

nue collections from power operations on Indian irrigation projects in—

- (1) any public-debt obligations of the United States;
- (2) any bonds, notes, or other obligations which are unconditionally guaranteed as to both principal and interest by the United States; or
- (3) any obligations which are lawful investments for trust funds under the authority or control of the United States.

The Secretary of the Interior is authorized to use earning<sup>1</sup> from investments under this subsection to pay operation and maintenance expenses of the project involved.

**(c) Investment of tribal trust funds in public debt obligations**

(1) Notwithstanding subsection (a) of this section, the Secretary of the Interior, at the request of any Indian tribe, in the case of trust funds of such tribe, or any individual Indian, in the case of trust funds of such individual, is authorized to invest such funds, or any part thereof, in guaranteed or public debt obligations of the United States or in a mutual fund, otherwise known as an open-ended diversified investment management company if—

(A) the portfolio of such mutual fund consists entirely of public-debt obligations of the United States, or bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, or a combination thereof;

(B) the trust funds to be invested exceed \$50,000;

(C) the mutual fund is registered by the Securities and Exchange Commission; and

(D) the Secretary is satisfied with respect to the security and protection provided by the mutual fund against loss of the principal of such trust funds.

(2) The Secretary, as a condition to complying with a request pursuant to paragraph (1) of this subsection, is authorized to require such tribe or individual Indian, as the case may be, to enter into an agreement with the Secretary for the purpose of relieving the United States of any liability in connection with the interest, or amount thereof, payable in connection with such trust funds so invested during the period of that investment.

(3) Investments pursuant to paragraph (1) of this subsection shall be deemed to be the same as cash or a bank deposit for purposes of section 955 of this title.

**(d) Trust responsibilities of Secretary of the Interior**

The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:

- (1) Providing adequate systems for accounting for and reporting trust fund balances.
- (2) Providing adequate controls over receipts and disbursements.
- (3) Providing periodic, timely reconciliations to assure the accuracy of accounts.
- (4) Determining accurate cash balances.

(5) Preparing and supplying account holders with periodic statements of their account performance and with balances of their account which shall be available on a daily basis.

(6) Establishing consistent, written policies and procedures for trust fund management and accounting.

(7) Providing adequate staffing, supervision, and training for trust fund management and accounting.

(8) Appropriately managing the natural resources located within the boundaries of Indian reservations and trust lands.

(June 24, 1938, ch. 648, § 1, 52 Stat. 1037; Pub. L. 98-146, title I, Nov. 4, 1983, 97 Stat. 929; Pub. L. 101-644, title III, § 302, Nov. 29, 1990, 104 Stat. 4667; Pub. L. 103-412, title I, §§ 101, 103(b), (c), Oct. 25, 1994, 108 Stat. 4240, 4241.)

REFERENCES IN TEXT

Section 12B of the Federal Reserve Act, referred to in subsec. (a), formerly classified to section 264 of Title 12, Banks and Banking, has been withdrawn from the Federal Reserve Act and incorporated in the Federal Deposit Insurance Act which is classified to chapter 16 (§ 1811 et seq.) of Title 12.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-412, § 103(b), inserted “to withdraw from the United States Treasury and” after “prescribe,” in second sentence.

Subsecs. (b), (c). Pub. L. 103-412, § 103(c), redesignated subsec. (b), relating to investment of trust funds, as (c).

Subsec. (d). Pub. L. 103-412, § 101, added subsec. (d).

1990—Subsec. (a). Pub. L. 101-644, which directed the designation of existing provisions as subsec. (a) and the addition of subsec. (b), was executed by adding subsec. (b) relating to investment of trust funds. See 1983 Amendment note below.

1983—Pub. L. 98-146 designated existing provisions as subsec. (a) and added subsec. (b).

REPEAL OF INCONSISTENT PROVISIONS AND CONSTRUCTION WITH OTHER LAWS

Act June 24, 1938, ch. 648, § 2, 52 Stat. 1037, repealed act May 25, 1918, ch. 86, § 28, 40 Stat. 591, which was contained in former section 162 of this title, and all other inconsistent acts.

Act June 24, 1938, ch. 648, § 3, 52 Stat. 1038, provided: “Nothing contained in this act shall be construed as affecting the provisions of the Federal Reserve Act or regulations issued thereunder relating to the payment of interest on deposits.”

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.

**§ 163. Roll of membership of Indian tribes**

The Secretary of the Interior is authorized, wherever in his discretion such action would be for the best interest of the Indians, to cause a final roll to be made of the membership of any Indian tribe; such rolls shall contain the ages and quantum of Indian blood, and when approved by the said Secretary are declared to constitute the legal membership of the respective tribes for the purpose of segregating the tribal funds as provided in section 162<sup>1</sup> of this

<sup>1</sup> So in original. Probably should be “earnings”.

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

title, and shall be conclusive both as to ages and quantum of Indian blood: *Provided*, That the foregoing shall not apply to the Five Civilized Tribes or to the Osage Tribe of Indians, or to the Chippewa Indians of Minnesota, or the Menominee Indians of Wisconsin.

(June 30, 1919, ch. 4, § 1, 41 Stat. 9.)

#### REFERENCES IN TEXT

Section 162 of this title, referred to in text, was repealed by act June 24, 1938, ch. 648, § 2, 52 Stat. 1037. See section 162a of this title.

#### 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.

### § 164. Restoration to tribal ownership of unclaimed per capita and other individual payments of tribal trust funds; deposit in general fund of the Treasury

Unless otherwise specifically provided by law, the share of an individual member of an Indian tribe or group in a per capita or other distribution, individualization, segregation, or proration of Indian tribal or group funds held in trust by the United States, or in an annuity payment under a treaty, heretofore or hereafter authorized by law, and any interest earned on such share that is properly creditable to the individual shall be restored to tribal ownership if for any reason such share cannot be paid to the individual entitled thereto and remains unclaimed for a period of six years from the date of the administrative directive to make the payment, or one year from September 22, 1961, whichever occurs later: *Provided*, That if such individual is a member of an Indian tribe or group that has no governing body recognized by the Secretary of the Interior as authorized to act on behalf of the tribe or group, such unpaid share and interest shall be regarded as not capable of restoration to a tribal or group entity and shall be deposited in the general fund of the Treasury of the United States.

(Pub. L. 87-283, § 1, Sept. 22, 1961, 75 Stat. 584.)

### § 165. Notice to Congressional committees

The Secretary shall not restore to tribal ownership or deposit in the general fund of the Treasury any funds pursuant to section 164 of this title and this section until sixty calendar days (exclusive of days on which either the Senate or the House of Representatives is not in session because of an adjournment of more than three days to a day certain) after he has submitted notice of his proposed action to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives unless each of said committees has theretofore notified him that it has no objection to the proposed action.

(Pub. L. 87-283, § 2, Sept. 22, 1961, 75 Stat. 584; Pub. L. 103-437, § 10(b), Nov. 2, 1994, 108 Stat. 4589.)

#### AMENDMENTS

1994—Pub. L. 103-437 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 Senate and the House of Representatives”.

### § 166. Applicability of Federal Advisory Committee Act

The activities of the Department of the Interior associated with the Department’s consultation with Indian tribes and organizations related to the management of funds held in trust by the United States for Indian tribes shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 103-435, § 19, Nov. 2, 1994, 108 Stat. 4574.)

#### REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

## CHAPTER 5—PROTECTION OF INDIANS

#### Sec.

- 171 to 173. Repealed.
- 174. Superintendence by President over tribes west of Mississippi.
- 175. United States attorneys to represent Indians.
- 176. Survey of reservations.
- 177. Purchases or grants of lands from Indians.
- 178. Fees on behalf of Indian parties in contests under public land laws.
- 179. Driving stock to feed on lands.
- 180. Settling on or surveying lands belonging to Indians by treaty.
- 181. Rights of white men marrying Indian women; tribal property.
- 182. Rights of Indian women marrying white men; tribal property.
- 183. Marriage of white men to Indian women; evidence.
- 184. Rights of children born of marriages between white men and Indian women.
- 185. Protection of Indians desiring civilized life.
- 186 to 189. Repealed or Omitted.
- 190. Sale of plants or tracts not needed for administrative or allotment purposes.
- 191. Repealed.
- 192. Sale by agents of cattle or horses not required.
- 193. Proceedings against goods seized for certain violations.
- 194. Trial of right of property; burden of proof.
- 195. Repealed.
- 196. Sale or other disposition of dead timber.
- 197. Disposition of dead timber on reservations in Minnesota.
- 198. Contagious and infectious diseases; quarantine.
- 199. Access to records of Five Civilized Tribes.
- 199a. Custody of records; Oklahoma Historical Society.
- 200. Report of offense or case of Indian incarcerated in agency jail.
- 201. Penalties; how recovered.
- 202. Inducing conveyances by Indians of trust interests in lands.

### §§ 171 to 173. Repealed. May 21, 1934, ch. 321, 48 Stat. 787

Section 171, R.S. § 2111, related to imposition of a penalty for sending seditious messages intending to contravene a United States treaty or law.