dian Affairs, either directly or through contracts under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by Bureau of Indian Affairs or tribal law enforcement or judicial personnel involving Indians where it is determined that alcohol or substance abuse is a contributing factor.

**(b) Referral of data**

The data compiled pursuant to subsection (a) of this section shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service[1] unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 2477[2] of this title.

**(c) Confidentiality**

In carrying out this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals involved.

(Pub. L. 99–570, title IV, § 4222, Oct. 27, 1986, 100 Stat. 3207–148.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 2477 of this title, referred to in subsec. (b), was repealed by Pub. L. 102–573, title VII, § 702(b)(2), Oct. 29, 1992, 106 Stat. 4582. See section 1665f of this title.

## SUBCHAPTER VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

### § 2471. Transferred

CODIFICATION

Section, Pub. L. 99–570, title IV, § 4224, Oct. 27, 1986, 100 Stat. 3207–148, which related to review of programs providing health services and benefits to Indians, was renumbered section 4208A of Pub. L. 99–570 by Pub. L. 102–573, title VII, § 702(b)(1), Oct. 29, 1992, 106 Stat. 4582, and transferred to section 2414a of this title.

### §§ 2472 to 2478. Repealed. Pub. L. 102–573, title VII, § 702(b)(2), Oct. 29, 1992, 106 Stat. 4582

Section 2472, Pub. L. 99–570, title IV, § 4225, Oct. 27, 1986, 100 Stat. 3207–148, related to responsibilities of Indian Health Service for alcohol and substance abuse prevention and treatment. See section 1665 of this title.

Section 2473, Pub. L. 99–570, title IV, § 4226, Oct. 27, 1986, 100 Stat. 3207–149; Pub. L. 100–690, title II, § 2217, Nov. 18, 1988, 102 Stat. 4222, provided for program of alcohol and substance abuse prevention and treatment through Indian Health Service. See section 1665a of this title.

Section 2474, Pub. L. 99–570, title IV, § 4227, Oct. 27, 1986, 100 Stat. 3207–149; Pub. L. 100–690, title II, § 2212, Nov. 18, 1988, 102 Stat. 4219; Pub. L. 101–630, title V, § 509(a), Nov. 28, 1990, 104 Stat. 4567, provided for Indian Health Service program of alcohol and substance abuse detoxification and rehabilitation for Indian youth. See section 1665c of this title.

Section 2475, Pub. L. 99–570, title IV, § 4228, Oct. 27, 1986, 100 Stat. 3207–150; Pub. L. 100–690, title II, § 2213, Nov. 18, 1988, 102 Stat. 4220, provided for program of training and community education about alcohol and substance abuse. See section 1665d of this title.

Section 2476, Pub. L. 99–570, title IV, § 4229, Oct. 27, 1986, 100 Stat. 3207–152; Pub. L. 100–690, title II, § 2214, Nov. 18, 1988, 102 Stat. 4220, provided for establishment of Navajo alcohol rehabilitation demonstration program.

Section 2477, Pub. L. 99–570, title IV, § 4230, Oct. 27, 1986, 100 Stat. 3207–152, related to compilation of data and preparation of reports on cases of alcohol or substance abuse in which Indian Health Service personnel or services were involved. See section 1665f of this title.

Section 2478, Pub. L. 99–570, title IV, § 4231, as added Pub. L. 100–690, title II, § 2215, Nov. 18, 1988, 102 Stat. 4221, authorized grants for alcohol and substance abuse prevention and treatment in urban centers.

## CHAPTER 27—TRIBALLY CONTROLLED SCHOOL GRANTS

Sec.
2501. Declaration of policy.
2502. Grants authorized.
2503. Composition of grants.
2504. Eligibility for grants.
2505. Duration of eligibility determination.
2506. Payment of grants; investment of funds.
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2511. Definitions.

### § 2501. Declaration of policy

**(a) Recognition**

Congress recognizes that the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.], which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step toward tribal and community control and that the United States has an obligation to assure maximum Indian participation in the direction of educational services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities.

**(b) Commitment**

Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children through the establishment of a meaningful Indian self-determination policy for education that will deter further perpetuation of Federal bureaucratic domination of programs.

**(c) National goal**

Congress declares that a national goal of the United States is to provide the resources, processes, and structure that will enable tribes and local communities to obtain the quantity and quality of educational services and opportunities that will permit Indian children—

[1] So in original. Probably should be followed by ''service''.

[2] See References in Text note below.

(1) to compete and excel in areas of their choice; and

(2) to achieve the measure of self-determination essential to their social and economic well-being.

**(d) Educational needs**

Congress affirms—

(1) true self-determination in any society of people is dependent upon an educational process that will ensure the development of qualified people to fulfill meaningful leadership roles;

(2) that Indian people have special and unique educational needs, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities; and

(3) that those needs may best be met through a grant process.

**(e) Federal relations**

Congress declares a commitment to the policies described in this section and support, to the full extent of congressional responsibility, for Federal relations with the Indian nations.

**(f) Termination**

Congress repudiates and rejects House Concurrent Resolution 108 of the 83d Congress and any policy of unilateral termination of Federal relations with any Indian nation.

(Pub. L. 100–297, title V, § 5202, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063.)

REFERENCES IN TEXT

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

House Concurrent Resolution 108 of the 83rd Congress, referred to in subsec. (f), is H. Con. Res. 108, Eighty-third Congress, Aug. 1, 1953, 67 Stat. B132, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 2501, Pub. L. 100–297, title V, § 5202, Apr. 28, 1988, 102 Stat. 385, set forth findings, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

SHORT TITLE

Section 5201 of Pub. L. 100–297 provided that: ''This part [part B (§§ 5201–5212) of title V of Pub. L. 100–297, enacting this chapter] may be cited as the 'Tribally Controlled Schools Act of 1988'.''

TRIBAL SCHOOL CONSTRUCTION DEMONSTRATION PROGRAM

Pub. L. 108–7, div. F, title I, § 122, Feb. 20, 2003, 117 Stat. 241, as amended by Pub. L. 108–108, title I, § 136(a), Nov. 10, 2003, 117 Stat. 1270, provided that:

''(a) DEFINITIONS.—In this section:

''(1) CONSTRUCTION.—The term 'construction', with respect to a tribally controlled school, includes the construction or renovation of that school.

''(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

''(3) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(4) TRIBALLY CONTROLLED SCHOOL.—The term 'tribally controlled school' means a school that currently receives a grant under the Tribally Controlled Schools Act of 1988, as amended (25 U.S.C. 2501 et seq.) or is determined by the Secretary to meet the eligibility criteria of section 5205 of the Tribally Controlled Schools Act of 1988, as amended (25 U.S.C. 2504).

''(5) DEPARTMENT.—The term 'Department' means the Department of the Interior.

''(6) DEMONSTRATION PROGRAM.—The term 'demonstration program' means the Tribal School Construction Demonstration Program.

''(b) IN GENERAL.—The Secretary shall carry out a demonstration program for fiscal years 2003 through 2007 to provide grants to Indian tribes for the construction of tribally controlled schools.

''(1) IN GENERAL.—Subject to the availability of appropriations, in carrying out the demonstration program under subsection (b), the Secretary shall award a grant to each Indian tribe that submits an application that is approved by the Secretary under paragraph (2). The Secretary shall ensure that applications for funding to replace schools currently receiving funding for facility operation and maintenance from the Bureau of Indian Affairs receive the highest priority for grants under this section. Among such applications, the Secretary shall give priority to applications of Indian tribes that agree to fund all future facility operation and maintenance costs of the tribally controlled school funded under the demonstration program from other than Federal funds.

''(2) GRANT APPLICATIONS.—An application for a grant under the section shall—

''(A) include a proposal for the construction of a tribally controlled school of the Indian tribe that submits the application; and

''(B) be in such form as the Secretary determines appropriate.

''(3) GRANT AGREEMENT.—As a condition to receiving a grant under this section, the Indian tribe shall enter into an agreement with the Secretary that specifies—

''(A) the costs of construction under the grant;

''(B) that the Indian tribe shall be required to contribute towards the cost of the construction a tribal share equal to 50 percent of the costs; and

''(C) any other term or condition that the Secretary determines to be appropriate.

''(4) ELIGIBILITY.—Grants awarded under the demonstration program shall be used only for construction or replacement of a tribally controlled school.

''(c) EFFECT OF GRANT.—(1) Except as provided in paragraph (2) of this subsection, A [sic] grant received under this section shall be in addition to any other funds received by an Indian tribe under any other provision of law. The receipt of a grant under this section shall not affect the eligibility of an Indian tribe receiving funding, or the amount of funding received by the Indian tribe, under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) or the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(2) A tribe receiving a grant for construction of a tribally controlled school under this section shall not be eligible to receive funding from the Bureau of Indian Affairs for that school for education operations or facility operation and maintenance if the school that was not at the time of the grant: (i) a school receiving funding for education operations or facility operation and maintenance under the Tribally Controlled Schools Act [25 U.S.C. 2501 et seq.] or the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] or (ii) a school operated by the Bureau of Indian Affairs.

''(d) REPORT.—At the conclusion of the five-year demonstration program, the Secretary shall report to Congress as to whether the demonstration program has achieved its purposes of providing additional tribes fair opportunities to construct tribally controlled schools, accelerating construction of needed educational facilities in Indian Country, and permitting additional funds to be provided for the Department's priority list for construction of replacement educational facilities.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107–63, title I, § 125, Nov. 5, 2001, 115 Stat. 440.
Pub. L. 106–291, title I, § 153, Oct. 11, 2000, 114 Stat. 960.

## § 2502. Grants authorized

### (a) In general

#### (1) Eligibility

The Secretary shall provide grants to Indian tribes, and tribal organizations that—

(A) operate contract schools under title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.] and notify the Secretary of their election to operate the schools with assistance under this chapter rather than continuing the schools as contract schools;

(B) operate other tribally controlled schools eligible for assistance under this chapter and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

(C) elect to assume operation of Bureau-funded schools with the assistance under this chapter and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.

#### (2) Deposit of funds

Grants provided under this chapter shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is made.

#### (3) Use of funds

##### (A) In general

Except as otherwise provided in this paragraph, grants provided under this chapter shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education related activities for which any funds that compose the grant may be used under the laws described in section 2504(a) of this title, including expenditures for—

(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes; and

(ii) support services for the school, including transportation.

##### (B) Exception

Grants provided under this chapter may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operations and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 2504(a) of this title.

### (b) Limitations

#### (1) One grant per tribe or organization per fiscal year

Not more than one grant may be provided under this chapter with respect to any Indian tribe or tribal organization for any fiscal year.

#### (2) Nonsectarian use

Funds provided under any grant made under this chapter may not be used in connection with religious worship or sectarian instruction.

#### (3) Administrative costs limitation

Funds provided under any grant under this chapter may not be expended for administrative costs (as defined in section 1128(h)(1) of the Education Amendments of 1978 [25 U.S.C. 2008(h)(1)]) in excess of the amount generated for such costs under section 1128 of such Act.

### (c) Limitation on transfer of funds among school sites

#### (1) In general

In the case of a grantee that operates schools at more than one school site, the grantee may expend at any school site operated by the grantee not more than the lesser of—

(A) 10 percent of the funds allocated for another school site under section 1128 of the Education Amendments of 1978 [25 U.S.C. 2008]; or

(B) $400,000 of the funds allocated for another school site.

#### (2) Definition of school site

For purposes of this subsection, the term ''school site'' means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discreet[1] student count is identified under the funding formula established under section 1127 of the Education Amendments of 1978 [25 U.S.C. 2007].

### (d) No requirement to accept grants

Nothing in this chapter may be construed—

(1) to require a tribe or tribal organization to apply for or accept; or

(2) to allow any person to coerce any tribe or tribal organization to apply for, or accept,

a grant under this chapter to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications and the timing of such applications shall be strictly voluntary. Nothing in this chapter may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

### (e) No effect on Federal responsibility

Grants provided under this chapter shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

### (f) Retrocession

#### (1) In general

Whenever a tribal governing body requests retrocession of any program for which assist-

[1] So in original. Probably should be ''discrete''.

ance is provided under this chapter, such retrocession shall become effective upon a date specified by the Secretary that is not later than 120 days after the date on which the tribal governing body requests the retrocession. A later date may be specified if mutually agreed upon by the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this chapter prior to the retrocession.

**(2) Status after retrocession**

The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau-operated school or as a school operated under contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.].

**(3) Transfer of equipment and materials**

Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) the existing equipment and materials which were acquired—

(A) with assistance under this chapter; or

(B) upon assumption of operation of the program under this chapter, if the school was a Bureau-funded school under title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.] before receiving assistance under this chapter.

**(g) Prohibition of termination for administrative convenience**

Grants provided under this chapter may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

(Pub. L. 100–297, title V, § 5203, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2064.)

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsecs. (a)(1)(A) and (f)(3)(B), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§ 2000 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of Title 20, Education, and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (f)(2), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

PRIOR PROVISIONS

A prior section 2502, Pub. L. 100–297, title V, § 5203, Apr. 28, 1988, 102 Stat. 385, set forth declaration of policy, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2501 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

## § 2503. Composition of grants

**(a) In general**

The grant provided under this chapter to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) the total amount of funds allocated for such fiscal year under sections 1127 and 1128 of the Education Amendments of 1978 [25 U.S.C. 2007, 2008] with respect to the tribally controlled schools eligible for assistance under this chapter which are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs;

(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 450j of this title, or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to those referenced under section 1126(d) of the Education Amendments of 1978 [25 U.S.C. 2006(d)] or any other law); and

(3) the total amount of funds that are allocated to such schools for such fiscal year under—

(A) title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(B) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]; and

(C) any other Federal education law, that are allocated to such schools for such fiscal year.[1]

**(b) Special rules**

**(1) In general**

**(A) Applicability of certain laws**

Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) of this section shall be subject to the provisions of this chapter and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(i) title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(ii) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]; or

(iii) any Federal education law other than title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.].

**(B) Applicability of Bureau provisions**

Indian tribes and tribal organizations to which grants are provided under this chapter, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

[1] So in original. The words ", that are allocated to such schools for such fiscal year" probably should not appear.

**(2) Schools considered contract schools**

Tribally controlled schools for which grants are provided under this chapter shall be treated as contract schools for the purposes of allocation of funds under sections 1126(e), 1127, and 1128 of the Education Amendments of 1978 [25 U.S.C. 2006(e), 2007, 2008].

**(3) Schools considered Bureau schools**

Tribally controlled schools for which grants are provided under this chapter shall be treated as Bureau schools for the purposes of allocation of funds provided under—

(A) title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(B) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]; and

(C) any other Federal education law, that are distributed through the Bureau.

**(4) Accounts; use of certain funds**

**(A) Separate account**

**(i) In general**

Notwithstanding section 2503(a)(2)[2] of this title, with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant provided under section 2503(a)[3] of this title, the grant recipient shall maintain a separate account for such funds.

**(ii) Submission of accounting**

At the end of the period designated for the work covered by the funds received, the grant recipient shall submit to the Secretary a separate accounting of the work done and the funds expended.

**(iii) Use of funds**

Funds received from those accounts may only be used for the purpose for which the funds were appropriated and for the work encompassed by the application or submission for which the funds were received.

**(iv) Completion of project**

Upon completion of a project for which a separate account is established under this paragraph, the portion of the grant related to such project may be closed out upon agreement by the grantee and the Secretary.

**(B) Requirements for projects**

**(i) Regulatory requirements**

With respect to a grant to a tribally controlled school under this chapter for new construction or facilities improvements and repair in excess of $100,000, such grant shall be subject to the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in part 12 of title 43, Code of Federal Regulations.

**(ii) Exception**

Notwithstanding clause (i), grants described in such clause shall not be subject to section 12.61 of title 43, Code of Federal Regulations. The Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed.

**(iii) Applications**

In considering applications for a grant described in clause (i), the Secretary shall consider whether the Indian tribe or tribal organization involved would be deficient in ensuring that the construction projects under the proposed grant conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required under section 1124 of the Education Amendments of 1978 (25 U.S.C. 2005(a))[4] with respect to organizational and financial management capabilities.

**(iv) Disputes**

Any disputes between the Secretary and any grantee concerning a grant described in clause (i) shall be subject to the dispute provisions contained in section 2508(e)[5] of this title.

**(C) New construction**

Notwithstanding subparagraph (A), a school receiving a grant under this chapter for facilities improvement and repair may use such grant funds for new construction if the tribal governing body or tribal organization that submits the application for the grant provides funding for the new construction equal to at least 25 percent of the total cost of such new construction.

**(D) Period**

In a case in which the appropriations measure under which the funds described in subparagraph (A) are made available or the application submitted for the funds does not stipulate a period for the work covered by the funds, the Secretary and the grant recipient shall consult and determine such a period prior to the transfer of the funds. A period so determined may be extended upon mutual agreement of the Secretary and the grant recipient.

**(5) Enforcement of request to include funds**

**(A) In general**

If the Secretary fails to carry out a request filed by an Indian tribe or tribal organization to include in such tribe[6] or organization's grant under this chapter the funds described in subsection (a)(2) of this section within 180 days after the filing of the request, the Secretary shall—

(i) be deemed to have approved such request; and

(ii) immediately upon the expiration of such 180-day period amend the grant accordingly.

**(B) Rights**

A tribe or organization described in subparagraph (A) may enforce its rights under

[2] So in original. Probably should be "2502(a)(2)".

[3] So in original. Probably should be "2502(a)".

[4] See References in Text note below.

[5] So in original. Probably should be "2507(e)".

[6] So in original. Probably should be "tribe's".

subsection (a)(2) of this section and this paragraph, including rights relating to any denial or failure to act on such tribe's or organization's request, pursuant to the dispute authority described in section 2508(e)[5] of this title.

(Pub. L. 100–297, title V, § 5204, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2066.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(3)(A) and (b)(1)(A)(i), (3)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§ 6301 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.

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(3)(B) and (b)(1)(A)(ii), (3)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Education Amendments of 1978, referred to in subsec. (b)(1)(A)(iii), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§ 2000 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20, Education, and Tables.

Section 1124 of the Education Amendments of 1978 (25 U.S.C. 2005(a)), referred to in subsec. (b)(4)(B)(iii), probably should be section 1125 of the Education Amendments of 1978, Pub. L. 95–561, which is classified to section 2005 of this title and requires, in subsec. (b), compliance with health and safety standards. Section 1124 of Pub. L. 95–561, which is classified to section 2004 of this title, relates to school boundaries.

PRIOR PROVISIONS

A prior section 2503, Pub. L. 100–297, title V, § 5204, Apr. 28, 1988, 102 Stat. 386; Pub. L. 100–427, § 10(a), (b), Sept. 9, 1988, 102 Stat. 1607; Pub. L. 102–119, § 26(f), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103–382, title III, § 394(m)(1), Oct. 20, 1994, 108 Stat. 4029, authorized grants, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2502 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

### § 2504. Eligibility for grants

**(a) Rules**

**(1) In general**

A tribally controlled school is eligible for assistance under this chapter if the school—

(A) on April 28, 1988, was a contract school under title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.] and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this chapter;

(B) was a Bureau-operated school under title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.] and has met the requirements of subsection (b) of this section;

(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c) of this section; or

(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b) of this section.

**(2) New schools**

Any application which has been submitted under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] by an Indian tribe for a school which is not in operation on January 8, 2002, shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b) of this section.

**(b) Additional requirements for Bureau-funded schools and certain electing schools**

**(1) Bureau-funded schools**

A school that was a Bureau-funded school under title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.] on January 8, 2002, and any school with respect to which an election is made under subsection (a)(2) of this section, meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school; and

(ii) make a determination as to whether the school is eligible for assistance under this chapter; and

(B) the Secretary makes a determination that the school is eligible for assistance under this chapter.

**(2) Certain electing schools**

**(A) In general**

By not later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

(i) in the case of a school which is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization; and

(ii) whether the school is eligible for assistance under this chapter.

**(B) Other determinations**

In considering applications submitted under paragraph (1)(A), the Secretary—

(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the tribe or tribal organization is not already operating the school; and

(ii) shall determine that the school is eligible for assistance under this chapter, unless the Secretary finds by clear and con-

vincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

**(C) Considerations**

In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

(i) equipment;

(ii) bookkeeping and accounting procedures;

(iii) ability to adequately manage a school; or

(iv) adequately trained personnel.

**(c) Additional requirements for a school which is not a Bureau-funded school**

**(1) In general**

A school which is not a Bureau-funded school under title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.] meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary as to whether the school is eligible for assistance under this chapter; and

(B) the Secretary makes a determination that a school is eligible for assistance under this chapter.

**(2) Deadline for determination by Secretary**

**(A) In general**

By not later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this chapter.

**(B) Considerations**

In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

(i) With respect to the applicant's proposal—

(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

(II) geographic and demographic factors in the affected areas;

(III) adequacy of the applicant's program plans;

(IV) geographic proximity of comparable public education; and

(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations.

(ii) With respect to all education services already available—

(I) geographic and demographic factors in the affected areas;

(II) adequacy and comparability of programs already available;

(III) consistency of available programs with tribal education codes or tribal legislation on education; and

(IV) the history and success of these services for the proposed population to be served, as determined from all factors including, if relevant, standardized examination performance.

**(C) Geographic proximity**

The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

**(D) Other information**

Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

**(E) Deadline**

If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title[1] and the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary's discretion.

**(d) Filing of applications and reports**

**(1) In general**

All applications and reports submitted to the Secretary under this chapter, and any amendments to such applications or reports, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which such filing occurs shall, for purposes of this chapter, be treated as the date on which the application or amendment was submitted to the Secretary.

**(2) Supporting documentation**

Any application that is submitted under this chapter shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

**(e) Effective date for approved applications**

Except as provided by subsection (c)(2)(E) of this section, a grant provided under this chapter, and any transfer of the operation of a Bureau school made under subsection (b) of this section, shall become effective beginning the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

**(f) Denial of applications**

**(1) In general**

Whenever the Secretary refuses to approve a grant under this chapter, to transfer operation

[1] See References in Text note below.

of a Bureau school under subsection (b) of this section, or determines that a school is not eligible for assistance under this chapter, the Secretary shall—

(A) state the objections in writing to the tribe or tribal organization within the allotted time;

(B) provide assistance to the tribe or tribal organization to overcome all stated objections;

(C) at the request of the tribe or tribal organization, provide the tribe or tribal organization a hearing on the record under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; and

(D) provide an opportunity to appeal the objection raised.

**(2) Timeline for reconsideration of amended applications**

The Secretary shall reconsider any amended application submitted under this chapter within 60 days after the amended application is submitted to the Secretary.

**(g) Report**

The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to Congress the budget under section 1105 of title 31.

(Pub. L. 100–297, title V, § 5205, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2068.)

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsecs. (a)(1)(A), (B), (b)(1), and (c)(1), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§ 2000 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of Title 20, Education, and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (a)(2) and (f)(1)(C), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The title, referred to in subsec. (c)(2)(E), probably should be ''this part'', meaning part B of title V of Pub. L. 100–297, known as the Tribally Controlled Schools Act of 1988, which is classified generally to this chapter. For complete classification of part B to the Code, see Short Title note set out under section 2501 of this title and Tables.

PRIOR PROVISIONS

A prior section 2504, Pub. L. 100–297, title V, § 5205, Apr. 28, 1988, 102 Stat. 387; Pub. L. 100–427, § 10(c), Sept. 9, 1988, 102 Stat. 1608; Pub. L. 101–301, § 5(g), May 24, 1990, 104 Stat. 209; Pub. L. 102–119, § 26(f), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103–382, title III, §§ 382(a), (b), 394(m)(2), Oct. 20, 1994, 108 Stat. 4017, 4029, related to composition of grants, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2503 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

## § 2505. Duration of eligibility determination

**(a) In general**

If the Secretary determines that a tribally controlled school is eligible for assistance under this chapter, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 2504 of this title, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

**(b) Annual reports**

**(1) In general**

Each recipient of a grant provided under this chapter shall complete an annual report which shall be limited to—

(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(B) an annual financial audit conducted pursuant to the standards of the Single Audit Act of 1984 [31 U.S.C. 7501 et seq.];

(C) a biennial compliance audit of the procurement of personal property during the period for which the report is being prepared that shall be in compliance with written procurement standards that are developed by the local school board;

(D) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(E) a program evaluation conducted by an impartial evaluation review team, to be based on the standards established for purposes of subsection (c)(1)(A)(ii)[1] of this section.

**(2) Evaluation review teams**

Where appropriate, other tribally controlled schools and representatives of tribally controlled community colleges shall make up members of the evaluation review teams.

**(3) Evaluations**

In the case of a school which is accredited, evaluations will be conducted at intervals under the terms of accreditation.

**(4) Submission of report**

**(A) To tribal governing body**

Upon completion of the report required under paragraph (1), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the tribal governing body (as defined in section 2012(f) of this title) of the tribally controlled school.

**(B) To Secretary**

Not later than 30 days after receiving written confirmation that the tribal governing body has received the report sent pursuant

[1] So in original. Probably should be subsection ''(c)(1)(B)(ii)''.

to subparagraph (A), the recipient of the grant shall send a copy of the report to the Secretary.

**(c) Revocation of eligibility**

**(1) Determination of eligibility for assistance**

The Secretary shall not revoke a determination that a school is eligible for assistance under this chapter if—

(A) the Indian tribe or tribal organization submits the reports required under subsection (b) of this section with respect to the school; and

(B) at least one of the following clauses applies with respect to the school:

(i) The school is certified or accredited by a State or regional accrediting association or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by the students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

(ii) The Secretary determines that there is a reasonable expectation that the certification or accreditation described in clause (i), or candidacy in good standing for such certification or accreditation, will be achieved by the school within 3 years. The school seeking accreditation shall remain under the standards of the Bureau in effect on January 8, 2002, until such time as the school is accredited, except that if the Bureau standards are in conflict with the standards of the accrediting agency, the standards of such agency shall apply in such case.

(iii) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

(iv)(I) With respect to a school that lacks accreditation, or that is not a candidate for accreditation, based on circumstances that are not beyond the control of the school board, every 3 years an impartial evaluator agreed upon by the Secretary and the grant recipient conducts evaluations of the school, and the school receives a positive assessment under such evaluations. The evaluations are conducted under standards adopted by a contractor under a contract for the school entered into under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] (or revisions of such standards agreed to by the Secretary and the grant recipient) prior to January 8, 2002.

(II) If the Secretary and a grant recipient other than a tribal governing body fail to agree on such an evaluator, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grant recipient that is a tribal governing body fail to agree on such an evaluator, subclause (I) shall not apply.

(III) A positive assessment by an impartial evaluator under this clause shall not affect the revocation of a determination of eligibility by the Secretary where such revocation is based on circumstances that were within the control of the school board.

**(2) Notice requirements for revocation**

The Secretary shall not revoke a determination that a school is eligible for assistance under this chapter, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 2505(b)(1)(A)[2] of this title until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 2021 of this title) of the tribally controlled school which states—

(i) the specific deficiencies that led to the revocation or resumption determination; and

(ii) the actions that are needed to remedy such deficiencies; and

(B) affords such authority an opportunity to effect the remedial actions.

**(3) Technical assistance**

The Secretary shall provide such technical assistance to enable the school and governing body to carry out such remedial actions.

**(4) Hearing and appeal**

In addition to notice and technical assistance under this subsection, the Secretary shall provide to the school and governing body—

(A) at the request of the school or governing body, a hearing on the record regarding the revocation or reassumption determination, to be conducted under the rules and regulations described in section 2505(f)(1)(C)[3] of this title; and

(B) an opportunity to appeal the decision resulting from the hearing.

**(d) Applicability of section pursuant to election under section 2507(b)**

With respect to a tribally controlled school that receives assistance under this chapter pursuant to an election made under section 2507(b) of this title—

(1) subsection (b) of this section shall apply; and

(2) the Secretary may not revoke eligibility for assistance under this chapter except in conformance with subsection (c) of this section.

(Pub. L. 100–297, title V, § 5206, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2072.)

REFERENCES IN TEXT

The Single Audit Act of 1984, referred to in subsec. (b)(1)(B), is Pub. L. 98–502, Oct. 19, 1984, 98 Stat. 2327, which enacted chapter 75 (§ 7501 et seq.) of Title 31, Money and Finance, and provisions set out as notes under section 7501 of Title 31. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 7501 of Title 31 and Tables.

[2] So in original. Probably should be section ''2504(b)(1)(A)''.

[3] So in original. Probably should be section ''2504(f)(1)(C)''.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(1)(B)(iv)(I), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

PRIOR PROVISIONS

A prior section 2505, Pub. L. 100–297, title V, § 5206, Apr. 28, 1988, 102 Stat. 388; Pub. L. 100–427, § 11, Sept. 9, 1988, 102 Stat. 1608; Pub. L. 105–362, title VIII, § 801(d), Nov. 10, 1998, 112 Stat. 3288, related to eligibility for grants, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2504 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

## § 2506. Payment of grants; investment of funds

### (a) Payments

#### (1) In general

Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this chapter in two payments, of which—

(A) the first payment shall be made not later than July 1 of each year in an amount equal to 80 percent of the amount which the grantee was entitled to receive during the preceding academic year; and

(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

#### (2) Excess funding

In a case in which the amount provided to a grant recipient under paragraph (1)(A) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the recipient shall return to the Secretary such excess amount not later than 30 days after the final determination that the school was overpaid pursuant to this section. The amount returned to the Secretary under this paragraph shall be distributed equally to all schools in the system.

#### (3) Newly funded schools

For any school for which no payment under this chapter was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this chapter shall be made not later than December 1 of the academic year.

#### (4) Late funding

With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

#### (5) Applicability of certain title 31 provisions

The provisions of chapter 39 of title 31 shall apply to the payments required to be made by paragraphs (1), (3), and (4).

#### (6) Restrictions

Paragraphs (1), (3), and (4) shall be subject to any restriction on amounts of payments under this chapter that are imposed by a continuing resolution or other Act appropriating the funds involved.

### (b) Investment of funds

#### (1) Treatment of interest and investment income

Notwithstanding any other provision of law, any interest or investment income that accrues to any funds provided under this chapter after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this chapter shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law. Such interest income shall be spent on behalf of the school.

#### (2) Permissible investments

Funds provided under this chapter may be invested by the Indian tribe or tribal organization before such funds are expended for the purposes of this chapter so long as such funds are—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States, or securities that are guaranteed or insured by the United States; or

(B) deposited only into accounts that are insure by and[1] agency or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

### (c) Recoveries

For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this chapter shall not be taken into consideration.

(Pub. L. 100–297, title V, § 5207, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2074.)

PRIOR PROVISIONS

A prior section 2506, Pub. L. 100–297, title V, § 5207, Apr. 28, 1988, 102 Stat. 391; Pub. L. 100–427, § 12, Sept. 9, 1988, 102 Stat. 1608, related to duration of eligibility determination, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2505 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

[1] So in original. Probably should be ''insured by an''.

## § 2507. Application with respect to Indian Self-Determination and Education Assistance Act

### (a) Certain provisions to apply to grants

The following provisions of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this chapter:

(1) Section 5(f) [25 U.S.C. 450c(f)] (relating to single agency audit).

(2) Section 6 [25 U.S.C. 450d] (relating to criminal activities; penalties).

(3) Section 7 [25 U.S.C. 450e] (relating to wage and labor standards).

(4) Section 104 [25 U.S.C. 450i] (relating to retention of Federal employee coverage).

(5) Section 105(f) [25 U.S.C. 450j(f)] (relating to Federal property).

(6) Section 105(k) [25 U.S.C. 450j(k)] (relating to access to Federal sources of supply).

(7) Section 105(*l*) [25 U.S.C. 450j(*l*)] (relating to lease of facility used for administration and delivery of services).

(8) Section 106(f) [25 U.S.C. 450j–1(f)] (relating to limitation on remedies relating to cost allowances).

(9) Section 106(j) [25 U.S.C. 450j–1(j)] (relating to use of funds for matching or cost participation requirements).

(10) Section 106(k) [25 U.S.C. 450j–1(k)] (relating to allowable uses of funds).

(11) Section 108(c) [25 U.S.C. 450*l*(c)] (Model Agreements provisions (1)(a)(5)[1] (relating to limitations of costs), (1)(a)(7)[2] (relating to records and monitoring), (1)(a)(8)[3] (relating to property), and (a)(1)(9)[4] (relating to availability of funds).[5]

(12) Section 109 [25 U.S.C. 450m] (relating to reassumption).

(13) Section 111 [25 U.S.C. 450n] (relating to sovereign immunity and trusteeship rights unaffected).

### (b) Election for grant in lieu of contract

#### (1) In general

Contractors for activities to which this chapter applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] that is in effect on January 8, 2002, may, by giving notice to the Secretary, elect to have the provisions of this chapter apply to such activity in lieu of such contract.

#### (2) Effective date of election

Any election made under paragraph (1) shall take effect on the first day of July immediately following the date of such election.

#### (3) Exception

In any case in which the first day of July immediately following the date of an election under paragraph (1) is less than 60 days after such election, such election shall not take effect until the first day of July of[6] year following the year in which the election is made.

### (c) No duplication

No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] to pay any expenses incurred in providing any program or services if a grant has been made under this chapter to pay such expenses.

### (d) Transfers and carryovers

#### (1) Buildings, equipment, supplies, materials

A tribe or tribal organization assuming the operation of—

(A) a Bureau school with assistance under this chapter shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; or

(B) a contract school with assistance under this chapter shall be entitled to the transfer or use of buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act.

#### (2) Funds

Any tribe or tribal organization which assumes operation of a Bureau school with assistance under this chapter and any tribe or tribal organization which elects to operate a school with assistance under this chapter rather that[7] to continue as a contract school shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

#### (3) Funding for school improvement

Any tribe or tribal organization that assumes operation of a Bureau school or a contract school with assistance under this chapter shall be eligible for funding for the improvement, alteration, replacement, and repair of facilities to the same extent as a Bureau school.

### (e) Exceptions, problems, and disputes

Any exception or problem cited in an audit conducted pursuant to section 2505(b)(1) of this title, any dispute regarding a grant authorized to be made pursuant to this chapter or any amendment to such grant, and any dispute involving an administrative cost grant under section 2008 of this title shall be administered under the provisions governing such exceptions, problems, or disputes in the case of contracts under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]. The Equal Access to Justice Act shall apply to administrative appeals filed after September 8, 1988, by grantees regarding a grant under this chapter, including an administrative cost grant.

(Pub. L. 100–297, title V, § 5208, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2076.)

[1] So in original. Probably should be ''1(b)(5)''.

[2] So in original. Probably should be ''1(b)(7)''.

[3] So in original. Probably should be ''1(b)(8)''.

[4] So in original. Probably should be ''1(b)(9)''.

[5] So in original. There probably should be a second closing parenthesis.

[6] So in original. Probably should be followed by ''the''.

[7] So in original. Probably should be ''than''.

REFERENCES IN TEXT

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

The Equal Access to Justice Act, referred to in subsec. (e), is title II of Pub. L. 96–481, Oct. 21, 1980, 94 Stat. 2325, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 504 of Title 5, Government Organization and Employees, and Tables.

PRIOR PROVISIONS

A prior section 2507, Pub. L. 100–297, title V, § 5208, Apr. 28, 1988, 102 Stat. 393; Pub. L. 100–427, § 13, Sept. 9, 1988, 102 Stat. 1609; Pub. L. 103–382, title III, § 382(c), Oct. 20, 1994, 108 Stat. 4017, related to payment of grants and investment of funds, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2506 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

## § 2508. Role of the Director

Applications for grants under this chapter, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(Pub. L. 100–297, title V, § 5209, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2077.)

PRIOR PROVISIONS

A prior section 2508, Pub. L. 100–297, title V, § 5209, Apr. 28, 1988, 102 Stat. 394; Pub. L. 100–427, § 14, Sept. 9, 1988, 102 Stat. 1609; Pub. L. 101–301, § 5(b), May 24, 1990, 104 Stat. 207; Pub. L. 103–382, title III, § 382(d), (e), Oct. 20, 1994, 108 Stat. 4017, 4018, related to application with respect to Indian Self-Determination and Education Assistance Act, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2507 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

## § 2509. Regulations

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary in this chapter. For all other matters relating to the details of planning, developing, implementing, and evaluating grants under this chapter, the Secretary shall not issue regulations.

(Pub. L. 100–297, title V, § 5210, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2077.)

PRIOR PROVISIONS

A prior section 2509, Pub. L. 100–297, title V, § 5210, Apr. 28, 1988, 102 Stat. 394, related to role of Director, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2508 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

## § 2510. The tribally controlled grant school endowment program

### (a) In general

#### (1) Establishment

Each school receiving a grant under this chapter may establish, at a federally insured financial institution, a trust fund for the purposes of this section.

#### (2) Deposits and use

The school may provide—

(A) for deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received from grants provided under this chapter may be used for that purpose;

(B) for deposit into the trust fund, any earnings on funds deposited in the fund; and

(C) for the sole use of the school any noncash, in-kind contributions of real or personal property, which may at any time be used, sold, or otherwise disposed of.

### (b) Interest

Interest from the fund established under subsection (a) of this section may periodically be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school consistent with the purposes of this Act.[1]

(Pub. L. 100–297, title V, § 5211, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2078.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 100–297 and probably should be ''this part'', meaning part B of title V of Pub. L. 100–297, known as the Tribally Controlled Schools Act of 1988, which is classified generally to this chapter. For complete classification of part B to the Code, see Short Title note set out under section 2501 of this title and Tables.

PRIOR PROVISIONS

A prior section 2510, Pub. L. 100–297, title V, § 5211, Apr. 28, 1988, 102 Stat. 394, related to regulations, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2509 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

## § 2511. Definitions

In this chapter:

#### (1) Bureau

The term ''Bureau'' means the Bureau of Indian Affairs of the Department of the Interior.

#### (2) Eligible Indian student

The term ''eligible Indian student'' has the meaning given such term in section 2007(f) of this title.

[1] See References in Text note below.

**(3) Indian**

The term ''Indian'' means a member of an Indian tribe, and includes individuals who are eligible for membership in a tribe, and the child or grandchild of such an individual.

**(4) Indian tribe**

The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Village Corporation or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**(5) Local educational agency**

The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for the State's public elementary schools or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

**(6) Secretary**

The term ''Secretary'' means the Secretary of the Interior.

**(7) Tribal governing body**

The term ''tribal governing body'' means, with respect to any school that receives assistance under this Act,[1] the recognized governing body of the Indian tribe involved.

**(8) Tribal organization**

**(A) In general**

The term ''tribal organization'' means—

(i) the recognized governing body of any Indian tribe; or

(ii) any legally established organization of Indians that—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization; and

(II) includes the maximum participation of Indians in all phases of the organization's activities.

**(B) Authorization**

In any case in which a grant is provided under this chapter to an organization to provide services through a tribally controlled school benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of the students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

**(9) Tribally controlled school**

The term ''tribally controlled school'' means a school that—

(A) is operated by an Indian tribe or a tribal organization, enrolling students in kindergarten through grade 12, including a preschool;

(B) is not a local educational agency; and

(C) is not directly administered by the Bureau of Indian Affairs.

(Pub. L. 100–297, title V, § 5212, as added Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2078.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (4), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

This Act, referred to in par. (7), is Pub. L. 100–297 and probably should be ''this part'', meaning part B of title V of Pub. L. 100–297, known as the Tribally Controlled Schools Act of 1988, which is classified generally to this chapter. For complete classification of part B to the Code, see Short Title note set out under section 2501 of this title and Tables.

PRIOR PROVISIONS

A prior section 2511, Pub. L. 100–297, title V, § 5212, Apr. 28, 1988, 102 Stat. 394, defined terms, prior to repeal by Pub. L. 107–110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

## CHAPTER 28—INDIAN EDUCATION PROGRAM

### SUBCHAPTER I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

**§§ 2601 to 2606. Repealed. Pub. L. 103–382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976**

Section 2601, Pub. L. 100–297, title V, § 5311, Apr. 28, 1988, 102 Stat. 395, related to policy declaration concerning academic needs of Indian students.

Section 2602, Pub. L. 100–297, title V, § 5312, Apr. 28, 1988, 102 Stat. 396; Pub. L. 100–427, § 15, Sept. 9, 1988, 102 Stat. 1610, related to grants to local educational agencies for education of Indian children.

Section 2603, Pub. L. 100–297, title V, § 5313, Apr. 28, 1988, 102 Stat. 398, related to permissible uses of Federal funds.

Section 2604, Pub. L. 100–297, title V, § 5314, Apr. 28, 1988, 102 Stat. 398; Pub. L. 100–427, § 16, Sept. 9, 1988, 102 Stat. 1610; Pub. L. 101–301, § 5(c), May 24, 1990, 104 Stat. 207, related to applications for grants and conditions for approval.

Section 2605, Pub. L. 100–297, title V, § 5315, Apr. 28, 1988, 102 Stat. 402; Pub. L. 100–427, § 17, Sept. 9, 1988, 102 Stat. 1611, related to payments to local educational agencies.

Section 2606, Pub. L. 100–297, title V, § 5316, Apr. 28, 1988, 102 Stat. 402, authorized appropriations for Indian education and permitted Secretary to reallocate funds.

SHORT TITLE

Section 5301 of Pub. L. 100–297 provided that part C (§§ 5301–5352) of title V of Pub. L. 100–297, enacting this

[1] See References in Text note below.