§ 4363. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, § 301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and was not enacted as part of the Education of the Deaf Act of 1986 which comprises this chapter, and contained additional provisions relating to the American Printing House for the Blind and Howard University, which are set out as sections 106a and 130a of this title, respectively.

CHAPTER 56—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

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§ 4401. Findings

The Congress finds that—

(1) Indian art and culture and Native Hawaiian art and culture have contributed greatly to the artistic and cultural richness of the Nation;

(2) Indian art and culture and Native Hawaiian art and culture occupy a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental positive influence on the American people;

(4) although the encouragement and support of Indian and Native Hawaiian arts and crafts are primarily a matter for private, local, and Indian and Native Hawaiian initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and Na-

tive Hawaiian art and culture and to complement programs for the advancement of such art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Indian art and culture and Native Hawaiian art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture, it is desirable to establish—

(A) a national Institute of American Indian and Alaska Native Culture and Arts Development, and

(B) a program for Native Hawaiian culture and arts development.

(Pub. L. 99–498, title XV, § 1502, Oct. 17, 1986, 100 Stat. 1600.)

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–239, title VII, § 721, May 4, 1994, 108 Stat. 606, provided that: ''This title [probably should be ''subtitle'' meaning subtitle C [§§ 721, 722] of title VII of Pub. L. 103–239, amending section 4441 of this title] may be cited as the 'Alaska Native Culture and Arts Development Act'.''

SHORT TITLE

Section 1501 of title XV of Pub. L. 99–498 provided that: ''This title [enacting this chapter] may be cited as the 'American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act'.''

§ 4402. Definitions

For the purpose of this chapter—

(1) The term ''Indian art and culture'' includes (but is not limited to) the traditional and contemporary expressions of Indian language, history, visual and performing arts, and crafts.

(2) The term ''Native Hawaiian art and culture'' includes the traditional and contemporary expressions of Native Hawaiian language, history, visual and performing arts, and crafts.

(3) The term ''Institute'' means the Institute of American Indian and Alaska Native Culture and Arts Development established by this chapter.

(4) The term ''Indian'' means any person who is a member of an Indian tribe.

(5) The term ''Indian tribe'' means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (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 special programs and services provided by the United States to Indians because of their status as Indians.

(6) The term ''Native Hawaiian'' means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(7) The term ''Secretary'' means the Secretary of the Interior.

(8) The term ''Board'' means the Board of Trustees of the Institute established under this chapter.

(Pub. L. 99–498, title XV, § 1503, Oct. 17, 1986, 100 Stat. 1600.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5), 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.

SUBCHAPTER I—AMERICAN INDIANS AND ALASKA NATIVES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4451 of this title.

§ 4411. Establishment of Institute

(a) In general

There is hereby established a corporation to be known as the ''Institute of American Indian and Alaska Native Culture and Arts Development'', which shall be under the direction and control of a Board of Trustees established under section 4412 of this title.

(b) Succession and amendment of charter

The corporation established under subsection (a) of this section shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

(Pub. L. 99–498, title XV, § 1504, Oct. 17, 1986, 100 Stat. 1601.)

AVAILABILITY OF FISCAL YEAR 1988 APPROPRIATIONS

Pub. L. 100–202, § 101(g) [title I, § 100], Dec. 22, 1987, 101 Stat. 1329–213, 1329–228, provided: ''That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act [this chapter], the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and for use under part A of that Act [this subchapter].''

AVAILABILITY OF APPROPRIATIONS; IMPLEMENTATION OF CHAPTER; INTERIM AUTHORITY OF SECRETARY

Pub. L. 99–500, § 101(h) [title I, § 100], Oct. 18, 1986, 100 Stat. 1783–242, 1783–255, and Pub. L. 99–591, § 101(h) [title I, § 100], Oct. 30, 1986, 100 Stat. 3341–242, 3341–255, provided: ''That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act [this chapter], the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act [this subchapter] and—

''(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

''(2) until the earlier of—

''(A) October 1, 1987, or

''(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act [20 U.S.C. 4412(a)(1)(A)],

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

''(3) until the earlier of—

''(A) October 1, 1987, or

''(B) the appointment of a President of such Institute under section 1508 of that Act [20 U.S.C. 4415],

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

''(3) [(4)] until the earlier of—

''(A) October 1, 1987, or

''(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this [that] Act''.

§ 4412. Board of Trustees

(a) Composition

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) Subject to the provisions of subsection (i) of this section, the voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate, not later than 180 days after October 17, 1986, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views, and diverse fields of expertise, including finance, law, fine arts, and higher education administration.

(B) The nonvoting members shall consist of—

(i) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives;

(ii) 2 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader of the Senate;

(iii) the President of the Institute, ex officio; and

(iv) the president of the student body of the Institute, ex officio.

(2) In making appointments pursuant to paragraph (1)(A), the President of the United States shall—

(A) consult with the Indian tribes and the various organizations of Indians;

(B) publish in the Federal Register an announcement of the expiration of terms no less than 4 months before such expiration;

(C) solicit nominations from Indian tribes and various Indian organizations to fill the vacancies;

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board; and

(E) ensure that a majority of the Board appointed under paragraph (1)(A) are Indians.

(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received.

(4) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(b) Terms of office

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 6 years.

(2) The terms of office on the Board for the Members of the House of Representatives and of the Senate shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members of the Board first appointed under subsection (a)(1)(A) of this section—

(A) 4 shall be appointed for terms of office of 2 years;

(B) 4 shall be appointed for terms of office of 4 years; and

(C) 5 shall be appointed for terms of office of 6 years,

as determined by the drawing of lots during the first meeting of the Board.

(4) No member of the Board appointed under subsection (a)(1)(A) of this section shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) Vacancies

Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B) of this section, a replacement shall be appointed in the same manner in which the original appointment was made.

(d) Removal

No member of the Board may be removed during the term of office of such member except for just and sufficient cause.

(e) Chairman and Vice Chairman

The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1)(A) of this section. Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. Thereafter, the Chairman and Vice Chairman shall be elected from among the members of the Board appointed pursuant to subsection (a)(1)(A) of this section and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1)(A) of this section, and the member filling such vacancy shall serve for the remainder of the unexpired term.

(f) Quorum

Unless otherwise provided by the bylaws of the Institute, a majority of the members appointed under subsection (a)(1)(A) of this section shall constitute a quorum.

(g) Powers

The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this chapter, including the organization and procedures of the Board.

(h) Compensation

Members of the Board appointed pursuant to subsection (a)(1)(A) of this section shall, for each day they are engaged in the performance of the duties under this chapter, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(i) Appointment exception for continuity

(1) In order to maintain the stability and continuity of the Board, the Board shall have the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4) of this section, relating to continuation of service pending replacement, shall continue to apply.

(Pub. L. 99–498, title XV, § 1505, Oct. 17, 1986, 100 Stat. 1601; Pub. L. 102–325, title XIII, § 1331(a), July 23, 1992, 106 Stat. 805.)

AMENDMENTS

1992—Subsec. (a)(1)(A). Pub. L. 102–325, § 1331(a)(1), substituted ''Subject to the provisions of subsection (i) of this section, the voting'' for ''The voting'' and inserted before period at end '', and diverse fields of expertise, including finance, law, fine arts, and higher education administration''.

Subsec. (a)(3), (4). Pub. L. 102–325, § 1331(a)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (i). Pub. L. 102–325, § 1331(a)(4), added subsec. (i) and struck out former subsec. (i) which read as follows: ''(i) REVIEW BY SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Feb. 22, 1991, 56 F.R. 8099, provided:

Memorandum for the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development

By the authority vested in me as President of the United States by section 301 of Title 3 of the United States Code, I hereby delegate to the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the responsibility under section 1505(a)(2)(B) of P.L. 99–498 (20 U.S.C. 4412(a)(2)(B)) to publish in the Federal Register an announcement of the expiration of the terms of the presidentially appointed members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development no less than 4 months prior to their expiration. The authority delegated by this memorandum may be further redelegated within the Institute.

The delegation of authority to the Secretary of the Interior by memorandum of June 22, 1988, is hereby rescinded.

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4411 of this title.

§ 4413. Executive Board

(a) Composition

The Board shall have an Executive Board composed of—

(1) the chairman of the Board;

(2) the vice chairman of the Board;

(3) the secretary of the Board;

(4) the treasurer of the Board; and

(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) Vacancies

In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) Meetings

The Executive Board shall hold not more than 4 regular meetings per calendar year. Special meetings may be held upon the call of the chairman or 3 members of the Executive Board.

(d) Quorum

A majority of the Executive Board shall constitute a quorum.

(e) Powers

The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

(Pub. L. 99–498, title XV, § 1506, Oct. 17, 1986, 100 Stat. 1603.)

§ 4414. General powers of Board

(a) In general

In carrying out the provisions of this chapter, the Board shall have the power, consistent with the provisions of this chapter—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract[1] without regard to section 3324 of title 31;

(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 4426 of this title, if the ventures are related to and further the mission of the Institute;

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(6) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this chapter and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(7) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(8) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(9) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(10) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(11) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this chapter;

(12) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses;

(13) to use any funds or property received by the Institute to carry out the purpose of this chapter, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 4451 of this title for investment, without regard to any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and

(14) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this chapter and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

(b) Accounting for non-Federal funds

Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.

(c) Interest and investments

Interest and earnings on amounts received by the Institute pursuant to section 4451 of this title invested under subsection (a)(12)[2] of this section shall be the property of the Institute and shall be expended to carry out this chapter. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12)[2] of this section.

(Pub. L. 99–498, title XV, § 1507, Oct. 17, 1986, 100 Stat. 1603; Pub. L. 100–297, title V, § 5406(e), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 501, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102–325, title XIII, § 1331(b), July 23, 1992, 106 Stat. 806; Pub. L. 103–208, § 2(*l*), Dec. 20, 1993, 107 Stat. 2486.)

REFERENCES IN TEXT

Subsection (a)(12) of this section, referred to in subsec. (c), was redesignated subsec. (a)(13) of this section, repealed, and a new subsec. (a)(13) added by Pub. L. 102–325, title XIII, § 1331(b)(1)(A), (C), July 23, 1992, 106 Stat. 806, and former subsec. (a)(11) of this section was redesignated subsec. (a)(12).

AMENDMENTS

1993—Subsec. (a)(12). Pub. L. 103–208 substituted semicolon for period at end.

1992—Subsec. (a)(2). Pub. L. 102–325, § 1331(b)(1)(B), added par. (2) and struck out former par. (2) which read as follows: ''to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31;''.

Subsec. (a)(3) to (12). Pub. L. 102–325, § 1331(b)(1)(A), (B), added par. (3) and redesignated former pars. (3) to (11) as (4) to (12), respectively. Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 102–325, § 1331(b)(1)(C), added par. (13) and struck out former par. (13) which read as follows: ''to use any funds or property received by the Institute to carry out the purpose of this chapter; and''.

Pub. L. 102–325, § 1331(b)(1)(A), redesignated par. (12) as (13). Former par. (13) redesignated (14).

Subsec. (14). Pub. L. 102–325, § 1331(b)(1)(A), redesignated par. (13) as (14).

Subsec. (c). Pub. L. 102–325, § 1331(b)(2), substituted ''shall be expended'' for ''may be expended''.

1990—Subsec. (a)(11). Pub. L. 101–644, § 501(b), amended par. (11) generally. Prior to amendment, par. (11) read as follows: ''to obtain insurance or make other provisions against losses;''.

Subsec. (c). Pub. L. 101–644, § 501(a), added subsec. (c).

1988—Pub. L. 100–297 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L.

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

[2] See References in Text note below.

102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 4415. President of Institute

(a) Appointment

The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) Compensation

The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS–18 of the General Schedule.

(Pub. L. 99–498, title XV, § 1508, Oct. 17, 1986, 100 Stat. 1604.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 4416. Staff of Institute

(a) Exemption from civil service

Except as otherwise provided in this section, title 5 shall not apply to the Institute.

(b) Appointment and compensation

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the Institute deems necessary for the efficient administration of the Institute.

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5 applies. If the Board determines that such action is necessary for purposes of recruitment or retention of officers or employees necessary to the functions of the Institute, the Board is authorized, by formal action, to establish a rate of, or a range for, basic compensation that is comparable to the rate of compensation paid to officers or employees having similar duties and responsibilities in other institutions of higher education.

(3)(A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) Appeal to Board

Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) No reduction in classification or compensation

Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(e) Leave

(1) Any individual who—

(A) elects under subsection (g) of this section to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b) of this section, with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance

with sections 5551(a) and 6306 of title 5, except that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) of this section shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) of this section shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) Applicability

(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—

(A) the continued employment of any individual employed before October 17, 1986; or

(B) such individual's right to receive the compensation attached to such position.

(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute.

(g) Termination of civil service positions

(1) On June 30, 1989, any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5 may elect to continue to be subject to such subchapter, and any such individual who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5 or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) Collective bargaining

The Institute shall be considered an agency for the purpose of chapter 71 of title 5.

(i) Workmen's compensation

Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5.

(Pub. L. 99–498, title XV, § 1509, Oct. 17, 1986, 100 Stat. 1604; Pub. L. 100–297, title V, § 5406(a), Apr. 28, 1988, 102 Stat. 417; Pub. L. 102–325, title XIII, § 1331(c), July 23, 1992, 106 Stat. 806; Pub. L. 103–382, title III, § 386(a), Oct. 20, 1994, 108 Stat. 4020.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(2), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–382 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: "This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—

"(1) the continued employment of any individual employed immediately before October 17, 1986, or

"(2) such individual's right to receive the compensation attached to such position."

1992—Subsec. (b)(2). Pub. L. 102–325 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5 applies."

1988—Subsec. (g)(1). Pub. L. 100–297 substituted "On June 30, 1989" for "At the end of the 2-year period beginning on the date referred to in section 4421(f) of this title".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4418 of this title.

§ 4417. Functions of Institute

(a) Primary functions

The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, Indian art and culture, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

(b) Administrative entities

(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

(3) The Board shall establish, within the Institute, departments for the study of culture and arts and for research and exchange, and a mu-

seum. The Board shall establish the areas of competency for the departments created under this paragraph, which may include (but are not limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature and Museology and a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.

(c) Other programs

In addition to the centers and programs described in subsection (b) of this section, the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Indian art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Indian art and culture; and

(3) coordinate efforts to preserve, support, revitalize, and develop evolving forms of Indian art and culture.

(Pub. L. 99–498, title XV, § 1510, Oct. 17, 1986, 100 Stat. 1606; Pub. L. 101–644, title V, § 502, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102–325, title XIII, § 1331(d), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There shall be established within the Institute—

''(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include (but not be limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology;

''(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

''(A) a learning resources center;

''(B) programs of institutional support and development;

''(C) research programs;

''(D) fellowship programs;

''(E) seminars;

''(F) publications;

''(G) scholar-in-residence and artist-in-residence programs; and

''(H) inter-institutional programs of cooperation at national and international levels; and

''(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute.''

1990—Subsec. (b)(2). Pub. L. 101–644, § 502(1), redesignated subpars. (B) to (I) as (A) to (H), respectively, and struck out former subpar. (A) which related to a museum of Indian arts.

Subsec. (b)(3). Pub. L. 101–644, § 502(2)–(4), added par. (3).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4441 of this title.

§ 4418. Indian preference

(a) In general

Notwithstanding any other provision of Federal or State law, the Institute is authorized to develop a policy or policies for the Institute to extend preference to Indians in—

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

(b) Hiring preference

In carrying out section 4416(b)(1) of this title, the President of the Institute shall, to the maximum extent practicable, give preference in hiring to Indians.

(Pub. L. 99–498, title XV, § 1511, Oct. 17, 1986, 100 Stat. 1607; Pub. L. 102–325, title XIII, § 1331(e), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 inserted ''develop a policy or policies for the Institute to'' after ''is authorized to''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 4419. Nonprofit and nonpolitical nature of Institute

(a) Stock

The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) Nonprofit nature

No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) Nonpolitical nature

The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(Pub. L. 99–498, title XV, § 1512, Oct. 17, 1986, 100 Stat. 1607.)

§ 4420. Tax status; tort liability

(a) Tax status

The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

(b) Tort liability

(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28.

(2) For purposes of chapter 171 of title 28, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

(3) For purposes of chapter 171 of title 28, the President of the Institute shall be deemed the head of the Agency.

(Pub. L. 99–498, title XV, § 1513, Oct. 17, 1986, 100 Stat. 1608; Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1818.)

AMENDMENTS

1988—Pub. L. 100–446 inserted "; tort liability" in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§ 4421. Transfer of functions

(a) Institute of American Indian Arts

There are hereby transferred to the Institute of American Indian and Alaska Native Culture and Art Development, and such Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary in 1962.

(b) Certain matters relating to transferred functions

(1) Subject to subsection (d) of this section, all personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the "Santa Fe Indian School" but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this chapter (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by this chapter shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) References in other laws

All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this chapter, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute of American Indian and Alaska Native Culture and Arts Development under subsection (b) of this section, shall be deemed to refer to the Institute of American Indian and Alaska Native Culture and Arts Development or an officer of the Institute of American Indian and Alaska Native Culture and Arts Development.

(d) Forgiveness of amounts owed; hold harmless

(1) Subject to paragraph (2)—

(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

(2) With respect to all programs of the Federal Government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damages or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.

(Pub. L. 99–498, title XV, § 1514, Oct. 17, 1986, 100 Stat. 1608; Pub. L. 100–153, § 8, Nov. 5, 1987, 101 Stat. 887; Pub. L. 100–297, title V, § 5406(d), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 503, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, § 1331(f), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102–325, § 1331(f)(1), substituted "Subject to subsection (d) of this section, all personnel" for "All personnel".

Subsec. (d)(2). Pub. L. 102–325, § 1331(f)(2), substituted "monetary damages" for "monetary damage".

1990—Subsec. (d). Pub. L. 101–644, § 503, added subsec. (d) and struck out former subsec. (d) which read as follows: "Unless the Board provides otherwise, the Secretary of the Interior shall, until October 1, 1989, provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services."

Subsecs. (e), (f). Pub. L. 101–644, § 503(1), struck out subsec. (e) which related to completion of transfers, final date of control of Institute by Secretary, payment of unexpended or unobligated funds, and responsibility for subsequently incurred obligations, and subsec. (f) which related to contract with University of New Mexico, terms of contract, and composition of advisory council.

1988—Subsec. (e)(3), (4). Pub. L. 100–297 added pars. (3) and (4).

1987—Subsec. (d). Pub. L. 100–153, § 8(1), (2), substituted "Unless the Board provides otherwise" for "During the 2-year period beginning on the date referred to in subsection (f) of this section" and inserted ", until October 1, 1989," after "Secretary of the Interior shall".

Subsec. (e). Pub. L. 100–153, § 8(3), added subsec. (e) and struck out former subsec. (e) which read as follows: "During the period beginning on October 17, 1986, and ending on the date referred to in subsection (f) of this section, the Advisory Board for Institute of American Indian Arts shall continue to act in an advisory role for the Board and the Institute of American Indian and Alaska Native Culture and Arts Development."

Subsec. (f). Pub. L. 100–153, § 8(3), added subsec. (f) and struck out former subsec. (f) which read as follows: "The provisions of this section (other than subsection (e) of this section) shall take effect on October 1, 1986."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 4422. Reports

(a) Annual report

The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) Budget proposal

(1) After September 30, 1988 and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(2) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(3) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

(Pub. L. 99–498, title XV, § 1515, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 100–297, title V, § 5406(f), Apr. 28, 1988, 102 Stat. 418; Pub. L. 102–325, title XIII, § 1331(g), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: ''Prior to October 1, 1988, the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress.''

1988—Subsec. (b)(1). Pub. L. 100–297, § 5406(f)(1), substituted ''Prior to October 1, 1988'' for ''During the 2-year period beginning on the date referred to in section 4421(f) of this title''.

Subsec. (b)(2). Pub. L. 100–297, § 5406(f)(2), substituted ''September 30, 1988'' for ''the period described in paragraph (1)''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

§ 4423. Headquarters

Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Board may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

(Pub. L. 99–498, title XV, § 1516, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 102–325, title XIII, § 1331(h), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Pub. L. 102–325 struck out ''The site of the Institute of American Indian Arts, at'' before ''Santa Fe, New Mexico'' and substituted ''the Board may enter'' for ''the Secretary may enter''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 4424. Compliance with other Acts

(a) In general

The Institute shall comply with the provisions of—

(1) Public Law 95–341 (42 U.S.C. 1996), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) Criminal laws

All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the Institute.

(c) Other Federal assistance

(1) Funds received by the institute[1] pursuant to this chapter[2] shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.

(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect[3] in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.

(Pub. L. 99–498, title XV, § 1517, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 101–644, title V, § 504, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, § 1331(i), July 23, 1992, 106 Stat. 808.)

REFERENCES IN TEXT

Public Law 95–341, popularly known as the American Indian Religious Freedom Act, referred to in subsec. (a)(1), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, which is classified to section 1996 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (a)(2), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§ 470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

The National Historic Preservation Act, referred to in subsec. (a)(3), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of Title 16. For

[1] So in original. Probably should be capitalized.

[2] See References in Text note below.

[3] So in original. Probably should be ''affect''.

complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'' and was translated as reading ''this title'', meaning title XV of Pub. L. 99–498 to reflect the probable intent of Congress.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325 designated existing provisions as par. (1) and added par. (2).

1990—Subsec. (c). Pub. L. 101–644 added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

CROSS REFERENCES

Embezzlement, theft, conversion, etc., see section 641 et seq., of Title 18, Crimes and Criminal Procedure.

§ 4425. Endowment programs

(a) Program enhancement endowment

(1)(A) From the total amount appropriated for this subsection pursuant to section 4451(a) of this title, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

(B) The President of the Institute shall provide—

(i) for the deposit into the trust fund referred to in subparagraph (A)—

(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(II) any earnings on the funds deposited under this paragraph; or

(ii) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of November 29, 1990 and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year. All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.

(4) Amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

(b) Capital improvement endowment

(1) In addition to the trust fund established under subsection (a) of this section, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to section 4451(a) of this title for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the ''capital endowment fund'') to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from

any private, non-Federal governmental, or tribal source.

(5) Subject to paragraph (3), amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are held by the Institute beginning on November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching Federal funds appropriated in any year.

(c) General administrative provisions

(1) Funds in the trust funds described in subsections (a) and (b) of this section shall be invested under the same conditions and limitations as funds are invested under section 1065(c)(2) of this title and the regulations implementing such section (as such regulations were in effect at the time the funds are invested).

(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

(3) Any amounts deposited in a trust fund authorized under subsection (a) of this section may be used to secure loans procured for the purposes of constructing or improving Institute facilities.

(4) The President of the Institute shall provide for such other provisions governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this chapter as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) of this section and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) of this section as will allow the Secretary of the Treasury to audit and monitor activities under this section.

(Pub. L. 99–498, title XV, § 1518, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 100–297, title V, § 5406(b), Apr. 28, 1988, 102 Stat. 417; Pub. L. 101–644, title V, § 505, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, § 1331(j), July 23, 1992, 106 Stat. 808; Pub. L. 103–382, title III, § 386(b), Oct. 20, 1994, 108 Stat. 4020.)

AMENDMENTS

1994—Subsec. (b)(6). Pub. L. 103–382, § 386(b)(1), added par. (6).

Subsec. (c)(1). Pub. L. 103–382, § 386(b)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Funds in the trust funds described in subsections (a) and (b) of this section shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.''

1992—Subsec. (a)(3). Pub. L. 102–325, § 1331(j)(1)(A), substituted ''November 29, 1990'' for ''the date of enactment of this Act''.

Pub. L. 102–325, § 1331(j)(1)(B), inserted at end ''All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.''

Subsec. (b)(4). Pub. L. 102–325, § 1331(j)(2), inserted '', non-Federal governmental,'' after ''any private''.

Subsec. (c)(3), (4). Pub. L. 102–325, § 1331(j)(3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101–644 amended section generally, substituting present provisions consisting of subsecs. (a) to (c) for former text which provided: in subsec. (a), establishment of program; in subsec. (b), use of funds; in subsec. (c), compliance with matching requirement; and in subsec. (d), payment of Federal contribution.

1988—Subsec. (a)(1). Pub. L. 100–297, § 5406(b)(1), substituted ''From amounts appropriated under section 4451(a) of this title, not more than $500,000'' for ''From the amount appropriated pursuant to section 4441(a) of this title, the Secretary shall make available to the Institute not more than $500,000 which''.

Subsec. (d). Pub. L. 100–297, § 5406(b)(2), in subsec. heading substituted ''Payment of Federal contribution'' for ''Allocation of funds'', and in text substituted ''Amounts appropriated under section 4451(a) of this title for use under this section shall be paid by the Secretary of the Treasury to the Institute as'' for ''From the amount appropriated pursuant to section 4441(a) of this title, the Secretary shall allocate to the Institute an amount for''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4451 of this title.

§ 4426. Provision of facilities

(a) Plan

The Board shall prepare a master plan on the short- and long-term facilities needs of the Institute. The master plan shall include evaluation of all facets of existing Institute programs, including support activities and programs and facilities. The master plan shall include impact projections for the Institute's move to a new campus site. This master plan shall evaluate development and construction requirements (based on a growth plan approved by the Board), including (but not limited to) items such as infrastructure and site analysis, development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

(b) Deadline for transmittal

The plan required by this subsection shall be transmitted to Congress no later than 18 months after July 23, 1992. Such plan shall include a prioritization of needs, as determined by the Board.

(Pub. L. 99–498, title XV, § 1519, as added Pub. L. 102–325, title XIII, § 1331(k), July 23, 1992, 106 Stat. 808.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4414 of this title.

SUBCHAPTER II—NATIVE HAWAIIANS AND ALASKA NATIVES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 4451 of this title.

§ 4441. Program for Native Hawaiian and Alaska Native culture and arts development

(a) In general

The Secretary of the Interior is authorized to make grants for the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development to any private, nonprofit organization or institution which—

(1) primarily serves and represents Native Hawaiians or Alaska Natives, and

(2) has been recognized by the Governor of the State of Hawaii or the Governor of the State of Alaska, as appropriate, for the purpose of making such organization or institution eligible to receive such grants.

(b) Purpose of grants

Grants made under subsection (a) of this section shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

(1) to provide scholarly study of, and instruction in, Native Hawaiian or Alaska Native art and culture,

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian or Alaska Native art and culture, or

(3) to establish centers and programs with respect to Native Hawaiian or Alaska Native art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 4417 of this title.

(c) Management of grants

(1) Any organization or institution which is the recipient of a grant made under subsection (a) of this section shall establish a governing board to manage and control the program with respect to which such grant is made.

(2) For any grants made with respect to Native Hawaiian art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

(C) include the president of the University of Hawaii,

(D) include the president of the Bishop Museum, and

(E) serve for a fixed term of office.

(3) For any grants made with respect to Alaska Native art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

(A) include Alaska Natives and individuals widely recognized in the field of Alaska Native art and culture,

(B) represent the Eskimo, Indian and Aleut cultures of Alaska, and

(C) serve for a fixed term.

(Pub. L. 99–498, title XV, § 1521, Oct. 17, 1986, 100 Stat. 1610; Pub. L. 103–239, title VII, § 722(2), May 4, 1994, 108 Stat. 606.)

AMENDMENTS

1994—Pub. L. 103–239 amended section generally, substituting provisions relating to development program for Native Hawaiian and Alaska Native culture and arts for provisions relating to development program for Native Hawaiian culture and arts.

§ 4442. Administrative provisions

(a) Payments

The Secretary may award grants under this subchapter in installments, in advance, or by way of reimbursement and may make necessary adjustments in payments of grants on account of overpayments or underpayments.

(b) Recovery of overpayments

(1) If the Secretary or a court of competent jurisdiction finds that—

(A) any person—

(i) has—

(I) made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or

(II) knowingly failed, or caused another to fail, to disclose a material fact; and

(ii) as a result of such action, has received any funds under this subchapter which such person would not have otherwise received, or

(B) any person misappropriates any funds paid by the Secretary under this subchapter,

such person shall be liable to repay the amount of such funds to the United States. Any such finding by the Secretary may be made only after an opportunity for a fair hearing.

(2) Any amount repaid under this subsection shall be returned to the general fund of the Treasury of the United States.

(c) Penalties

Whoever—

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for such person or for any other person any payment of funds provided under this subchapter, or

(2) misappropriates any funds provided under this subchapter,

shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Pub. L. 99–498, title XV, § 1522, Oct. 17, 1986, 100 Stat. 1611.)

SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

§ 4451. Authorization of appropriations

(a) Subchapter I

(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of subchapter I of this chapter.

(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

(3) Except as provided for amounts subject to section 4425(d)[1] of this title, amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

(A) the beginning of the fiscal year, or

(B) upon enactment of such appropriation.

(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this chapter,[1] amounts appropriated in an appropriations Act for any fiscal year to carry out this chapter[1] may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.

(b) Subchapter II

There are authorized to be appropriated for the purpose of carrying out the provisions of subchapter II of this chapter—

(1) for fiscal year 1987, $1,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(Pub. L. 99–498, title XV, § 1531, Oct. 17, 1986, 100 Stat. 1612; Pub. L. 100–297, title V, § 5406(c), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 506, Nov. 29, 1990, 104 Stat. 4672.)

REFERENCES IN TEXT

Section 4425 of this title, referred to in subsec. (a)(3), was amended generally by Pub. L. 101–644, title V, § 505, Nov. 29, 1990, 104 Stat. 4669, and, as so amended, provisions similar to subsec. (d) are contained in subsec. (a)(4).

This chapter, referred to in subsec. (a)(5), was in the original ''this Act'' and was translated as reading ''this title'', meaning title XV of Pub. L. 99–498 to reflect the probable intent of Congress.

AMENDMENTS

1990—Subsec. (a)(4), (5). Pub. L. 101–644 added pars. (4) and (5).

1988—Subsec. (a). Pub. L. 100–297 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''There are authorized to be appropriated for the purpose of carrying out the provisions of subchapter I of this chapter—

''(1) for fiscal year 1987, $4,000,000, and

''(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.''

[1] See References in Text note below.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4414, 4425 of this title.

CHAPTER 57—JAMES MADISON MEMORIAL FELLOWSHIP PROGRAM

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§ 4501. Purpose

It is the purpose of this chapter to establish the James Madison Fellowship Program which is designed to encourage graduate study of the American Constitution, its roots, its formation, its principles, and its development.

(Pub. L. 99–500, § 101(b) [title VIII, § 802], Oct. 18, 1986, 100 Stat. 1783–39, 1783–76, and Pub. L. 99–591, § 101(b) [title VIII, § 802], Oct. 30, 1986, 100 Stat. 3341–39, 3341–76.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

SHORT TITLE

Section 101(b) [title VIII, § 801] of Pub. L. 99–500 and Pub. L. 99–591 provided that: ''This title [enacting this