

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 Trib-

al 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

### SUBCHAPTER I—GENERALLY

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### SUBCHAPTER II—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

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## SUBCHAPTER I—GENERALLY

## § 1301. Definitions

For purposes of this subchapter, the term—

(1) “Indian tribe” means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

(2) “powers of self-government” means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;

(3) “Indian court” means any Indian tribal court or court of Indian offense; and

(4) “Indian” means any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, title 18, if that person were to commit an offense listed in that section in Indian country to which that section applies.

(Pub. L. 90-284, title II, §201, Apr. 11, 1968, 82 Stat. 77; Pub. L. 101-511, title VIII, §8077(b), (c), Nov. 5, 1990, 104 Stat. 1892.)

## AMENDMENTS

1990—Par. (2). Pub. L. 101-511, §8077(b), inserted at end “means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;”.

Par. (4). Pub. L. 101-511, §8077(c), added par. (4).

## SHORT TITLE

Title II of Pub. L. 90-284, which is classified generally to this subchapter, is popularly known as the “Indian Civil Rights Act of 1968”.

## TIME LIMITATION ON CRIMINAL MISDEMEANOR JURISDICTION OF TRIBAL COURTS OVER NON-MEMBER INDIANS

Pub. L. 101-511, title VIII, §8077(d), Nov. 5, 1990, 104 Stat. 1893, as amended by Pub. L. 102-124, §1, Oct. 9, 1991, 105 Stat. 616, which provided that the effects of subsecs. (b) and (c), which amended this section, as those subsections affect the criminal misdemeanor jurisdiction of tribal courts over non-member Indians have no effect after Oct. 18, 1991, was repealed by Pub. L. 102-137, Oct. 28, 1991, 105 Stat. 646. Subsequent to repeal, Pub. L. 102-172, title VIII, §8112A(b), Nov. 26, 1991, 105 Stat. 1202, purported to amend section 8077(d) of Pub. L. 101-511 by substituting “1993” for “1991”.

## § 1302. Constitutional rights

## (a) In general

No Indian tribe in exercising powers of self-government shall—

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense (except as provided in subsection (b));

(7)(A) require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;

(B) except as provided in subparagraph (C), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of \$5,000, or both;

(C) subject to subsection (b), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 3 years or a fine of \$15,000, or both; or

(D) impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder or ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

## (b) Offenses subject to greater than 1-year imprisonment or a fine greater than \$5,000

A tribal court may subject a defendant to a term of imprisonment greater than 1 year but not to exceed 3 years for any 1 offense, or a fine greater than \$5,000 but not to exceed \$15,000, or both, if the defendant is a person accused of a criminal offense who—

(1) has been previously convicted of the same or a comparable offense by any jurisdiction in the United States; or

(2) is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.

## (c) Rights of defendants

In a criminal proceeding in which an Indian tribe, in exercising powers of self-government, imposes a total term of imprisonment of more than 1 year on a defendant, the Indian tribe shall—

(1) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and

(2) at the expense of the tribal government, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that

applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;

(3) require that the judge presiding over the criminal proceeding—

(A) has sufficient legal training to preside over criminal proceedings; and

(B) is licensed to practice law by any jurisdiction in the United States;

(4) prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government; and

(5) maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.

#### (d) Sentences

In the case of a defendant sentenced in accordance with subsections (b) and (c), a tribal court may require the defendant—

(1) to serve the sentence—

(A) in a tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration, in accordance with guidelines to be developed by the Bureau of Indian Affairs (in consultation with Indian tribes) not later than 180 days after July 29, 2010;

(B) in the nearest appropriate Federal facility, at the expense of the United States pursuant to the Bureau of Prisons tribal prisoner pilot program described in section 304(c)<sup>1</sup> of the Tribal Law and Order Act of 2010;

(C) in a State or local government-approved detention or correctional center pursuant to an agreement between the Indian tribe and the State or local government; or

(D) in an alternative rehabilitation center of an Indian tribe; or

(2) to serve another alternative form of punishment, as determined by the tribal court judge pursuant to tribal law.

#### (e) Definition of offense

In this section, the term “offense” means a violation of a criminal law.

#### (f) Effect of section

Nothing in this section affects the obligation of the United States, or any State government that has been delegated authority by the United States, to investigate and prosecute any criminal violation in Indian country.

(Pub. L. 90-284, title II, §202, Apr. 11, 1968, 82 Stat. 77; Pub. L. 99-570, title IV, §4217, Oct. 27, 1986, 100 Stat. 3207-146; Pub. L. 111-211, title II, §234(a), July 29, 2010, 124 Stat. 2279.)

#### REFERENCES IN TEXT

Section 304(c) of the Tribal Law and Order Act of 2010, referred to in subsec. (d)(1)(B), probably means section 234(c) of title II of Pub. L. 111-211, which is set out as a note below. See par. (13) of H. Con. Res. 304 (111th Congress), which is not classified to the Code.

<sup>1</sup> See References in Text note below.

#### AMENDMENTS

2010—Pub. L. 111-211, §234(a)(1), designated existing provisions as subsec. (a) and inserted subsec. heading.

Subsec. (a)(6). Pub. L. 111-211, §234(a)(2)(A), inserted “(except as provided in subsection (b))” after “assistance of counsel for his defense”. Amendment was executed to reflect the probable intent of Congress, notwithstanding errors in the directory language in quoting the text to be inserted.

Subsec. (a)(7). Pub. L. 111-211, §234(a)(2)(B), added par. (7) and struck out former par. (7) which read as follows: “require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year and a fine of \$5,000, or both;”.

Subsecs. (b) to (f). Pub. L. 111-211, §234(a)(3), added subsecs. (b) to (f).

1986—Par. (7). Pub. L. 99-570, which directed that “for a term of one year and a fine of \$5,000, or both” be substituted for “for a term of six months and a fine of \$500, or both”, was executed by making the substitution for “for a term of six months or a fine of \$500, or both” as the probable intent of Congress.

#### BUREAU OF PRISONS TRIBAL PRISONER PILOT PROGRAM

Pub. L. 111-211, title II, §234(c), July 29, 2010, 124 Stat. 2281, provided that:

“(1) IN GENERAL.—Not later than 120 days after the date of enactment of this title [July 29, 2010], the Director of the Bureau of Prisons shall establish a pilot program under which the Bureau of Prisons shall accept offenders convicted in tribal court pursuant to section 202 of the Indian Civil Rights Act of 1968 (25 U.S.C. 1302) (as amended by this section), subject to the conditions described in paragraph (2).

“(2) CONDITIONS.—

“(A) IN GENERAL.—As a condition of participation in the pilot program described in paragraph (1), the tribal court shall submit to the Attorney General a request for confinement of the offender, for approval by the Attorney General (or a designee) by not later than 30 days after the date of submission.

“(B) LIMITATIONS.—Requests for confinement shall be limited to offenders convicted of a violent crime (comparable to the violent crimes described in section 1153(a) of title 18, United States Code) for which the sentence includes a term of imprisonment of 2 or more years.

“(C) CUSTODY CONDITIONS.—The imprisonment by the Bureau of Prisons shall be subject to the conditions described in section 5003 of title 18, United States Code, regarding the custody of State offenders, except that the offender shall be placed in the nearest available and appropriate Federal facility, and imprisoned at the expense of the United States.

“(D) CAP.—The Bureau of Prisons shall confine not more than 100 tribal offenders at any time.

“(3) RESCINDING REQUESTS.—

“(A) IN GENERAL.—The applicable tribal government shall retain the authority to rescind the request for confinement of a tribal offender by the Bureau of Prisons under this paragraph at any time during the sentence of the offender.

“(B) RETURN TO TRIBAL CUSTODY.—On rescission of a request under subparagraph (A), a tribal offender shall be returned to tribal custody.

“(4) REASSESSMENT.—If tribal court demand for participation in this pilot program exceeds 100 tribal offenders, a representative of the Bureau of Prisons shall notify Congress.

“(5) REPORT.—Not later than 3 years after the date of establishment of the pilot program, the Attorney General shall submit to Congress a report describing the status of the program, including recommendations regarding the future of the program, if any.

“(6) TERMINATION.—Except as otherwise provided by an Act of Congress, the pilot program under this paragraph shall expire on the date that is 4 years after the date on which the program is established.”

[For definition of “tribal government” as used in section 234(c) of Pub. L. 111-211, set out above, see section 203(a) of Pub. L. 111-211, set out as a note under section 2801 of this title.]

PURPOSE OF 1986 AMENDMENT

Pub. L. 99-570, title IV, §4217, Oct. 27, 1986, 100 Stat. 3207-146, provided in part that amendment of par. (7) of this section was to “enhance the ability of tribal governments to prevent and penalize the traffic of illegal narcotics on Indian reservations”.

**§ 1303. Habeas corpus**

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

(Pub. L. 90-284, title II, §203, Apr. 11, 1968, 82 Stat. 78.)

SUBCHAPTER II—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

**§ 1311. Model code**

The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this subchapter, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

(Pub. L. 90-284, title III, §301, Apr. 11, 1968, 82 Stat. 78.)

**§ 1312. Authorization of appropriations**

There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 90-284, title III, §302, Apr. 11, 1968, 82 Stat. 78.)

SUBCHAPTER III—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

**§ 1321. Assumption by State of criminal jurisdiction**

**(a) Consent of United States**

**(1) In general**

The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or

against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

**(2) Concurrent jurisdiction**

At the request of an Indian tribe, and after consultation with and consent by the Attorney General, the United States shall accept concurrent jurisdiction to prosecute violations of sections 1152 and 1153 of title 18 within the Indian country of the Indian tribe.

**(b) Alienation, encumbrance, taxation, and use of property; hunting, trapping, or fishing**

Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(Pub. L. 90-284, title IV, §401, Apr. 11, 1968, 82 Stat. 78; Pub. L. 111-211, title II, §221(a), July 29, 2010, 124 Stat. 2271.)

AMENDMENTS

2010—Pub. L. 111-211 substituted “Assumption by State of criminal jurisdiction” for “Assumption by State” in section catchline, inserted subsec. (a) heading, inserted par. (1) designation and heading, and added par. (2). Amendment to section catchline was executed as the probable intent of Congress, notwithstanding directory language which erroneously directed the amendment to subsec. (a).

**§ 1322. Assumption by State of civil jurisdiction**

**(a) Consent of United States; force and effect of civil laws**

The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may

be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

**(b) Alienation, encumbrance, taxation, use, and probate of property**

Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

**(c) Force and effect of tribal ordinances or customs**

Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

(Pub. L. 90-284, title IV, §402, Apr. 11, 1968, 82 Stat. 79.)

**§ 1323. Retrocession of jurisdiction by State**

**(a) Acceptance by United States**

The United States is authorized to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of section 1162 of title 18, section 1360 of title 28, or section 7 of the Act of August 15, 1953 (67 Stat. 588), as it was in effect prior to its repeal by subsection (b) of this section.

**(b) Repeal of statutory provisions**

Section 7 of the Act of August 15, 1953 (67 Stat. 588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal.

(Pub. L. 90-284, title IV, §403, Apr. 11, 1968, 82 Stat. 79.)

REFERENCES IN TEXT

Section 7 of the Act of August 15, 1953, referred to in text, is section 7 of act Aug. 15, 1953, ch. 505, 67 Stat. 588, which is set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure.

EX. ORD. NO. 11435. DESIGNATING SECRETARY OF THE INTERIOR TO ACCEPT RETROCESSION OF JURISDICTION BY STATE

Ex. Ord. No. 11435, Nov. 21, 1968, 33 F.R. 17339, provided:

By virtue of the authority vested in me by section 465 of the Revised Statutes (25 U.S.C. 9) and as President of the United States, the Secretary of the Interior is here-

by designated and empowered to exercise, without the approval, ratification, or other action of the President or of any other officer of the United States, any and all authority conferred upon the United States by Section 403(a) of the Act of April 11, 1968, 82 Stat. 79 (25 U.S.C. 1323(a)): *Provided*, That acceptance of retrocession of all or any measure of civil or criminal jurisdiction, or both, by the Secretary hereunder shall be effected by publication in the FEDERAL REGISTER of a notice which shall specify the jurisdiction retroceded and the effective date of the retrocession: *Provided further*, That acceptance of such retrocession of criminal jurisdiction shall be effected only after consultation by the Secretary with the Attorney General.

LYNDON B. JOHNSON.

**§ 1324. Amendment of State constitutions or statutes to remove legal impediment; effective date**

Notwithstanding the provisions of any enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the provisions of this subchapter. The provisions of this subchapter shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes, as the case may be.

(Pub. L. 90-284, title IV, §404, Apr. 11, 1968, 82 Stat. 79.)

**§ 1325. Abatement of actions**

**(a) Pending actions or proceedings; effect of cession**

No action or proceeding pending before any court or agency of the United States immediately prior to any cession of jurisdiction by the United States pursuant to this subchapter shall abate by reason of that cession. For the purposes of any such action or proceeding, such cession shall take effect on the day following the date of final determination of such action or proceeding.

**(b) Criminal actions; effect of cession**

No cession made by the United States under this subchapter shall deprive any court of the United States of jurisdiction to hear, determine, render judgment, or impose sentence in any criminal action instituted against any person for any offense committed before the effective date of such cession, if the offense charged in such action was cognizable under any law of the United States at the time of the commission of such offense. For the purposes of any such criminal action, such cession shall take effect on the day following the date of final determination of such action.

(Pub. L. 90-284, title IV, §405, Apr. 11, 1968, 82 Stat. 80.)

**§ 1326. Special election**

State jurisdiction acquired pursuant to this subchapter with respect to criminal offenses or civil causes of action, or with respect to both, shall be applicable in Indian country only where

the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

(Pub. L. 90-284, title IV, §406, Apr. 11, 1968, 82 Stat. 80.)

#### SUBCHAPTER IV—EMPLOYMENT OF LEGAL COUNSEL

##### § 1331. Approval

Notwithstanding any other provision of law, if any application made by an Indian, Indian tribe, Indian council, or any band or group of Indians under any law requiring the approval of the Secretary of the Interior or the Commissioner of Indian Affairs of contracts or agreements relating to the employment of legal counsel (including the choice of counsel and the fixing of fees) by any such Indians, tribe, council, band, or group is neither granted nor denied within ninety days following the making of such application, such approval shall be deemed to have been granted.

(Pub. L. 90-284, title VI, §601, Apr. 11, 1968, 82 Stat. 80.)

#### SUBCHAPTER V—MATERIALS AND PUBLICATIONS

##### § 1341. Authorization of Secretary

###### (a) Revision of document on “Indian Affairs, Laws and Treaties” and treatise on “Federal Indian Laws”; compilation of official opinions; printing and republication

In order that the constitutional rights of Indians might be fully protected, the Secretary of the Interior is authorized and directed to—

(1) have the document entitled “Indian Affairs, Laws and Treaties” (Senate Document Numbered 319, volumes 1 and 2, Fifty-eighth Congress), revised and extended to include all treaties, laws, Executive orders, and regulations relating to Indian affairs in force on September 1, 1967, and to have such revised document printed at the Government Printing Office;

(2) have revised and republished the treatise entitled “Federal Indian Law”; and

(3) have prepared, to the extent determined by the Secretary of the Interior to be feasible, an accurate compilation of the official opinions, published and unpublished, of the Solicitor of the Department of the Interior relating to Indian affairs rendered by the Solicitor prior to September 1, 1967, and to have such compilation printed as a Government publication at the Government Printing Office.

###### (b) Current services

With respect to the document entitled “Indian Affairs, Laws and Treaties” as revised and extended in accordance with paragraph (1) of subsection (a) of this section, and the compilation prepared in accordance with paragraph (3) of such subsection, the Secretary of the Interior

shall take such action as may be necessary to keep such document and compilation current on an annual basis.

###### (c) Authorization of appropriations

There is authorized to be appropriated for carrying out the provisions of this subchapter such sum as may be necessary.

(Pub. L. 90-284, title VII, §701, Apr. 11, 1968, 82 Stat. 80; Pub. L. 93-265, Apr. 12, 1974, 88 Stat. 84.)

#### AMENDMENTS

1974—Subsec. (c). Pub. L. 93-265 struck out “, with respect to the preparation but not including printing,” before “such sum”.

#### CHAPTER 16—DISTRIBUTION OF JUDGMENT FUNDS

##### Sec.

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|-------|---|
| 1401. | Funds appropriated in satisfaction of judgments of Indian Claims Commission or United States Court of Federal Claims. |
| 1402. | Plan for use or distribution of funds.  |
| 1403. | Preparation of plan.  |
| 1404. | Hearing transcripts and tribal support statements; submission to Congress with plan.                                  |
| 1405. | Effective date of plan; joint resolution of disapproval.  |
| 1406. | Rules and regulations.  |
| 1407. | Tax exemption; resources exemption limitation.  |
| 1408. | Resources exemption.  |

##### § 1401. Funds appropriated in satisfaction of judgments of Indian Claims Commission or United States Court of Federal Claims

###### (a) Use and distribution

Notwithstanding any other law, all use or distribution of funds appropriated in satisfaction of a judgment of the Indian Claims Commission or the United States Court of Federal Claims in favor of any Indian tribe, band, group, pueblo, or community (hereinafter referred to as “Indian tribe”), together with any investment income earned thereon, after payment of attorney fees and litigation expenses, shall be made pursuant to the provisions of this chapter.

###### (b) Amounts remaining to be held in trust unless otherwise provided

Except as provided in sections 164 and 165 of this title, amounts which the Secretary of the Interior has remaining after execution of either a plan under this chapter, or another Act enacted heretofore or hereafter providing for the use or distribution of amounts awarded in satisfaction of a judgment in favor of an Indian tribe or tribes, together with any investment income earned thereon and after payment of attorney fees and litigation expenses, shall be held in trust by the Secretary for the tribe or tribes involved if the plan or Act does not otherwise provide for the use of such amounts.

###### (c) Short title

This chapter may be cited as the “Indian Tribal Judgment Funds Use or Distribution Act”.

(Pub. L. 93-134, §1, Oct. 19, 1973, 87 Stat. 466; Pub. L. 97-164, title I, §160(a)(1), Apr. 2, 1982, 96 Stat. 48; Pub. L. 100-153, §4, Nov. 5, 1987, 101 Stat. 886; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)