

Subsec. (b)(1). Pub. L. 116-180, §101(d)(2)(A), in introductory provisions, substituted “the Office of the Assistant Secretary for Indian Affairs, and the Office of the Special Trustee for American Indians, without regard to the agency or office of that Bureau or those Offices” for “without regard to the agency or office of the Bureau of Indian Affairs” and “and including—” for “and including”, inserted subpar. (A) designation before “any program”, added subpar. (C), and redesignated former subpars. (A), (B), and (C) as subpars. (A)(i), (A)(ii), and (B), respectively, and realigned margins.

Subsec. (b)(2). Pub. L. 116-180, §101(d)(2)(B), substituted “section 5372(c) of this title” for “section 5365(c) of this title” and inserted “and” at end.

Subsec. (b)(3). Pub. L. 116-180, §101(d)(2)(C), substituted period for semicolon at end.

Subsec. (b)(4). Pub. L. 116-260, which directed amendment of par. (4) by adding “and” at end of subpar. (A), striking out “and” at end of subpar. (B), and striking out subpar. (C), could not be executed due to intervening amendment by Pub. 116-180, §101(d)(2)(D). See note below.

Pub. L. 116-180, §101(d)(2)(D), struck out par. (4) which read as follows: “prohibit the inclusion of funds provided—

“(A) pursuant to the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

“(B) for elementary and secondary schools under the formula developed pursuant to section 2008 of this title; and

“(C) the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 5321 of this title;”.

Subsec. (b)(5) to (9). Pub. L. 116-180, §101(d)(2)(D), struck out pars. (5) to (9) which set out various requirements and responsibilities related to funding agreements.

Subsec. (f). Pub. L. 116-180, §101(d)(3), struck out “for review” after “Submission” in heading, substituted “such agreement to” for “such agreement to—”, struck out par. (1) designation before “each Indian tribe”, substituted “agreement.” for “agreement;”, and struck out pars. (2) and (3) which read as follows:

“(2) the Committee on Indian Affairs of the Senate; and

“(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.”

Subsec. (k). Pub. L. 116-180, §101(d)(4), substituted “section 5372(c) of this title” for “section 5365(c)(1) of this title”.

Subsecs. (m) to (p). Pub. L. 116-180, §101(d)(5), added subsecs. (m) to (p).

2008—Subsec. (b)(4)(A). Pub. L. 110-315 substituted “the Tribally Controlled Colleges and Universities Assistance Act of 1978” for “the Tribally Controlled College or University Assistance Act of 1978”.

2000—Subsec. (h)(2). Pub. L. 106-568 struck out “and” before “section 5123 of this title” and substituted “and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply” for “shall not apply”.

1998—Subsec. (b)(4)(A). Pub. L. 105-244 substituted “Tribally Controlled College or University Assistance Act of 1978” for “Tribally Controlled Community College Assistance Act of 1978”.

1996—Subsec. (l). Pub. L. 104-109 added subsec. (l).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

§ 5364. Compacts

(a) In general

The Secretary shall negotiate and enter into a written compact with each Indian Tribe participating in self-governance in a manner consistent with the trust responsibility of the Federal Government, treaty obligations, and the government-to-government relationship between Indian Tribes and the United States.

(b) Contents

A compact under subsection (a) shall—

(1) specify and affirm the general terms of the government-to-government relationship between the Indian Tribe and the Secretary; and

(2) include such terms as the parties intend shall control during the term of the compact.

(c) Amendment

A compact under subsection (a) may be amended only by agreement of the parties.

(d) Effective date

The effective date of a compact under subsection (a) shall be—

(1) the date of the execution of the compact by the parties; or

(2) such date as is mutually agreed upon by the parties.

(e) Duration

A compact under subsection (a) shall remain in effect—

(1) for so long as permitted by Federal law; or

(2) until termination by written agreement, retrocession, or reassumption.

(f) Existing compacts

An Indian Tribe participating in self-governance under this subchapter, as in effect on October 21, 2020, shall have the option at any time after that date—

(1) to retain its negotiated compact (in whole or in part) to the extent that the provisions of the compact are not directly contrary to any express provision of this subchapter; or

(2) to negotiate a new compact in a manner consistent with this subchapter.

(Pub. L. 93-638, title IV, §404, as added Pub. L. 116-180, title I, §101(e), Oct. 21, 2020, 134 Stat. 864.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5364, Pub. L. 93-638, title IV, §404, as added Pub. L. 103-413, title II, §204, Oct. 25, 1994, 108 Stat. 4275, related to identification of funds in annual budget request, prior to repeal by Pub. L. 116-180, title I, §101(e), Oct. 21, 2020, 134 Stat. 864. See section 5371 of this title. Such section was formerly classified to section 458dd of this title prior to editorial reclassification and renumbering as section 5364.

§ 5365. General provisions

(a) Applicability

An Indian Tribe and the Secretary shall include in any compact or funding agreement provisions that reflect the requirements of this subchapter.