

Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, which provided that the Indian Health Service was to neither bill nor charge those Indians who may have economic means to pay unless and until Congress directs Service to implement policy to do so, was from the Department of the Interior and Related Agencies Appropriations Act, 1996, and was not repeated in subsequent appropriations acts. Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 103-332, title II, Sept. 30, 1994, 108 Stat. 2529.  
 Pub. L. 103-138, title II, Nov. 11, 1993, 107 Stat. 1409.  
 Pub. L. 102-381, title II, Oct. 5, 1992, 106 Stat. 1409.  
 Pub. L. 102-154, title II, Nov. 13, 1991, 105 Stat. 1027.  
 Pub. L. 101-512, title II, Nov. 5, 1990, 104 Stat. 1952.  
 Pub. L. 101-121, title II, Oct. 23, 1989, 103 Stat. 734.  
 Pub. L. 100-446, title II, Sept. 27, 1988, 102 Stat. 1816.  
 Pub. L. 100-202, §101(g) [title II], Dec. 22, 1987, 101 Stat. 1329-213, 1329-245.

Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.

Pub. L. 99-190, §101(d) [title II], Dec. 19, 1985, 99 Stat. 1224, 1256.

Pub. L. 98-473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1865.

### § 1682. Subrogation of claims by Indian Health Service

On and after October 18, 1986, the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402<sup>1</sup> of the Indian Health Care Improvement Act.

(Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.)

#### REFERENCES IN TEXT

Sections 401 and 402 of the Indian Health Care Improvement Act, referred to in text, probably means former sections 401 and 402 of Pub. L. 94-437, title IV, Sept. 30, 1976, 90 Stat. 1408, 1409, which enacted sections 1395qq and 1396j of Title 42, The Public Health and Welfare, amended sections 1395f, 1395n, and 1396d of Title 42, and enacted provisions set out as notes under sections 1395qq and 1396j of Title 42. Sections 401 and 402 of the Act were amended generally by section 401(a), (b)(1) of Pub. L. 102-573, title IV, Oct. 29, 1992, 106 Stat. 4565, and by section 10221(a) of Pub. L. 111-148, title X, Mar. 23, 2010, 124 Stat. 935, and are classified to sections 1641 and 1642 of this title, respectively.

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1987, as enacted by Pub. L. 99-500 and Pub. L. 99-591, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

#### PRIOR PROVISIONS

A prior section 1682, Pub. L. 98-473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1865, which related to subrogation of claims by Indian Health Service, was omitted as superseded by section 101(h) [title II] of Pub. L. 99-500 and Pub. L. 99-591.

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

### § 1683. Indian Catastrophic Health Emergency Fund

\$10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund (hereinafter referred to as the "Fund"). On and after October 18, 1986, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 5301 et seq.]. There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation.

(Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-276, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-276.)

#### REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638), referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), referred to in text, probably means Pub. L. 87-693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to chapter 32 (§ 2651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1987, as enacted by Pub. L. 99-500 and Pub. L. 99-591, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

### § 1684. Emergency plan for Indian safety and health

#### (a) Establishment of Fund

There is established in the Treasury of the United States a fund, to be known as the "Emergency Fund for Indian Safety and Health" (referred to in this section as the "Fund"), consisting of such amounts as are appropriated to the Fund under subsection (b).

**(b) Transfers to Fund****(1) In general**

There is authorized to be appropriated to the Fund, out of funds of the Treasury not otherwise appropriated, \$1,602,619,000 for the 5-year period beginning on October 1, 2008.

**(2) Availability of amounts**

Amounts deposited in the Fund under this section shall—

(A) be made available without further appropriation;

(B) be in addition to amounts made available under any other provision of law; and

(C) remain available until expended.

**(c) Expenditures from Fund**

On request by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services, the Secretary of the Treasury shall transfer from the Fund to the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services, as appropriate, such amounts as the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services determines to be necessary to carry out the emergency plan under subsection (f).

**(d) Transfers of amounts****(1) In general**

The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

**(2) Adjustments**

Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

**(e) Remaining amounts**

Any amounts remaining in the Fund on September 30 of an applicable fiscal year may be used by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services to carry out the emergency plan under subsection (f) for any subsequent fiscal year.

**(f) Emergency plan**

Not later than 1 year after July 30, 2008, the Attorney General, the Secretary of the Interior, and the Secretary of Health and Human Services, in consultation with Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)),<sup>1</sup> shall jointly establish an emergency plan that addresses law enforcement, water, and health care needs of Indian tribes under which, for each of fiscal years 2010 through 2019, of amounts in the Fund—

(1) the Attorney General shall use—

(A) 18.5 percent for the construction, rehabilitation, and replacement of Federal Indian detention facilities;

(B) 1.5 percent to investigate and prosecute crimes in Indian country (as defined in section 1151 of title 18);

(C) 1.5 percent for use by the Office of Justice Programs for Indian and Alaska Native programs; and

(D) 0.5 percent to provide assistance to—

(i) parties to cross-deputization or other cooperative agreements between State or local governments and Indian tribes (as defined in section 5130 of this title) carrying out law enforcement activities in Indian country; and

(ii) the State of Alaska (including political subdivisions of that State) for carrying out the Village Public Safety Officer Program and law enforcement activities on Alaska Native land (as defined in section 3902 of this title);

(2) the Secretary of the Interior shall—

(A) deposit 15.5 percent in the public safety and justice account of the Bureau of Indian Affairs for use by the Office of Justice Services of the Bureau in providing law enforcement or detention services, directly or through contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);<sup>1</sup> and

(B) use not more than \$602,619,000 to implement requirements of Indian water settlement agreements that are approved by Congress (or the legislation to implement such an agreement) under which the United States shall plan, design, rehabilitate, or construct, or provide financial assistance for the planning, design, rehabilitation, or construction of, water supply or delivery infrastructure that will serve an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));<sup>1</sup> and

(3) the Secretary of Health and Human Services, acting through the Director of the Indian Health Service, shall use 12.5 percent to provide, directly or through contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)—<sup>1</sup>

(A) contract health services;

(B) construction, rehabilitation, and replacement of Indian health facilities; and

(C) domestic and community sanitation facilities serving members of Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b))<sup>1</sup> pursuant to section 2004a of title 42.

(Pub. L. 110-293, title VI, § 601, July 30, 2008, 122 Stat. 2968; Pub. L. 111-291, title VIII, § 831, Dec. 8, 2010, 124 Stat. 3163.)

## REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (f), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§5301 et seq.) of this title. Section 4 of the Act was classified to section 450b of this title prior to editorial reclassification as section 5304 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

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

## CODIFICATION

Section was enacted as part of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

Section was formerly classified to section 443c of this title prior to editorial reclassification and renumbering as this section.

## AMENDMENTS

2010—Subsec. (b)(1). Pub. L. 111-291, §831(1), substituted “\$1,602,619,000” for “\$2,000,000,000”.

Subsec. (f)(2)(B). Pub. L. 111-291, §831(2), substituted “not more than \$602,619,000” for “50 percent”.

### § 1685. Service of traditional foods in public facilities

#### (a) Purposes

The purposes of this section are—

- (1) to provide access to traditional foods in food service programs;
- (2) to encourage increased consumption of traditional foods to decrease health disparities among Indians, particularly Alaska Natives; and
- (3) to provide alternative food options for food service programs.

#### (b) Definitions

In this section:

##### (1) Alaska Native

The term “Alaska Native” means a person who is a member of any Native village, Village Corporation, or Regional Corporation (as those terms are defined in section 1602 of title 43).

##### (2) Commissioner

The term “Commissioner” means the Commissioner of Food and Drugs.

##### (3) Food service program

The term “food service program” includes—

- (A) food service at residential child care facilities that have a license from an appropriate State agency;
- (B) any child nutrition program (as that term is defined in section 1769f(b) of title 42);
- (C) food service at hospitals, clinics, and long-term care facilities; and
- (D) senior meal programs.

##### (4) Indian; Indian tribe

The terms “Indian” and “Indian tribe” have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).<sup>1</sup>

##### (5) Traditional food

###### (A) In general

The term “traditional food” means food that has traditionally been prepared and consumed by an Indian tribe.

###### (B) Inclusions

The term “traditional food” includes—

- (i) wild game meat;
- (ii) fish;

- (iii) seafood;
- (iv) marine mammals;
- (v) plants; and
- (vi) berries.

#### (6) Tribal organization

The term “tribal organization” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).<sup>1</sup>

#### (c) Program

The Secretary and the Commissioner shall allow the donation to and serving of traditional food through food service programs at public facilities and nonprofit facilities, including facilities operated by Indian tribes and facilities operated by tribal organizations, that primarily serve Indians if the operator of the food service program—

- (1) ensures that the food is received whole, gutted, gilled, as quarters, or as a roast, without further processing;
- (2) makes a reasonable determination that—
  - (A) the animal was not diseased;
  - (B) the food was butchered, dressed, transported, and stored to prevent contamination, undesirable microbial growth, or deterioration; and
  - (C) the food will not cause a significant health hazard or potential for human illness;
- (3) carries out any further preparation or processing of the food at a different time or in a different space from the preparation or processing of other food for the applicable program to prevent cross-contamination;
- (4) cleans and sanitizes food-contact surfaces of equipment and utensils after processing the traditional food;
- (5) labels donated traditional food with the name of the food;
- (6) stores the traditional food separately from other food for the applicable program, including through storage in a separate freezer or refrigerator or in a separate compartment or shelf in the freezer or refrigerator;
- (7) follows Federal, State, local, county, tribal, or other non-Federal law regarding the safe preparation and service of food in public or nonprofit facilities; and
- (8) follows other such criteria as established by the Secretary and Commissioner.

#### (d) Liability

##### (1) In general

The United States, an Indian tribe, a tribal organization, a State, a county or county equivalent, a local educational agency, and an entity or person authorized to facilitate the donation, storage, preparation, or serving of traditional food by the operator of a food service program shall not be liable in any civil action for any damage, injury, or death caused to any person by the donation to or storage, preparation, or serving of traditional foods through food service programs.

##### (2) Rule of construction

Nothing in paragraph (1) alters any liability or other obligation of the United States under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 1450 et seq.).<sup>1</sup>

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