a judgment to the Yankton Sioux Tribe in Indian Claims Commission docket numbered 332–A, together with the interest thereon, after payment of attorney fees and litigation expenses, and such other expenses as may be necessary in effecting the provisions of this subchapter, shall be distributed as provided herein.

(Pub. L. 92–468, § 1, Oct. 6, 1972, 86 Stat. 782.)

REFERENCES IN TEXT

Act of July 22, 1969, referred to in text, is act July 22, 1969, Pub. L. 91–47, 83 Stat. 49, known as the Second Supplemental Appropriation Act, 1969. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Herein, referred to in text, means in Pub. L. 92–468, Oct. 6, 1972, 86 Stat. 782, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

§ 1300c–1. Funds for expert witnesses and programing needs

The Secretary of the Interior shall withhold from distribution a sum not to exceed $150,000, pending a decision by the Yankton Sioux Tribal Business and Claims Committee regarding the needs of the tribe for expert witnesses in the Yankton Sioux claims in Indian Claims Commission dockets numbered 332–B, 332–C, and 74. The sum withheld may be used for such purpose or for other programing needs, subject to the approval of the Secretary.

(Pub. L. 92–468, § 2, Oct. 6, 1972, 86 Stat. 782.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1300c–2. Membership roll; preparation; tribal constitutional requirements

The Secretary of the Interior, in cooperation with the Tribal Council, shall prepare a roll of all persons born on or prior to and living on October 6, 1972, who meet the requirements for membership of the Yankton Sioux tribal constitution approved on October 5, 1932, as amended.

(Pub. L. 92–468, § 3, Oct. 6, 1972, 86 Stat. 782.)

§ 1300c–3. Per capita distributions to tribal members; advances, expenditures, investments, or reinvestments for authorized purposes; trusts and other procedures for protection of minors and persons under legal disability

The judgment fund, less funds otherwise provided in section 1300c–1 of this title, shall be used as follows: 75 per centum thereof shall be distributed in equal per capita shares to each person who is enrolled or entitled to be enrolled on October 6, 1972; the remainder may be advanced, expended, invested, or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior. 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 trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

(Pub. L. 92–468, § 4, Oct. 6, 1972, 86 Stat. 782.)

§ 1300c–4. Tax exemption

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes.

(Pub. L. 92–468, § 5, Oct. 6, 1972, 86 Stat. 782.)

§ 1300c–5. Rules and regulations

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

(Pub. L. 92–468, § 6, Oct. 6, 1972, 86 Stat. 782.)

SUBCHAPTER LXXV—MISSISSIPPI SIOUX TRIBES: DISTRIBUTION OF JUDGMENT FUND

PART A—1972 DISTRIBUTION AUTHORITY

§ 1300d. Distribution of funds; attorney fees and expenses

The funds appropriated by the Act of June 19, 1968 (82 Stat. 239), to pay compromise judgments to the Mdewakanton and Wahpakoota Tribe of Sioux Indians, and the Sisseton and Wahpeton Tribes of Sioux Indians, in Indian Claims Commission dockets numbered 142, 359, 360, 361, 362, and 363, together with interest thereon, after payment of attorney fees and litigation expenses and the costs of carrying out the provisions of this part, shall be distributed as provided in this part.

(Pub. L. 92–555, § 1, Oct. 25, 1972, 86 Stat. 1168.)

REFERENCES IN TEXT

Act of June 19, 1968, referred to in text, is act June 19, 1968, Pub. L. 90–352, 82 Stat. 239. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

SHORT TITLE

Pub. L. 105–387, § 1, Nov. 13, 1998, 112 Stat. 3471, provided that: "This Act [enacting part B of this subchapter and amending sections 1300d–3 and 1300d–4 of this title] may be cited as the 'Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998'."

§ 1300d–1. Lower Council Sioux

(a) Membership rolls; applications

The Flandreau Santee Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska shall bring current their membership rolls as of October 25, 1972. The Lower Sioux Indian Community at Morton, Minnesota, the Prairie Island Indian Community at Welch, Minnesota, and the Shakopee Mdewakanton Sioux Community of Minnesota shall prepare rolls of their members who are lineal descendants of the Mdewakanton and Wahpakoota Tribes, and who were born on or prior to and are living on October 25, 1972, using available records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval of the Secretary of the Interior. The Secretary's determination on all applications shall be final.

(b) Roll of lineal descendants; applications

The Secretary of the Interior shall prepare a roll of the lineal descendants of the Mdewakanton and Wahpakoota Tribe who were born on or prior to and are living on October 25, 1972, whose names or the names of a lineal ancestor appears on any available records and rolls

acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a) of this section. Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

(Pub. L. 92–555, title I, § 101, Oct. 25, 1972, 86 Stat. 1168.)

§ 1300d–2. Apportionment of funds; deposit in United States Treasury; per capita shares; advances, deposits, expenditures, investments, or reinvestments for approved purposes

After deducting the amounts authorized in section 1300d of this title, the funds derived from the judgment awarded the Indian Claims Commission dockets numbered 360, 361, 362, 363, and one-half of the amount awarded in docket numbered 359, plus accrued interest, shall be apportioned on the basis of the rolls prepared pursuant to section 1300d–1 of this title. An amount equivalent to the proportionate shares of those persons who are members of the Flandreau Santee Sioux Tribe of South Dakota, the Santee Sioux Tribe of Nebraska, the Lower Sioux Indian Community, the Prairie Island Indian Community, and the Shakopee Mdewakanton Sioux Community shall be placed on deposit in the United States Treasury to the credit of the respective groups. Eighty per centum of such funds on deposit to the credit of the Flandreau Santee Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska shall be distributed per capita to such tribal members, and the remainder may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior. One hundred per centum of such funds on deposit to the credit of the Lower Sioux Indian Community, the Prairie Island Indian Community, and the Shakopee Mdewakanton Sioux Community shall be distributed per capita of such tribal members: *Provided*, That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 1300d–1 of this title. The shares of enrollees who are not members of such groups shall be paid per capita.

(Pub. L. 92–555, title I, § 102, Oct. 25, 1972, 86 Stat. 1168.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

Reference in proviso to ''section 1300d–1 of this title'' was substituted for ''section 2 of this Act'' as the probable intent of Congress.

§ 1300d–3. Upper Council Sioux

(a) Membership rolls; applications

The Devils Lake Sioux Tribe of North Dakota, and the Sisseton and Wahpeton Sioux Tribe of South Dakota, shall bring current their membership rolls of October 25, 1972. The Assiniboine and Sioux Tribes of the Fort Peck Reservation, Montana, shall prepare rolls of their members who are lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe, who were born on or prior to and are living on October 25, 1972, and who are entitled to enrollment on their respective membership rolls in accordance with the applicable rules and regulations of the tribe or group involved, using available, records and rolls at the local agency and area offices, and any other available records and rolls. Applications for enrollment must be filed with each group named in this section and such rolls shall be subject to approval of the Secretary of the Interior. The Secretary's determination on all applications for enrollment shall be final.

(b) Roll of lineal descendants; applications

Subject to the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998 [25 U.S.C. 1300d–21 et seq.], the Secretary of the Interior shall prepare a roll of the lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe who were born on or prior to and are living on October 25, 1972, whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary, and who are not members of any of the organized groups listed in subsection (a) of this section. Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. The Secretary's determination on all applications for enrollment shall be final.

(Pub. L. 92–555, title II, § 201, Oct. 25, 1972, 86 Stat. 1169; Pub. L. 105–387, § 7(d)(2), Nov. 13, 1998, 112 Stat. 3475.)

REFERENCES IN TEXT

The Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998, referred to in subsec. (b), is Pub. L. 105–387, Nov. 13, 1998, 112 Stat. 3471, which is classified principally to part B (§ 1300d–21 et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 1300d of this title and Tables.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–387 substituted ''Subject to the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998, the Secretary'' for ''The Secretary''.

§ 1300d–4. Apportionment of funds

(a) Basis of apportionment

After deducting the amount authorized in section 1300d of this title, the funds derived from the judgment awarded in Indian Claims Commission docket numbered 142 and the one-half remaining from the amount awarded in docket numbered 359[1] plus interest received (other than funds otherwise distributed to the Sisseton and Wahpeton Tribes of Sioux Indians in accordance with the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998 [25 U.S.C. 1300d–21 et seq.]), shall be apportioned on the basis of reservation residence and other residence shown on the 1909 McLaughlin annuity roll, as follows:

Tribe or group	Percentage
Devils Lake Sioux of North Dakota	21.6892

[1] So in original. A comma probably should appear.

Tribe or group	Percentage
Sisseton-Wahpeton Sioux of South Dakota	42.9730
Assiniboine and Sioux Tribe of the Fort Peck Reservation, Montana	10.3153

(b) Deposit in United States Treasury; per capita shares; advances, deposits, expenditures, investments, or reinvestments for approved purposes; programing proposals

The shares of the Devils Lake Sioux Tribe of North Dakota, the Sisseton and Wahpeton Sioux Tribe of South Dakota, and the Assiniboine and Sioux Tribe of the Fort Peck Indian Reservation, Montana, as apportioned in accordance with subsection (a) of this section, shall be placed on deposit in the United States Treasury to the credit of the respective groups. Seventy per centum of such funds shall be distributed per capita to their tribal members: *Provided*, That none of the funds may be paid per capita to any person whose name does not appear on the rolls prepared pursuant to section 1300d–3(a) of this title. The remainder of such funds may be advanced, deposited, expended, invested, or reinvested for any purpose designated by the respective tribal governing bodies and approved by the Secretary of the Interior: *Provided*, That, in the case of the Assiniboine and Sioux Tribe of the Fort Peck Reservation, Montana, the Fort Peck Sisseton-Wahpeton Sioux Council shall act as the governing body in determining the distribution of funds allotted for programing purposes: *Provided further*, That the Sisseton-Wahpeton Sioux Tribe of South Dakota shall act in concert with its membership residing in the Upper Sioux Community in Minnesota and its membership affiliated with the Urban Sisseton-Wahpeton Council of the Minneapolis-Saint Paul area in jointly submitting programing proposals to the Secretary.

(c) Per capita distribution to enrollees

The funds allocated to all other Sisseton and Wahpeton Sioux, as provided in subsection (a) of this section, shall be distributed per capita to the persons enrolled on the roll prepared by the Secretary pursuant to section 1300d–3(b) of this title.

(Pub. L. 92–555, title II, § 202, Oct. 25, 1972, 86 Stat. 1169; Pub. L. 105–387, § 7(d)(1), Nov. 13, 1998, 112 Stat. 3474.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in subsec. (a), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

The Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998, referred to in subsec. (a), is Pub. L. 105–387, Nov. 13, 1998, 112 Stat. 3471, which is classified principally to part B (§ 1300d–21 et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 1300d of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–387, § 7(d)(1)(B), in table struck out at end item which had apportioned 25.0225 percent of funds to all other Sisseton and Wahpeton Sioux.

Pub. L. 105–387, § 7(d)(1)(A)(ii), which directed amendment of introductory provisions by inserting ''plus interest received (other than funds otherwise distributed to the Sisseton and Wahpeton Tribes of Sioux Indians in accordance with the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998),'' after ''docket numbered 359,'' was executed by making the insertion after ''docket numbered 359'', to reflect the probable intent of Congress and the amendment by Pub. L. 105–387, § 7(d)(1)(A)(i). See below.

Pub. L. 105–387, § 7(d)(1)(A)(i), struck out '', plus accrued interest,'' after ''docket numbered 359'' in introductory provisions.

§ 1300d–5. Citizenship requirement

No person shall be eligible to be enrolled under this part who is not a citizen of the United States.

(Pub. L. 92–555, title III, § 301, Oct. 25, 1972, 86 Stat. 1170.)

§ 1300d–6. Election of group for enrollment

Any person qualifying for enrollment with more than one group shall elect the group with which he shall be enrolled for the purpose of this part.

(Pub. L. 92–555, title III, § 302, Oct. 25, 1972, 86 Stat. 1170.)

§ 1300d–7. Protection of minors and persons under legal disability

The sums payable to enrollees or their heirs or legatees who are minors 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 interest of such persons after considering the recommendations of the governing bodies of the groups involved.

(Pub. L. 92–555, title III, § 303, Oct. 25, 1972, 86 Stat. 1170.)

§ 1300d–8. Income tax exemption

None of the funds distributed per capita under the provisions of this part shall be subject to Federal or State income taxes.

(Pub. L. 92–555, title III, § 304, Oct. 25, 1972, 86 Stat. 1170.)

§ 1300d–9. Rules and regulations

The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this part, including the establishment of deadlines.

(Pub. L. 92–555, title III, § 305, Oct. 25, 1972, 86 Stat. 1170.)

§ 1300d–10. Authority to settle action

Notwithstanding any provision of this part or any other provision of law, the Attorney General is authorized to negotiate and settle any action that may be or has been brought to contest the constitutionality or validity under law of the distribution to all other Sisseton and Wahpeton Sioux provided for in section 1300d–4 of this title.

(Pub. L. 92–555, title III, § 306, as added Pub. L. 102–497, § 17, Oct. 24, 1992, 106 Stat. 3261.)

PART B—1998 DISTRIBUTION AUTHORITY

§ 1300d–21. Definitions

In this part:

(1) Covered Indian tribe

The term ''covered Indian tribe'' means an Indian tribe listed in section 1300d–23(a) of this title.

(2) Fund Account

The term ''Fund Account'' means the consolidated account for tribal trust funds in the Treasury of the United States that is managed by the Secretary—

(A) through the Office of Trust Fund Management of the Department of the Interior; and

(B) in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(3) Secretary

The term ''Secretary'' means the Secretary of the Interior.

(4) Tribal governing body

The term ''tribal governing body'' means the duly elected governing body of a covered Indian tribe.

(Pub. L. 105–387, § 2, Nov. 13, 1998, 112 Stat. 3471.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this Act'', meaning Pub. L. 105–387, Nov. 13, 1998, 112 Stat. 3471, which is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 1300d of this title and Tables.

The American Indian Trust Fund Management Reform Act of 1994, referred to in par. (2)(B), is Pub. L. 103–412, Oct. 25, 1994, 108 Stat. 4239, as amended, which is classified principally to chapter 42 (§ 4001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

§ 1300d–22. Distribution to, and use of certain funds by, the Sisseton and Wahpeton Tribes of Sioux Indians

Notwithstanding any other provision of law, including part A of this subchapter, any funds made available by appropriations under chapter II of Public Law 90–352 (82 Stat. 239) to the Sisseton and Wahpeton Tribes of Sioux Indians to pay a judgment in favor of those Indian tribes in Indian Claims Commission dockets numbered 142 and 359, including interest, that, as of November 13, 1998, have not been distributed, shall be distributed and used in accordance with this part.

(Pub. L. 105–387, § 3, Nov. 13, 1998, 112 Stat. 3471.)

REFERENCES IN TEXT

Chapter II of Public Law 90–352, referred to in text, is chapter II of Pub. L. 90–352, June 19, 1968, 82 Stat. 239, which provided appropriations for payment of certain claims settled and determined by departments and agencies in accordance with law and judgments rendered against the United States, and was not classified to the Code.

§ 1300d–23. Distribution of funds to tribes

(a) In general

(1) Amount distributed

(A) In general

Subject to section 1300d–27(e) of this title and if no action is filed in a timely manner (as determined under section 1300d–27(d) of this title) raising any claim identified in section 1300d–27(a) of this title, not earlier than 365 days after November 13, 1998, and not later than 415 days after November 13, 1998, the Secretary shall transfer to the Fund Account to be credited to accounts established in the Fund Account for the benefit of the applicable governing bodies under paragraph (2) an aggregate amount determined under subparagraph (B).

(B) Aggregate amount

The aggregate amount referred to in subparagraph (A) is an amount equal to the remainder of—

(i) the funds described in section 1300d–22 of this title; minus

(ii) an amount equal to 71.6005 percent of the funds described in section 1300d–22 of this title.

(2) Distribution of funds to accounts in the Fund Account

The Secretary shall ensure that the aggregate amount transferred under paragraph (1) is allocated to the accounts established in the Fund Account as follows:

(A) 28.9276 percent of that amount shall be allocated to the account established for the benefit of the tribal governing body of the Spirit Lake Tribe of North Dakota.

(B) 57.3145 percent of that amount, after payment of any applicable attorneys' fees and expenses by the Secretary under the contract numbered A00C14202991, approved by the Secretary on August 16, 1988, shall be allocated to the account established for the benefit of the tribal governing body of the Sisseton and Wahpeton Sioux Tribe of South Dakota.

(C) 13.7579 percent of that amount shall be allocated to the account established for the benefit of the tribal governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana, as designated under subsection (c) of this section.

(b) Use

Amounts distributed under this section to accounts referred to in subsection (d) of this section for the benefit of a tribal governing body shall be distributed and used in a manner consistent with section 1300d–24 of this title.

(c) Tribal governing body of Assiniboine and Sioux Tribes of Fort Peck Reservation

For purposes of making distributions of funds pursuant to this part, the Sisseton and Wahpeton Sioux Council of the Assiniboine and Sioux Tribes shall act as the governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

(d) Tribal Trust Fund Accounts

The Secretary of the Treasury, in cooperation with the Secretary of the Interior, acting through the Office of Trust Fund Management of the Department of the Interior, shall ensure that such accounts as are necessary are established in the Fund Account to provide for the distribution of funds under subsection (a)(2) of this section.

(Pub. L. 105–387, § 4, Nov. 13, 1998, 112 Stat. 3471.)

§ 1300d–24. Use of distributed funds

(a) Prohibition

No funds allocated for a covered Indian tribe under section 1300d–23 of this title may be used to make per capita payments to members of the covered Indian tribe.

(b) Purposes

The funds allocated under section 1300d–23 of this title may be used, administered, and managed by a tribal governing body referred to in section 1300d–23(a)(2) of this title only for the purpose of making investments or expenditures that the tribal governing body determines to be reasonably related to—

(1) economic development that is beneficial to the covered Indian tribe;

(2) the development of resources of the covered Indian tribe;

(3) the development of programs that are beneficial to members of the covered Indian tribe, including educational and social welfare programs;

(4) the payment of any existing obligation or debt (existing as of the date of the distribution of the funds) arising out of any activity referred to in paragraph (1), (2), or (3);

(5)(A) the payment of attorneys' fees or expenses of any covered Indian tribe referred to in subparagraph (A) or (C) of section 1300d–23(a)(2) of this title for litigation or other representation for matters arising out of the enactment of part A of this subchapter; except that

(B) the amount of attorneys' fees paid by a covered Indian tribe under this paragraph with funds distributed under section 1300d–23 of this title shall not exceed 10 percent of the amount distributed to that Indian tribe under that section;

(6) the payment of attorneys' fees or expenses of the covered Indian tribe referred to in section 1300d–23(a)(2)(B) of this title for litigation and other representation for matters arising out of the enactment of part A of this subchapter, in accordance, as applicable, with the contracts numbered A00C14203382 and A00C14202991, that the Secretary approved on February 10, 1978 and August 16, 1988, respectively; or

(7) the payment of attorneys' fees or expenses of any covered Indian tribe referred to in section 1300d–23(a)(2) of this title for litigation or other representation with respect to matters arising out of this part.

(c) Management

Subject to subsections (a), (b), and (d) of this section, any funds distributed to a covered Indian tribe pursuant to sections 1300d–23 and 1300d–26 of this title may be managed and invested by that Indian tribe pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) Withdrawal of funds by covered tribes

(1) In general

Subject to paragraph (2), each covered Indian tribe may, at the discretion of that Indian tribe, withdraw all or any portion of the funds distributed to the Indian tribe under sections 1300d–23 and 1300d–26 of this title in accordance with the American Indian Trust Fund Management Reform Act[1] (25 U.S.C. 4001 et seq.).

(2) Exemption

For purposes of paragraph (1), the requirements under subsections (a) and (b) of section 202 of the American Indian Trust Fund Management Reform Act[1] (25 U.S.C. 4022(a) and (b)) and section 203 of such Act (25 U.S.C. 4023) shall not apply to a covered Indian tribe or the Secretary.

(3) Rule of construction

Nothing in paragraph (2) may be construed to limit the applicability of section 202(c) of the American Indian Trust Fund Management Reform Act[1] (25 U.S.C. 4022(c)).

(Pub. L. 105–387, § 5, Nov. 13, 1998, 112 Stat. 3472.)

REFERENCES IN TEXT

The American Indian Trust Fund Management Reform Act of 1994, referred to in subsecs. (c) and (d)(1), is Pub. L. 103–412, Oct. 25, 1994, 108 Stat. 4239, as amended, which is classified principally to chapter 42 (§ 4001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

§ 1300d–25. Effect of payments to covered Indian tribes on benefits

A payment made to a covered Indian tribe or an individual under this part shall not—

(1) for purposes of determining the eligibility for a Federal service or program of a covered Indian tribe, household, or individual, be treated as income or resources; or

(2) otherwise result in the reduction or denial of any service or program to which, pursuant to Federal law (including the Social Security Act (42 U.S.C. 301 et seq.)), the covered Indian tribe, household, or individual would otherwise be entitled.

(Pub. L. 105–387, § 6, Nov. 13, 1998, 112 Stat. 3473.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified principally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§ 1300d–26. Distribution of funds to lineal descendants

(a) In general

Subject to section 1300d–27(e) of this title, the Secretary shall, in the manner prescribed in section 1300d–4(c) of this title, distribute to the lineal descendants of the Sisseton and Wahpeton Tribes of Sioux Indians an amount equal to 71.6005 percent of the funds described in section 1300d–22 of this title, subject to any reduction determined under subsection (b) of this section.

(b) Adjustments

(1) In general

Subject to section 1300d–27(e) of this title, if the number of individuals on the final roll of

[1] So in original. Probably should be followed by "of 1994".

lineal descendants certified by the Secretary under section 1300d–3(b) of this title is less than 2,588, the Secretary shall distribute a reduced aggregate amount to the lineal descendants referred to in subsection (a) of this section, determined by decreasing—

(A) the percentage specified in section 1300d–23(a)(B)(ii)[1] of this title by a percentage amount equal to—

(i) .0277; multiplied by

(ii) the difference between 2,588 and the number of lineal descendants on the final roll of lineal descendants, but not to exceed 600; and

(B) the percentage specified in subsection (a) of this section by the percentage amount determined under subparagraph (A).

(2) Distribution

If a reduction in the amount that otherwise would be distributed under subsection (a) of this section is made under paragraph (1), an amount equal to that reduction shall be added to the amount available for distribution under section 1300d–23(a)(1) of this title, for distribution in accordance with section 1300d–23(a)(2) of this title.

(c) Verification of ancestry

In seeking to verify the Sisseton and Wahpeton Mississippi Sioux Tribe ancestry of any person applying for enrollment on the roll of lineal descendants after January 1, 1998, the Secretary shall certify that each individual enrolled as a lineal descendant can trace ancestry to a specific Sisseton or Wahpeton Mississippi Sioux Tribe lineal ancestor who was listed on—

(1) the 1909 Sisseton and Wahpeton annuity roll;

(2) the list of Sisseton and Wahpeton Sioux prisoners convicted for participating in the outbreak referred to as the ''1862 Minnesota Outbreak'';

(3) the list of Sioux scouts, soldiers, and heirs identified as Sisseton and Wahpeton Sioux on the roll prepared pursuant to the Act of March 3, 1891 (26 Stat. 989 et seq., chapter 543); or

(4) any other Sisseton or Wahpeton payment or census roll that preceded a roll referred to in paragraph (1), (2), or (3).

(Pub. L. 105–387, § 7, Nov. 13, 1998, 112 Stat. 3474.)

REFERENCES IN TEXT

Act of March 3, 1891, referred to in subsec. (c)(3), is act Mar. 3, 1891, ch. 543, 26 Stat. 989. Provisions of the act relating to preparation of the roll are not classified to the Code.

CODIFICATION

Section is comprised of section 7 of Pub. L. 105–387. Subsec. (d) of section 7 of Pub. L. 105–387 amended sections 1300d–3 and 1300d–4 of this title.

§ 1300d–27. Jurisdiction; procedure

(a) Actions authorized

In any action brought by or on behalf of a lineal descendant or any group or combination of those lineal descendants to challenge the constitutionality or validity of distributions under this part to any covered Indian tribe, any covered Indian tribe, separately, or jointly with another covered Indian tribe, shall have the right to intervene in that action to—

(1) defend the validity of those distributions; or

(2) assert any constitutional or other claim challenging the distributions made to lineal descendants under this part.

(b) Jurisdiction and venue

(1) Exclusive original jurisdiction

Subject to paragraph (2), only the United States District Court for the District of Columbia, and for the districts in North Dakota and South Dakota, shall have original jurisdiction over any action brought to contest the constitutionality or validity under law of the distributions authorized under this part.

(2) Consolidation of actions

After the filing of a first action under subsection (a) of this section, all other actions subsequently filed under that subsection shall be consolidated with that first action.

(3) Jurisdiction by the United States Court of Federal Claims

If appropriate, the United States Court of Federal Claims shall have jurisdiction over an action referred to in subsection (a) of this section.

(c) Notice to covered tribes

In an action brought under this section, not later than 30 days after the service of a summons and complaint on the Secretary that raises a claim identified in subsection (a) of this section, the Secretary shall send a copy of that summons and complaint, together with any responsive pleading, to each covered Indian tribe by certified mail with return receipt requested.

(d) Statute of limitations

No action raising a claim referred to in subsection (a) of this section may be filed after the date that is 365 days after November 13, 1998.

(e) Special rule

(1) Final judgment for lineal descendants

(A) In general

If an action that raises a claim referred to in subsection (a) of this section is brought, and a final judgment is entered in favor of 1 or more lineal descendants referred to in that subsection, section 1300d–23(a) of this title and subsections (a) and (b) of section 1300d–26 of this title shall not apply to the distribution of the funds described in subparagraph (B).

(B) Distribution of funds

Upon the issuance of a final judgment referred to in subparagraph (A) the Secretary shall distribute 100 percent of the funds described in section 1300d–22 of this title to the lineal descendants in a manner consistent with—

(i) section 202(c) of Public Law 92–555 (25 U.S.C. 1300d–4(c)); and

[1] So in original. Probably should be section ''1300d–23(a)(1)(B)(ii)''.

(ii) section 202(a) of Public Law 92–555 [25 U.S.C. 1300d–4(a)], as in effect on the day before November 13, 1998.

(2) Final judgment for covered Indian tribes

(A) In general

If an action that raises a claim referred to in subsection (a) of this section is brought, and a final judgment is entered in favor of 1 or more covered Indian tribes that invalidates the distributions made under this part to lineal descendants, section 1300d–23(a) of this title, other than the percentages under section 1300d–23(a)(2) of this title, and subsections (a) and (b) of section 1300d–26 of this title shall not apply.

(B) Distribution of funds

Not later than 180 days after the date of the issuance of a final judgment referred to in subparagraph (A), the Secretary shall distribute 100 percent of the funds described in section 1300d–22 of this title to each covered Indian tribe in accordance with the judgment and the percentages for distribution contained in section 1300d–23(a)(2) of this title.

(f) Limitation on claims by a covered Indian tribe

(1) In general

If any covered Indian tribe receives any portion of the aggregate amounts transferred by the Secretary to a Fund Account or any other account under section 1300d–23 of this title, no action may be brought by that covered Indian tribe in any court for a claim arising from the distribution of funds under part A of this subchapter.

(2) Rule of construction

Nothing in this subsection shall be construed to limit the right of a covered Indian tribe to—

(A) intervene in an action that raises a claim referred to in subsection (a) of this section; or

(B) limit the jurisdiction of any court referred to in subsection (b) of this section, to hear and determine any such claims.

(Pub. L. 105–387, § 8, Nov. 13, 1997, 112 Stat. 3475.)

SUBCHAPTER LXXVI—ASSINIBOINE TRIBES OF MONTANA: DISTRIBUTION OF JUDGMENT FUND

§ 1300e. Disposition of funds; percentage basis for division; attorney fees and expenses

The funds appropriated by the Act of January 8, 1971 (84 Stat. 1981), to pay a judgment to the Assiniboine Tribes of the Fort Peck and Fort Belknap Reservations, Montana, in Indian Claims Commission docket numbered 279–A, together with interest thereon, after payment of attorney fees and litigation expenses, shall be divided by the Secretary of the Interior on the basis of 50 per centum to the Assiniboine Tribe of the Fort Peck Reservation and 50 per centum to the Assiniboine Tribe of the Fort Belknap Reservation.

(Pub. L. 92–557, § 1, Oct. 25, 1972, 86 Stat. 1171.)

REFERENCES IN TEXT

Act of January 8, 1971, referred to in text, is act Jan. 8, 1971, Pub. L. 91–665, 84 Stat. 1981, known as the Supplemental Appropriations Act, 1971. That portion of the act which appropriated the funds referred to was not classified to the Code.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1300e–1. Per capita shares to members of Assiniboine Tribe of Fort Peck Reservation; deductions; eligibility for payments

The share of the Assiniboine Tribe of the Fort Peck Reservation, after deducting $50,000 to be used as provided in section 1300e–2 of this title, and after deducting the estimated costs of distribution and all other appropriate expenses, shall be distributed per capita to each person born on or before, and living on, October 25, 1972, who is a citizen of the United States, is duly enrolled on the approved roll of the Assiniboine and Sioux Tribes of the Fort Peck Reservation, and is of Assiniboine lineal descent: *Provided*, That persons in the following categories shall not be eligible to receive a per capita payment: (a) persons who possess a greater degree of Fort Peck Sioux blood than Fort Peck Assiniboine blood, (b) persons who possess equal degrees of Fort Peck Assiniboine and Fort Peck Sioux blood and who elect to be enrolled as Sioux, and (c) persons who participated, or were eligible to participate, in the distribution of funds under the provisions of the Act of June 19, 1970 (84 Stat. 313) [25 U.S.C. 1201 et seq.], for the disposition of the judgment of the Sioux Tribe of the Fort Peck Reservation in docket numbered 279–A.

(Pub. L. 92–557, § 2, Oct. 25, 1972, 86 Stat. 1171.)

REFERENCES IN TEXT

Act June 19, 1970, referred to in text, is act June 19, 1970, Pub. L. 91–283, 84 Stat. 313, which is classified generally to subchapter LXII (§ 1201 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

§ 1300e–2. Expenditure of withheld funds for certain salaries and expenses; additional per capita distributions

Upon agreement by the Fort Peck Assiniboine Tribe and the Fort Peck Sioux Tribe on the amount each agrees to contribute from the award to each tribe in Indian Claims Commission docket numbered 279–A, the agreed contribution of the Fort Peck Assiniboine Tribe shall be withdrawn from the $50,000, and interest thereon, withheld from per capita distribution pursuant to section 1300e–1 of this title, and shall be credited to the joint account for expenditure pursuant to the Act of June 29, 1954 (68 Stat. 329): *Provided*, That upon request of the Fort Peck Assiniboine Tribe the Secretary of the Interior in his discretion may distribute all or part of the aforesaid $50,000 and interest thereon per capita to each person eligible under section 1300e–1 of this title.

(Pub. L. 92–557, § 3, Oct. 25, 1972, 86 Stat. 1171.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

Act of June 29, 1954, referred to in text, is act June 29, 1954, ch. 421, 68 Stat. 329, which was not classified to the Code.

§ 1300e–3. Per capita shares to members of Assiniboine Tribe of Fort Belknap Reservation; deductions; eligibility for payments

The share of the Assiniboine Tribe of the Fort Belknap Reservation, after deducting $100,000 to be used as provided in section 1300e–4 of this title, and after deducting the estimated costs of distribution and all other appropriate expenses, shall be distributed per capita to each person born on or before, and living on, October 25, 1972, who is a citizen of the United States, is duly enrolled on the approved roll of the organized Fort Belknap Community, and is of Assiniboine lineal descent: *Provided*, That persons in the following categories shall not be eligible to receive a per capita payment: (a) persons who possess a greater degree of Gros Ventre blood than Assiniboine blood, (b) persons who possess equal degrees of Fort Belknap Assiniboine and Fort Peck Gros Ventre blood and who elect to be enrolled as Gros Ventre, and (c) persons who participated, or were eligible to participate, in the distribution of funds under the Act of March 18, 1972 (Public Law 92–254) [25 U.S.C. 1261 et seq.], for the disposition of the judgment of the Blackfeet Tribe and the Gros Ventre Tribe in Indian Claims Commission docket numbered 279–A.

(Pub. L. 92–557, § 4, Oct. 25, 1972, 86 Stat. 1171.)

REFERENCES IN TEXT

Act of March 18, 1972, referred to in text, is act Mar. 18, 1972, Pub. L. 92–254, 86 Stat. 64, which is classified generally to subchapter LXVIII (§ 1261 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

§ 1300e–4. Expenditure of withheld funds for authorized purposes; community projects; additional per capita distributions

The $100,000 withheld from distribution under section 1300e–3 of this title, and interest thereon, may be used for any purpose authorized by the Assiniboine Treaty Committee of the Fort Belknap Assiniboine Tribe and approved by the Secretary of the Interior, including contributions to Reservation community projects and further per capita distribution.

(Pub. L. 92–557, § 5, Oct. 25, 1972, 86 Stat. 1172.)

§ 1300e–5. Per capita shares; reversion to tribe

The per capita shares shall be determined on the basis of the number of persons eligible for per capitas and the number of persons rejected for per capitas who have taken a timely appeal. The shares of those persons whose appeals are denied shall revert to the tribe from whose share the per capita would have been paid, to be expended for any purpose designated by such tribe and approved by the Secretary.

(Pub. L. 92–557, § 6, Oct. 25, 1972, 86 Stat. 1172.)

§ 1300e–6. Income tax exemption; protection of minors and persons under legal disability

None of the funds distributed per capita under the provisions of this subchapter shall be subject to Federal or State income taxes. Sums payable to persons under eighteen years of age or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines will protect the best interests of such persons.

(Pub. L. 92–557, § 7, Oct. 25, 1972, 86 Stat. 1172.)

§ 1300e–7. Rules and regulations

The Secretary is authorized to prescribe rules and regulations to effect the provisions of this subchapter, including the establishment of deadlines.

(Pub. L. 92–557, § 8, Oct. 25, 1972, 86 Stat. 1172.)

SUBCHAPTER LXXVII—PASCUA YAQUI TRIBE

§ 1300f. Status of Pascua Yaqui Indian people

(a) Eligibility for services and assistance

The Pascua Yaqui Indian people who are members of the Pascua Yaqui Association, Incorporated, an Arizona corporation, or who hereafter become members of the Pascua Yaqui Tribe in accordance with section 1300f–2 of this title, are recognized as, and declared to be, eligible, on and after September 18, 1978, for the services and assistance provided to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States, or under any statute of the United States. The Pascua Yaqui Tribe, a historic Indian tribe, is acknowledged as a federally recognized Indian tribe possessing all the attributes of inherent sovereignty which have not been specifically taken away by Acts of Congress and which are not inconsistent with such tribal status. For the purposes of section 2005a of title 42, the Pascua Yaqui Indians are to be considered as if they were being provided hospital and medical care by or at the expense of the Public Health Service on August 16, 1957.

(b) Administration of lands; application of other laws

The provisions of the Act of June 18, 1934 (48 Stat. 484[1]), as amended [25 U.S.C. 461 et seq.], are extended to such members described in subsection (a) of this section.

(c) Receipt in trust by United States of land for Pascua Yaqui Tribe; criminal and civil jurisdiction

The Secretary of the Interior is directed, upon request of the Pascua Yaqui Association, Incorporated, and without monetary consideration, to accept on behalf of the United States and in trust for the Pascua Yaqui Tribe, the title to the real property conveyed by the United States to such association under the Act of October 8, 1964 (78 Stat. 1197), and such lands shall be held as Indian lands are held: *Provided*, That the State of Arizona shall exercise criminal and civil juris-

[1] So in original. Probably should be "984".

diction over such lands as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79).

(Pub. L. 95–375, § 1, Sept. 18, 1978, 92 Stat. 712; Pub. L. 103–357, § 1(a), Oct. 14, 1994, 108 Stat. 3418.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (b), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of October 8, 1964, referred to in subsec. (c), is act Oct. 8, 1964, Private Law 88–350, 78 Stat. 1196, which conveyed all right, title and interest of the United States in certain lands to the Pascua Yaqui Association, Inc., and was not classified to the Code.

Act of August 15, 1953, as amended by the Act of April 11, 1968, referred to in subsec. (c), is act Aug. 15, 1953, ch. 505, 67 Stat. 588, as amended, which enacted section 1162 of Title 18, Crimes and Criminal Procedure, section 1360 of Title 28, Judiciary and Judicial Procedure, and provisions set out as notes under section 1360 of Title 28. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 1 of Pub. L. 95–375. Subsec. (d) of section 1 of Pub. L. 95–375, which repealed section 4 of Private Law 88–350, Oct. 8, 1964, 78 Stat. 1197, is not classified to the Code.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–357 inserted after first sentence ''The Pascua Yaqui Tribe, a historic Indian tribe, is acknowledged as a federally recognized Indian tribe possessing all the attributes of inherent sovereignty which have not been specifically taken away by Acts of Congress and which are not inconsistent with such tribal status.''

§ 1300f–1. Tribal constitution and bylaws; review by Secretary; publication of documents and membership roll in Federal Register

Within thirty months after September 18, 1978, the Pascua Yaqui Tribe shall adopt a constitution and bylaws or other governing documents and a membership roll. The Secretary of the Interior shall review such documents to insure that they comply with the provisions of this subchapter and shall publish such documents and membership roll in the Federal Register. Publication of such roll shall not affect or delay the immediate eligibility of the members of the Association under section 1300f of this title.

(Pub. L. 95–375, § 2, Sept. 18, 1978, 92 Stat. 712.)

§ 1300f–2. Membership of Tribe

For the purposes of section 1300f of this title, membership of the Pascua Yaqui Tribe shall consist of—

(A) the members of the Pascua Yaqui Association, Incorporated, as of September 18, 1978, who apply for enrollment in the Pascua Yaqui Tribe within one year from September 18, 1978 pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe;

(B) all those persons of Yaqui blood who are citizens of the United States and who, within two years from September 18, 1978, apply for, and are admitted to, membership in the Association pursuant to article VII of the Articles of Incorporation of the Association;

(C) all those persons of Yaqui blood who are citizens of the United States and who, within three years after October 14, 1994, apply for enrollment in the Pascua Yaqui Tribe pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe; and

(D) direct lineal descendants of such persons, subject to any further qualifications as may be provided by the Tribe in its constitution and bylaws or other governing documents.

(Pub. L. 95–375, § 3, Sept. 18, 1978, 92 Stat. 712; Pub. L. 103–357, § 1(b), Oct. 14, 1994, 108 Stat. 3418.)

AMENDMENTS

1994—Pub. L. 103–357 added par. (C) and redesignated former par. (C) as (D).

§ 1300f–3. Study

(a) In general

The Secretary of the Interior shall conduct one or more studies to determine—

(1) whether the lands held in trust on October 14, 1994, by the United States for the Pascua Yaqui Tribe are adequate for the needs of the tribe for the foreseeable future;

(2) if such lands are not adequate—

(A) whether suitable additional lands are available for acquisition by exchange or purchase; and

(B) the cost and location of the suitable additional lands;

(3) whether the Pascua Yaqui Tribe has sufficient water rights and allocations to meet the needs of the tribe for the foreseeable future;

(4) if such water rights and allocations are not adequate—

(A) whether additional water can be acquired; and

(B) the potential sources and associated costs of such additional water;

(5) whether the Bureau of Indian Affairs and the Indian Health Service have limited funding to the Pascua Yaqui Tribe based on a determination of the tribal enrollment in 1978, rather than the current enrollment;

(6) if funding has been based on 1978 enrollment, how the funding levels can be adjusted to ensure that the Pascua Yaqui Tribe receives a fair and equitable portion of Bureau of Indian Affairs and Indian Health Service funding;

(7) the genealogy of the Pascua Yaqui Tribe; and

(8) the economic development opportunities available to the tribe as a result of the North American Free Trade Agreement.

(b) Tribal participation

The Secretary shall provide for the participation of members of the Pascua Yaqui Tribe to carry out subsection (a) of this section.

(c) Report

Not later than 2 years after the date on which funds are made available to carry out this sec-

tion, the Secretary of the Interior shall submit a report to Congress that contains the results of each study conducted pursuant to subsection (a) of this section.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 95–375, § 4, as added Pub. L. 103–357, § 2, Oct. 14, 1994, 108 Stat. 3418; amended Pub. L. 104–109, § 4, Feb. 12, 1996, 110 Stat. 764.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–109 substituted ''Tribe'' for ''tribe''.

SUBCHAPTER LXXVIII—YSLETA DEL SUR PUEBLO: RESTORATION OF FEDERAL SUPERVISION

§ 1300g. Definitions

For purposes of this subchapter—

(1) the term ''tribe'' means the Ysleta del Sur Pueblo (as so designated by section 1300g–1 of this title);

(2) the term ''Secretary'' means the Secretary of the Interior or his designated representative;

(3) the term ''reservation'' means lands within El Paso and Hudspeth Counties, Texas—

(A) held by the tribe on August 18, 1987;

(B) held in trust by the State or by the Texas Indian Commission for the benefit of the tribe on August 18, 1987;

(C) held in trust for the benefit of the tribe by the Secretary under section 1300g–4(g)(2) of this title; and

(D) subsequently acquired and held in trust by the Secretary for the benefit of the tribe.[1]

(4) the term ''State'' means the State of Texas;

(5) the term ''Tribal Council'' means the governing body of the tribe as recognized by the Texas Indian Commission on August 18, 1987, and such tribal council's successors; and

(6) the term ''Tiwa Indians Act'' means the Act entitled ''An Act relating to the Tiwa Indians of Texas.'' and approved April 12, 1968 (82 Stat. 93).

(Pub. L. 100–89, title I, § 101, Aug. 18, 1987, 101 Stat. 666.)

REFERENCES IN TEXT

The Tiwa Indians Act, referred to in par. (6), is Pub. L. 90–287, Apr. 12, 1968, 82 Stat. 93, which was not classified to the Code and was repealed by section 1300g–5 of this title.

SHORT TITLE

For short title of Pub. L. 100–89, which enacted this subchapter, subchapter XXXI–A of this chapter, and provisions set out as notes under section 731 of this title, as the ''Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act'', see section 1 of Pub. L. 100–89, set out as a note under section 731 of this title.

REGULATIONS

For provision authorizing the Secretary of the Interior or his designated representative to promulgate regulations as necessary to carry out provisions of this subchapter, see section 2 of Pub. L. 100–89, set out as a note under section 731 of this title.

[1] So in original. The period probably should be a semicolon.

§ 1300g–1. Redesignation of tribe

The Indians designated as the Tiwa Indians of Ysleta, Texas, by the Tiwa Indians Act shall, on and after August 18, 1987, be known and designated as the Ysleta del Sur Pueblo. Any reference in any law, map, regulation, document, record, or other paper of the United States to the Tiwa Indians of Ysleta, Texas, shall be deemed to be a reference to the Ysleta del Sur Pueblo.

(Pub. L. 100–89, title I, § 102, Aug. 18, 1987, 101 Stat. 666.)

REFERENCES IN TEXT

The Tiwa Indians Act, referred to in text, is Pub. L. 90–287, Apr. 12, 1968, 82 Stat. 93, which was not classified to the Code and was repealed by section 1300g–5 of this title.

§ 1300g–2. Restoration of Federal trust relationship; Federal services and assistance

(a) Federal trust relationship

The Federal trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984), as amended [25 U.S.C. 461 et seq.], and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this subchapter shall apply to the members of the tribe, the tribe, and the reservation.

(b) Restoration of rights and privileges

All rights and privileges of the tribe and members of the tribe under any Federal treaty, statute, Executive order, agreement, or under any other authority of the United States which may have been diminished or lost under the Tiwa Indians Act are hereby restored.

(c) Federal services and benefits

Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after August 18, 1987, for all benefits and services furnished to federally recognized Indian tribes.

(d) Effect on property rights and other obligations

Except as otherwise specifically provided in this subchapter, the enactment of this subchapter shall not affect any property right or obligation or any contractual right or obligation in existence before August 18, 1987, or any obligation for taxes levied before August 18, 1987.

(Pub. L. 100–89, title I, § 103, Aug. 18, 1987, 101 Stat. 667.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

The Tiwa Indians Act, referred to in subsec. (b), is Pub. L. 90–287, Apr. 12, 1968, 82 Stat. 93, which was not classified to the Code and was repealed by section 1300g–5 of this title.

§ 1300g–3. State and tribal authority

(a) State authority

Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefiting the tribe, and the State is authorized to perform any services benefiting the tribe that are not inconsistent with the provisions of this Act.

(b) Tribal authority

The Tribal Council shall represent the tribe and its members in the implementation of this subchapter and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency, and

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement.

(Pub. L. 100–89, title I, § 104, Aug. 18, 1987, 101 Stat. 667.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 100–89, Aug. 18, 1987, 101 Stat. 666, known as the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act, which enacted this subchapter and subchapter XXXI–A (§ 731 et seq.) of this chapter and enacted provisions set out as notes under section 731 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 731 of this title and Tables.

§ 1300g–4. Provisions relating to tribal reservation

(a) Federal reservation established

The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary.

(b) Conveyance of land by State

The Secretary shall—

(1) accept any offer from the State to convey title to any land within the reservation held in trust on August 18, 1987, by the State or by the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) Conveyance of land by tribe

At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any land within the reservation held by the tribe on August 18, 1987, to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) Approval of deed by Attorney General

Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument which conveys title to land within El Paso or Hudspeth Counties, Texas, to the United States to be held in trust by the Secretary for the benefit of the tribe.

(e) Permanent improvements authorized

Notwithstanding any other provision of law or rule of law, the Secretary or the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) Civil and criminal jurisdiction within reservation

The State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 1321 and 1322 of this title.

(g) Acquisition of land by tribe after August 18, 1987

(1) Notwithstanding any other provision of law, the Tribal Council may, on behalf of the tribe—

(A) acquire land located within El Paso County, or Hudspeth County, Texas, after August 18, 1987, and take title to such land in fee simple, and

(B) lease, sell, or otherwise dispose of such land in the same manner in which a private person may do so under the laws of the State.

(2) At the written request of the Tribal Council, the Secretary may—

(A) accept conveyance to the Secretary by the Tribal Council (on behalf of the tribe) of title to any land located within El Paso County, or Hudspeth County, Texas, that is acquired by the Tribal Council in fee simple after August 18, 1987, and

(B) hold such title, upon such conveyance by the Tribal Council, in trust for the benefit of the tribe.

(Pub. L. 100–89, title I, § 105, Aug. 18, 1987, 101 Stat. 667.)

§ 1300g–5. Tiwa Indians Act repealed

The Tiwa Indians Act is hereby repealed.

(Pub. L. 100–89, title I, § 106, Aug. 18, 1987, 101 Stat. 668.)

REFERENCES IN TEXT

The Tiwa Indians Act, referred to in text, is Pub. L. 90–287, Apr. 12, 1968, 82 Stat. 93, which was not classified to the Code.

§ 1300g–6. Gaming activities

(a) In general

All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the

tribe's request in Tribal Resolution No. T.C.–02–86 which was approved and certified on March 12, 1986.

(b) No State regulatory jurisdiction

Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) Jurisdiction over enforcement against members

Notwithstanding section 1300g–4(f) of this title, the courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) of this section that is committed by the tribe, or by any member of the tribe, on the reservation or on lands of the tribe. However, nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section.

(Pub. L. 100–89, title I, § 107, Aug. 18, 1987, 101 Stat. 668.)

§ 1300g–7. Tribal membership

(a) In general

The membership of the tribe shall consist of—

(1) the individuals listed on the Tribal Membership Roll approved by the tribe's Resolution No. TC–5–84 approved December 18, 1984, and approved by the Texas Indian Commission's Resolution No. TIC–85–005 adopted on January 16, 1985; and

(2) a descendant of an individual listed on that Roll if the descendant—

(i) has ⅛ degree or more of Tigua-Ysleta del Sur Pueblo Indian blood, and

(ii) is enrolled by the tribe.

(b) Removal from tribal roll

Notwithstanding subsection (a) of this section—

(1) the tribe may remove an individual from tribal membership if it determines that the individual's enrollment was improper; and

(2) the Secretary, in consultation with the tribe, may review the Tribal Membership Roll.

(Pub. L. 100–89, title I, § 108, Aug. 18, 1987, 101 Stat. 669.)

SUBCHAPTER LXXIX—LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

§ 1300h. Congressional findings

Congress finds that—

(1) the Lac Vieux Desert Band of Lake Superior Chippewa Indians, although currently recognized by the Federal Government as part of the Keweenaw Bay Indian Community, has historically existed, and continues to exist, as a separate and distinct Indian tribe that is located over 75 miles from the Keweenaw Bay Indian Community;

(2) the Lac Vieux Desert Band consists of approximately 250 members who continue to reside close to their ancestral homeland near the town of Watersmeet, Michigan;

(3) the Lac Vieux Desert Band entered into two treaties with the United States as a distinct tribal entity (7 Stat. 591, 10 Stat. 1109);

(4) members of the Lac Vieux Desert Band currently reside on or otherwise occupy lands within the Township of Watersmeet, Michigan, which are held by the United States in trust for the Keweenaw Bay Indian Community, and currently receive limited Federal benefits through the Keweenaw Bay Indian Community; and

(5) because of its distance from Keweenaw Bay and the failure of the United States to recognize the independent status of the tribe, the Lac Vieux Desert Band and its members receive only limited benefits to which the tribe and its members are entitled.

(Pub. L. 100–420, § 2, Sept. 8, 1988, 102 Stat. 1577.)

SHORT TITLE

Section 1 of Pub. L. 100–420 provided that: ''This Act [enacting this subchapter] may be cited as the 'Lac Vieux Desert Band of Lake Superior Chippewa Indians Act'.''

§ 1300h–1. Definitions

For purposes of this subchapter—

(1) the term ''Band'' means the Lac Vieux Desert Band of Lake Superior Chippewa Indians;

(2) the term ''member'' means those individuals eligible for enrollment under section 1300h–3 of this title in the Band; and

(3) the term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 100–420, § 3, Sept. 8, 1988, 102 Stat. 1577.)

§ 1300h–2. Federal trust relationship

(a) The Federal recognition of the Band and the trust relationship between the United States and the Band is hereby reaffirmed. The Act of June 18, 1934 (48 Stat. 984), as amended [25 U.S.C. 461 et seq.], and all laws and rules of law of the United States of general application to Indians, Indian tribes, or Indian reservations which are not inconsistent with this subchapter shall apply to the members of the Band, and the reservation. The Band is hereby recognized as an independent tribal entity, separate from the Keweenaw Bay Indian Community or any other tribe.

(b) The Band and its members are eligible for all special programs and services provided by the United States to Indians because of their status as Indians.

(Pub. L. 100–420, § 4, Sept. 8, 1988, 102 Stat. 1577.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300h–3. Establishment of a Band roll

(a) Submission of membership roll

Within six months after September 8, 1988, the Band shall submit to the Secretary, for approval, its base membership roll which shall include only individuals who are not members of any other federally recognized Indian tribe or

who have relinquished membership in such tribe and who are eligible for membership under subsection (b) of this section.

(b) Eligibility

An individual is eligible for inclusion on the base membership roll in the Band if that individual—

(1) is on the tribal membership roll as maintained by the Band prior to September 8, 1988, and is on file with the Bureau of Indian Affairs as of September 8, 1988; or

(2) is at least one-quarter Chippewa Indian blood and is a person or a descendant of a person who was listed, or could have been listed, on any of the census of the Lac Vieux Desert Band prepared by the Superintendent of the MacKinaw Agency prior to 1928 or by the Superintendent of the Great Lakes agency on or prior to 1940.

(c) Maintenance of roll

The Band shall ensure that the roll, once completed and approved, is maintained and kept current.

(d) Future eligibility

(1) Notwithstanding paragraph (b) of section 1300h–4 of this title and except as provided in paragraph (2), future membership in the tribe shall be limited to descendants of individuals whose names appear on the base roll and who have at least one-quarter Chippewa blood quantum.

(2) The Band may modify such quarter Chippewa blood quantum requirement and base roll if such modifications are adopted in the tribal election as prescribed under paragraph (a) of section 1300h–4 of this title or in a referendum by a majority of the voters and approved by the Secretary of the Interior. The Secretary shall approve such new membership requirements once adopted by the tribal voters unless he finds that the proposed amendment is contrary to Federal law.

(Pub. L. 100–420, § 5, Sept. 8, 1988, 102 Stat. 1578; Pub. L. 104–109, § 18, Feb. 12, 1996, 110 Stat. 766.)

AMENDMENTS

1996—Subsec. (d)(2). Pub. L. 104–109 substituted ''requirement and base roll if such modifications are'' for ''requirement if such modification is''.

§ 1300h–4. Organization of tribe; constitution and governing body

(a) Governing document

Within one year following September 8, 1988, the Band's governing body shall propose a governing document, and the Secretary shall conduct, pursuant to section 476 of this title, and in accordance with applicable rules and regulations, an election as to the adoption of the proposed document. The Secretary shall approve the governing document if approved by a majority of the tribal voters unless the Secretary finds that the proposed constitution, or any provision thereof, is contrary to Federal law.

(b) Interim governing document

Until the Band adopts and the Secretary approves a governing document, the Band's interim governing document shall be the Lac Vieux Desert Constitution which bears the approval date of June 18, 1986, and a copy of which is in the files of the Division of Tribal Government Services, Bureau of Indian Affairs, Washington, District of Columbia.

(c) Interim governing body

Until the Band elects a new governing body pursuant to the new governing document, the Band's governing body shall consist of its current Band officers, elected at the Band's election held on November 5, 1986, or any new officers selected under election procedures of the interim governing document identified under subsection (b) of this section.

(Pub. L. 100–420, § 6, Sept. 8, 1988, 102 Stat. 1578.)

§ 1300h–5. Land acquisition; establishment of Federal reservation

(a) The Keweenaw Bay Indian Community is hereby authorized to convey, by deed to the United States in trust for the Band, all lands located in Gogebic County, Michigan, which, on September 8, 1988, are held in trust by the United States for the benefit of said community. The Secretary is hereby authorized and directed to approve and accept the deed with the expressed consent of the Keweenaw Bay Indian Community and the Band. Upon acceptance of the deed, all lands described therein shall constitute the reservation of the Band.

(b) The Secretary may place such other land into trust for the benefit of the Band pursuant to the provisions of the Act of June 18, 1934 (48 Stat. 84) [25 U.S.C. 461 et seq.], or any other Act: *Provided*, That any such land placed in trust which is located in Gogebic County, shall become part of the reservation.

(Pub. L. 100–420, § 7, Sept. 8, 1988, 102 Stat. 1579.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (b), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300h–6. Distribution of funds

(a) For the purpose of proceeding with the per capita distribution of the funds appropriated and subsequently apportioned to the Keweenaw Bay Indian Community in satisfaction of judgments awarded the Lake Superior Chippewas and Mississippi Chippewas in dockets numbered 18–C, 18–T, 18–S, and 18–U of the Indian Claims Commission, the Secretary of the Interior shall accept the tribe's certification of enrolled membership.

(b) Individuals who are or become members of the Lac Vieux Desert Band and who are eligible for per capita shares out of funds apportioned to the Keweenaw Bay Indian Community or Sokaogan Chippewa Community shall continue to be eligible for such per capita payments notwithstanding their relinquishment of their enrollment in either community pursuant to section 1300h–3 of this title.

(Pub. L. 100–420, § 8, Sept. 8, 1988, 102 Stat. 1579.)

§ 1300h–7. Constitutional amendment

(a) Notwithstanding any other law or provision in the constitution of the Keweenaw Bay Indian Community, the Secretary shall call an election within 90 days of receipt of a resolution of the Keweenaw Bay Tribal Council requesting an election for the purpose of amending provisions of the constitution of the Keweenaw Bay Indian Community.

(b) The Secretary shall accept as voters eligible to vote on any amendments to the constitution of the Keweenaw Bay Indian Community—

(1) all those persons who were deemed eligible by the Keweenaw Bay Indian Community to vote in the most recent election for the Tribal Council, and

(2) any other person certified by the Keweenaw Bay Indian Community Tribal Council as—

(A) a member of the Keweenaw Bay Indian Community, and

(B) eligible to vote in any election for the Tribal Council.

(Pub. L. 100–420, § 9, Sept. 8, 1988, 102 Stat. 1579; Pub. L. 101–301, § 7, May 24, 1990, 104 Stat. 210.)

AMENDMENTS

1990—Pub. L. 101–301 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1300h–8. Compliance with Budget Act

Notwithstanding any other provision of this subchapter, any spending authority provided under this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts. For purposes of this subchapter, the term ''spending authority'' has the meaning provided in section 651(c)(2)[1] of title 2.

(Pub. L. 100–420, § 10, Sept. 8, 1988, 102 Stat. 1579.)

REFERENCES IN TEXT

Section 651 of title 2, referred to in text, was amended by Pub. L. 105–33, title X, § 10116(a)(3), (5), Aug. 5, 1997, 111 Stat. 691, by striking out subsec. (c) and redesignating former subsec. (d) as (c).

SUBCHAPTER LXXX—HOOPA-YUROK SETTLEMENT

§ 1300i. Short title and definitions

(a) Short title

This subchapter may be cited as the ''Hoopa-Yurok Settlement Act''.

(b) Definitions

For the purposes of this subchapter, the term—

(1) ''Escrow funds'' means the moneys derived from the joint reservation which are held in trust by the Secretary in the accounts entitled—

(A) ''Proceeds of Labor-Hoopa Valley Indians-California 70 percent Fund, account number J52–561–7197'';

(B) ''Proceeds of Labor-Hoopa Valley Indians-California 30 percent Fund, account number J52–561–7236'';

(C) ''Proceeds of Klamath River Reservation, California, account number J52–562–7056'';

(D) ''Proceeds of Labor-Yurok Indians of Lower Klamath River, California, account number J52–562–7153'';

(E) ''Proceeds of Labor-Yurok Indians of Upper Klamath River, California, account number J52–562–7154'';

(F) ''Proceeds of Labor-Hoopa Reservation for Hoopa Valley and Yurok Tribes, account number J52–575–7256''; and

(G) ''Klamath River Fisheries, account number 5628000001'';

(2) ''Hoopa Indian blood'' means that degree of ancestry derived from an Indian of the Hunstang, Hupa, Miskut, Redwood, Saiaz, Sermalton, Tish-Tang-Atan, South Fork, or Grouse Creek Bands of Indians;

(3) ''Hoopa Valley Reservation'' means the reservation described in section 1300i–1(b) of this title;

(4) ''Hoopa Valley Tribe'' means the Hoopa Valley Tribe, organized under the constitution and amendments approved by the Secretary on November 20, 1933, September 4, 1952, August 9, 1963, and August 18, 1972;

(5) ''Indian of the Reservation'' shall mean any person who meets the criteria to qualify as an Indian of the Reservation as established by the United States Court of Claims in its March 31, 1982, May 17, 1987, and March 1, 1988, decisions in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102–63);

(6) ''Joint reservation'' means the area of land defined as the Hoopa Valley Reservation in section 1300i–1(b) of this title and the Yurok Reservation in section 1300i–1(c) of this title.[1]

(7) ''Karuk Tribe'' means the Karuk Tribe of California, organized under its constitution on April 6, 1985;

(8) ''Secretary'' means the Secretary of the Interior;

(9) ''Settlement Fund'' means the Hoopa-Yurok Settlement Fund established pursuant to section 1300i–3 of this title;

(10) ''Settlement Roll'' means the final roll prepared and published in the Federal Register by the Secretary pursuant to section 1300i–4 of this title;

(11) ''Short cases'' means the cases entitled Jesse Short et al. v. United States, (Cl. Ct. No. 102–63); Charlene Ackley v. United States, (Cl. Ct. No. 460–78); Bret Aanstadt v. United States, (Cl. Ct. No. 146–85L); and Norman Giffen v. United States, (Cl. Ct. No. 746–85L);

(12) ''Short plaintiffs'' means named plaintiffs in the Short cases;

(13) ''trust land'' means an interest in land the title to which is held in trust by the United States for an Indian or Indian tribe, or by an Indian or Indian tribe subject to a restriction by the United States against alienation;

(14) ''unallotted trust land, property, resources or rights'' means those lands, property, resources, or rights reserved for Indian purposes which have not been allotted to individuals under an allotment Act;

[1] See References in Text note below.

[1] So in original. The period probably should be a semicolon.

(15) ''Yurok Reservation'' means the reservation described in section 1300i–1(c) of this title; and

(16) ''Yurok Tribe'' means the Indian tribe which is recognized and authorized to be organized pursuant to section 1300i–8 of this title.

(Pub. L. 100–580, § 1, Oct. 31, 1988, 102 Stat. 2924.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (b), was in the original ''this Act'', meaning Pub. L. 100–580, Oct. 31, 1988, 102 Stat. 2924, which enacted this subchapter, amended section 407 of this title and section 460ss–3 of Title 16, Conservation, and enacted provisions set out as a note under section 460ss–3 of Title 16. For complete classification of this Act to the Code, see Tables.

§ 1300i–1. Reservations; partition and additions

(a) Partition of the joint reservation

(1) Effective with the publication in the Federal Register of the Hoopa tribal resolution as provided in paragraph (2), the joint reservation shall be partitioned as provided in subsections (b) and (c) of this section.

(2)(A) The partition of the joint reservation as provided in this subsection, and the ratification and confirmation as provided by section 1300i–7 of this title, shall not become effective unless, within 60 days after October 31, 1988, the Hoopa Valley Tribe shall adopt, and transmit to the Secretary, a tribal resolution:

(i) waiving any claim such tribe may have against the United States arising out of the provisions of this subchapter, and

(ii) affirming tribal consent to the contribution of Hoopa Escrow monies to the Settlement Fund, and for their use as payments to the Yurok Tribe, and to individual Yuroks, as provided in this subchapter.

(B) The Secretary, after determining the validity of the resolution transmitted pursuant to subparagraph (A), shall cause such resolution to be printed in the Federal Register.

(b) Hoopa Valley Reservation

Effective with the partition of the joint reservation as provided in subsection (a) of this section, the area of land known as the ''square'' (defined as the Hoopa Valley Reservation established under section 2 of the Act of April 8, 1864 (13 Stat. 40), the Executive Order of June 23, 1876, and Executive Order 1480 of February 17, 1912) shall thereafter be recognized and established as the Hoopa Valley Reservation. The unallotted trust land and assets of the Hoopa Valley Reservation shall thereafter be held in trust by the United States for the benefit of the Hoopa Valley Tribe.

(c) Yurok Reservation

(1) Effective with the partition of the joint reservation as provided in subsection (a) of this section, the area of land known as the ''extension'' (defined as the reservation extension under the Executive Order of October 16, 1891, but excluding the Resighini Rancheria) shall thereafter be recognized and established as the Yurok Reservation. The unallotted trust land and assets of the Yurok Reservation shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe.

(2) Subject to all valid existing rights and subject to the adoption of a resolution of the Interim Council of the Yurok Tribe as provided in section 1300i–8(d)(2) of this title, all right, title, and interest of the United States—

(A) to all national forest system lands within the Yurok Reservation, and

(B) to that portion of the Yurok Experimental Forest described as Township 14 N., Range 1 E., Section 28, Lot 6: that portion of Lot 6 east of U.S. Highway 101 and west of the Yurok Experimental Forest, comprising 14 acres more or less and including all permanent structures thereon, shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe and shall be part of the Yurok Reservation.

(3)(A) Pursuant to the authority of sections 465 and 467 of this title, the Secretary may acquire from willing sellers lands or interests in land, including rights-of-way for access to trust lands, for the Yurok Tribe or its members, and such lands may be declared to be part of the Yurok Reservation.

(B) From amounts authorized to be appropriated by section 13 of this title, the Secretary shall use not less than $5,000,000 for the purpose of acquiring lands or interests in lands pursuant to subparagraph (A). No lands or interests in lands may be acquired outside the Yurok Reservation with such funds except lands adjacent to and contiguous with the Yurok Reservation or for purposes of exchange for lands within the reservation.

(4) The—

(A) apportionment of funds to the Yurok Tribe as provided in sections 1300i–3 and 1300i–6 of this title;

(B) the land transfers pursuant to paragraph (2);

(C) the land acquisition authorities in paragraph (3); and

(D) the organizational authorities of section 1300i–8 of this title shall not be effective unless and until the Interim Council of the Yurok Tribe has adopted a resolution waiving any claim such tribe may have against the United States arising out of the provisions of this subchapter.

(d) Boundary clarifications or corrections

(1) The boundary between the Hoopa Valley Reservation and the Yurok Reservation, after the partition of the joint reservation as provided in this section, shall be the line established by the Bissel-Smith survey.

(2) Upon the partition of the joint reservation as provided in this section, the Secretary shall publish a description of the boundaries of the Hoopa Valley Reservation and Yurok Reservation in the Federal Register.

(e) Management of the Yurok Reservation

The Secretary shall be responsible for the management of the unallotted trust land and assets of the Yurok Reservation until such time as the Yurok Tribe has been organized pursuant to section 1300i–8 of this title. Thereafter, those lands and assets shall be administered as tribal trust land and the Yurok reservation governed by the Yurok Tribe as other reservations are governed by the tribes of those reservations.

(f) Criminal and civil jurisdiction

The Hoopa Valley Reservation and Yurok Reservation shall be subject to section 1360 of title 28;[1] section 1162 of title 18, and section 1323(a) of this title.

(Pub. L. 100–580, § 2, Oct. 31, 1988, 102 Stat. 2925.)

REFERENCES IN TEXT

Section 2 of the Act of April 8, 1864, referred to in subsec. (b), is section 2 of act Apr. 8, 1864, ch. 48, 13 Stat. 40, which was not classified to the Code.

Executive Order of June 23, 1876, and Executive Order 1480 of February 17, 1912, referred to in subsec. (b), are not classified to the Code.

Executive Order of October 16, 1891, referred to in subsec. (c), is not classified to the Code.

HOOPA VALLEY RESERVATION SOUTH BOUNDARY ADJUSTMENT

Pub. L. 105–79, Nov. 13, 1997, 111 Stat. 1527, as amended by Pub. L. 105–256, § 6, Oct. 14, 1998, 112 Stat. 1897, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Hoopa Valley Reservation South Boundary Adjustment Act'.

''SEC. 2. TRANSFER OF LANDS WITHIN SIX RIVERS NATIONAL FOREST FOR HOOPA VALLEY TRIBE.

''(a) TRANSFER.—All right, title, and interest in and to the lands described in subsection (b) shall hereafter be administered by the Secretary of the Interior and be held in trust by the United States for the Hoopa Valley Tribe. The lands are hereby declared part of the Hoopa Valley Reservation. Upon the inclusion of such lands in the Hoopa Valley Reservation, Forest Service system roads numbered 8N03 and 7N51 and the Trinity River access road which is a spur off road numbered 7N51, shall be Indian reservation roads, as defined in section 101(a) of title 23 of the United States Code.

''(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are those portions of Townships 7 North and 8 North, Ranges 5 East and 6 East, Humboldt Meridian, California, within a boundary beginning at a point on the current south boundary of the Hoopa Valley Indian Reservation, marked and identified as 'Post H.V.R. No. 8' on the Plat of the Hoopa Valley Indian Reservation prepared from a field survey conducted by C.T. Bissel, Augustus T. Smith, and C.A. Robinson, Deputy Surveyors, approved by the Surveyor General, H. Pratt, March 18, 1892, and extending from said point on a bearing of north 73 degrees 50 minutes east, until intersecting with a line beginning at a point marked as 'Post H.V.R. No. 3' on such survey and extending on a bearing of south 14 degrees 36 minutes east, comprising 2,641 acres more or less.

''(c) BOUNDARY ADJUSTMENT.—The boundary of the Six Rivers National Forest in the State of California is hereby adjusted to exclude the lands to be held in trust for the benefit of the Hoopa Valley Tribe pursuant to this section.

''(d) SURVEY.—The Secretary of the Interior, acting through the Bureau of Land Management, shall survey and monument that portion of the boundary of the Hoopa Valley Reservation established by the addition of the lands described in subsection (b).

''(e) SETTLEMENT OF CLAIMS.—The transfer of lands to trust status under this section extinguishes the following claims by the Hoopa Valley Tribe:

''(1) All claims on land now administered as part of the Six Rivers National Forest based on the allegation of error in establishing the boundaries of the Hoopa Valley Reservation, as those boundaries were configured before the date of the enactment of this Act [Nov. 13, 1997].

''(2) All claims of failure to pay just compensation for a taking under the fifth amendment to the United States Constitution, if such claims are based on activities, occurring before the date of the enactment of this Act, related to the lands transferred to trust status under this section.''

[1] So in original. The semicolon probably should be a comma.

§ 1300i–2. Preservation of Short cases

Nothing in this subchapter shall affect, in any manner, the entitlement established under decisions of the United States Court of Federal Claims in the Short cases or any final judgment which may be rendered in those cases.

(Pub. L. 100–580, § 3, Oct. 31, 1988, 102 Stat. 2927; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 1300i–3. Hoopa-Yurok Settlement Fund

(a) Establishment

(1) There is hereby established the Hoopa-Yurok Settlement Fund. Upon enactment of this subchapter, the Secretary shall cause all the funds in the escrow funds, together with all accrued income thereon, to be deposited into the Settlement Fund.

(2) Until the distribution is made to the Hoopa Valley Tribe pursuant to section[1] (c), the Secretary may distribute to the Hoopa Valley Tribe, pursuant to section 123c of this title, not to exceed $3,500,000 each fiscal year out of the income or principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however*, That the Settlement Fund apportioned under subsections (c) and (d) of this section shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Hoopa Valley Tribe pursuant to subsection (c) of this section.

(3) Until the distribution is made to the Yurok Tribe pursuant to section[1] (d), the Secretary may, in addition to providing Federal funding, distribute to the Yurok Transition Team, pursuant to section 123c of this title, not to exceed $500,000 each fiscal year out of the income and principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however*, That the Settlement Fund apportioned under subsections (c) and (d) of this section shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Yurok Tribe pursuant to subsection (d) of this section.

(b) Distribution; investment

The Secretary shall make distribution from the Settlement Fund as provided in this sub-

[1] So in original. Probably should be ''subsection''.

chapter and, pending payments under section 1300i–5 of this title and dissolution of the fund as provided in section 1300i–6 of this title, shall invest and administer such fund as Indian trust funds pursuant to section 162a of this title.

(c) Hoopa Valley Tribe portion

Effective with the publication of the option election date pursuant to section 1300i–5(a)(4) of this title, the Secretary shall immediately pay out of the Settlement Fund into a trust account for the benefit of the Hoopa Valley Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of enrolled members of the Hoopa Valley Tribe as of the date of the promulgation of the Settlement Roll, including any persons enrolled pursuant to section 1300i–5 of this title, by the sum of the number of such enrolled Hoopa Valley tribal members and the number of persons on the Settlement Roll.

(d) Yurok Tribe portion

Effective with the publication of the option election date pursuant to section 1300i–5(a)(4) of this title, the Secretary shall pay out of the Settlement Fund into a trust account for the benefit of the Yurok Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of persons on the Settlement Roll electing the Yurok Tribal Membership Option pursuant to section 1300i–5(c) of this title by the sum of the number of the enrolled Hoopa Valley tribal members established pursuant to subsection (c) of this section and the number of persons on the Settlement Roll, less any amount paid out of the Settlement Fund pursuant to section 1300i–5(c)(3) of this title.

(e) Federal share

There is hereby authorized to be appropriated the sum of $10,000,000 which shall be deposited into the Settlement Fund after the payments are made pursuant to subsections (c) and (d) of this section and section 1300i–5(c) of this title. The Settlement Fund, including the amount deposited pursuant to this subsection and all income earned subsequent to the payments made pursuant to subsections (c) and (d) of this section and section 1300i–5(c) of this title, shall be available to make the payments authorized by section 1300i–5(d) of this title.

(Pub. L. 100–580, § 4, Oct. 31, 1988, 102 Stat. 2927.)

§ 1300i–4. Hoopa-Yurok Settlement Roll

(a) Preparation; eligibility criteria

(1) The Secretary shall prepare a roll of all persons who can meet the criteria for eligibility as an Indian of the Reservation and—

(A) who were born on or prior to, and living upon, October 31, 1988;

(B) who are citizens of the United States; and

(C) who were not, on August 8, 1988, enrolled members of the Hoopa Valley Tribe.

(2) The Secretary's determination of eligibility under this subsection shall be final except that any Short plaintiff determined by the United States Court of Federal Claims to be an Indian of the Reservation shall be included on the Settlement Roll if they meet the other requirements of this subsection and any Short plaintiff determined by the United States Court of Federal Claims not to be an Indian of the Reservation shall not be eligible for inclusion on such roll. Children under age 10 on the date they applied for the Settlement Roll who have lived all their lives on the Joint Reservation or the Hoopa Valley or Yurok Reservations, and who otherwise meet the requirements of this section except they lack 10 years of Reservation residence, shall be included on the Settlement Roll.

(b) Right to apply; notice

Within thirty days after October 31, 1988, the Secretary shall give such notice of the right to apply for enrollment as provided in subsection (a) of this section as he deems reasonable except that such notice shall include, but shall not be limited to—

(1) actual notice by registered mail to every plaintiff in the Short cases at their last known address;

(2) notice to the attorneys for such plaintiffs; and

(3) publication in newspapers of general circulation in the vicinity of the Hoopa Valley Reservation and elsewhere in the State of California.

Contemporaneous with providing the notice required by this subsection, the Secretary shall publish such notice in the Federal Register.

(c) Application deadline

The deadline for application pursuant to this section shall be established at one hundred and twenty days after the publication of the notice by the Secretary in the Federal Register as required by subsection (b) of this section.

(d) Eligibility determination; final roll

(1) The Secretary shall make determinations of eligibility of applicants under this section and publish in the Federal Register the final Settlement Roll of such persons one hundred and eighty days after the date established pursuant to subsection (c) of this section.

(2) The Secretary shall develop such procedures and times as may be necessary for the consideration of appeals from applicants not included on the roll published pursuant to paragraph (1). Successful appellants shall be added to the Settlement Roll and shall be afforded the right to elect options as provided in section 1300i–5 of this title, with any payments to be made to such successful appellants out of the remainder of the Settlement Fund after payments have been made pursuant to section 1300i–5(d) of this title and prior to division pursuant to section 1300i–6 of this title.

(3) Persons added to the Settlement Roll pursuant to appeals under this subsection shall not be considered in the calculations made pursuant to section 1300i–3 of this title.

(4) For the sole purpose of preparing the Settlement Roll under this section, the Yurok Transition Team and the Hoopa Valley Business Council may review applications, make recommendations which the Secretary shall accept unless conflicting or erroneous, and may appeal the Secretary's decisions concerning the Settlement Roll. Full disclosure of relevant records

shall be made to the Team and to the Council notwithstanding any other provision of law.

(e) Effect of exclusion from roll

No person whose name is not included on the Settlement Roll shall have any interest in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Tribe, the Hoopa Valley Reservation, the Yurok Tribe, or the Yurok Reservation or in the Settlement Fund unless such person is subsequently enrolled in the Hoopa Valley Tribe or the Yurok Tribe under the membership criteria and ordinances of such tribes.

(Pub. L. 100–580, § 5, Oct. 31, 1988, 102 Stat. 2928; Pub. L. 101–301, § 9(1), (2), May 24, 1990, 104 Stat. 210; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' in two places.

1990—Subsec. (a)(2). Pub. L. 101–301, § 9(1), inserted at end ''Children under age 10 on the date they applied for the Settlement Roll who have lived all their lives on the Joint Reservation or the Hoopa Valley or Yurok Reservations, and who otherwise meet the requirements of this section except they lack 10 years of Reservation residence, shall be included on the Settlement Roll.''

Subsec. (d)(4). Pub. L. 101–301, § 9(2), added par. (4).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 1300i–5. Election of settlement options

(a) Notice of settlement options

(1) Within sixty days after the publication of the Settlement Roll as provided in section 1300i–4(d) of this title, the Secretary shall give notice by certified mail to each person eighteen years or older on such roll of their right to elect one of the settlement options provided in this section.

(2) The notice shall be provided in easily understood language, but shall be as comprehensive as possible and shall provide an objective assessment of the advantages and disadvantages of each of the options offered. The notice shall also provide information about the counseling services which will be made available to inform individuals about the respective rights and benefits associated with each option presented under this section. It shall also clarify that on election the Lump Sum Payment option requires the completion of a sworn affidavit certifying that the individual has been provided with complete information about the effects of such an election.

(3) With respect to minors on the Settlement Roll the notice shall state that minors shall be deemed to have elected the option of subsection (c) of this section, except that if the parent or guardian furnishes proof satisfactory to the Secretary that a minor is an enrolled member of a tribe that prohibits members from enrolling in other tribes, the parent or guardian shall make the election for such minor. A minor subject to the provisions of subsection (c) of this section shall, notwithstanding any other law, be deemed to be a child of a member of an Indian tribe regardless of the option elected pursuant to this subchapter by the minor's parent. With respect to minors on the Settlement Roll whose parent or guardian is not also on the roll, notice shall be given to the parent or guardian of such minor. The funds to which such minors are entitled shall be held in trust by the Secretary until the minor reaches age 18. The Secretary shall notify and provide payment to such person including all interest accrued.

(4)(A) The notice shall also establish the date by which time the election of an option under this section must be made. The Secretary shall establish that date as the date which is one hundred and twenty days after the date of the publication in the Federal Register as required by section 1300i–4(d) of this title.

(B) Any person on the Settlement Roll who has not made an election by the date established pursuant to subparagraph (A) shall be deemed to have elected the option provided in subsection (c) of this section.

(b) Hoopa tribal membership option

(1) Any person on the Settlement Roll, eighteen years or older, who can meet any of the enrollment criteria of the Hoopa Valley Tribe set out in the decision of the United States Court of Claims in its March 31, 1982, decision in the Short case (No. 102–63) as ''Schedule A'', ''Schedule B'', or ''Schedule C'' and who—

(A) maintained a residence on the Hoopa Valley Reservation on October 31, 1988;

(B) had maintained a residence on the Hoopa Valley Reservation at any time within the five year period prior to October 31, 1988; or

(C) owns an interest in real property on the Hoopa Valley Reservation on October 31, 1988,

may elect to be, and, upon such election, shall be entitled to be, enrolled as a full member of the Hoopa Valley Tribe.

(2) Notwithstanding any provision of the constitution, ordinances or resolutions of the Hoopa Valley Tribe to the contrary, the Secretary shall cause any entitled person electing to be enrolled as a member of the Hoopa Valley Tribe to be so enrolled and such person shall thereafter be entitled to the same rights, benefits, and privileges as any other member of such tribe.

(3) The Secretary shall determine the quantum of ''Indian blood'' or ''Hoopa Indian blood'', if any, of each person enrolled in the Hoopa Valley Tribe under this subsection pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102–63).

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Yurok Indian Reservation or the Yurok Tribe or in the Settlement Fund.

(c) Yurok tribal membership option

(1) Any person on the Settlement Roll may elect to become a member of the Yurok Tribe

and shall be entitled to participate in the organization of such tribe as provided in section 1300i–8 of this title.

(2) All persons making an election under this subsection shall form the base roll of the Yurok Tribe for purposes of organization pursuant to section 1300i–8 of this title and the Secretary shall determine the quantum of ''Indian blood'' if any pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102–63).

(3) The Secretary, subject to the provisions of section 1407 of this title, shall pay to each person making an election under this subsection, $5,000 out of the Settlement Fund for those persons who are, on the date established pursuant to subsection (a)(4) of this section, below the age of 50 years, and $7,500 out of the Settlement Fund for those persons who are, on that date, age 50 or older.

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation or the Hoopa Valley Tribe or, except to the extent authorized by paragraph (3), in the Settlement Fund. Any such person shall also be deemed to have granted to members of the Interim Council established under section 1300i–8 of this title an irrevocable proxy directing them to approve a proposed resolution waiving any claim the Yurok Tribe may have against the United States arising out of the provisions of this subchapter, and granting tribal consent as provided in section 1300i–8(d)(2) of this title.

(d) Lump sum payment option

(1) Any person on the Settlement Roll may elect to receive a lump sum payment from the Settlement Fund and the Secretary shall pay to each such person the amount of $15,000 out of the Settlement Fund: *Provided*, That such individual completes a sworn affidavit certifying that he or she has been afforded the opportunity to participate in counseling which the Secretary, in consultation with the Hoopa Tribal Council or Yurok Transition Team, shall provide. Such counseling shall provide a comprehensive explanation of the effects of such election on the individual making such election, and on the tribal enrollment rights of that persons children and descendants who would otherwise be eligible for membership in either the Hoopa or Yurok Tribe.

(2) The option to elect a lump sum payment under this section is provided solely as a mechanism to resolve the complex litigation and other special circumstances of the Hoopa Valley Reservation and the tribes of the reservation, and shall not be construed or treated as a precedent for any future legislation.

(3) Any person making an election to receive, and having received, a lump sum payment under this subsection shall not thereafter have any interest or right whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation, the Hoopa Valley Tribe, the Yurok Reservation, or the Yurok Tribe or, except authorized by paragraph (1), in the Settlement Fund.

(Pub. L. 100–580, § 6, Oct. 31, 1988, 102 Stat. 2929.)

§ 1300i–6. Division of Settlement Fund remainder

(a) Any funds remaining in the Settlement Fund after the payments authorized to be made therefrom by subsections (c) and (d) of section 1300i–5 of this title and any payments made to successful appellants pursuant to section 1300i–4(d) of this title shall be paid to the Yurok Tribe and shall be held by the Secretary in trust for such tribe.

(b) Funds divided pursuant to this section and any funds apportioned to the Hoopa Valley Tribe and the Yurok Tribe pursuant to subsections (c) and (d) of section 1300i–3 of this title shall not be distributed per capita to any individual before the date which is 10 years after the date on which the division is made under this section: *Provided, however*, That if the Hoopa Valley Business Council shall decide to do so it may distribute from the funds apportioned to it a per capita payment of $5,000 per member, pursuant to the Act of August 2, 1983 (25 U.S.C. 117a et seq.).

(Pub. L. 100–580, § 7, Oct. 31, 1988, 102 Stat. 2931.)

REFERENCES IN TEXT

Act of August 2, 1983, referred to in subsec. (b), is Pub. L. 98–64, Aug. 2, 1983, 97 Stat. 365, known as the ''Per Capita Act'', which enacted sections 117a to 117c of this title and repealed section 117 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 117a of this title and Tables.

§ 1300i–7. Hoopa Valley Tribe; confirmation of status

The existing govening[1] documents of the Hoopa Valley Tribe and the governing body established and elected thereunder, as heretofore recognized by the Secretary, are hereby ratified and confirmed.

(Pub. L. 100–580, § 8, Oct. 31, 1988, 102 Stat. 2932.)

§ 1300i–8. Recognition and organization of the Yurok Tribe

(a) Yurok Tribe

(1) Those persons on the Settlement Roll who made a valid election pursuant to subsection (c) of section 1300i–5 of this title shall constitute the base membership roll for the Yurok Tribe whose status as an Indian tribe, subject to the adoption of the Interim Council resolution as required by subsection (d)(2) of this section, is hereby ratified and confirmed.

(2) The Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, is hereby made applicable to the Yurok Tribe and the tribe may organize under such Act as provided in this section.

(3) Within thirty days (30) after October 31, 1988, the Secretary, after consultation with the appropriate committees of Congress, shall appoint five (5) individuals who shall comprise the Yurok Transition Team which, pursuant to a

[1] So in original. Probably should be ''governing''.

budget approved by the Secretary, shall provide counseling and assistance, shall promote communication with potential members of the Yurok Tribe concerning the provisions of this subchapter, and shall study and investigate programs, resources, and facilities for consideration by the Interim Council. The Yurok Transition Team may receive grants and enter into contracts for the purpose of carrying out this section and section 1300i–9(a) of this title. Such grants and contracts shall be transferred to the Yurok Interim Council upon its organization. Any property acquired for or on behalf of the Yurok Transition Team shall be held in the name of the Yurok Tribe.

(b) Interim Council; establishment

There shall be established an Interim Council of the Yurok Tribe to be composed of five members. The Interim Council shall represent the Yurok Tribe in the implementation of provisions of this subchapter, including the organizational provisions of this section, and subject to subsection (d) of this section shall be the governing body of the tribe until such time as a tribal council is elected under a constitution adopted pursuant to subsection (e) of this section.

(c) General council; election of Interim Council

(1) Within 30 days after the date established pursuant to section 1300i–5(a)(4) of this title, the Secretary shall prepare a list of all persons eighteen years of age or older who have elected the Yurok Tribal Membership Option pursuant to section 1300i–5(c) of this title, which persons shall constitute the eligible voters of the Yurok Tribe for the purposes of this section, and shall provide written notice to such persons of the date, time, purpose, and order of procedure for the general council meeting to be scheduled pursuant to paragraph (2) for the consideration of the nomination of candidates for election to the Interim Council.

(2) Not earlier than 30 days before, nor later than 45 days after, the notice provided pursuant to paragraph (1), the Secretary shall convene a general council meeting of the eligible voters of the Yurok Tribe on or near the Yurok Reservation, to be conducted under such order of procedures as the Secretary determines appropriate, for the nomination of candidates for election of members of the Interim Council. No person shall be eligible for nomination who is not on the list prepared pursuant to this section.

(3) Within 45 days after the general council meeting held pursuant to paragraph (2), the Secretary shall hold an election by secret ballot, with absentee balloting and write-in voting to be permitted, to elect the five members of the Interim Council from among the nominations submitted to him from such general council meeting. The Secretary shall assure that notice of the time and place of such election shall be provided to eligible voters at least fifteen days before such election.

(4) The Secretary shall certify the results of such election and, as soon as possible, convene an organizational meeting of the newly-elected members of the Interim Council and shall provide such advice and assistance as may be necessary for such organization.

(5) Vacancies on the Interim Council shall be filled by a vote of the remaining members.

(d) Interim Council; authorities and dissolution

(1) The Interim Council shall have no powers other than those given to it by this subchapter.

(2) The Interim Council shall have full authority to adopt a resolution—

(i) waiving any claim the Yurok Tribe may have against the United States arising out of the provision of this subchapter, and

(ii) affirming tribal consent to the contribution of Yurok Escrow monies to the Settlement Fund, and for their use as payments to the Hoopa Tribe, and to individual Hoopa members, as provided in this subchapter, and

(iii) to receive grants from, and enter into contracts for, Federal programs, including those administered by the Secretary and the Secretary of Health and Human Services, with respect to Federal services and benefits for the tribe and its members.

(3) The Interim Council shall have such other powers, authorities, functions, and responsibilities as the Secretary may recognize, except that any contract or legal obligation that would bind the Yurok Tribe for a period in excess of two years from the date of the certification of the election by the Secretary shall be subject to disapproval and cancellation by the Secretary if the Secretary determines that such a contract or legal obligation is unnecessary to improve housing conditions of members of the Yurok Tribe, or to obtain other rights, privileges or benefits that are in the long-term interest of the Yurok Tribe.

(4) The Interim Council shall appoint, as soon as practical, a drafting committee which shall be responsible, in consultation with the Interim Council, the Secretary and members of the tribe, for the preparation of a draft constitution for submission to the Secretary pursuant to subsection (e) of this section.

(5) The Interim Council shall be dissolved effective with the election and installation of the initial tribe[1] governing body elected pursuant to the constitution adopted under subsection (e) of this section or at the end of two years after such installation, whichever occurs first.

(e) Organization of Yurok Tribe

Upon written request of the Interim Council or the drafting committee and the submission of a draft constitution as provided in paragraph (4) of subsection (d) of this section, the Secretary shall conduct an election, pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.) and rules and regulations promulgated thereunder, for the adoption of such constitution and, working with the Interim Council, the election of the initial tribal governing body upon the adoption of such constitution.

(Pub. L. 100–580, § 9, Oct. 31, 1988, 102 Stat. 2932; Pub. L. 101–121, title III, § 315, Oct. 23, 1989, 103 Stat. 744; Pub. L. 101–301, § 9(3), May 24, 1990, 104 Stat. 211.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in subsecs. (a)(2) and (e), is act June 18, 1934, ch. 576, 48 Stat.

[1] So in original. Probably should be ''tribal''.

984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

AMENDMENTS

1990—Subsec. (a)(3). Pub. L. 101–301 substituted ''counseling and assistance, shall'' for ''counseling,''.

1989—Subsec. (a)(3). Pub. L. 101–121 inserted provisions authorizing the Yurok Transition Team to receive grants and enter into contracts for the purpose of carrying out this section and section 1300i–9(a) of this title and directing that such grants and contracts be transferred to the Yurok Interim Council upon its organization.

§ 1300i–9. Economic development

(a) Plan for economic self-sufficiency

The Secretary shall—

(1) enter into negotiations with the Yurok Transition Team and the Interim Council of the Yurok Tribe with respect to establishing a plan for economic development for the tribe; and

(2) in accordance with this section and not later than two years after October 31, 1988, develop such a plan.[1]

(3) upon the approval of such plan by the Interim Council or tribal governing body (and after consultation with the State and local officials pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Congress.

(b) Consultation with State and local officials required

To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) Restrictions to be contained in plan

Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax;

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) Appendix to plan submitted to Congress

The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

(Pub. L. 100–580, § 10, Oct. 31, 1988, 102 Stat. 2934.)

§ 1300i–10. Special considerations

(a) Estate for Smokers family

The 20 acre land assignment on the Hoopa Valley Reservation made by the Hoopa Area Field Office of the Bureau of Indian Affairs on August 25, 1947, to the Smokers family shall continue in effect and may pass by descent or devise to any blood relative or relatives of one-fourth or more Indian blood of those family members domiciled on the assignment on October 31, 1988.

(b) Rancheria merger with Yurok Tribe

If a majority of the adult members of any of the following Rancherias at Resighini, Trinidad, or Big Lagoon, vote to merge with the Yurok Tribe in an election which shall be conducted by the Secretary within ninety days after October 31, 1988, the tribes and reservations of those rancherias so voting shall be extinguished and the lands and members of such reservations shall be part of the Yurok Reservation with the unallotted trust land therein held in trust by the United States for the Yurok Tribe: *Provided, however*, That the existing governing documents and the elected governing bodies of any rancherias voting to merge shall continue in effect until the election of the Interim Council pursuant to section 1300i–8 of this title. The Secretary shall publish in the Federal Register a notice of the effective date of the merger.

(c) Preservation of leasehold and assignment rights of rancheria residents

Real property on any rancheria that merges with the Yurok Reservation pursuant to subsection (b) of this section that is, on October 31, 1988, held by any individual under a lease shall continue to be governed by the terms of the lease, and any land assignment existing on October 31, 1988, shall continue in effect and may pass by descent or devise to any blood relative or relatives of Indian blood of the assignee.

(Pub. L. 100–580, § 11, Oct. 31, 1988, 102 Stat. 2935.)

§ 1300i–11. Limitations of actions; waiver of claims

(a) Claims against partition of joint reservation

Any claim challenging the partition of the joint reservation pursuant to section 1300i–1 of

[1] So in original. The period probably should be ''; and''.

this title or any other provision of this subchapter as having effected a taking under the fifth amendment of the United States Constitution or as otherwise having provided inadequate compensation shall be brought, pursuant to section 1491 or 1505 of title 28, in the United States Court of Federal Claims. The Yurok Transition Team, or any individual thereon, shall not be named as a defendant or otherwise joined in any suit in which a claim is made arising out of this subsection.

(b) Limitations on claims

(1) Any such claim by any person or entity, other than the Hoopa Valley Tribe or the Yurok Tribe, shall be forever barred if not brought within the later of 210 days from the date of the partition of the joint reservation as provided in section 1300i–1 of this title or 120 days after the publication in the Federal Register of the option election date as required by section 1300i–5(a)(4) of this title.

(2) Any such claim by the Hoopa Valley Tribe shall be barred 180 days after October 31, 1988, or such earlier date as may be established by the adoption of a resolution waiving such claims pursuant to section 1300i–1(a)(2) of this title.

(3) Any such claim by the Yurok Tribe shall be barred 180 days after the general council meeting of the Yurok Tribe as provided in section 1300i–8 of this title or such earlier date as may be established by the adoption of a resolution waiving such claims as provided in section 1300i–8(d)(2) of this title.

(c) Report to Congress

(1) The Secretary shall prepare and submit to the Congress a report describing the final decision in any claim brought pursuant to subsection (b) of this section against the United States or its officers, agencies, or instrumentalities.

(2) Such report shall be submitted no later than 180 days after the entry of final judgment in such litigation. The report shall include any recommendations of the Secretary for action by Congress, including, but not limited to, any supplemental funding proposals necessary to implement the terms of this subchapter and any modifications to the resource and management authorities established by this subchapter. Notwithstanding the provisions of section 2517 of title 28, any judgment entered against the United States shall not be paid for 180 days after the entry of judgment; and, if the Secretary of the Interior submits a report to Congress pursuant to this section, then payment shall be made no earlier than 120 days after submission of the report.

(Pub. L. 100–580, § 14, Oct. 31, 1988, 102 Stat. 2936; Pub. L. 101–301, § 9(4), May 24, 1990, 104 Stat. 211; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1990—Subsec. (a). Pub. L. 101–301 inserted at end ''The Yurok Transition Team, or any individual thereon, shall not be named as a defendant or otherwise joined in any suit in which a claim is made arising out of this subsection.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER LXXXI—POKAGON BAND OF POTAWATOMI INDIANS

§ 1300j. Findings

The Congress finds the following:

(1) The Pokagon Band of Potawatomi Indians is the descendant of, and political successor to, the signatories of the Treaty of Greenville 1795 (7 Stat. 49); the Treaty of Grouseland 1805 (7 Stat. 91); the Treaty of Spring Wells 1815 (7 Stat. 131); the Treaty of the Rapids of the Miami of Lake Erie 1817 (7 Stat. 160); the Treaty of St. Mary's 1818 (7 Stat. 185); the Treaty of Chicago 1821 (7 Stat. 218); the Treaty of the Mississinewa on the Wabash 1826 (7 Stat. 295); the Treaty of St. Joseph 1827 (7 Stat. 305); the Treaty of St. Joseph 1828 (7 Stat. 317); the Treaty of Tippecanoe River 1832 (7 Stat. 399); and the Treaty of Chicago 1833 (7 Stat. 431).

(2) In the Treaty of Chicago 1833, the Pokagon Band of Potawatomi Indians was the only band that negotiated a right to remain in Michigan. The other Potawatomi bands relinquished all lands in Michigan and were required to move to Kansas or Iowa.

(3) Two of the Potawatomi bands later returned to the Great Lakes area, the Forest County Potawatomi of Wisconsin and the Hannahville Indian Community of Michigan.

(4) The Hannahville Indian Community of Michigan, the Forest County Potawatomi Community of Wisconsin, the Prairie Band of Potawatomi Indians of Kansas, and the Citizen Band Potawatomi Indian Tribe of Oklahoma, whose members are also descendants of the signatories to one or more of the aforementioned treaties, have been recognized by the Federal Government as Indian tribes eligible to receive services from the Secretary of the Interior.

(5) Beginning in 1935, the Pokagon Band of Potawatomi Indians petitioned for reorganization and assistance pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., commonly referred to as the ''Indian Reorganization Act''). Because of the financial condition of the Federal Government during the Great Depression it relied upon the State of Michigan to provide services to the Pokagon Band. Other Potawatomi bands, including the Forest County Potawatomi and the Hannahville Indian Community were provided services pursuant to the Indian Reorganization Act.

(6) Agents of the Federal Government in 1939 made an administrative decision not to provide services or extend the benefits of the Indian Reorganization Act [25 U.S.C. 461 et seq.] to any Indian tribes in Michigan's lower peninsula.

(7) Tribes elsewhere, including the Hannahville Indian Community in Michigan's upper peninsula, received services from the Federal Government and were extended the benefits of the Indian Reorganization Act [25 U.S.C. 461 et seq.].

(8) The Pokagon Band of Potawatomi Indians consists of at least 1,500 members who continue to reside close to their ancestral homeland in the St. Joseph River Valley in southwestern Michigan and northern Indiana.

(9) In spite of the denial of the right to organize under the Indian Reorganization Act [25 U.S.C. 461 et seq.], the Pokagon Band has continued to carry out its governmental functions through a Business Committee and Tribal Council from treaty times until today.

(10) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Band from 1795 until the present.

(Pub. L. 103–323, § 1, Sept. 21, 1994, 108 Stat. 2152.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in pars. (5) to (7) and (9), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300j–1. Federal recognition

Federal recognition of the Pokagon Band of Potawatomi Indians is hereby affirmed. Except as otherwise provided in this subchapter, all Federal laws of general application to Indians and Indian tribes, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the ''Indian Reorganization Act''), shall apply with respect to the Band and its members.

(Pub. L. 103–323, § 2, Sept. 21, 1994, 108 Stat. 2153.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300j–2. Services

Notwithstanding any other provision of law, the Band and its members shall be eligible, on and after September 21, 1994, for all Federal services and benefits furnished to federally recognized Indian tribes without regard to the existence of a reservation for the Band or the location of the residence of any member on or near an Indian reservation.

(Pub. L. 103–323, § 3, Sept. 21, 1994, 108 Stat. 2153.)

§ 1300j–3. Tribal membership

Not later than 18 months after September 21, 1994, the Band shall submit to the Secretary membership rolls consisting of all individuals eligible for membership in such Band. The qualifications for inclusion on the membership rolls of the Band shall be determined by the membership clauses in the Band's governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

(Pub. L. 103–323, § 4, Sept. 21, 1994, 108 Stat. 2153.)

§ 1300j–4. Constitution and governing body

(a) Constitution

(1) Adoption

Not later than 24 months after September 21, 1994, the Secretary shall conduct, by secret ballot and in accordance with the provisions of section 476 of this title, an election to adopt a constitution and bylaws for the Band.

(2) Interim governing documents

Until such time as a new constitution is adopted under paragraph (1), the governing documents in effect on September 21, 1994, shall be the interim governing documents for the Band.

(b) Officials

(1) Election

Not later than 6 months after the Band adopts a constitution and bylaws pursuant to subsection (a) of this section, the Secretary shall conduct elections by secret ballot for the purpose of electing officials for the Band as provided in the Band's constitution. The election shall be conducted according to the procedures described in subsection (a) of this section, except to the extent that such procedures conflict with the Band's constitution.

(2) Interim government

Until such time as the Band elects new officials pursuant to paragraph (1), the Band's governing body shall be the governing body in place on September 21, 1994, or any new governing body selected under the election procedures specified in the interim governing documents of the Band.

(Pub. L. 103–323, § 5, Sept. 21, 1994, 108 Stat. 2154.)

§ 1300j–5. Tribal lands

The Band's tribal land shall consist of all real property, including the land upon which the Tribal Hall is situated, now or on and after September 21, 1994, held by, or in trust for, the Band. The Secretary shall acquire real property for the Band. Any such real property shall be taken by the Secretary in the name of the United States in trust for the benefit of the Band and shall become part of the Band's reservation.

(Pub. L. 103–323, § 6, Sept. 21, 1994, 108 Stat. 2154.)

§ 1300j–6. Service area

The Band's service area shall consist of the Michigan counties of Allegan, Berrien, Van Buren, and Cass and the Indiana counties of La Porte, St. Joseph, Elkhart, Starke, Marshall, and Kosciusko.

(Pub. L. 103–323, § 7, Sept. 21, 1994, 108 Stat. 2154.)

§ 1300j–7. Jurisdiction

The Band shall have jurisdiction to the full extent allowed by law over all lands taken into trust for the benefit of the Band by the Secretary. The Band shall exercise jurisdiction over all its members who reside within the service area in matters pursuant to the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), as if

the members were residing upon a reservation as defined in that Act.

(Pub. L. 103–323, § 8, Sept. 21, 1994, 108 Stat. 2154.)

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978, referred to in text, is Pub. L. 95–608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§ 1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

§ 1300j–7a. Membership list

(a) List of members as of September 1994

Not later than 120 days after September 21, 1994, the Band shall submit to the Secretary a list of all individuals who, as of September 21, 1994, were members of the Band.

(b) List of individuals eligible for membership

(1) In general

Not later than 18 months after September 21, 1994, the Band shall submit to the Secretary a membership roll that contains the names of all individuals eligible for membership in the Band. The Band, in consultation with the Secretary, shall determine whether an individual is eligible for membership in the Band on the basis of provisions in the governing documents of the Band that determine the qualifications for inclusion in the membership roll of the Band.

(2) Publication of notice

At such time as the roll has been submitted to the Secretary, the Secretary shall immediately publish in the Federal Register a notice of such roll.

(3) Maintenance of roll

The Band shall ensure that the roll is maintained and kept current.

(Pub. L. 103–323, § 9, as added Pub. L. 103–435, § 20(2), Nov. 2, 1994, 108 Stat. 4574; amended Pub. L. 104–109, § 1, Feb. 12, 1996, 110 Stat. 763.)

PRIOR PROVISIONS

A prior section 9 of Pub. L. 103–323 was renumbered section 10 and is classified to section 1300j–8 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–109, § 1(1), (2), substituted ''Band'' for ''Bands'' in two places and struck out ''respective'' after ''members of the''.

Subsec. (b)(1). Pub. L. 104–109, § 1(1), (3)(A), substituted ''Band shall submit'' for ''Bands shall submit'', ''a membership roll that contains'' for ''membership rolls that contain'', ''membership in the Band'' for ''membership in such Bands'', and ''The Band'' for ''Each such Band''.

Subsec. (b)(2). Pub. L. 104–109, § 1(3)(B), substituted ''roll has'' for ''rolls have'' and ''such roll'' for ''such rolls''.

Subsec. (b)(3). Pub. L. 104–109, § 1(1), (3)(C), (D), substituted ''roll'' for ''rolls'' in heading and substituted ''Band shall ensure that the roll is maintained'' for ''Bands shall ensure that the rolls are maintained'' in text.

§ 1300j–8. Definitions

For purposes of this subchapter—

(1) the term ''Band'' means the Pokagon Band of Potawatomi Indians;

(2) the term ''member'' means those individuals eligible for enrollment in the Band pursuant to section 1300j–3 of this title; and

(3) the term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 103–323, § 10, formerly § 9, Sept. 21, 1994, 108 Stat. 2155; renumbered § 10, Pub. L. 103–435, § 20(1), Nov. 2, 1994, 108 Stat. 4574.)

SUBCHAPTER LXXXII—LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS; LITTLE RIVER BAND OF OTTAWA INDIANS

§ 1300k. Findings

Congress finds the following:

(1) The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians are descendants of, and political successors to, signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

(2) The Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian tribes.

(3) The Little Traverse Bay Bands of Odawa Indians consists of at least 1,000 eligible members who continue to reside close to their ancestral homeland as recognized in the Little Traverse Reservation in the 1836 Treaty of Washington and 1855 Treaty of Detroit, which area is now known as Emmet and Charlevoix Counties, Michigan.

(4) The Little River Band of Ottawa Indians consists of at least 500 eligible members who continue to reside close to their ancestral homeland as recognized in the Manistee Reservation in the 1836 Treaty of Washington and reservation in the 1855 Treaty of Detroit, which area is now known as Manistee and Mason Counties, Michigan.

(5) The Bands filed for reorganization of their existing tribal governments in 1935 under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the ''Indian Reorganization Act''). Federal agents who visited the Bands, including Commissioner of Indian Affairs, John Collier, attested to the continued social and political existence of the Bands and concluded that the Bands were eligible for reorganization. Due to a lack of Federal appropriations to implement the provisions of such Act, the Bands were denied the opportunity to reorganize.

(6) In spite of such denial, the Bands continued their political and social existence with viable tribal governments. The Bands, along with other Michigan Odawa/Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

(7) Between 1948 and 1975, the Bands carried out many of their governmental functions through the Northern Michigan Ottawa Association, while retaining individual Band control over local decisions.

(8) In 1975, the Northern Michigan Ottawa Association petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the ''Indian Reorganization Act''), to form a government on behalf of the Bands. Again in spite of the Bands' eligibility, the Bureau of Indian Affairs failed to act on their request.

(9) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Bands from 1836 to the present.

(Pub. L. 103–324, § 2, Sept. 21, 1994, 108 Stat. 2156.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in pars. (5) and (8), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

SHORT TITLE

Section 1 of Pub. L. 103–324 provided that: ''This Act [enacting this subchapter] may be cited as the 'Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act'.''

§ 1300k–1. Definitions

For purposes of this subchapter—

(1) the term ''Bands'' means the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians;

(2) the term ''member'' means those individuals enrolled in the Bands pursuant to section 1300k–5 of this title; and

(3) the term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 103–324, § 3, Sept. 21, 1994, 108 Stat. 2157.)

§ 1300k–2. Federal recognition

(a) Federal recognition

Federal recognition of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians is hereby reaffirmed. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the ''Indian Reorganization Act''), which are not inconsistent with any specific provision of this subchapter shall be applicable to the Bands and their members.

(b) Federal services and benefits

(1) In general

The Bands and their members shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as federally recognized Indians, and notwithstanding any other provision of law, such services and benefits shall be provided after September 21, 1994, to the Bands and their members without regard to the existence of a reservation or the location of the residence of any member on or near any Indian reservation.

(2) Service areas

(A) Little Traverse Bay Bands

For purposes of the delivery of Federal services to the enrolled members of the Little Traverse Bay Bands of Odawa Indians, the area of the State of Michigan within 70 miles of the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs ''third'' and ''fourth'' of the Treaty of 1855, 11 Stat. 621, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after September 21, 1994. Services may be provided to members outside the named service area unless prohibited by law or program regulations.

(B) Little River Band

For purposes of the delivery of Federal services to enrolled members of the Little River Band of Ottawa Indians, the Counties of Manistee, Mason, Wexford and Lake, in the State of Michigan, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after September 21, 1994. Services may be provided to members outside the named Counties unless prohibited by law or program regulations.

(Pub. L. 103–324, § 4, Sept. 21, 1994, 108 Stat. 2157.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in subsec. (a), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300k–3. Reaffirmation of rights

(a) In general

All rights and privileges of the Bands, and their members thereof, which may have been abrogated or diminished before September 21, 1994, are hereby reaffirmed.

(b) Existing rights of Bands

Nothing in this subchapter shall be construed to diminish any right or privilege of the Bands, or of their members, that existed prior to September 21, 1994. Except as otherwise specifically provided in any other provision of this subchapter, nothing in this subchapter shall be construed as altering or affecting any legal or equitable claim the Bands might have to enforce any right or privilege reserved by or granted to the Bands which were wrongfully denied to or taken from the Bands prior to September 21, 1994.

(Pub. L. 103–324, § 5, Sept. 21, 1994, 108 Stat. 2158; Pub. L. 104–109, § 2(a), Feb. 12, 1996, 110 Stat. 763.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–109 substituted ''Bands'' for ''Tribe'' in heading.

§ 1300k–4. Transfer of land for benefit of Bands

(a) Little Traverse Bay Bands

The Secretary shall acquire real property in Emmet and Charlevoix Counties for the benefit of the Little Traverse Bay Bands. The Secretary shall also accept any real property located in those Counties for the benefit of the Little Traverse Bay Bands if conveyed or otherwise trans-

ferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(b) Little River Band

The Secretary shall acquire real property in Manistee and Mason Counties for the benefit of the Little River Band. The Secretary shall also accept any real property located in those Counties for the benefit of the Little River Band if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(c) Additional lands

The Secretary may accept any additional acreage in each of the Bands' service area specified by section 1300k–2(b) of this title pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the ''Indian Reorganization Act'').

(d) Reservation

Subject to the conditions imposed by this section, the land acquired by or transferred to the Secretary under or pursuant to this section shall be taken in the name of the United States in trust for the Bands and shall be a part of the respective Bands' reservation.

(Pub. L. 103–324, § 6, Sept. 21, 1994, 108 Stat. 2158.)

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in subsec. (c), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, which is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300k–5. Membership

Not later than 18 months after September 21, 1994, the Bands shall submit to the Secretary membership rolls consisting of all individuals currently enrolled for membership in such Bands. The qualifications for inclusion on the membership rolls of the Bands shall be determined by the membership clauses in such Bands' respective governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

(Pub. L. 103–324, § 7, Sept. 21, 1994, 108 Stat. 2159.)

§ 1300k–6. Constitution and governing body

(a) Constitution

(1) Adoption

Not later than 24 months after September 21, 1994, the Secretary shall conduct, by secret ballot, elections for the purposes of adopting new constitutions for the Bands. The elections shall be held according to the procedures applicable to elections under section 476 of this title.

(2) Interim governing documents

Until such time as new constitutions are adopted under paragraph (1), the governing documents in effect on September 21, 1994, shall be the interim governing documents for the Bands.

(b) Officials

(1) Election

Not later than 6 months after the Bands adopt constitutions and bylaws pursuant to subsection (a) of this section, the Bands shall conduct elections by secret ballot for the purpose of electing officials for the Bands as provided in the Bands' respective governing constitutions. The elections shall be conducted according to the procedures described in the Bands' constitutions and bylaws.

(2) Interim governments

Until such time as the Bands elect new officials pursuant to paragraph (1), the Bands' governing bodies shall be those governing bodies in place on September 21, 1994, or any new governing bodies selected under the election procedures specified in the respective interim governing documents of the Bands.

(Pub. L. 103–324, § 8, Sept. 21, 1994, 108 Stat. 2159.)

§ 1300k–7. Membership list

(a) List of present membership

Not later than 120 days after September 21, 1994, the Bands shall submit to the Secretary a list of all individuals who, as of September 21, 1994, were members of the respective Bands.

(b) List of individuals eligible for membership

(1) In general

Not later than 18 months after September 21, 1994, each of the Bands shall submit to the Secretary a membership roll that contains the names of all individuals that are eligible for membership in such Band. Each such Band, in consultation with the Secretary, shall determine whether an individual is eligible for membership in the Band on the basis of provisions in the governing documents of the Band that determine the qualifications for inclusion in the membership roll of the Band.

(2) Publication of notice

At such time as the rolls have been submitted to the Secretary, the Secretary shall immediately publish in the Federal Register a notice of such rolls.

(3) Maintenance of rolls

The Band shall ensure that the rolls are maintained and kept current.

(Pub. L. 103–324, § 9, as added Pub. L. 103–435, § 21, Nov. 2, 1994, 108 Stat. 4574; amended Pub. L. 104–109, § 2(b), Feb. 12, 1996, 110 Stat. 763.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–109, § 2(b)(1), substituted ''the Bands shall submit'' for ''the Band shall submit'' and ''members of the respective Bands'' for ''members of the Band''.

Subsec. (b)(1). Pub. L. 104–109, § 2(b)(2), in first sentence substituted ''each of the Bands shall submit to the Secretary a membership roll that contains the names of all individuals that are eligible for membership in such Band'' for ''the Band shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Band''

and in second sentence substituted ''Each such Band, in consultation'' for ''The Band, in consultation''.

SUBCHAPTER LXXXIII—AUBURN INDIAN RESTORATION

§ 1300*l*. Restoration of Federal recognition, rights, and privileges

(a) Federal recognition

Notwithstanding any other provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this subchapter, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this subchapter shall be applicable to the Tribe and its members.

(b) Restoration of rights and privileges

Except as provided in subsection (d) of this section, all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85–671), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after October 31, 1994.

(c) Federal services and benefits

Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after October 31, 1994, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(d) Hunting, fishing, trapping, and water rights

Nothing in this subchapter shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) Indian Reorganization Act applicability

The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) Certain rights not altered

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

(Pub. L. 103–434, title II, § 202, Oct. 31, 1994, 108 Stat. 4533.)

REFERENCES IN TEXT

Act of August 18, 1958, referred to in subsec. (b), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

Act of June 18, 1934, referred to in subsec. (e), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

SHORT TITLE

Section 201 of title II of Pub. L. 103–434 provided that: ''This title [enacting this subchapter] may be cited as the 'Auburn Indian Restoration Act'.''

§ 1300*l*–1. Economic development

(a) Plan for economic development

The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 1300*l*–5 of this title, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) Restrictions

Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) of this section shall be consistent with the requirements of section 1300*l*–2 of this title.

(Pub. L. 103–434, title II, § 203, Oct. 31, 1994, 108 Stat. 4533; Pub. L. 104–109, § 8(a), Feb. 12, 1996, 110 Stat. 764.)

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–109, § 8(a)(1), made technical amendment to reference to section 1300*l*–5 of this title, to correct reference to corresponding section of original act.

Subsec. (b). Pub. L. 104–109, § 8(a)(2), made technical amendment to reference to section 1300*l*–2 of this title, to correct reference to corresponding section of original act.

§ 1300*l*–2. Transfer of land to be held in trust

(a) Lands to be taken in trust

The Secretary may accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) Former trust lands of Auburn Rancheria

Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or such distributees' or dependent members' Indian heirs or successors in interest.

(c) Lands to be part of reservation

Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the Tribe's reservation.

(Pub. L. 103–434, title II, § 204, Oct. 31, 1994, 108 Stat. 4534; Pub. L. 104–122, Mar. 29, 1996, 110 Stat. 876.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–122 substituted ''may'' for ''shall'' in first sentence.

§ 1300*l*–3. Membership rolls

(a) Compilation of tribal membership roll

Within 1 year after October 31, 1994, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) Criteria for enrollments

(1) Until a tribal constitution is adopted pursuant to section 1300*l*–5 of this title, an individual shall be placed on the membership roll if the individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, possesses at least one-eighth or more of Indian blood quantum, and if—

(A) the individual's name was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671;

(B) the individual was not listed on, but met the requirements that had to be met to be listed on, the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After adoption of a tribal constitution pursuant to section 1300*l*–5 of this title, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll shall be of United Auburn Indian Community ancestry and shall not be an enrolled member of another federally recognized Indian tribe.

(c) Conclusive proof of United Auburn Indian Community ancestry

For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

(Pub. L. 103–434, title II, § 205, Oct. 31, 1994, 108 Stat. 4534.)

REFERENCES IN TEXT

Public Law 85–671, referred to in subsec. (b)(1)(A), (B), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

§ 1300*l*–4. Interim government

Until a new tribal constitution and bylaws are adopted and become effective under section 1300*l*–5 of this title, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on October 31, 1994, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution adopted July 20, 1991, as long as such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim Council shall meet the enrollment criteria set forth in section 1300*l*–3(b) of this title and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

(Pub. L. 103–434, title II, § 206, Oct. 31, 1994, 108 Stat. 4535; Pub. L. 104–109, § 8(b), Feb. 12, 1996, 110 Stat. 765.)

AMENDMENTS

1996—Pub. L. 104–109 substituted ''Interim Council shall meet'' for ''Interim council shall meet'' in last sentence.

§ 1300*l*–5. Tribal constitution

(a) Election; time and procedure

Upon the completion of the tribal membership roll under section 1300*l*–3(a) of this title and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 476 of this title, except that absentee balloting shall be permitted regardless of voter residence.

(b) Election of tribal officials; procedures

Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a) of this section, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) of this section except to the extent that such procedures conflict with the tribal constitution.

(Pub. L. 103–434, title II, § 207, Oct. 31, 1994, 108 Stat. 4535.)

§ 1300*l*–6. Definitions

For purposes of this subchapter:

(1) The term ''Tribe'' means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term ''Secretary'' means the Secretary of the Interior.

(3) The term ''Interim Council'' means the governing body of the Tribe specified in section 1300*l*–4 of this title.

(4) The term ''member'' means those persons meeting the enrollment criteria under section 1300*l*–3(b) of this title.

(5) The term ''State'' means the State of California.

(6) The term ''reservation'' means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 1300*l*–2 of this title.

(7) The term ''service area'' means the counties of Placer, Nevada, Yuba, Sutter, El Do-

rado, and Sacramento, in the State of California.

(Pub. L. 103–434, title II, § 208, Oct. 31, 1994, 108 Stat. 4535.)

§ 1300*l*–7. Regulations

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 103–434, title II, § 209, Oct. 31, 1994, 108 Stat. 4536.)

SUBCHAPTER LXXXIV—PASKENTA BAND OF NOMLAKI INDIANS OF CALIFORNIA

§ 1300m. Definitions

For purposes of this subchapter:

(1) The term ''Tribe'' means the Paskenta Band of Nomlaki Indians of the Paskenta Rancheria of California.

(2) The term ''Secretary'' means the Secretary of the Interior.

(3) The term ''Interim Council'' means the governing body of the Tribe specified in section 1300m–5 of this title.

(4) The term ''member'' means an individual who meets the membership criteria under section 1300m–4(b) of this title.

(5) The term ''State'' means the State of California.

(6) The term ''reservation'' means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 1300m–3 of this title.

(7) The term ''service area'' means the counties of Tehama and Glenn, in the State of California.

(Pub. L. 103–454, title III, § 302, Nov. 2, 1994, 108 Stat. 4793.)

SHORT TITLE

Section 301 of title III of Pub. L. 103–454 provided that: ''This title [enacting this subchapter] may be cited as the 'Paskenta Band Restoration Act'.''

§ 1300m–1. Restoration of Federal recognition, rights, and privileges

(a) Federal recognition

Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this subchapter, all laws and regulations of general application to Indians and nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this subchapter shall be applicable to the Tribe and its members.

(b) Restoration of rights and privileges

Except as provided in subsection (d) of this section, all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85–671; 72 Stat. 619), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after November 2, 1994.

(c) Federal services and benefits

Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after November 2, 1994, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(d) Hunting, fishing, trapping, and water rights

Nothing in this subchapter shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) Indian Reorganization Act applicability

The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) Certain rights not altered

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

(Pub. L. 103–454, title III, § 303, Nov. 2, 1994, 108 Stat. 4793.)

REFERENCES IN TEXT

Act of August 18, 1958, referred to in subsec. (b), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

Act of June 18, 1934, referred to in subsec. (e), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300m–2. Economic development

(a) Plan for economic development

The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than two years after the adoption of a tribal constitution as provided in section 1300m–6 of this title, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) Restrictions

Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) of this section shall be consistent with the requirements of section 1300m–3 of this title.

(Pub. L. 103–454, title III, § 304, Nov. 2, 1994, 108 Stat. 4794.)

§ 1300m–3. Transfer of land to be held in trust

(a) Lands to be taken in trust

The Secretary shall accept any real property located in Tehama County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including

outstanding liens, mortgages, or taxes owned. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) Lands to be part of reservation

Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe and shall be part of the Tribe's reservation.

(Pub. L. 103–454, title III, § 305, Nov. 2, 1994, 108 Stat. 4794.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in subsec. (a), popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

§ 1300m–4. Membership rolls

(a) Compilation of tribal membership roll

Within one year after November 2, 1994, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) Criteria for membership

(1) Until a tribal constitution is adopted pursuant to section 1300m–6 of this title, an individual shall be placed on the membership roll if such individual is living, is not an enrolled member of another federally recognized Indian tribe, is of Nomlaki Indian ancestry, and if—

(A) such individual's name was listed on the Paskenta Indian Rancheria distribution roll compiled on February 26, 1959, by the Bureau of Indian Affairs and approved by the Secretary of the Interior on July 7, 1959, pursuant to Public Law 85–671;

(B) such individual was not listed on the Paskenta Indian Rancheria distribution list, but met the requirements that had to be met to be listed on the Paskenta Indian Rancheria list;

(C) such individual is identified as an Indian from Paskenta in any of the official or unofficial rolls of Indians prepared by the Bureau of Indian Affairs; or

(D) such individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A), (B), or (C).

(2) After adoption of a tribal constitution pursuant to section 1300m–6 of this title, such tribal constitution shall govern membership in the Tribe.

(c) Conclusive proof of Paskenta Indian ancestry

For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Paskenta Indian ancestry. The Secretary shall accept as conclusive evidence of Paskenta Indian ancestry, information contained in the census of the Indians in and near Paskenta, prepared by Special Indian Agent John J. Terrell, in any other roll or census of Paskenta Indians prepared by the Bureau of Indian Affairs, and in the Paskenta Indian Rancheria distribution list, compiled by the Bureau of Indian Affairs on February 26, 1959.

(Pub. L. 103–454, title III, § 306, Nov. 2, 1994, 108 Stat. 4794.)

REFERENCES IN TEXT

Public Law 85–671, referred to in subsec. (b)(1)(A), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

§ 1300m–5. Interim government

Until a new tribal constitution and bylaws are adopted and become effective under section 1300m–6 of this title, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Tribe on November 2, 1994, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal constitution adopted December 18, 1993. Any new members filling vacancies on the Interim Council shall meet the membership criteria set forth in section 1300m–4(b) of this title and be elected in the same manner as are Tribal Council members under the tribal constitution adopted December 18, 1993.

(Pub. L. 103–454, title III, § 307, Nov. 2, 1994, 108 Stat. 4795.)

§ 1300m–6. Tribal constitution

(a) Election; time and procedure

Upon the completion of the tribal membership roll under section 1300m–4(a) of this title and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 476 of this title, except that absentee balloting shall be permitted regardless of voter residence.

(b) Election of tribal officials; procedures

Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a) of this section, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) of this section except to the extent that such procedures conflict with the tribal constitution.

(Pub. L. 103–454, title III, § 308, Nov. 2, 1994, 108 Stat. 4795.)

§ 1300m–7. General provision

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 103–454, title III, § 309, Nov. 2, 1994, 108 Stat. 4796.)

SUBCHAPTER LXXXV—GRATON RANCHERIA RESTORATION

§ 1300n. Findings

The Congress finds that in their 1997 Report to Congress, the Advisory Council on California Indian Policy specifically recommended the immediate legislative restoration of the Graton Rancheria.

(Pub. L. 106–568, title XIV, § 1402, Dec. 27, 2000, 114 Stat. 2939.)

SHORT TITLE

Pub. L. 106–568, title XIV, § 1401, Dec. 27, 2000, 114 Stat. 2939, provided that: ''This title [enacting this subchapter] may be cited as the 'Graton Rancheria Restoration Act'.''

§ 1300n–1. Definitions

For purposes of this subchapter:

(1) The term ''Tribe'' means the Indians of the Graton Rancheria of California.

(2) The term ''Secretary'' means the Secretary of the Interior.

(3) The term ''Interim Tribal Council'' means the governing body of the Tribe specified in section 1300n–5 of this title.

(4) The term ''member'' means an individual who meets the membership criteria under section 1300n–4(b) of this title.

(5) The term ''State'' means the State of California.

(6) The term ''reservation'' means those lands acquired and held in trust by the Secretary for the benefit of the Tribe.

(7) The term ''service area'' means the counties of Marin and Sonoma, in the State of California.

(Pub. L. 106–568, title XIV, § 1403, Dec. 27, 2000, 114 Stat. 2939.)

§ 1300n–2. Restoration of Federal recognition, rights, and privileges

(a) Federal recognition

Federal recognition is hereby restored to the Tribe. Except as otherwise provided in this subchapter, all laws and regulations of general application to Indians and nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this subchapter shall be applicable to the Tribe and its members.

(b) Restoration of rights and privileges

Except as provided in subsection (d) of this section, all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85–671; 72 Stat. 619), are hereby restored, and the provisions of such Act shall be inapplicable to the Tribe and its members after December 27, 2000.

(c) Federal services and benefits

(1) In general

Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after December 27, 2000, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. For the purposes of Federal services and benefits available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(2) Relation to other laws

The eligibility for or receipt of services and benefits under paragraph (1) by a tribe or individual shall not be considered as income, resources, or otherwise when determining the eligibility for or computation of any payment or other benefit to such tribe, individual, or household under—

(A) any financial aid program of the United States, including grants and contracts subject to the Indian Self-Determination Act [25 U.S.C. 450f et seq.]; or

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

(d) Hunting, fishing, trapping, gathering, and water rights

Nothing in this subchapter shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and its members.

(e) Certain rights not altered

Except as specifically provided in this subchapter, nothing in this subchapter shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

(Pub. L. 106–568, title XIV, § 1404, Dec. 27, 2000, 114 Stat. 2939.)

REFERENCES IN TEXT

The Act of August 18, 1958, referred to in subsec. (b), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

The Indian Self-Determination Act, referred to in subsec. (c)(2)(A), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 1300n–3. Transfer of land to be held in trust

(a) Lands to be taken in trust

Upon application by the Tribe, the Secretary shall accept into trust for the benefit of the Tribe any real property located in Marin or Sonoma County, California, for the benefit of the Tribe after the property is conveyed or otherwise transferred to the Secretary and if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including outstanding liens, mortgages, or taxes.

(b) Former trust lands of the Graton Rancheria

Subject to the conditions specified in this section, real property eligible for trust status under this section shall include Indian owned fee land held by persons listed as distributees or dependent members in the distribution plan approved by the Secretary on September 17, 1959, or such distributees' or dependent members' Indian heirs or successors in interest.

(c) Lands to be part of reservation

Any real property taken into trust for the benefit of the Tribe pursuant to this subchapter shall be part of the Tribe's reservation.

(d) Lands to be nontaxable

Any real property taken into trust for the benefit of the Tribe pursuant to this section shall be exempt from all local, State, and Federal tax-

ation as of the date that such land is transferred to the Secretary.

(Pub. L. 106–568, title XIV, § 1405, Dec. 27, 2000, 114 Stat. 2940.)

§ 1300n–4. Membership rolls

(a) Compilation of tribal membership roll

Not later than 1 year after December 27, 2000, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) Criteria for membership

(1) Until a tribal constitution is adopted under section 1300n–6 of this title, an individual shall be placed on the Graton membership roll if such individual is living, is not an enrolled member of another federally recognized Indian tribe, and if—

(A) such individual's name was listed on the Graton Indian Rancheria distribution list compiled by the Bureau of Indian Affairs and approved by the Secretary on September 17, 1959, under Public Law 85–671;

(B) such individual was not listed on the Graton Indian Rancheria distribution list, but met the requirements that had to be met to be listed on the Graton Indian Rancheria distribution list;

(C) such individual is identified as an Indian from the Graton, Marshall, Bodega, Tomales, or Sebastopol, California, vicinities, in documents prepared by or at the direction of the Bureau of Indian Affairs, or in any other public or California mission records; or

(D) such individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A), (B), or (C).

(2) After adoption of a tribal constitution under section 1300n–6 of this title, such tribal constitution shall govern membership in the Tribe.

(c) Conclusive proof of Graton Indian ancestry

For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Graton Indian ancestry. The Secretary shall accept as conclusive evidence of Graton Indian ancestry information contained in the census of the Indians from the Graton, Marshall, Bodega, Tomales, or Sebastopol, California, vicinities, prepared by or at the direction of Special Indian Agent John J. Terrell in any other roll or census of Graton Indians prepared by or at the direction of the Bureau of Indian Affairs and in the Graton Indian Rancheria distribution list compiled by the Bureau of Indian Affairs and approved by the Secretary on September 17, 1959.

(Pub. L. 106–568, title XIV, § 1406, Dec. 27, 2000, 114 Stat. 2940.)

REFERENCES IN TEXT

Public Law 85–671, referred to in subsec. (b)(1)(A), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

§ 1300n–5. Interim government

Until the Tribe ratifies a final constitution consistent with section 1300n–6 of this title, the Tribe's governing body shall be an Interim Tribal Council. The initial membership of the Interim Tribal Council shall consist of the members serving on December 27, 2000, who have been elected under the tribal constitution adopted May 3, 1997. The Interim Tribal Council shall continue to operate in the manner prescribed under such tribal constitution. Any vacancy on the Interim Tribal Council shall be filled by individuals who meet the membership criteria set forth in section 1300n–4(b) of this title and who are elected in the same manner as are Tribal Council members under the tribal constitution adopted May 3, 1997.

(Pub. L. 106–568, title XIV, § 1407, Dec. 27, 2000, 114 Stat. 2941.)

§ 1300n–6. Tribal constitution

(a) Election; time; procedure

After the compilation of the tribal membership roll under section 1300n–4(a) of this title, upon the written request of the Interim Tribal Council, the Secretary shall conduct, by secret ballot, an election for the purpose of ratifying a final constitution for the Tribe. The election shall be held consistent with sections 476(c)(1) and 476(c)(2)(A) of this title. Absentee voting shall be permitted regardless of voter residence.

(b) Election of tribal officials; procedures

Not later than 120 days after the Tribe ratifies a final constitution under subsection (a) of this section, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted consistent with the procedures specified in subsection (a) of this section except to the extent that such procedures conflict with the tribal constitution.

(Pub. L. 106–568, title XIV, § 1408, Dec. 27, 2000, 114 Stat. 2941.)

CHAPTER 15—CONSTITUTIONAL RIGHTS OF INDIANS

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