

**Editorial Notes**

## REFERENCES IN TEXT

Section 4 of the Permanent Appropriation Repeal Act, 1934, referred to in text, is section 4 of act June 26, 1934, ch. 756, 48 Stat. 1227, which was classified to section 725c of former Title 31, and was omitted from the Code in the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 877.

## CODIFICATION

Section was formerly classified to section 725s-3 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, § 1, Sept. 13, 1982, 96 Stat. 877.

**Executive Documents**

## TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of Reorg. Plan No. 2 of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

**§ 386. Reimbursement of construction charges**

The Secretary of the Interior is authorized and directed to require the owners of irrigable land under any irrigation system constructed for the benefit of Indians and to which water for irrigation purposes can be delivered to begin partial reimbursement of the construction charges, where reimbursement is required by law, at such times and in such amounts as he may deem best; all payments hereunder to be credited on a per acre basis in favor of the land in behalf of which such payments shall have been made and to be deducted from the total per acre charge assessable against said land.

(Feb. 14, 1920, ch. 75, § 1, 41 Stat. 409.)

**§ 386a. Adjustment of reimbursable debts; construction charges**

The Secretary of the Interior is hereby authorized and directed to adjust or eliminate reimbursable charges of the Government of the United States existing as debts against individual Indians or tribes of Indians in such a way as shall be equitable and just in consideration of all the circumstances under which such charges were made: *Provided*, That the collection of all construction costs against any Indian-owned lands within any Government irrigation project is hereby deferred, and no assessments shall be made on behalf of such charges against such lands until the Indian title thereto shall have been extinguished, and any construction assessments heretofore levied against such lands in accordance with the provisions of section 386 of this title, and uncollected, are hereby canceled: *Provided further*, That the Secretary shall report such adjustments and eliminations to the Congress not later than sixty calendar days following the end of the fiscal year in which they are made: *Provided further*, That any proceedings hereunder shall not be effective until approved by Congress unless Congress shall have failed to act favorably or unfavorably thereon by concurrent resolution within ninety calendar days

after the filing of said report, in which case they shall become effective at the termination of the said ninety calendar days: *Provided further*, That the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as is permitted for individual Indians or tribes of Indians under this section.

(July 1, 1932, ch. 369, 47 Stat. 564; Pub. L. 97-375, title II, § 208(a), Dec. 21, 1982, 96 Stat. 1824; Pub. L. 104-42, title II, § 207, Nov. 2, 1995, 109 Stat. 364.)

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## AMENDMENTS

1995—Pub. L. 104-42 inserted before period at end “: *Provided further*, That the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as is permitted for individual Indians or tribes of Indians under this section”.

1982—Pub. L. 97-375, § 208(a)(1), substituted “That the Secretary shall report such adjustments and eliminations to the Congress not later than sixty calendar days following the end of the fiscal year in which they are made” for “That a report shall be made to Congress annually, on the first Monday in December, showing adjustments so made during the preceding fiscal year” in second proviso.

Pub. L. 97-375, § 208(a)(2), substituted “ninety calendar days” for “sixty legislative days” wherever appearing.

**§ 387. Omitted****Editorial Notes**

## CODIFICATION

Section, which related to basis of apportionment of costs of irrigation projects was from the Interior Department Appropriation Act, 1946, July 3, 1945, ch. 262, 59 Stat. 328, and was not repeated in the Interior Department Appropriation Act of 1947, act July 1, 1946, ch. 529, 60 Stat. 348. Similar provisions were contained in the following prior appropriation acts:

June 28, 1944, ch. 298, 58 Stat. 474.  
 July 12, 1943, ch. 219, 57 Stat. 461.  
 July 2, 1942, ch. 473, 56 Stat. 518.  
 June 28, 1941, ch. 259, 55 Stat. 317.  
 June 18, 1940, ch. 395, 54 Stat. 419.  
 May 10, 1939, ch. 119, 53 Stat. 700.  
 May 9, 1938, ch. 187, 52 Stat. 304.  
 Aug. 9, 1937, ch. 570, 50 Stat. 577.  
 June 22, 1936, ch. 691, 49 Stat. 1769.  
 May 9, 1935, ch. 101, 49 Stat. 186.  
 Mar. 2, 1934, ch. 38, 48 Stat. 370.  
 Feb. 17, 1933, ch. 98, 47 Stat. 829.  
 Apr. 22, 1932, ch. 125, 47 Stat. 100.  
 Feb. 14, 1931, ch. 187, 46 Stat. 1126.  
 May 14, 1930, ch. 273, 46 Stat. 290.  
 Mar. 4, 1929, ch. 705, 45 Stat. 1573.  
 Mar. 7, 1928, ch. 137, 45 Stat. 210.

**§ 388. Claims for damages; settlement by agreement**

The Secretary of the Interior is authorized to pay out of funds available for the Indian irrigation projects for damages caused to owners of lands or other private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of irrigation

works of such projects and which may be compromised by agreement between the claimant and the Secretary of the Interior or such officers as he may designate: *Provided*, That the total of any such claims authorized to be settled as herein contemplated shall not exceed 5 per centum of the funds available for the project under which such claims arise during any one fiscal year.

(Feb. 20, 1929, ch. 279, 45 Stat. 1252.)

**§ 389. Investigation and adjustment of irrigation charges on lands within projects on Indian reservations**

The Secretary of the Interior is authorized and directed to cause an investigation to be made to determine whether the owners of non-Indian lands under Indian irrigation projects and under projects where the United States has purchased water rights for Indians are unable to pay irrigation charges, including construction, maintenance, and operating charges, because of inability to operate such lands profitably by reason of lack of fertility of the soil, inadequacy of water supply, defects of irrigation works, or for any other causes. Where the Secretary finds that said landowners are unable to make payment due to the existence of such causes, he may adjust, defer, or cancel such charges, in whole or in part, as the facts and conditions warrant. In adjusting or deferring any such charges the Secretary may enter into contracts with said land owners for the payment of past due charges, but such contracts shall not extend the payment of such charges over a period in excess of ten years.

(June 22, 1936, ch. 692, § 1, 49 Stat. 1803.)

**Statutory Notes and Related Subsidiaries**

**FLATHEAD INDIAN IRRIGATION PROJECT**

Act July 26, 1947, ch. 340, 61 Stat. 494, provided that notwithstanding any provisions of sections 389 to 389e of this title, the Secretary of the Interior could defer the collection of irrigation construction charges on the Flathead Indian Irrigation Project until January 1, 1949.

**FORT PECK INDIAN IRRIGATION PROJECT**

In accordance with sections 389 to 389e of this title, the order of the Secretary of the Interior canceling delinquent irrigation operation and maintenance charges of \$461.40 and accrued interest thereon for certain lands adjacent to but outside the Fort Peck Indian irrigation project, \$206,902.21 against lands within the Fort Peck project, and \$118,266.64 of unassessed construction costs allocable against both Indian and non-Indian owned lands in the Fraiser-Wolf Point unit of the Fort Peck project, was approved by Pub. L. 90-143, Nov. 16, 1967, 81 Stat. 465.

**KLAMATH INDIAN IRRIGATION PROJECT**

In accordance with sections 389 to 389e of this title, the order of the Secretary of the Interior canceling \$401,440.55 of reimbursable irrigation costs and any accrued interest thereon chargeable to lands in the Klamath Indian irrigation project, was approved by Pub. L. 88-456, Aug. 20, 1964, 78 Stat. 554.

**OROVILLE-TONASKET IRRIGATION DISTRICT**

Action of the Secretary of the Interior taken on May 19, 1942, pursuant to authority contained in sections 389 to 389e of this title with respect to lands within the

Oroville-Tonasket Irrigation District was confirmed by Congress in act Dec. 24, 1942, ch. 816, 56 Stat. 1082.

**UINTAH INDIAN IRRIGATION PROJECT**

Pub. L. 91-403, §§1-5, Sept. 18, 1970, 84 Stat. 843, 844, authorized the Secretary of the Interior to reimburse the Ute Tribe of the Uintah and Ouray Reservation for tribal funds that were used to construct, operate, and maintain the Uintah Indian irrigation project, Utah.

Action of Secretary of the Interior taken pursuant to authority contained in sections 389 to 389e of this title with respect to lands within the Uintah Indian Irrigation Project was confirmed by Congress in act May 28, 1941, ch. 142, 55 Stat. 209.

**WAPATO INDIAN IRRIGATION PROJECT**

In accordance with sections 389 to 389e of this title, order of Secretary of the Interior dated Sept. 12, 1962, canceling \$4,494.58 of delinquent irrigation charges, providing for the deferred payment of \$10,356.03, and providing for the removal of 78.12 acres of assessable land from the Wapato Indian irrigation project, was approved by Pub. L. 88-159, Oct. 28, 1963, 77 Stat. 278.

In accordance with sections 389 to 389e of this title, order of Secretary of the Interior canceling \$35,700.72 of delinquent irrigation charges, providing for the deferred payment of \$13,851.98, and providing for the removal of two hundred thirty-two and fifty-six one hundredths acres of assessable land from the Wapato Indian irrigation project, was approved by Pub. L. 86-281, Sept. 16, 1959, 73 Stat. 564.

Action by the Secretary of the Interior taken Sept. 9, 1942, pursuant to authority contained in sections 389 to 389e of this title with respect to lands within the Wapato Indian irrigation project was confirmed in act Dec. 24, 1942, ch. 815, 56 Stat. 1081.

**WIND RIVER INDIAN IRRIGATION PROJECT**

In accordance with sections 389 to 389e of this title, the order of the Secretary of the Interior, canceling delinquent operation and maintenance irrigation charges of \$1,134.99 and accrued interest thereon, against lands on the Wind River Indian irrigation project, and a contract for the deferred payment of delinquent charges in the amount of \$2,331.59, was approved by Pub. L. 88-116, Sept. 6, 1963, 77 Stat. 151.

In accordance with sections 389 to 389e of this title, the order of the Secretary of the Interior, canceling delinquent irrigation charges of \$36,439.70 and accrued interest therein, and providing for a deferred payment of \$8,706.27, as shown in schedules A, B, and C of such order, was approved by Pub. L. 87-516, July 2, 1962, 76 Stat. 128, provided that the cancellation under schedule B not become effective until the landowners agree to pay the balance of such delinquent charges amounting to \$1,556.40.

**§ 389a. Declaring lands to be temporarily nonirrigable**

Where the Secretary finds that any such lands cannot be cultivated profitably due to a present lack of water supply, proper drainage facilities, or need of additional construction work, he shall declare such lands temporarily nonirrigable for periods not to exceed five years and no charges shall be assessed against such lands during such periods.

(June 22, 1936, ch. 692, § 2, 49 Stat. 1804.)

**§ 389b. Elimination to permanently nonirrigable lands**

Where the Secretary finds that any such lands are permanently nonirrigable he may, with the consent of the landowner, eliminate such lands from the project.