

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.

#### Statutory Notes and Related Subsidiaries

##### 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.)

#### Editorial Notes

##### 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.)

#### Editorial Notes

##### 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.)

#### Editorial Notes

##### 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 enrolled in the school or schools affected by such contract or contracts shall elect a local committee from among their number. Such com-

mittee shall fully participate in the development of, and shall have the authority to approve or disapprove programs to be conducted under such contract or contracts, and shall carry out such other duties, and be so structured, as the Secretary of the Interior shall by regulation provide: *Provided, however*, That, whenever a local Indian committee or committees established pursuant to section 7424(c)(4) of title 20 or an Indian advisory school board or boards established pursuant to sections 5342 to 5348 of this title prior to January 4, 1975, exists in such school district, such committee or board may, in the discretion of the affected tribal governing body or bodies, be utilized for the purposes of this section.

**(b) Revocation of contracts**

The Secretary of the Interior may, in his discretion, revoke any contract if the contractor fails to permit a local committee to perform its duties pursuant to subsection (a) of this section.

(Apr. 16, 1934, ch. 147, § 5, as added Pub. L. 93-638, title II, § 202, Jan. 4, 1975, 88 Stat. 2213; amended Pub. L. 103-382, title III, § 393(d), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 107-110, title VII, § 702(e), Jan. 8, 2002, 115 Stat. 1947; Pub. L. 114-95, title IX, § 9215(a), Dec. 10, 2015, 129 Stat. 2166.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 456 of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 5 of act Apr. 16, 1934, ch. 147, 48 Stat. 596, which excluded Oklahoma from the application of contract provisions, was omitted in the general amendment of act Apr. 16, 1934, by act June 4, 1936, ch. 490, 49 Stat. 1458.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95 made technical amendment to reference in original act which appears in text as reference to section 7424(c)(4) of title 20.

2002—Subsec. (a). Pub. L. 107-110 substituted reference to section 7424(c)(4) of title 20 for reference to section 7814(c)(4) of title 20.

1994—Subsec. (a). Pub. L. 103-382 substituted reference to section 7814(c)(4) of title 20 for reference to section 241dd(b)(2)(B)(ii) of title 20.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of Title 20, Education.

**§ 5347. Reimbursement to school districts for educating non-resident students**

Any school district educating Indian students who are members of recognized Indian tribes, who do not normally reside in the State in which such school district is located, and who are residing in Federal boarding facilities for the purposes of attending public schools within such district may, in the discretion of the Secretary of the Interior, be reimbursed by him for

the full per capita costs of educating such Indian students.

(Apr. 16, 1934, ch. 147, § 6, as added Pub. L. 93-638, title II, § 202, Jan. 4, 1975, 88 Stat. 2214.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 457 of this title prior to editorial reclassification and renumbering as this section.

**§ 5348. Computation of student count**

**(a) Definitions**

For the purposes of sections 5342 to 5348 of this title, the following definitions apply:

**(1) Contracting party**

The term “contracting party” means an entity that has a contract through a program authorized under sections 5342 to 5348 of this title.

**(2) Eligible entity**

The term “eligible entity” means an entity that is eligible to apply for a contract for a supplemental or operational support program under sections 5342 to 5348 of this title, as outlined in section 5342 of this title.

**(3) Existing contracting party**

The term “existing contracting party” means a contracting party that has a contract under sections 5342 to 5348 of this title that is in effect on December 31, 2018.

**(4) JOM Modernization Act**

The term “JOM Modernization Act” means the Johnson-O’Malley Supplemental Indian Education Program Modernization Act.

**(5) New contracting party**

The term “new contracting party” means an entity that enters into a contract under sections 5342 to 5348 of this title after December 31, 2018.

**(6) Secretary**

The term “Secretary” means the Secretary of the Interior.

**(b) Determination of the number of eligible Indian students**

**(1) Initial determinations**

**(A) In general**

The Secretary shall make an initial determination of the number of eligible Indian students served or potentially served by each eligible entity in accordance with subparagraph (B).

**(B) Process for making the initial determination**

**(i) Preliminary report**

Not later than 180 days after December 31, 2018, the Secretary shall publish a preliminary report describing the number of eligible Indian students served or potentially served by each eligible entity, using the most applicable and accurate data (as determined by the Secretary in consultation with eligible entities) from the fiscal