

§ 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 sec-

tions 1300d-23 and 1300d-26 of this title in accordance with the American Indian Trust Fund Management Reform Act¹ (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 Act¹ (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 Act¹ (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

¹So in original. Probably should be section “1300d-23(a)(1)(B)(ii)”.