

system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

(3) if found feasible, recommendations for a demonstration project to be carried out by the Western Area Power Administration, in partnership with an Indian tribal government or tribal energy resource development organization, and Western Area Power Administration customers to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration; and

(4) an identification of—

(A) the economic and environmental costs of, or benefits to be realized through, a Federal-tribal-customer partnership; and

(B) the manner in which a Federal-tribal-customer partnership could contribute to the energy security of the United States.

(d) Funding

(1) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$1,000,000, to remain available until expended.

(2) Nonreimbursability

Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.

(Pub. L. 102-486, title XXVI, § 2606, as added Pub. L. 109-58, title V, § 503(a), Aug. 8, 2005, 119 Stat. 777.)

PRIOR PROVISIONS

A prior section 3506, Pub. L. 102-486, title XXVI, § 2606, Oct. 24, 1992, 106 Stat. 3118, related to tribal government energy assistance program, prior to the general amendment of this chapter by Pub. L. 109-58.

CHAPTER 38—INDIAN TRIBAL JUSTICE SUPPORT

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§ 3601. Findings

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government;

(3) Congress, through statutes, treaties, and the exercise of administrative authorities, has

recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes;

(4) Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems;

(5) tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments;

(6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the appropriate forums for the adjudication of disputes affecting personal and property rights;

(7) traditional tribal justice practices are essential to the maintenance of the culture and identity of Indian tribes and to the goals of this chapter;

(8) tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation; and

(9) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this chapter.

(Pub. L. 103-176, § 2, Dec. 3, 1993, 107 Stat. 2004.)

SHORT TITLE

Pub. L. 103-176, § 1, Dec. 3, 1993, 107 Stat. 2004, provided that: "This Act [enacting this chapter] may be cited as the 'Indian Tribal Justice Act'."

§ 3602. Definitions

For purposes of this chapter:

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "Courts of Indian Offenses" means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity, which administers justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) The term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term "Office" means the Office of Tribal Justice Support within the Bureau of Indian Affairs.

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

(7) The term "tribal organization" means any organization defined in section 450b(l) of this title.

(8) The term "tribal justice system" means the entire judicial branch, and employees thereof, of an Indian tribe, including (but not limited to) traditional methods and forums for dispute resolution, lower courts, appellate

courts (including intertribal appellate courts), alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record.

(Pub. L. 103-176, §3, Dec. 3, 1993, 107 Stat. 2004.)

SUBCHAPTER I—TRIBAL JUSTICE SYSTEMS

§ 3611. Office of Tribal Justice Support

(a) Establishment

There is hereby established within the Bureau the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems and Courts of Indian Offenses.

(b) Transfer of existing functions and personnel

All functions performed before December 3, 1993, by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of December 3, 1993, are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) Functions

In addition to the functions transferred to the Office pursuant to subsection (b) of this section, the Office shall perform the following functions:

- (1) Provide funds to Indian tribes and tribal organizations for the development, enhancement, and continuing operation of tribal justice systems.
- (2) Provide technical assistance and training, including programs of continuing education and training for personnel of Courts of Indian Offenses.
- (3) Study and conduct research concerning the operation of tribal justice systems.
- (4) Promote cooperation and coordination among tribal justice systems and the Federal and State judiciary systems.
- (5) Oversee the continuing operations of the Courts of Indian Offenses.
- (6) Provide funds to Indian tribes and tribal organizations for the continuation and enhancement of traditional tribal judicial practices.

(d) No imposition of standards

Nothing in this chapter shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) Assistance to tribes

(1) The Office shall provide technical assistance and training to any Indian tribe or tribal organization upon request. Technical assistance and training shall include (but not be limited to) assistance for the development of—

- (A) tribal codes and rules of procedure;
- (B) tribal court administrative procedures and court records management systems;
- (C) methods of reducing case delays;
- (D) methods of alternative dispute resolution;
- (E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes or tribal organizations.

(f) Information clearinghouse on tribal justice systems

The Office shall maintain an information clearinghouse (which shall include an electronic data base) on tribal justice systems and Courts of Indian Offenses, including (but not limited to) information on staffing, funding, model tribal codes, tribal justice activities, and tribal judicial decisions. The Office shall take such actions as may be necessary to ensure the confidentiality of records and other matters involving privacy rights.

(Pub. L. 103-176, title I, §101, Dec. 3, 1993, 107 Stat. 2005.)

§ 3612. Survey of tribal judicial systems

(a) In general

Not later than six months after December 3, 1993, the Secretary, in consultation with Indian tribes, shall enter into a contract with a non-Federal entity to conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding, including base support funding, needed to provide for expeditious and effective administration of justice. The Secretary, in like manner, shall annually update the information and findings contained in the survey required under this section.

(b) Local conditions

In the course of any annual survey, the non-Federal entity shall document local conditions of each Indian tribe, including, but not limited to—

- (1) the geographic area and population to be served;
- (2) the levels of functioning and capacity of the tribal justice system;
- (3) the volume and complexity of the case-loads;
- (4) the facilities, including detention facilities, and program resources available;
- (5) funding levels and personnel staffing requirements for the tribal justice system; and
- (6) the training and technical assistance needs of the tribal justice system.

(c) Consultation with Indian tribes

The non-Federal entity shall actively consult with Indian tribes and tribal organizations in the development and conduct of the surveys, including updates thereof, under this section. Indian tribes and tribal organizations shall have the opportunity to review and make recommendations regarding the findings of the survey, including updates thereof, prior to final publication of the survey or any update thereof. After Indian tribes and tribal organizations have reviewed and commented on the results of the survey, or any update thereof, the non-Federal entity shall report its findings, together with the

comments and recommendations of the Indian tribes and tribal organizations, to the Secretary, the Committee on Indian Affairs of the Senate, and the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

(Pub. L. 103-176, title I, §102, Dec. 3, 1993, 107 Stat. 2006.)

CHANGE OF NAME

Subcommittee on Native American Affairs changed to Subcommittee on Native American and Insular Affairs.

§ 3613. Base support funding for tribal justice systems

(a) In general

Pursuant to the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.], the Secretary is authorized (to the extent provided in advance in appropriations Acts) to enter into contracts, grants, or agreements with Indian tribes for the performance of any function of the Office and for the development, enhancement, and continuing operation of tribal justice systems and traditional tribal judicial practices by Indian tribal governments.

(b) Purposes for which financial assistance may be used

Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

- (1) planning for the development, enhancement, and operation of tribal justice systems;
- (2) the employment of tribal court personnel, including tribal court judges, prosecutors, public defenders, appointed defense counsel, guardians ad litem, and court-appointed special advocates for children and juveniles;
- (3) training programs and continuing education for tribal judicial personnel;
- (4) the acquisition, development, and maintenance of a law library and computer assisted legal research capacities;
- (5) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;
- (6) the development and operation of records management systems;
- (7) the construction or renovation of facilities for tribal justice systems;
- (8) membership and related expenses for participation in national and regional organizations of tribal justice systems and other professional organizations; and
- (9) the development and operation of other innovative and culturally relevant programs and projects, including (but not limited to) programs and projects for—

- (A) alternative dispute resolution;
- (B) tribal victims assistance or victims services;
- (C) tribal probation services or diversion programs;
- (D) juvenile services and multidisciplinary investigations of child abuse; and
- (E) traditional tribal judicial practices, traditional tribal justice systems, and traditional methods of dispute resolution.

(c) Formula

(1) Not later than 180 days after December 3, 1993, the Secretary, with the full participation of Indian tribes, shall establish and promulgate by regulation, a formula which establishes base support funding for tribal justice systems in carrying out this section.

(2) The Secretary shall assess caseload and staffing needs for tribal justice systems that take into account unique geographic and demographic conditions. In the assessment of these needs, the Secretary shall work cooperatively with Indian tribes and tribal organizations and shall refer to any data developed as a result of the surveys conducted pursuant to section 3612 of this title and to relevant assessment standards developed by the Judicial Conference of the United States, the National Center for State Courts, the American Bar Association, and appropriate State bar associations.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

- (A) the caseload and staffing needs identified under paragraph (2);
- (B) the geographic area and population to be served;
- (C) the volume and complexity of the caseloads;
- (D) the projected number of cases per month;
- (E) the projected number of persons receiving probation services or participating in diversion programs; and
- (F) any special circumstances warranting additional financial assistance.

(4) In developing and administering the formula for base support funding for the tribal judicial systems under this section, the Secretary shall ensure equitable distribution of funds.

(Pub. L. 103-176, title I, §103, Dec. 3, 1993, 107 Stat. 2007; Pub. L. 111-211, title II, §242(a)(1), July 29, 2010, 124 Stat. 2292.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) 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

2010—Subsec. (b)(2). Pub. L. 111-211 added par. (2) and struck out former par. (2) which read as follows: “the employment of judicial personnel;”.

§ 3614. Tribal judicial conferences

The Secretary is authorized to provide funds to tribal judicial conferences, under section 3611 of this title, pursuant to contracts entered into under the authority of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] for the development, enhancement, and continuing operation of tribal justice systems of Indian tribes which are members of such conference. Funds provided under this section may be used for—

- (1) the employment of judges, magistrates, court counselors, court clerks, court administrators, bailiffs, probation officers, officers of the court, or dispute resolution facilitators;

(2) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(3) the acquisition, development, and maintenance of a law library and computer assisted legal research capacities;

(4) training programs and continuing education for tribal judicial personnel;

(5) the development and operation of records management systems;

(6) planning for the development, enhancement, and operation of tribal justice systems; and

(7) the development and operation of other innovative and culturally relevant programs and projects, including (but not limited to) programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) juvenile services and multidisciplinary investigations of child abuse; and

(E) traditional tribal judicial practices, traditional justice systems, and traditional methods of dispute resolution.

(Pub. L. 103-176, title I, §104, Dec. 3, 1993, 107 Stat. 2008.)

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 subchapter II (§450 et seq.) 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.

SUBCHAPTER II—AUTHORIZATIONS OF APPROPRIATIONS

§ 3621. Tribal justice systems

(a) Office

There is authorized to be appropriated to carry out sections 3611 and 3612 of this title, \$7,000,000 for each of fiscal years 2011 through 2015. None of the funds provided under this subsection may be used for the administrative expenses of the Office.

(b) Base support funding for tribal justice systems

There is authorized to be appropriated to carry out section 3613 of this title, \$50,000,000 for each of fiscal years 2011 through 2015.

(c) Administrative expenses for Office

There is authorized to be appropriated, for the administrative expenses of the Office, \$500,000 for each of fiscal years 2011 through 2015.

(d) Administrative expenses for tribal judicial conferences

There is authorized to be appropriated, for the administrative expenses of tribal judicial conferences, \$500,000 for each of fiscal years 2011 through 2015.

(e) Survey

For carrying out the survey under section 3612 of this title, there is authorized to be appro-

riated, in addition to the amount authorized under subsection (a) of this section, \$400,000.

(f) Indian priority system

Funds appropriated pursuant to the authorizations provided by this section and available for a tribal justice system shall not be subject to the Indian priority system. Nothing in this chapter shall preclude a tribal government from supplementing any funds received under this chapter with funds received from any other source including the Bureau or any other Federal agency.

(g) Allocation of funds

In allocating funds appropriated pursuant to the authorization contained in subsection (a) of this section among the Bureau, Office, tribal governments and Courts of Indian Offenses, the Secretary shall take such actions as may be necessary to ensure that such allocation is carried out in a manner that is fair and equitable to all tribal governments and is proportionate to base support funding under section 3613 of this title received by the Bureau, Office, tribal governments, and Courts of Indian Offenses.

(h) No offset

No Federal agency shall offset funds made available pursuant to this chapter for tribal justice systems against other funds otherwise available for use in connection with tribal justice systems.

(Pub. L. 103-176, title II, §201, Dec. 3, 1993, 107 Stat. 2009; Pub. L. 106-559, title II, §202, Dec. 21, 2000, 114 Stat. 2782; Pub. L. 111-211, title II, §242(a)(2), July 29, 2010, 124 Stat. 2292.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-211, §242(a)(2)(A), substituted “sections 3611 and 3612 of this title” for “the provisions of sections 3611 and 3612 of this title” and “fiscal years 2011 through 2015” for “the fiscal years 2000 through 2007”.

Subsec. (b). Pub. L. 111-211, §242(a)(2)(B), substituted “section 3613 of this title” for “the provisions of section 3613 of this title” and “fiscal years 2011 through 2015” for “the fiscal years 2000 through 2007”.

Subsecs. (c), (d). Pub. L. 111-211, §242(a)(2)(C), (D), substituted “fiscal years 2011 through 2015” for “the fiscal years 2000 through 2007”.

2000—Subsecs. (a) to (d). Pub. L. 106-559 substituted “2000 through 2007” for “1994, 1995, 1996, 1997, 1998, 1999, and 2000”.

SUBCHAPTER III—DISCLAIMERS

§ 3631. Tribal authority

Nothing in this chapter shall be construed to—

(1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal justice system within the tribal government or to enact and enforce tribal laws;

(2) diminish in any way the authority of tribal governments to appoint personnel;

(3) impair the rights of each tribal government to determine the nature of its own legal system or the appointment of authority within the tribal government;

(4) alter in any way any tribal traditional dispute resolution forum;

(5) imply that any tribal justice system is an instrumentality of the United States; or

(6) diminish the trust responsibility of the United States to Indian tribal governments and tribal justice systems of such governments.

(Pub. L. 103-176, title III, §301, Dec. 3, 1993, 107 Stat. 2009.)

CHAPTER 38A—INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL ASSISTANCE

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3651.	Findings.
3652.	Purposes.
3653.	Definitions.

SUBCHAPTER I—TRAINING AND TECHNICAL ASSISTANCE, CIVIL AND CRIMINAL LEGAL ASSISTANCE GRANTS

3661.	Tribal justice training and technical assistance grants.
3662.	Tribal civil legal assistance grants.
3663.	Tribal criminal assistance grants.
3664.	No offset.
3665.	Tribal authority.
3665a.	Office of Tribal Justice.
3666.	Authorization of appropriations.

SUBCHAPTER II—INDIAN TRIBAL COURTS

3681.	Grants.
3682.	Assistant probation officers.

§ 3651. Findings

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and Indian tribes;

(2) Indian tribes are sovereign entities and are responsible for exercising governmental authority over Indian lands;

(3) the rate of violent crime committed in Indian country is approximately twice the rate of violent crime committed in the United States as a whole;

(4) in any community, a high rate of violent crime is a major obstacle to investment, job creation and economic growth;

(5) tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring the health and safety and the political integrity of tribal governments;

(6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the most appropriate forums for the adjudication of disputes affecting personal and property rights on Native lands;

(7) enhancing tribal court systems and improving access to those systems serves the dual Federal goals of tribal political self-determination and economic self-sufficiency;

(8) there is both inadequate funding and an inadequate coordinating mechanism to meet the technical and legal assistance needs of tribal justice systems and this lack of adequate technical and legal assistance funding impairs their operation;

(9) tribal court membership organizations have served a critical role in providing training and technical assistance for development and enhancement of tribal justice systems;

(10) Indian legal services programs, as funded partially through the Legal Services Corporation, have an established record of provid-

ing cost effective legal assistance to Indian people in tribal court forums, and also contribute significantly to the development of tribal courts and tribal jurisprudence; and

(11) the provision of adequate technical assistance to tribal courts and legal assistance to both individuals and tribal courts is an essential element in the development of strong tribal court systems.

(Pub. L. 106-559, §2, Dec. 21, 2000, 114 Stat. 2778.)

SHORT TITLE

Pub. L. 106-559, §1, Dec. 21, 2000, 114 Stat. 2778, provided that: "This Act [enacting this chapter and amending section 3621 of this title and sections 1629e and 1629g of Title 43, Public Lands] may be cited as the 'Indian Tribal Justice Technical and Legal Assistance Act of 2000'."

AVAILABILITY OF FUNDS FOR COURTS OR LAW ENFORCEMENT OFFICERS OF CERTAIN TRIBES OR VILLAGES

Pub. L. 108-199, div. B, title I, §112(a)(1), Jan. 23, 2004, 118 Stat. 62, which prohibited use of funds provided in div. B of Pub. L. 108-199 or on or after Jan. 23, 2004, for courts or law enforcement officers for a tribe or village in which fewer than 25 Native members live in the village year round or that is located within certain areas, was repealed by Pub. L. 111-211, title II, §247(e)(1), July 29, 2010, 124 Stat. 2297.

§ 3652. Purposes

The purposes of this chapter are as follows:

(1) to carry out the responsibility of the United States to Indian tribes and members of Indian tribes by ensuring access to quality technical and legal assistance.

(2) To strengthen and improve the capacity of tribal court systems that address civil and criminal causes of action under the jurisdiction of Indian tribes.

(3) To strengthen tribal governments and the economies of Indian tribes through the enhancement and, where appropriate, development of tribal court systems for the administration of justice in Indian country by providing technical and legal assistance services.

(4) To encourage collaborative efforts between national or regional membership organizations and associations whose membership consists of judicial system personnel within tribal justice systems; non-profit entities which provide legal assistance services for Indian tribes, members of Indian tribes, and/or tribal justice systems.

(5) To assist in the development of tribal judicial systems by supplementing prior congressional efforts such as the Indian Tribal Justice Act [25 U.S.C. 3601 et seq.] (Public Law 103-176).

(Pub. L. 106-559, §3, Dec. 21, 2000, 114 Stat. 2779.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106-559, Dec. 21, 2000, 114 Stat. 2778, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3651 of this title and Tables.

The Indian Tribal Justice Act, referred to in par. (5), is Pub. L. 103-176, Dec. 3, 1993, 107 Stat. 2004, as amended, which is classified generally to chapter 38 (§3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.