

§ 5353. Availability of funds to agencies, institutions, and organizations

No funds from any contract or grant pursuant to this subchapter shall be made available by any Federal agency directly to other than public agencies and Indian tribes, institutions, and organizations: *Provided*, That school districts, State education agencies, and Indian tribes, institutions, and organizations assisted by this subchapter may use funds provided herein to contract for necessary services with any appropriate individual, organization, or corporation.

(Pub. L. 93-638, title II, §206, Jan. 4, 1975, 88 Stat. 2216.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 458b of this title prior to editorial reclassification and renumbering as this section.

§ 5354. Rules and regulations

(a) Prerequisites for promulgation

(1) Within six months from January 4, 1975, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations with experiences in Indian education to consider and formulate appropriate rules and regulations to implement the provisions of this subchapter.

(2) Within seven months from January 4, 1975, the Secretary shall present the proposed rules and regulations to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.

(3) Within eight months from January 4, 1975, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(4) Within ten months from January 4, 1975, the Secretary shall promulgate rules and regulations to implement the provisions of this subchapter.

(b) Revision and amendment

The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to subsection (a) of this section: *Provided*, That prior to any revision or amendment to such rules or regulations the Secretary shall, to the extent practicable, consult with appropriate national and regional Indian organizations, and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

(Pub. L. 93-638, title II, §207, Jan. 4, 1975, 88 Stat. 2216.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 458c of this title prior to editorial reclassification and renumbering as this section.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4, Ninety-fifth Congress (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977. Section 105 of Senate Resolution No. 4 established a temporary Select Committee on Indian Affairs having jurisdiction over matters relating to Indian affairs (such matters previously having been within the jurisdiction of the Committee on Interior and Insular Affairs). Senate Resolution No. 127, June 6, 1984, Ninety-eighth Congress, established the Select Committee on Indian Affairs as a permanent committee of the Senate, and section 25 of Senate Resolution No. 71, Feb. 25, 1993, One Hundred Third Congress, redesignated the Select Committee on Indian Affairs as the Committee on Indian Affairs.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 5355. Eligibility for funds of tribe or tribal organization controlling or managing private schools

The Secretary is authorized and directed to provide funds, pursuant to this chapter; the the¹ Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 5342 et seq.]; or any other authority granted to him to any tribe or tribal organization which controls and manages any previously private school.

(Pub. L. 93-638, title II, §208, Jan. 4, 1975, 88 Stat. 2216; Pub. L. 97-375, title I, §108(d), Dec. 21, 1982, 96 Stat. 1820.)

Editorial Notes

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.

Act of April 16, 1934, referred to in text, is act Apr. 16, 1934, ch. 147, 48 Stat. 596, popularly known as the Johnson-O'Malley Act, which is classified generally to section 5342 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.

CODIFICATION

Section was formerly classified to section 458d of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1982—Pub. L. 97-375 struck out provisions relating to annual reporting requirements of Secretary to Congressional committees respecting educational assistance program conducted pursuant to this section.

§ 5356. Supplemental assistance to funds provided to local educational agencies

The assistance provided in this chapter for the education of Indians in the public schools of any

¹ So in original.

State is in addition and supplemental to assistance provided under title VI of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7401 et seq.].

(Pub. L. 93-638, title II, § 209, Jan. 4, 1975, 88 Stat. 2217; Pub. L. 103-382, title III, § 393(c), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 114-95, title IX, § 9215(rr), Dec. 10, 2015, 129 Stat. 2181.)

Editorial Notes

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.

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title VI of the Act is classified generally to subchapter VI (§ 7401 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

CODIFICATION

Section was formerly classified to section 458e of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2015—Pub. L. 114-95 substituted “assistance provided under title VI of the Elementary and Secondary Education Act of 1965.” for “assistance provided under title IX of the Elementary and Secondary Education Act of 1965.”

1994—Pub. L. 103-382 substituted “title IX of the Elementary and Secondary Education Act of 1965” for “title IV of the Act of June 23, 1972 (86 Stat. 235)”.

SUBCHAPTER IV—TRIBAL SELF-GOVERNANCE—DEPARTMENT OF THE INTERIOR

§ 5361. Definitions

In this subchapter:

(1) Compact

The term “compact” means a self-governance compact entered into under section 5364 of this title.

(2) Construction program; construction project

The term “construction program” or “construction project” means a Tribal undertaking relating to the administration, planning, environmental determination, design, construction, repair, improvement, or expansion of roads, bridges, buildings, structures, systems, or other facilities for purposes of housing, law enforcement, detention, sanitation, water supply, education, administration, community, health, irrigation, agriculture, conservation, flood control, transportation, or port facilities, or for other Tribal purposes.

(3) Department

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

(4) Funding agreement

The term “funding agreement” means a funding agreement entered into under section 5363 of this title.

(5) Gross mismanagement

The term “gross mismanagement” means a significant violation, shown by a preponderance of the evidence, of a compact, funding agreement, or statutory or regulatory requirement applicable to Federal funds for a program administered by an Indian Tribe under a compact or funding agreement.

(6) Inherent Federal function

The term “inherent Federal function” means a Federal function that may not legally be delegated to an Indian Tribe.

(7) Non-BIA program

The term “non-BIA program” means all or a portion of a program, function, service, or activity that is administered by any bureau, service, office, or agency of the Department of the Interior other than—

(A) the Bureau of Indian Affairs;

(B) the Office of the Assistant Secretary for Indian Affairs; or

(C) the Office of the Special Trustee for American Indians.

(8) Program

The term “program” means any program, function, service, or activity (or portion thereof) within the Department that is included in a funding agreement.

(9) Secretary

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

(10) Self-determination contract

The term “self-determination contract” means a self-determination contract entered into under section 5321 of this title.

(11) Self-governance

The term “self-governance” means the Tribal Self-Governance Program established under section 5362 of this title.

(12) Tribal share

The term “Tribal share” means the portion of all funds and resources of an Indian Tribe that—

(A) support any program within the Bureau of Indian Affairs, the Office of the Special Trustee for American Indians, or the Office of the Assistant Secretary for Indian Affairs; and

(B) are not required by the Secretary for the performance of an inherent Federal function.

(13) Tribal water rights settlement

The term “Tribal water rights settlement” means any settlement, compact, or other agreement expressly ratified or approved by an Act of Congress that—

(A) includes an Indian Tribe and the United States as parties; and

(B) quantifies or otherwise defines any water right of the Indian Tribe.

(Pub. L. 93-638, title IV, § 401, as added Pub. L. 103-413, title II, § 204, Oct. 25, 1994, 108 Stat. 4271; Pub. L. 116-180, title I, § 101(b), Oct. 21, 2020, 134 Stat. 858.)