

nization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 475 of this title prior to editorial reclassification and renumbering as this section.

§ 5122. 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. 5101 et seq.], except expenditures under appropriations made pursuant to section 5 of such Act [25 U.S.C. 5108], 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, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the In-

dian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 475a of this title prior to editorial reclassification and renumbering as this section.

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.

§ 5123. 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