

In subsec. (d), “Chapter 71 of title 41” substituted for “The Contract Disputes Act (Public Law 95-563, Act of November 1, 1978; 92 Stat. 2383, as amended)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 110 of Pub. L. 93-638 was renumbered section 111 by Pub. L. 100-472 and is classified to section 5332 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-413, §104(2), inserted before period at end “(including immediate injunctive relief to reverse a declination finding under section 5321(a)(2) of this title or to compel the Secretary to award and fund an approved self-determination contract)”.

Subsec. (d). Pub. L. 103-413, §104(3), inserted before period at end “, except that all administrative appeals relating to such contracts shall be heard by the Interior Board of Contract Appeals established pursuant to section 8 of such Act (41 U.S.C. 607)”.

1990—Subsec. (a). Pub. L. 101-301, §1(a)(2), made technical correction to directory language of Pub. L. 100-581, §212(a). See 1988 Amendment note below.

Subsec. (b). Pub. L. 101-301, §2(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Unless otherwise agreed to by the resolution of tribal organization, the Secretary shall not revise or amend a self-determination contract with such tribal organization.”

Subsec. (c). Pub. L. 101-301, §1(a)(2), made technical correction to directory language of Pub. L. 100-581, §212(c). See 1988 Amendment note below.

1988—Subsec. (a). Pub. L. 100-581, §212(a), as amended by Pub. L. 101-301, §1(a)(2), substituted “over any civil action” for “over civil action” after “Court of Claims.”

Subsec. (b). Pub. L. 100-581, §212(b), substituted “of tribal organization” for “of an Indian tribe” and “such tribal organization” for “such tribe”.

Subsec. (c). Pub. L. 100-581, §212(c), as amended by Pub. L. 101-301, §1(a)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Equal Access to Justice Act (Public Law 96-481, Act of October 1 [21], 1980; 94 Stat. 2325, as amended) shall apply to administrative appeals by tribal organizations regarding self-determination contracts.”

§ 5332. Sovereign immunity and trusteeship rights unaffected

Nothing in this chapter shall be construed as—

- (1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or
- (2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

(Pub. L. 93-638, title I, §111, formerly §110, Jan. 4, 1975, 88 Stat. 2213; renumbered §111, Pub. L. 100-472, title II, §206(b), Oct. 5, 1988, 102 Stat. 2295.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 450n of this title prior to editorial reclassification and renumbering as this section.

SUBCHAPTER II—CONTRACTS WITH STATES

CODIFICATION

Subchapter, consisting of sections 5341 to 5347 of this title, was not enacted as part of the Indian Self-Determination and Education Assistance Act which comprises this chapter.

§ 5341. Donations for Indians; use of gifts; annual report to Congress

The Secretary of the Interior may accept donations of funds or other property for the advancement of the Indian race, and he may use the donated property in accordance with the terms of the donation in furtherance of any program authorized by other provision of law for the benefit of Indians. An annual report shall be made to the Congress on donations received and allocations made from such donations. This report shall include administrative costs and other pertinent data.

(Feb. 14, 1931, ch. 171, 46 Stat. 1106; Pub. L. 90-333, June 8, 1968, 82 Stat. 171.)

CODIFICATION

Section was not enacted as part of the Johnson-O'Malley Act which comprises this subchapter, nor as part of the Indian Self-Determination and Education Assistance Act which comprises this chapter.

Section was formerly classified to section 451 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1968—Pub. L. 90-333 expanded area of permissible uses to which Secretary may put donated property by substituting provisions allowing inclusion of programs otherwise authorized by law intended to benefit Indians for provisions limiting permissible uses to programs otherwise authorized by law only if it could be shown that property would benefit a particular Indian institution or individual, and inserted provisions for an annual report to Congress on donations received and allocations made from such donations.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to making an annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 113 of House Document No. 103-7.

§ 5342. Contracts for education, medical attention, relief and social welfare of Indians

The Secretary of the Interior is authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory.

(Apr. 16, 1934, ch. 147, §1, 48 Stat. 596; June 4, 1936, ch. 490, §1, 49 Stat. 1458.)

CODIFICATION

Section was formerly classified to section 452 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1936—Act June 4, 1936, substituted “with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution”, “through the agencies of the State or Territory or of the corporations and organizations hereinbefore named,” and “such State or Territory” for “any State or Territory having legal authority so to do,” “through the qualified agencies of such State or Territory,” and “such State”, respectively.

SHORT TITLE

Sections 5342 to 5348 of this title popularly known as the “Johnson-O'Malley Act”, see note under section 5301 of this title.

DISTRIBUTION OF PUBLIC SCHOOL ASSISTANCE

Pub. L. 100-446, title I, Sept. 27, 1988, 102 Stat. 1795, provided that: “notwithstanding any other provision of law, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) [now 25 U.S.C. 5342 et seq.], shall be distributed on the basis of the formula recommended by the Assistant Secretary of Indian Affairs in a letter to the Committees on Appropriations dated June 27, 1988, except that for the fiscal year ending September 30, 1989, the minimum weight factor shall be 1.1 rather than 1.3 and for the fiscal year ending September 30, 1990, the minimum weight factor shall be 1.2 rather than 1.3”.

Similar provisions were contained in the following prior appropriation act:

Pub. L. 100-202, §101(g) [title I], Dec. 22, 1987, 101 Stat. 1329-213, 1329-228.

LIMITATION ON CONTRACT AUTHORITY

Pub. L. 99-190, §101(d) [title I], Dec. 19, 1985, 99 Stat. 1224, 1235, provided that: “notwithstanding any law or regulation, in allocating funds for aid to public schools under the Act of April 16, 1934, as amended [25 U.S.C. 5342 et seq.], the Secretary shall enter into contracts only for the provision of supplementary educational services for Indian children”.

§ 5343. Use of Government property by States and Territories

The Secretary of the Interior, in making any contract authorized by sections 5342 to 5348 of this title, may permit such contracting party to utilize, for the purposes of said sections, existing school buildings, hospitals, and other facilities, and all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance.

(Apr. 16, 1934, ch. 147, §2, 48 Stat. 596; June 4, 1936, ch. 490, §2, 49 Stat. 1459.)

CODIFICATION

Section was formerly classified to section 453 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1936—Act June 4, 1936, substituted “, may permit such contracting party” for “with any State or Territory, may permit such State or Territory”.

§ 5344. Rules and regulations; minimum standards of service

The Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose of carrying the provisions of sections 5342 to 5348 of this title into effect: *Provided*, That such minimum standards of service are not less than the highest maintained by the States or Territories within which said contract or contracts, as herein provided, are to be effective.

(Apr. 16, 1934, ch. 147, §3, 48 Stat. 596; June 4, 1936, ch. 490, §3, 49 Stat. 1459.)

CODIFICATION

Section was formerly classified to section 454 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1936—Act June 4, 1936, substituted “within which” for “with which”.

§ 5345. Contracts for education in public schools; submission of education plan by contractor as prerequisite; criteria for approval of plan by Secretary of the Interior; participation by non-Indian students

The Secretary of the Interior shall not enter into any contract for the education of Indians unless the prospective contractor has submitted to, and has had approved by the Secretary of the Interior, an education plan, which plan, in the determination of the Secretary, contains educational objectives which adequately address the educational needs of the Indian students who are to be beneficiaries of the contract and assures that the contract is capable of meeting such objectives: *Provided*, That where students other than Indian students participate in such programs, money expended under such contract shall be prorated to cover the participation of only the Indian students.

(Apr. 16, 1934, ch. 147, §4, as added Pub. L. 93-638, title II, §202, Jan. 4, 1975, 88 Stat. 2213.)

CODIFICATION

Section was formerly classified to section 455 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 4 of act Apr. 16, 1934, ch. 147, 48 Stat. 596; June 4, 1936, ch. 490, 49 Stat. 1458, directed Secretary of the Interior to report to Congress any contracts made under provisions of sections 5342 to 5344 of this title, prior to repeal by Pub. L. 86-533, §1(15), June 29, 1960, 74 Stat. 248.

§ 5346. Local committee of Indian parents in school districts having school boards composed of non-Indian majority

(a) Election; functions

Whenever a school district affected by a contract or contracts for the education of Indians pursuant to sections 5342 to 5348 of this title has a local school board not composed of a majority of Indians, the parents of the Indian children en-