tion with private landowners, shall grant and convey a perpetual easement to the private owners of land within the Northern Tier Land for private access over Santa Clara Reservation Highway 601 (Puye Road) across the Santa Clara Indian Reservation from its intersection with New Mexico State Highway 30, or other designated public road, on Forest Development Roads 416, 445 and other roads that may be necessary to provide access to each individually owned private tract.

(3) Approval

The Secretary of the Interior shall approve the conveyance of an easement under paragraph (2) upon receipt of written approval of the terms of the easement by the Secretary of Agriculture.

(4) Adequate access provided by Pueblo of Santa Clara

If adequate administrative and inholder access is provided over the Santa Clara Indian Reservation under paragraph (2), the Secretary of the Interior—

(A) shall vacate the inholder access over that portion of Forest Development Road 416 referenced in section 1780e(e)(5) of this title; but

(B) shall not vacate the reservations over the Northern Tier Land for administrative access under subsection (c)(2).

(Pub. L. 109–286, § 12, Sept. 27, 2006, 120 Stat. 1225.)

§ 1780k. Inter-Pueblo cooperation

(a) Demarcation of boundary

The Pueblo of Santa Clara and the Pueblo may, by agreement, demarcate a boundary between their respective tribal land within Township 20 North, Range 7 East, in Rio Arriba County, New Mexico, and may exchange or otherwise convey land between them in that township.

(b) Action by Secretary of the Interior

In accordance with any agreement under subsection (a), the Secretary of the Interior shall, without further administrative procedures or environmental or other analyses—

(1) recognize a boundary between the Pueblo of Santa Clara and the Pueblo;

(2) provide for a boundary survey;

(3) approve land exchanges and conveyances as agreed upon by the Pueblo of Santa Clara and the Pueblo; and

(4) accept conveyances of exchanged lands into trust for the benefit of the grantee tribe.

(Pub. L. 109–286, § 13, Sept. 27, 2006, 120 Stat. 1228.)

§ 1780*l*. Distribution of funds plan

Not later than 2 years after September 27, 2006, the Secretary of the Interior shall act in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) with respect to the award entered in the compromise and settlement of claims under the case styled Pueblo of San Ildefonso v. United States, No. 660–87L, United States Court of Federal Claims.

(Pub. L. 109–286, § 14, Sept. 27, 2006, 120 Stat. 1229.)

REFERENCES IN TEXT

The Indian Tribal Judgment Funds Use or Distribution Act, referred to in text, is Pub. L. 93–134, Oct. 19, 1973, 87 Stat. 466, which is classified generally to chapter 16 (§ 1401 et seq.) of this title. For complete classification of this Act to the Code, see section 1401(c) of this title and Tables.

§ 1780m. Rule of construction and judicial review

Notwithstanding any provision of State law, the Settlement Agreement and the Los Alamos Agreement (including any real property conveyance under the agreements) shall be interpreted and implemented as matters of Federal law.

(Pub. L. 109–286, § 15, Sept. 27, 2006, 120 Stat. 1229.)

§ 1780n. Effective date

This subchapter shall take effect on September 27, 2006.

(Pub. L. 109–286, § 16, Sept. 27, 2006, 120 Stat. 1229.)

§ 1780*o*. Timing of actions

It is the intent of Congress that the land conveyances and adjustments contemplated in this subchapter (except the conveyances and adjustments relating to Los Alamos Townsite Land) shall be completed not later than 180 days after September 27, 2006.

(Pub. L. 109–286, § 17, Sept. 27, 2006, 120 Stat. 1229.)

§ 1780p. Authorization of appropriations

There are authorized to be appropriated such funds as are necessary to carry out this subchapter.

(Pub. L. 109–286, § 18, Sept. 27, 2006, 120 Stat. 1230.)

CHAPTER 20—TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES ASSISTANCE

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§ 1801. Definitions

(a) For purposes of this chapter, the term—

(1) ''Indian'' means a person who is a member of an Indian tribe;

(2) ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan 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;

(3) ''Secretary'', unless otherwise designated, means the Secretary of the Interior;

(4) ''tribally controlled college or university'' means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) ''institution of higher education'' means an institution of higher education as defined by section 1001[1] of title 20, except that clause (2) of such section shall not be applicable and the reference to Secretary in clause (5)(A)[2] of such section shall be deemed to refer to the Secretary of the Interior;

(6) ''national Indian organization'' means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the fields of tribally controlled colleges and universities and Indian higher education;

(7) ''Indian student'' means a student who is—

(A) a member of an Indian tribe; or

(B) a biological child of a member of an Indian tribe, living or deceased;

(8) ''Indian student count'' means a number equal to the total number of Indian students enrolled in each tribally controlled college or university, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve; and

(9) ''satisfactory progress toward a degree or certificate'' has the meaning given to such term by the institution at which the student is enrolled.

(b) The following conditions shall apply for the purpose of determining the Indian student count pursuant to subsection (a)(8) of this section:

(1) Such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term.

(2) Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

(4) Indian students earning credits in any continuing education program of a tribally controlled college or university shall be included in determining the sum of all credit hours.

(5) Eligible credits earned in a continuing education program—

(A) shall be determined as one credit for every ten contact hours in the case of an institution on a quarter system, or 15 contact hours in the case of an institution on a semester system, of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as described in the criteria established by the International Association for Continuing Education and Training; and

(B) shall be limited to ten percent of the Indian student count of a tribally controlled college or university.

(Pub. L. 95–471, § 2, formerly § 1, Oct. 17, 1978, 92 Stat. 1325; renumbered § 2 and amended Pub. L. 98–192, § 1, Dec. 1, 1983, 97 Stat. 1335; Pub. L. 99–428, § 3, Sept. 30, 1986, 100 Stat. 982; Pub. L. 105–244, title I, § 102(a)(8)(B), title IX, § 901(b)(5), (9), Oct. 7, 1998, 112 Stat. 1619, 1828; Pub. L. 110–315, title IX, § 941(a)–(c), Aug. 14, 2008, 122 Stat. 3460, 3461.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, known as the Tribally Controlled Colleges and Universities Assistance Act of 1978, which enacted this chapter and section 640c–1 of this title, amended section 640c of this title, and enacted provi-

[1] So in original. Probably should be section ''1001(a)''.

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

sions set out as notes under sections 640a, 640c–1, and 1801 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Alaskan Native Claims Settlement Act, referred to in subsec. (a)(2), probably means the Alaska Native Claims Settlement Act, 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.

AMENDMENTS

2008—Subsec. (a)(6). Pub. L. 110–315, § 941(a), substituted ''in the fields of tribally controlled colleges and universities and Indian higher education'' for ''in the field of Indian education''.

Subsec. (a)(7) to (9). Pub. L. 110–315, § 941(b), added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively.

Subsec. (b). Pub. L. 110–315, § 941(c)(1), substituted ''subsection (a)(8)'' for ''paragraph (7) of subsection (a)'' in introductory provisions.

Subsec. (b)(5). Pub. L. 110–315, § 941(c)(2), added par. (5) and struck out former par. (5) which read as follows: ''Credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled college or university's system for providing credit for participation in such program.''

Subsec. (b)(6). Pub. L. 110–315, § 941(c)(3), struck out par. (6) which read as follows: ''No credit hours earned by an Indian student who is not making satisfactory progress toward a degree or certificate shall be taken into account.''

1998—Subsec. (a)(4). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college''.

Subsec. (a)(5). Pub. L. 105–244, § 102(a)(8)(B), substituted ''section 1001'' for ''section 1141(a)''.

Subsec. (a)(7). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college''.

Subsec. (b)(4). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college''.

Subsec. (b)(5). Pub. L. 105–244, § 901(b)(9), substituted ''college or university's'' for ''community college's''.

1986—Subsec. (a)(8). Pub. L. 99–428, § 3(a), added par. (8).

Subsec. (b)(3) to (6). Pub. L. 99–428, § 3(b), added par. (3), redesignated former pars. (3) to (5) as (4) to (6), respectively, and in par. (6) struck out '', in accordance with the standards and practices of the appropriate accrediting agency or the institution at which the student is in attendance,'' after ''certificate''.

1983—Subsec. (a). Pub. L. 98–192, § 1(1), designated existing provisions as subsec. (a) and inserted introductory provision preceding par. (1).

Subsec. (a)(1). Pub. L. 98–192, § 1(2), struck out ''and is eligible to receive services from the Secretary of the Interior'' after ''Indian tribe''.

Subsec. (a)(5). Pub. L. 98–192, § 1(3), inserted ''and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior''.

Subsec. (a)(7). Pub. L. 98–192, § 1(4), substituted provision defining ''Indian student count'' to mean a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined as consistent with subsec. (b) of this section on the basis of the quotient of the sum of the credit hours of all Indians so enrolled, divided by twelve for provision defining ''full-time equivalent Indian student'' to mean the number of Indians enrolled full-time and the full-time equivalent of the number of Indians enrolled part-time, determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term.

Subsec. (b). Pub. L. 98–192, § 1(4), added subsec. (b).

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.

SHORT TITLE OF 1986 AMENDMENT

Section 1 of Pub. L. 99–428 provided that: ''This Act [amending this section and sections 640c–1, 1808 to 1810, 1812, 1813, and 1836 of this title] may be cited as the 'Tribally Controlled Community College Assistance Amendments of 1986'.''

SHORT TITLE

Pub. L. 95–471, § 1, Oct. 17, 1978, 92 Stat. 1325, as amended by Pub. L. 105–244, title IX, § 901(b)(1), Oct. 7, 1998, 112 Stat. 1827; Pub. L. 110–315, title IX, § 941(k)(1), Aug. 14, 2008, 122 Stat. 3465, provided that: ''This Act [enacting this chapter and section 640c–1 of this title, amending section 640c of this title, and enacting provisions set out as notes under sections 640a and 640c–1 of this title] may be cited as the 'Tribally Controlled Colleges and Universities Assistance Act of 1978'.''

Pub. L. 95–471, title IV, § 401, as added by Pub. L. 101–392, title III, § 312, Sept. 25, 1990, 104 Stat. 804, provided that: ''This title [enacting subchapter III of this chapter] may be cited as the 'Tribal Economic Development and Technology Related Education Assistance Act of 1990'.''

ADDITIONAL CONFORMING AMENDMENTS

Pub. L. 105–244, title IX, § 901(c), Oct. 7, 1998, 112 Stat. 1828, provided that:

''(1) RECOMMENDED LEGISLATION.—The Secretary of Education shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by subsection (b) [see Tables for classification].

''(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this title [see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of Title 20, Education], the Secretary of Education shall submit the recommended legislation referred to under paragraph (1).''

REFERENCES TO TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978

Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828, provided that: ''Any reference to a section or other provision of the Tribally Controlled Community College Assistance Act of 1978 shall be deemed to be a reference to the Tribally Controlled College or University Assistance Act of 1978 [now Tribally Controlled Colleges and Universities Assistance Act of 1978].''

EXECUTIVE ORDER NO. 13021

Ex. Ord. No. 13021, Oct. 19, 1996, 61 F.R. 54929, as amended by Ex. Ord. No. 13104, Oct. 19, 1998, 63 F.R. 56535, which established the President's Board of Advisors on Tribal Colleges and Universities and the White House Initiative on Tribal Colleges and Universities in the Department of Education and required a Five-Year Federal Plan regarding tribal colleges and universities, was revoked by Ex. Ord. No. 13270, § 10, July 3, 2002, 67 F.R. 45291, set out below.

EX. ORD. NO. 13270. TRIBAL COLLEGES AND UNIVERSITIES

Ex. Ord. No. 13270, July 3, 2002, 67 F.R. 45288, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. There is a unique relationship between the United States and Indian tribes, and a special relationship between the United States and Alaska Native entities. It is the policy of the Federal Govern-

ment that this Nation's commitment to educational excellence and opportunity must extend as well to the tribal colleges and universities (tribal colleges) that serve Indian tribes and Alaska Native entities. The President's Board of Advisors on Tribal Colleges and Universities (the ''Board'') and the White House Initiative on Tribal Colleges and Universities (WHITCU) established by this order shall ensure that this national policy regarding tribal colleges is carried out with direct accountability at the highest levels of the Federal Government.

Tribal colleges are both integral and essential to their communities. Often they are the only postsecondary institutions within some of our Nation's poorest rural areas. They fulfill a vital role: in maintaining and preserving irreplaceable languages and cultural traditions; in offering a high-quality college education to younger students; and in providing job training and other career-building programs to adults and senior citizens. Tribal colleges provide crucial services in communities that continue to suffer high rates of unemployment and the resulting social and economic distress.

The Federal Government's commitment to tribal colleges is reaffirmed and the private sector can and should contribute to the colleges' educational and cultural missions.

Finally, postsecondary institutions can play a vital role in promoting excellence in early childhood, elementary, and secondary education. The Federal Government will therefore work to implement the innovations and reforms of the No Child Left Behind Act of 2001 (Public Law 107–110) [see Short Title of 2002 Amendment note set out under 20 U.S.C. 6301] in partnership with tribal colleges and their American Indian and Alaska Native communities.

SEC. 2. *Definition of Tribal Colleges and Universities*. Tribal colleges are those institutions cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled Community College Assistance Act of 1978 [now Tribally Controlled College or University Assistance Act of 1978] (25 U.S.C. 1801 *et seq.*), and Diné College, authorized in the Navajo Community College Assistance Act of 1978, Public Law 95–471, title II (25 U.S.C. 640a note).

SEC. 3. *Board of Advisors*. (a) *Establishment*. There shall be established in the Department of Education a Presidential advisory committee entitled the President's Board of Advisors on Tribal Colleges and Universities (the ''Board'').

(b) *Membership*. The Board shall consist of not more than 15 members who shall be appointed by the President, one of whom shall be designated by the President as Chair. The Board shall include representatives of tribal colleges and may also include representatives of the higher, early childhood, elementary, and secondary education communities; tribal officials; health, business, and financial institutions; private foundations; and such other persons as the President deems appropriate.

(c) *Functions*. The Board shall provide advice regarding the progress made by Federal agencies toward fulfilling the purposes and objectives of this order. The Board also shall provide recommendations to the President, through the Secretary of Education (Secretary), on ways the Federal Government can help tribal colleges:

(1) use long-term development, endowment building, and planning to strengthen institutional viability;

(2) improve financial management and security, obtain private-sector funding support, and expand and complement Federal education initiatives;

(3) develop institutional capacity through the use of new and emerging technologies offered by both the Federal and private sectors;

(4) enhance physical infrastructure to facilitate more efficient operation and effective recruitment and retention of students and faculty; and

(5) help implement the No Child Left Behind Act of 2001 [see Short Title of 2002 Amendment note set out under 20 U.S.C. 6301] and meet other high standards of educational achievement.

(d) *Meetings*. The Board shall meet at least annually, at the request of the Secretary, to provide advice and consultation on tribal colleges and relevant Federal and private-sector activities, and to transmit reports and present recommendations.

SEC. 4. *White House Initiative on Tribal Colleges and Universities*. There shall be established in the Department of Education, Office of the Secretary, the White House Initiative on Tribal Colleges and Universities (WHITCU). The WHITCU shall:

(a) provide the staff support for the Board;

(b) assist the Secretary in the role of liaison between the executive branch and tribal colleges; and

(c) serve the Secretary in carrying out the Secretary's responsibilities under this order.

SEC. 5. *Department and Agency Participation*. Each participating executive department and agency (agency), as determined by the Secretary, shall appoint a senior official who is a full-time officer of the Federal Government and who is responsible for management or program administration. The official shall report directly to the agency head, or to the agency head's designee, on agency activity under this order and serve as liaison to the WHITCU. To the extent permitted by law and regulation, each agency shall provide appropriate information as requested by the WHITCU staff pursuant to this order.

SEC. 6. *Three-Year Federal Plan*. (a) *Content*. Each agency identified by the Secretary shall develop and implement a Three-Year Plan of the agency's efforts to fulfill the purposes of this order. These Three-Year Plans shall include annual performance indicators and appropriate measurable objectives for the agency. Among other relevant issues, the plans shall address how the agency intends to increase the capacity of tribal colleges to compete effectively for any available grants, contracts, cooperative agreements, and any other Federal resources, and to encourage tribal colleges to participate in Federal programs. The plans also may emphasize access to high-quality educational opportunities for economically disadvantaged Indian students, consistent with requirements of the No Child Left Behind Act of 2001 [see Short Title of 2002 Amendment note set out under 20 U.S.C. 6301]; the preservation and revitalization of tribal languages and cultural traditions; and innovative approaches to better link tribal colleges with early childhood, elementary, and secondary education programs. The agency's performance indicators and objectives should be clearly reflected in the agency's annual budget submission to the Office of Management and Budget. To facilitate the attainment of these performance indicators and objectives, the head of each agency identified by the Secretary, shall provide, as appropriate, technical assistance and information to tribal colleges regarding the program activities of the agency and the preparation of applications or proposals for grants, contracts, or cooperative agreements.

(b) *Submission*. Each agency shall submit its Three-Year Plan to the WHITCU. In consultation with the Board, the WHITCU shall then review these Three-Year Plans and develop an integrated Three-Year Plan for Assistance to Tribal Colleges, which the Secretary shall review and submit to the President. Agencies may revise their Three-Year Plans within the three-year period.

(c) *Annual Performance Reports*. Each agency shall submit to the WHITCU an Annual Performance Report that measures the agency's performance against the objectives set forth in its Three-Year Plan. In consultation with the Board, the WHITCU shall review and combine Annual Performance Reports into one annual report, which shall be submitted to the Secretary for review, in consultation with the Office of Management and Budget.

SEC. 7. *Private Sector*. In cooperation with the Board, the WHITCU shall encourage the private sector to as-

sist tribal colleges through increased use of such strategies as:

(a) matching funds to support increased endowments;

(b) developing expertise and more effective ways to manage finances, improve information systems, build facilities, and improve course offerings; and

(c) increasing resources for and training of faculty.

SEC. 8. *Termination*. The Board shall terminate 2 years after the date of this order unless the Board is renewed by the President prior to the end of that 2-year period.

SEC. 9. *Administration*. (a) *Compensation*. Members of the Board shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707).

(b) *Funding*. The Board and the WHITCU shall be funded by the Department of Education.

(c) *Administrative Support*. The Department of Education shall provide appropriate administrative services and staff support for the Board and the WHITCU. With the consent of the Department of Education, other agencies participating in the WHITCU shall provide administrative support (including detailees) to the WHITCU consistent with statutory authority. The Board and the WHITCU each shall have a staff and shall be supported at appropriate levels commensurate with that of similar White House Initiative Offices.

(d) *General Provisions*. Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the ''Act''), may apply to the administration of any portion of this order, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Secretary of Education in accordance with the guidelines issued by the Administrator of General Services.

SEC. 10. *Revocation*. Executive Order 13021 of October 19, 1996, as amended, is revoked.

GEORGE W. BUSH.

EXTENSION OF TERM OF PRESIDENT'S BOARD OF ADVISORS ON TRIBAL COLLEGES AND UNIVERSITIES

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2003, by Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2005, by Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2007, by Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2009, by Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

SUBCHAPTER I—TRIBALLY CONTROLLED COLLEGES OR UNIVERSITIES GRANT PROGRAM

§ 1802. Purpose

It is the purpose of this subchapter to provide grants for the operation and improvement of tribally controlled colleges or universities to insure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(Pub. L. 95–471, title I, § 101, Oct. 17, 1978, 92 Stat. 1325; Pub. L. 98–192, § 2, Dec. 1, 1983, 97 Stat. 1336; Pub. L. 105–244, title IX, § 901(b)(6), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''colleges or universities'' for ''community colleges''.

1983—Pub. L. 98–192 inserted '', and to allow for the improvement and expansion of the physical resources of such institutions''.

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.

§ 1803. Grants authorized

(a) Purposes

The Secretary shall, subject to appropriations, make grants pursuant to this subchapter to tribally controlled colleges or universities to aid in the post-secondary education of Indian students.

(b) Deposit of funds; limitations on uses

Grants made pursuant to this subchapter shall go into the general operating funds of the institution to defray, at the determination of the tribally controlled college or university, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college or university. Funds provided pursuant to this subchapter shall not be used in connection with religious worship or sectarian instruction.

(Pub. L. 95–471, title I, § 102, Oct. 17, 1978, 92 Stat. 1326; Pub. L. 98–192, § 3(a), Dec. 1, 1983, 97 Stat. 1336; Pub. L. 105–244, title IX, § 901(b)(5), (6), (12), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 901(b)(6), substituted ''colleges or universities'' for ''community colleges''.

Subsec. (b). Pub. L. 105–244, § 901(b)(5), (12), substituted ''controlled college or university'' for ''controlled community college'' and ''the college or university'' for ''the college''.

1983—Subsec. (a). Pub. L. 98–192, § 3(a)(1), substituted ''shall, subject to appropriations,'' for ''is authorized to''.

Subsec. (b). Pub. L. 98–192, § 3(a)(2), substituted ''to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college'' for ''to defray the expense of activities related to education programs for Indian students''.

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.

§ 1804. Eligible grant recipients

To be eligible for assistance under this subchapter, a tribally controlled college or university must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians;

(3) if in operation for more than one year, has students a majority of whom are Indians; and

(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

(B) according to such an agency or association, is making reasonable progress toward accreditation.

(Pub. L. 95–471, title I, § 103, Oct. 17, 1978, 92 Stat. 1326; Pub. L. 105–244, title IX, § 901(b)(5), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 110–315, title IX, § 941(d), Aug. 14, 2008, 122 Stat. 3461.)

AMENDMENTS

2008—Par. (4). Pub. L. 110–315 added par. (4).

1998—Pub. L. 105–244 substituted ''college or university'' for ''community college'' in introductory provisions.

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.

§ 1804a. Planning grants

(a) Establishment of program

The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities (1) to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled colleges or universities, or (2) to determine the need and potential for the establishment of such colleges or universities.

(b) Procedures for submission and review of applications

The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

(c) Reservation of funds; number of grants

From the amount appropriated to carry out this subchapter for any fiscal year (exclusive of sums appropriated for section 1805 of this title), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than $15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.

(Pub. L. 95–471, title I, § 104, as added Pub. L. 98–192, § 4(a)(2), Dec. 1, 1983, 97 Stat. 1336; amended Pub. L. 105–244, title IX, § 901(b)(6), (8), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 substituted ''controlled colleges or universities'' for ''controlled community colleges'' in cl. (1) and ''such colleges or universities'' for ''such colleges'' in cl. (2).

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.

§ 1805. Technical assistance contracts

(a) Technical assistance

(1) In general

The Secretary shall provide, upon request from a tribally controlled college or university which is receiving funds under section 1808 of this title, technical assistance either directly or through contract.

(2) Designated organization

The Secretary shall require that a contract for technical assistance under paragraph (1) shall be awarded to an organization designated by the tribally controlled college or university to be assisted.

(b) Effect of section

No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

(Pub. L. 95–471, title I, § 105, formerly § 104, Oct. 17, 1978, 92 Stat. 1326; renumbered § 105 and amended Pub. L. 98–192, §§ 4(a)(1), 5, Dec. 1, 1983, 97 Stat. 1336; Pub. L. 105–244, title IX, § 901(b)(5), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 110–315, title IX, § 941(e), Aug. 14, 2008, 122 Stat. 3461.)

AMENDMENTS

2008—Pub. L. 110–315 inserted subsec. and par. designations and headings, designated first sentence as par. (1) of subsec. (a), designated second sentence as par. (2) of subsec. (a) and substituted ''The Secretary shall require that a contract for technical assistance under paragraph (1) shall be awarded'' for ''In the awarding of contracts for technical assistance, preference shall be given'', and designated third sentence as subsec. (b).

1998—Pub. L. 105–244 substituted ''college or university'' for ''community college'' in two places.

1983—Pub. L. 98–192, § 5, inserted ''from a tribally controlled community college which is receiving funds under section 1808 of this title'' and struck out ''to tribally controlled community colleges'' before ''either directly''.

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.

§ 1806. Eligibility studies

(a) Development of plans, procedures, and criteria

The Secretary is authorized to enter into an agreement with the Secretary of Education to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the eligibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) Initiation by Secretary; grant applications and budgets

The Secretary, within thirty days after a request by any Indian tribe, shall initiate a[1] eligibility study to determine whether there is justification to encourage and maintain a tribally controlled college or university, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution. Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made.

(c) Source of appropriations

Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after October 17, 1978 for such fiscal year; or

(2) not more than 5 per centum of the funds appropriated to carry out section 1807 of this title for such fiscal year.

(Pub. L. 95–471, title I, § 106, formerly § 105, Oct. 17, 1978, 92 Stat. 1326; renumbered § 106 and amended Pub. L. 98–192, §§ 4(a)(1), (b)(1), 6(a), Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 105–244, title IX, § 901(b)(5), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244 substituted ''college or university'' for ''community college''.

1983—Subsec. (a). Pub. L. 98–192, § 6(a)(2), (3), substituted ''eligibility'' for ''feasibility'' and ''Secretary of Education'' for ''Assistant Secretary of Education of the Department of Health, Education, and Welfare''.

Subsec. (b). Pub. L. 98–192, § 6(a)(2), (4), inserted provision that such positive determination be effective for fiscal year succeeding fiscal year in which such determination is made, and substituted ''eligibility'' for ''feasibility''.

Subsec. (c)(2). Pub. L. 98–192, §§ 4(b)(1), 6(a)(5), substituted ''5 per centum'' for ''10 per centum'' and made a technical amendment to reference to section 1807 of this title to reflect renumbering of that section.

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.

§ 1807. Grants to tribally controlled colleges or universities

(a) Submission of applications; necessity of eligibility study

Grants shall be made under this subchapter only in response to applications by tribally controlled colleges or universities. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this chapter which will allow the Secretary to audit and monitor programs conducted with such funds. The Secretary shall not consider any grant application unless a[1] eligibility study has been conducted under section 1806 of this title and it has been found that the applying college or university will service a reasonable student population.

(b) Determination of support; factors considered

The Secretary shall consult with the Secretary of Education to determine the reasonable number of students required to support a tribally controlled college or university. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority and number of grants

Priority in grants shall be given to institutions which are operating on October 17, 1978, and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) Consultation with national Indian organizations and tribal governments

In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(Pub. L. 95–471, title I, § 107, formerly § 106, Oct. 17, 1978, 92 Stat. 1327; Pub. L. 97–375, title I, § 108(c), Dec. 21, 1982, 96 Stat. 1820; renumbered § 107 and amended Pub. L. 98–192, §§ 3(b), 4(a)(1), (b)(2), 6(b), Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 105–244, title IX, § 901(b)(4)–(6), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Pub. L. 105–244, § 901(b)(4), substituted ''colleges or universities'' for ''community colleges'' in section catchline.

Subsec. (a). Pub. L. 105–244, § 901(b)(5), (6), substituted ''colleges or universities'' for ''community colleges'' and ''college or university'' for ''community college''.

Subsec. (b). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college''.

1983—Subsec. (a). Pub. L. 98–192, § 6(b)(1), substituted ''eligibility'' for ''feasibility''.

Pub. L. 98–192, § 4(b)(2), made a technical amendment to reference to section 1806 of this title to reflect renumbering of that section.

Pub. L. 98–192, § 3(b), inserted provision that such application include a description of the recordkeeping procedures for expenditure of funds as will allow Secretary to audit and monitor programs conducted with such funds.

Subsec. (b). Pub. L. 98–192, § 6(b)(2), substituted ''Secretary of Education'' for ''Assistant Secretary of Education of the Department of Health, Education, and Welfare''.

1982—Subsec. (e). Pub. L. 97–375 struck out subsec. (e) which directed the Secretary to report to Congress on Jan. 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

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.

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

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

§ 1808. Amount of grants

(a) Requirement

(1) In general

Except as provided in paragraph (2) and section 1811 of this title, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled college or university having an application approved by the Secretary an amount equal to the product obtained by multiplying—

(A) the Indian student count at such college or university during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 1801(a)(8) of this title; and

(B) $8,000, as adjusted annually for inflation.

(2) Exception

The amount of a grant under paragraph (1) shall not exceed an amount equal to the total cost of the education program provided by the applicable tribally controlled college or university.

(b) Advance installment payments; adjustments; methods of payment; interest or investment income; types of investments

(1) The Secretary shall make payments, pursuant to grants under this chapter, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.

(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this subchapter, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this subchapter.

(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this subchapter after such funds are paid to the tribally controlled college or university and before such funds are expended for the purpose for which such funds were provided under this subchapter shall be the property of the tribally controlled college or university 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, to the tribally controlled college or university under any provision of Federal law.

(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled college or university by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

(4) Funds provided under this subchapter may only be invested by the tribally controlled college or university in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.

(c) Accounting by recipient institutions; data collection system

(1) Each institution receiving payments under this subchapter shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled colleges or universities.

(d) Construction of section

Nothing in this section shall be construed as interfering with, or suspending the obligation of the Bureau for, the implementation of all legislative provisions enacted prior to April 28, 1988, specifically including those of Public Law 98–192.

(Pub. L. 95–471, title I, § 108, formerly § 107, Oct. 17, 1978, 92 Stat. 1327; Pub. L. 97–375, title I, § 108(c), Dec. 21, 1982, 96 Stat. 1820; renumbered § 108 and amended Pub. L. 98–192, §§ 4(a)(1), 7, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99–428, § 4, Sept. 30, 1986, 100 Stat. 983; Pub. L. 100–297, title V, § 5402(a), Apr. 28, 1988, 102 Stat. 415; Pub. L. 100–427, § 24, Sept. 9, 1988, 102 Stat. 1613; Pub. L. 101–477, § 1(a), Oct. 30, 1990, 104 Stat. 1152; Pub. L. 105–244, title IX, § 901(a)(1), (b)(5)–(7), Oct. 7, 1998, 112 Stat. 1827, 1828; Pub. L. 110–315, title IX, § 941(f), Aug. 14, 2008, 122 Stat. 3462.)

REFERENCES IN TEXT

Public Law 98–192, referred to in subsec. (d), is Pub. L. 98–192, Dec. 1, 1983, 97 Stat. 1335, which enacted sections 1804a and 1831 to 1836 of this title, amended sections 640c–1, 1801 to 1803, and 1805 to 1813 of this title, and enacted provisions set out as a note under section 1815 of this title. For complete classification of Pub. L. 98–192 to the Code, see Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 inserted subsec. (a) and par. (1) headings, designated introductory provisions and pars. (1) and (2) as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), in introductory provisions, substituted ''Except as provided in paragraph (2) and section 1811 of this title,'' for ''Except as provided in section 1811 of this title,'', ''approved by the Secretary'' for ''approved by him'', and ''product obtained by multiplying'' for ''product of'', in subpar. (A), substituted ''section 1801(a)(8) of this title'' for ''section 1801(a)(7) of this title'', in subpar. (B), substituted ''$8,000, as adjusted annually for inflation.'' for ''$6,000,'', added par. (2), and struck out former concluding provisions which read as follows: ''except that no grant shall exceed the total cost of the education program provided by such college or university.''

1998—Subsec. (a). Pub. L. 105–244, § 901(a)(1), (b)(5), (7), substituted ''controlled college or university'' for ''controlled community college'' in introductory provisions, ''such college or university'' for ''such college'' in par. (1) and concluding provisions, and ''$6,000'' for ''$5,820'' in par. (2).

Subsec. (b)(3), (4). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college'' wherever appearing.

Subsec. (c)(2). Pub. L. 105–244, § 901(b)(6), substituted ''colleges or universities'' for ''community colleges''.

1990—Subsec. (a)(1). Pub. L. 101–477, § 1(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as

follows: ''the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 1801(a)(7) of this title; and''.

Subsec. (b)(1). Pub. L. 101–477, § 1(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary shall make payments, pursuant to grants under this subchapter, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.''

Subsecs. (c), (d). Pub. L. 101–477, § 1(a)(3), redesignated subsec. (c), relating to construction of section, as (d).

1988—Subsec. (b). Pub. L. 100–297 designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (c). Pub. L. 100–427 added subsec. (c) relating to construction of section.

1986—Subsec. (a)(2). Pub. L. 99–428 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(A) $4,000 for fiscal year 1984,

''(B) $5,025 for fiscal year 1985,

''(C) $5,415 for fiscal year 1986, and

''(D) $5,820 for fiscal year 1987,''.

1983—Subsec. (a). Pub. L. 98–192 amended subsec. (a) generally, substituting provision establishing a formula premised on Indian student count at each tribally controlled community college on which funding is to be based for provision which directing the Secretary to grant an amount equal to $4,000 for each full-time equivalent Indian student in attendance during the academic year to each tribally controlled community college having an application approved by the Secretary.

1982—Subsec. (c)(2). Pub. L. 97–375 struck out provision directing Secretary to report annually to Congress on needs of tribally controlled community colleges.

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.

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 a note under section 1071 of Title 20, Education.

§ 1809. Effect on other programs

(a) Eligibility for assistance

Except as specifically provided in this subchapter, eligibility for assistance under this subchapter shall not, by itself, preclude the eligibility of any tribally controlled college or university to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(b) Allocations from Bureau of Indian Affairs

(1) The amount of any grant for which tribally controlled colleges or universities are eligible under section 1808 of this title shall not be altered because of funds allocated to any such colleges or universities from funds appropriated under section 13 of this title.

(2) No tribally controlled college or university shall be denied funds appropriated under section 13 of this title because of the funds it receives under this chapter.

(3) No tribally controlled college or university for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under section 13 of this title may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(c)[1] Assistance deemed to be basic educational opportunity grant

For the purposes of sections 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965 [20 U.S.C. 1058(2)(A)(i), 1061(a)(2)(A)(i)],[2] any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act [20 U.S.C. 1070a].

(c)[1] Treatment of funds under certain Federal laws

Notwithstanding any other provision of law, funds provided under this subchapter to the tribally controlled college or university may be treated as non-Federal, private funds of the college or university for purposes of any provision of Federal law which requires that non-Federal or private funds of the college or university be used in a project or for a specific purpose.

(Pub. L. 95–471, title I, § 109, formerly § 108, Oct. 17, 1978, 92 Stat. 1328; renumbered § 109 and amended Pub. L. 98–192, §§ 4(a)(1), 8, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99–428, § 5, Sept. 30, 1986, 100 Stat. 983; Pub. L. 100–297, title V, § 5403(a), Apr. 28, 1988, 102 Stat. 416; Pub. L. 105–244, title IX, § 901(b)(5), (6), (8), (10), (12), (e), Oct. 7, 1998, 112 Stat. 1828, 1829.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (a) and (c), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. Sections 312 and 322 of the Higher Education Act of 1965, which were classified to sections 1058 and 1061, respectively, of Title 20, were omitted in the general revision of title III of the Higher Education Act of 1965 by Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1290, which enacted new sections 312 and 322 which are classified to sections 1058 and 1061, respectively, of Title 20. Subpart 1 of part A of title IV of the Higher Education Act of 1965 is classified generally to subpart 1 (§ 1070a et seq.) of part A of subchapter IV of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (b)(3), 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.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 901(b)(10), inserted ''or university'' after ''tribally controlled college''.

[1] So in original. Two subsecs. (c) have been enacted.

[2] See References in Text note below.

Subsec. (b)(1). Pub. L. 105–244, § 901(b)(6), (8), substituted ''controlled colleges or universities'' for ''controlled community colleges'' and ''such colleges or universities'' for ''such colleges''.

Subsec. (b)(2), (3). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college''.

Subsec. (c). Pub. L. 105–244, § 901(e), redesignated subsec. (d), relating to treatment of funds under certain Federal laws, as (c).

Subsec. (d). Pub. L. 105–244, § 901(e), redesignated subsec. (d), relating to treatment of funds under certain Federal laws, as (c).

Pub. L. 105–244, § 901(b)(5), (12), substituted ''controlled college or university'' for ''controlled community college'' and substituted ''the college or university'' for ''the college'' in two places.

1988—Subsec. (d). Pub. L. 100–297 added subsec. (d).

1986—Subsec. (b)(3). Pub. L. 99–428 added par. (3).

1983—Pub. L. 98–192, § 8, designated existing provision as subsec. (a) and added subsecs. (b) and (c).

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.

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 a note under section 1071 of Title 20, Education.

§ 1810. Authorization of appropriations

(a)(1) There is authorized to be appropriated, for the purpose of carrying out section 1805 of this title, $3,200,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(2) There is authorized to be appropriated for the purpose of carrying out section 1807 of this title, such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(3) There is authorized to be appropriated for the purpose of carrying out sections 1812(b) and 1813 of this title, such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(4) Funds appropriated pursuant to the authorizations under this section for the fiscal year 2009 and for each of the five succeeding fiscal years shall be transferred by the Secretary of the Treasury through the most expeditious method available, with each of the tribally controlled colleges or universities being designated as its own certifying agency.

(b)(1) For the purpose of affording adequate notice of funding available under this chapter, amounts appropriated in an appropriation Act for any fiscal year to carry out this chapter shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this chapter, the first of which shall not be subject to paragraph (1).

(Pub. L. 95–471, title I, § 110, formerly § 109, Oct. 17, 1978, 92 Stat. 1328; renumbered § 110 and amended Pub. L. 98–192, §§ 4(a)(1), 9, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99–428, § 2(a), Sept. 30, 1986, 100 Stat. 982; Pub. L. 101–477, § 1(b), Oct. 30, 1990, 104 Stat. 1152; Pub. L. 102–325, title XIII, § 1301(a), July 23, 1992, 106 Stat. 797; Pub. L. 105–244, title IX, § 901(a)(2)(A), (b)(11), Oct. 7, 1998, 112 Stat. 1827, 1828; Pub. L. 110–315, title IX, § 941(g), Aug. 14, 2008, 122 Stat. 3462.)

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–315, § 941(g)(1), (2), substituted ''2009'' for ''1999'' and ''five succeeding'' for ''4 succeeding''.

Subsec. (a)(2). Pub. L. 110–315, § 941(g)(1)–(3), substituted ''such sums as may be necessary'' for ''$40,000,000'', ''2009'' for ''1999'', and ''five succeeding'' for ''4 succeeding''.

Subsec. (a)(3). Pub. L. 110–315, § 941(g)(1), (2), (4), substituted ''such sums as may be necessary'' for ''$10,000,000'', ''2009'' for ''1999'', and ''five succeeding'' for ''4 succeeding''.

Subsec. (a)(4). Pub. L. 110–315, § 941(g)(1), (5), substituted ''2009'' for ''1999'' and ''five succeeding'' for ''succeeding 4''.

1998—Subsec. (a)(1). Pub. L. 105–244, § 901(a)(2)(A)(i), substituted ''1999'' for ''1993''.

Subsec. (a)(2). Pub. L. 105–244, § 901(a)(2)(A)(ii), substituted ''$40,000,000 for fiscal year 1999'' for ''$30,000,000 for fiscal year 1993''.

Subsec. (a)(3). Pub. L. 105–244, § 901(a)(2)(A)(iii), substituted ''1999'' for ''1993''.

Subsec. (a)(4). Pub. L. 105–244, § 901(a)(2)(A)(iv), (b)(11), substituted ''1999'' for ''1993'' and ''tribally controlled colleges or universities'' for ''Tribally Controlled Community Colleges''.

1992—Subsec. (a). Pub. L. 102–325 amended subsec. (a) generally, in pars. (1) to (3) substituting provisions authorizing appropriations for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1990 to 1992 and adding par. (4).

1990—Subsec. (a)(1). Pub. L. 101–477, § 1(b)(1), substituted ''1990 and 1991, and for fiscal year 1992, such sums as may be necessary'' for ''1987, 1988, 1989, and 1990''.

Subsec. (a)(2). Pub. L. 101–477, § 1(b)(2), substituted ''1990 and 1991, and for fiscal year 1992, such sums as may be necessary'' for ''1987, 1988, 1989, and 1990''.

Subsec. (a)(3). Pub. L. 101–477, § 1(b)(3), substituted ''1990, 1991, and 1992'' for ''1987, 1988, 1989, and 1990''.

1986—Subsec. (a)(1). Pub. L. 99–428, § 2(a)(1), substituted ''1987, 1988, 1989, and 1990'' for ''1985, 1986, and 1987''.

Subsec. (a)(2), (3). Pub. L. 99–428, § 2(a)(2), substituted ''the fiscal years 1987, 1988, 1989, and 1990'' for ''such fiscal years''.

1983—Subsec. (a). Pub. L. 98–192, § 9, amended subsec. (a) generally, substituting provision authorizing appropriations for fiscal years 1985, 1986, and 1987 of $3,200,000 for carrying out section 1805 of this title, $30,000,000 for carrying out section 1807 of this title, and appropriations as necessary for carrying out sections 1812(b) and 1813 of this title for provision authorizing appropriations for carrying out section 1807 of this title of $25,000,000 for each of the fiscal years beginning Oct. 1, 1979 and Oct. 1, 1980, and $30,000,000 for the fiscal year beginning Oct. 1, 1981, and $3,200,000 for each of such fiscal years for the provision of technical assistance pursuant to section 1805 of this title.

Subsec. (b). Pub. L. 98–192, § 9, amended subsec. (b) generally, substituting provision relating to affording adequate notice of funding available under this chapter and directing two separate appropriations in order to effect a transition to the forward funding method of timing appropriation action for provision directing that, unless otherwise provided, funds appropriated under this section remain available until expended.

Subsec. (c). Pub. L. 98–192, § 9, struck out subsec. (c) which provided that nothing in this chapter be deemed to authorize appropriations for fiscal year beginning Oct. 1, 1978.

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.

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 Title 20, Education.

§ 1811. Grant adjustments

(a) Formula for allocation

(1) If the sums appropriated for any fiscal year pursuant to section 1810(a)(2) of this title for grants under section 1807 of this title are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

(A) the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 1808 of this title;

(B) the Secretary shall next allocate to applicants who did not receive funds under such section for the preceding fiscal year an amount equal to 100 per centum of the product of—

(i) the per capita payment for the preceding fiscal year; and

(ii) the applicant's projected Indian student count for the academic year for which payment is being made;

in the order in which such applicants have qualified for assistance in accordance with such section so that no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B), the Secretary shall allocate such funds by—

(i) ratably increasing the amounts of the grants determined under subparagraph (A) until such grants are equal to 100 per centum of the product described in such subparagraph; and

(ii) then ratably increasing the amounts of both (I) the grants determined under subparagraph (A), as increased under clause (i) of this subparagraph, and (II) the grants determined under subparagraph (B).

(2) For purposes of paragraph (1) of this subsection, the term ''per capita payment'' for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled colleges or universities under section 1807 of this title for such fiscal year by the sum of the Indian student counts of such colleges or universities for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this subchapter.

(b) Ratable reduction or increase in funds available for existing schools; excess funds; definition

(1) If the sums appropriated for any fiscal year for grants under section 1807 of this title are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A) of this section, the amount which applicants described in such subsection are eligible to receive under section 1807 of this title for such fiscal year shall be ratably reduced.

(2) If any additional funds become available for making payments under section 1807 of this title for any fiscal year to which subsection (a) of this section or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a) of this section. Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 1807 of this title shall be allocated by ratably increasing such total amounts.

(3) References in this subsection and subsection (a) of this section to section 1807 of this title shall, with respect to fiscal year 1983, be deemed to refer to section 1806 of this title as in effect at the beginning of such fiscal year.

(c) Reallocation of funds

In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 1807(a) of this title.

(Pub. L. 95–471, title I, § 111, formerly § 110, Oct. 17, 1978, 92 Stat. 1328; renumbered § 111 and amended Pub. L. 98–192, §§ 4(a)(1), (b)(3), 10, Dec. 1, 1983, 97 Stat. 1336, 1338; Pub. L. 101–477, § 1(c), Oct. 30, 1990, 104 Stat. 1152; Pub. L. 105–244, title IX, § 901(b)(6), (8), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244 substituted ''controlled colleges or universities'' for ''controlled community colleges'' and ''such colleges or universities'' for ''such colleges''.

1990—Subsec. (a)(1)(A). Pub. L. 101–477, § 1(c)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 per centum of the product of—

''(i) the per capita payment for the preceding fiscal year; and

''(ii) such applicant's Indian student count for the current fiscal year;''.

Subsec. (a)(1)(B)(ii). Pub. L. 101–477, § 1(c)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the applicant's Indian student count for the current fiscal year;''.

1983—Subsec. (a). Pub. L. 98–192, § 10, amended subsec. (a) generally, substituting provision establishing a formula to be used to determine funding between existing and newly eligible schools when funds appropriated are not sufficient to pay in full the total amount which approved applicants are eligible to receive under section 1807 of this title for provision that if funds were insufficient to pay in full the total amounts which approved grant applicants were eligible to receive, the available funds would be ratably decreased and if funds later became available or there were excess funds, such funds would be ratably increased.

Subsecs. (b), (c). Pub. L. 98–192, § 10, added subsec. (b) and redesignated former subsec. (b) as (c).

Pub. L. 98–192, § 4(b)(3), made a technical amendment to reference to section 1807 of this title to reflect renumbering of that section.

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.

§ 1812. Report on facilities

(a) Study on condition of currently existing facilities; submission of report; contents

The Secretary shall provide for the conduct of a study of facilities available for use by tribally controlled colleges or universities. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than eighteen months after September 30, 1986. Such report shall also include an identification of property—

(1) on which structurally sound buildings suitable for use as educational facilities are located, and

(2) which is available for use by tribally controlled colleges or universities under section 523 of title 40 and section 443a of this title.

(b) Renovation program

The Secretary, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

(c) Determination and prioritization of construction and renovation needs

(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges or universities that receive funding under this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.].

(2) An organization described in this section is any organization that—

(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; and

(B) has demonstrated expertise in areas and issues dealing with tribally controlled colleges or universities.

(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.

(d) "Reconstruction" defined

For the purposes of this section, the term ''reconstruction'' has the meaning provided in the first sentence of subparagraph (B) of section 1132e–1(2)[1] of title 20.

(Pub. L. 95–471, title I, § 112, formerly § 111, Oct. 17, 1978, 92 Stat. 1328; renumbered § 112 and amended Pub. L. 98–192, §§ 4(a)(1), 11, Dec. 1, 1983, 97 Stat. 1336, 1339; Pub. L. 99–428, § 6(a), Sept. 30, 1986, 100 Stat. 983; Pub. L. 101–392, title III, § 313, Sept. 25, 1990, 104 Stat. 805; Pub. L. 105–244, title IX, § 901(b)(6), (13), Oct. 7, 1998, 112 Stat. 1828.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsec. (c)(1), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 640a of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(2)(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.

Section 1132e–1 of title 20, referred to in subsec. (d), was omitted in the general revision of subchapter VII (§ 1132a et seq.) of chapter 28 of Title 20, Education, by Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1520. See section 1132i–1 of Title 20.

CODIFICATION

''Section 523 of title 40'' substituted in subsec. (a)(2) for ''section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2))'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 901(b)(6), substituted ''colleges or universities'' for ''community colleges'' in introductory provisions and par. (2).

Subsec. (c)(1). Pub. L. 105–244, § 901(b)(13), substituted ''colleges or universities'' for ''colleges''.

Subsec. (c)(2)(B). Pub. L. 105–244, § 901(b)(6), substituted ''colleges or universities'' for ''community colleges''.

1990—Subsecs. (c), (d). Pub. L. 101–392 added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Subsec. (a). Pub. L. 99–428, § 6(a), substituted ''Secretary'' for ''Administrator of General Services'' and ''September 30, 1986'' for ''December 1, 1983''.

Subsec. (b). Pub. L. 99–428, § 6(a)(1), substituted ''Secretary'' for ''Administrator of General Services''.

1983—Pub. L. 98–192 amended section generally, substituting provision requiring a study on the condition of currently existing facilities, submission of a report on the study, contents of the report, establishment of a renovation program, and defining term ''reconstruction'' for provision which required the Secretary of the

[1] See References in Text note below.

Interior, not later than ninety days after Oct. 17, 1978, to prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of tribally controlled community colleges.

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.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date note under section 3423a of Title 20, Education.

§ 1813. Construction of new facilities

(a) Grants

With respect to any tribally controlled college or university for which the report of the Secretary under section 1812(a) of this title identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

(b) Eligibility requirements

In order to be eligible for a grant under this section, a tribally controlled college or university—

(1) must be a current recipient of grants under section 1805 or 1807 of this title, and

(2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1001 of title 20, except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college or university will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

(c) Maximum amount of grant; waiver of restriction

(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled college or university shall be required to expend more than $400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled college or university may use funds provided under section 13 of this title.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled college or university which demonstrates that neither such college or university nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college or university to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

(d) Failure to use facility in approved manner; title to vest in United States; settlement

If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government,

title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under section 13 of this title) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

(e) Religious use

No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

(f) "Construction" and "academic facilities" defined

For the purposes of this section—

(1) the term ''construction'' includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 1132e–1(2)[1] of title 20); and

(2) the term ''academic facilities'' has the meaning provided such term under section 1132e–1(1)[1] of title 20.

(Pub. L. 95–471, title I, § 113, formerly § 112, Oct. 17, 1978, 92 Stat. 1329; renumbered § 113 and amended Pub. L. 98–192, §§ 4(a)(1), 12, Dec. 1, 1983, 97 Stat. 1336, 1340; Pub. L. 99–428, § 6(b), Sept. 30, 1986, 100 Stat. 983; Pub. L. 105–244, title I, § 102(a)(8)(C), title IX, § 901(b)(5), (7), (12), Oct. 7, 1998, 112 Stat. 1619, 1828.)

REFERENCES IN TEXT

Section 1132e–1 of title 20, referred to in subsec. (f), was omitted in the general revision of subchapter VII (§ 1132a et seq.) of chapter 28 of Title 20, Education, by Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1520.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college''.

[1] See References in Text note below.

Subsec. (b). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college'' in introductory provisions.

Subsec. (b)(2). Pub. L. 105–244, §§ 102(a)(8)(C), 901(b)(7), substituted ''section 1001'' for ''section 1141(a)'' and ''such college or university'' for ''such college''.

Subsec. (c)(1). Pub. L. 105–244, § 901(b)(5), substituted ''college or university'' for ''community college'' in two places.

Subsec. (c)(2). Pub. L. 105–244, § 901(b)(5), (7), (12), in introductory provisions, substituted ''controlled college or university'' for ''controlled community college'' and ''such college or university'' for ''such college'' and, in subpar. (E), substituted ''the college or university'' for ''the college''.

1986—Subsec. (a). Pub. L. 99–428 substituted ''Secretary under'' for ''Administrator of General Services under''.

1983—Pub. L. 98–192 amended section generally, substituting provision authorizing grants for construction of new facilities, establishing eligibility requirements for grants, maximum amounts of grants, waiver of amount restriction, results of failure to use facilities in an approved manner, and prohibition of religious use of such facilities, and defining ''construction'' and ''academic facilities'' for provision requiring Secretary of the Interior to conduct a detailed survey and study of academic facilities needs of tribally controlled community colleges and report to Congress not later than Nov. 1, 1979, the results of such survey and study.

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.

§ 1814. Miscellaneous provisions

(a) Eligibility of Navajo Tribe

The Navajo Tribe shall not be eligible to participate under the provisions of this subchapter.

(b) Discriminatory practices prohibited

(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this subchapter held by an institution determined to be in violation of paragraph (1).

(Pub. L. 95–471, title I, § 114, formerly § 113, Oct. 17, 1978, 92 Stat. 1329; renumbered § 114, Pub. L. 98–192, § 4(a)(1), Dec. 1, 1983, 97 Stat. 1336.)

§ 1815. Rules and regulations

(a) Consultation with national Indian organizations

Within four months from October 17, 1978, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this subchapter.

(b) Publication

Within six months from October 17, 1978, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Promulgation

Within ten months from October 17, 1978, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this subchapter.

(d) Source of appropriations

Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after October 17, 1978.

(Pub. L. 95–471, title I, § 115, formerly § 114, Oct. 17, 1978, 92 Stat. 1329; renumbered § 115, Pub. L. 98–192, § 4(a)(1), Dec. 1, 1983, 97 Stat. 1336.)

PROMULGATION OF REGULATIONS; CONSULTATION

Section 15 of Pub. L. 98–192 provided that: ''In promulgating any regulations to implement the amendments made by this Act [enacting sections 1804a and 1831 to 1836 of this title and amending sections 640c–1, 1801 to 1803, and 1805 to 1813 of this title], the Secretary of the Interior shall consult with tribally controlled community colleges.''

SUBCHAPTER II—TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ENDOWMENT PROGRAM

§ 1831. Purpose

It is the purpose of this subchapter to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled colleges or universities.

(Pub. L. 95–471, title III, § 301, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1341; amended Pub. L. 105–244, title IX, § 901(b)(6), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''colleges or universities'' for ''community colleges''.

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.

§ 1832. Establishment of program; program agreements

(a) From the amount appropriated pursuant to section 1836 of this title, the Secretary shall establish a program of making endowment grants to tribally controlled colleges or universities which are current recipients of assistance under section 1807 of this title or under section 640b of this title. No such college or university shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year, but no such college or university shall be eligible for such a grant for a fiscal year if such college or university has been awarded a grant under section 1065 of title 20 for such fiscal year.

(b) No grant for the establishment of an endowment fund by a tribally controlled college or university shall be made unless such college or university enters into an agreement with the Secretary which—

(1) provides for the investment and maintenance of a trust fund, the corpus and earnings of which shall be invested in the same manner as funds are invested under paragraph (2) of section 1065(c) of title 20, except that for pur-

poses of this paragraph, the term ''trust fund'' means a fund established by an institution of higher education or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, and may include real estate;

(2) provides for the deposit in such trust fund of—

(A) any Federal capital contributions made from funds appropriated under section 1836 of this title;

(B) a capital contribution by such college or university in an amount (or of a value) equal to half of the amount of each Federal capital contribution; and

(C) any earnings of the funds so deposited;

(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the banking or savings institution for the same period or periods of time;

(4) provides that, if at any time such college or university withdraws any capital contribution made by that college or university, an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal shall be withdrawn and returned to the Secretary for reallocation to other colleges or universities;

(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this subchapter and as are agreed to by the Secretary and the college or university, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

(Pub. L. 95–471, title III, § 302, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1341; amended Pub. L. 101–477, § 1(d)(1)(A), (B), Oct. 30, 1990, 104 Stat. 1152, 1153; Pub. L. 103–382, title III, § 383, Oct. 20, 1994, 108 Stat. 4018; Pub. L. 105–244, title IX, § 901(b)(5)–(7), (12), (14), (15), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 901(b)(6), (7), substituted ''colleges or universities'' for ''community colleges'' and substituted ''such college or university'' for ''such college'' wherever appearing.

Subsec. (b). Pub. L. 105–244, § 901(b)(5), (7), in introductory provisions, substituted ''controlled college or university'' for ''controlled community college'' and ''such college or university'' for ''such college''.

Subsec. (b)(2)(B). Pub. L. 105–244, § 901(b)(7), substituted ''such college or university'' for ''such college''.

Subsec. (b)(4). Pub. L. 105–244, § 901(b)(7), (14), (15), substituted ''such college or university'' for ''such college'', ''that college or university'' for ''that college'', and ''other colleges or universities'' for ''other colleges''.

Subsec. (b)(6). Pub. L. 105–244, § 901(b)(12), substituted ''the college or university'' for ''the college''.

1994—Subsec. (a). Pub. L. 103–382, § 383(1), substituted ''section 1065 of title 20'' for ''section 1065a of title 20''.

Subsec. (b)(1). Pub. L. 103–382, § 383(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;''.

Subsec. (b)(3). Pub. L. 103–382, § 383(2)(B), struck out ''same'' before ''banking or savings institution''.

1990—Subsec. (b)(2)(B). Pub. L. 101–477, § 1(d)(1)(A), substituted ''(or of a value) equal to half of'' for ''equal to''.

Subsec. (b)(4). Pub. L. 101–477, § 1(d)(1)(B), substituted ''an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal'' for ''an equal amount of Federal capital contribution''.

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.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1(d)(2) of Pub. L. 101–477 provided that: ''The amendments made by paragraphs (A) through (E) of subsection (a) [probably means subpars. (A) to (E) of subsec. (d)(1), amending this section and sections 1834 and 1835 of this title] shall take effect October 1, 1991.''

§ 1833. Use of funds

Interest deposited, pursuant to section 1832(b)(2)(C) of this title, in the trust fund of any tribally controlled college or university may be periodically withdrawn and used, at the discretion of such college or university, to defray any expenses associated with the operation of such college or university, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(Pub. L. 95–471, title III, § 303, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1342; amended Pub. L. 105–244, title IX, § 901(b)(5), (7), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''controlled college or university'' for ''controlled community college'' and substituted ''such college or university'' for ''such college'' in two places.

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.

§ 1834. Compliance with matching requirement

For the purpose of complying with the contribution requirement of section 1832(b)(2)(B) of this title, a tribally controlled college or university may use funds which are available from any private or tribal source. Any real or personal property received by a tribally controlled college or university as a donation or gift on or after October 30, 1990, may, to the extent of its fair market value as determined by the Secretary, be used by such college or university as its contribution pursuant to section 1832(b)(2)(B) of this title, or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college or

university, the proceeds therefrom shall be deposited pursuant to section 1832(b)(2)(B) of this title but shall not again be considered for Federal capital contribution purposes.

(Pub. L. 95–471, title III, § 304, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1342; amended Pub. L. 101–477, § 1(d)(1)(C), Oct. 30, 1990, 104 Stat. 1153; Pub. L. 105–244, title IX, § 901(b)(5), (7), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''controlled college or university'' for ''controlled community college'' in two places and ''such college or university'' for ''such college'' in two places.

1990—Pub. L. 101–477 inserted at end ''Any real or personal property received by a tribally controlled community college as a donation or gift on or after October 30, 1990, may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 1832(b)(2)(B) of this title, or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 1832(b)(2)(B) of this title but shall not again be considered for Federal capital contribution purposes.''

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.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–477 effective Oct. 1, 1991, see section 1(d)(2) of Pub. L. 101–477, set out as a note under section 1832 of this title.

§ 1835. Allocation of funds

(a) From the amount appropriated pursuant to section 1836 of this title, the Secretary shall allocate to each tribally controlled college or university which is eligible for an endowment grant under this subchapter an amount for a Federal capital contribution equal to twice the value of the property or the amount which such college or university demonstrates has been placed within the control of, or irrevocably committed to the use of, the college or university and is available for deposit as a capital contribution of that college or university in accordance with section 1832(b)(2)(B) of this title, except that the maximum amount which may be so allocated to any such college or university for any fiscal year shall not exceed $750,000.

(b) If for any fiscal year the amount appropriated pursuant to section 1836 of this title is not sufficient to allocate to each tribally controlled college or university an amount equal to twice the value of the property or the amount demonstrated by such college or university pursuant to subsection (a) of this section, then the amount of the allocation to each such college or university shall be ratably reduced.

(Pub. L. 95–471, title III, § 305, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1342; amended Pub. L. 101–477, § 1(d)(1)(D), (E), Oct. 30, 1990, 104 Stat. 1153; Pub. L. 105–244, title IX, § 901(b)(5), (7), (12), (14), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 substituted ''controlled college or university'' for ''controlled community college'', ''such college or university'' for ''such college'' in two places, ''the college or university'' for ''the college'', and ''that college or university'' for ''that college''.

Subsec. (b). Pub. L. 105–244, § 901(b)(5), (7), substituted ''controlled college or university'' for ''controlled community college'' and substituted ''such college or university'' for ''such college'' in two places.

1990—Pub. L. 101–477 inserted ''twice the value of the property or'' after ''equal to'' in subsecs. (a) and (b) and substituted ''$750,000'' for ''$350,000'' in subsec. (a).

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.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–477 effective Oct. 1, 1991, see section 1(d)(2) of Pub. L. 101–477, set out as a note under section 1832 of this title.

§ 1836. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of this subchapter, $10,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(b) Any funds appropriated pursuant to subsection (a) of this section are authorized to remain available until expended.

(Pub. L. 95–471, title III, § 306, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1343; amended Pub. L. 99–428, § 2(b), Sept. 30, 1986, 100 Stat. 982; Pub. L. 101–477, § 1(d)(1)(F), Oct. 30, 1990, 104 Stat. 1153; Pub. L. 102–325, title XIII, § 1301(b), July 23, 1992, 106 Stat. 797; Pub. L. 105–244, title IX, § 901(a)(2)(B), Oct. 7, 1998, 112 Stat. 1827; Pub. L. 110–315, title IX, § 941(h), Aug. 14, 2008, 122 Stat. 3462.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–315 substituted ''2009'' for ''1999'' and ''five succeeding'' for ''4 succeeding''.

1998—Subsec. (a). Pub. L. 105–244 substituted ''1999'' for ''1993''.

1992—Subsec. (a). Pub. L. 102–325 amended subsec. (a) generally, substituting provisions authorizing appropriations for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1987 to 1992.

1990—Subsec. (a). Pub. L. 101–477 substituted ''1990 and 1991, and for fiscal year 1992, $10,000,000'' for ''and 1990''.

1986—Subsec. (a). Pub. L. 99–428 substituted ''1987, 1988, 1989, and 1990'' for ''1985, 1986, and 1987''.

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.

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 Title 20, Education.

SUBCHAPTER III—TRIBAL ECONOMIC DEVELOPMENT

§ 1851. Grants authorized

(a) General authority

The Secretary is authorized, subject to the availability of appropriations, to make grants to

tribally controlled colleges or universities which receive grants under either this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.] for the establishment and support of tribal economic development and education institutes. Each program conducted with assistance under a grant under this subsection shall include at least the following activities:

(1) Determination of the economic development needs and potential of the Indian tribes involved in the program, including agriculture and natural resources needs.

(2) Development of consistent courses of instruction to prepare postsecondary students, tribal officials and others to meet the needs defined under paragraph (1). The development of such courses may be coordinated with secondary institutions to the extent practicable.

(3) The conduct of vocational courses, including administrative expenses and student support services.

(4) Technical assistance and training to Federal, tribal and community officials and business managers and planners deemed necessary by the institution to enable full implementation of, and benefits to be derived from, the program developed under paragraph (1).

(5) Clearinghouse activities encouraging the coordination of, and providing a point for the coordination of, all vocational activities (and academically related training) serving all students of the Indian tribe involved in the grant.

(6) The evaluation of such grants and their effect on the needs developed under paragraph (1) and tribal economic self-sufficiency.

(b) Amount and duration

The grants shall be of such amount and duration as to afford the greatest opportunity for success and the generation of relevant data.

(c) Applications

Institutions which receive funds under other subchapters of this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.] may apply for grants under this subchapter either individually or as consortia. Each applicant shall act in cooperation with an Indian tribe or tribes in developing and implementing a grant under this subchapter.[1]

(Pub. L. 95–471, title IV, § 402, as added Pub. L. 101–392, title III, § 312, Sept. 25, 1990, 104 Stat. 804; amended Pub. L. 105–244, title IX, § 901(b)(6), Oct. 7, 1998, 112 Stat. 1828.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsecs. (a) and (c), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 640a of this title and Tables.

This subchapter, referred to at the end of subsec. (c), was in the original ''this part'' and was translated as reading ''this title'' to reflect the probable intent of Congress because title IV of Pub. L. 95–471, which comprises this subchapter, does not contain parts.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 substituted ''colleges or universities'' for ''community colleges'' in introductory provisions.

[1] See References in Text note below.

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.

EFFECTIVE DATE

Subchapter effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 3423a of Title 20, Education.

SHORT TITLE

For short title of title IV of Pub. L. 95–471, which enacted this subchapter, as the ''Tribal Economic Development and Technology Related Education Assistance Act of 1990'', see section 401 of Pub. L. 95–471, set out as a Short Title note under section 1801 of this title.

§ 1852. Authorization of appropriations

There are authorized to be appropriated for grants under this subchapter, such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(Pub. L. 95–471, title IV, § 403, as added Pub. L. 101–392, title III, § 312, Sept. 25, 1990, 104 Stat. 805; amended Pub. L. 102–325, title XIII, § 1301(c), July 23, 1992, 106 Stat. 797; Pub. L. 105–244, title IX, § 901(a)(2)(C), Oct. 7, 1998, 112 Stat. 1827; Pub. L. 110–315, title IX, § 941(i), Aug. 14, 2008, 122 Stat. 3463.)

AMENDMENTS

2008—Pub. L. 110–315 substituted ''such sums as may be necessary for fiscal year 2009'' for ''$2,000,000 for fiscal year 1999'' and ''five succeeding'' for ''4 succeeding''.

1998—Pub. L. 105–244 substituted ''1999'' for ''1993''.

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing appropriations for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1991 to 1996.

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.

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 Title 20, Education.

SUBCHAPTER IV—TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS

§ 1861. Definition of tribally controlled postsecondary career and technical institution

In this subchapter, the term ''tribally controlled postsecondary career and technical institution'' has the meaning given the term in section 2302 of title 20.

(Pub. L. 95–471, title V, § 501, as added Pub. L. 110–315, title IX, § 941(j)(1), Aug. 14, 2008, 122 Stat. 3463.)

§ 1862. Tribally controlled postsecondary career and technical institutions program

(a) In general

Subject to the availability of appropriations, for fiscal year 2009 and each fiscal year thereafter, the Secretary shall—

(1) subject to subsection (b), select two tribally controlled postsecondary career and technical institutions to receive assistance under this subchapter; and

(2) provide funding to the selected tribally controlled postsecondary career and technical institutions to pay the costs (including institutional support costs) of operating postsecondary career and technical education programs for Indian students at the tribally controlled postsecondary career and technical institutions.

(b) Selection of certain institutions

(1) Requirement

For each fiscal year during which the Secretary determines that a tribally controlled postsecondary career and technical institution described in paragraph (2) meets the definition referred to in section 1861 of this title, the Secretary shall select that tribally controlled postsecondary career and technical institution under subsection (a)(1) to receive funding under this section.

(2) Institutions

The two tribally controlled postsecondary career and technical institutions referred to in paragraph (1) are—

(A) the United Tribes Technical College; and

(B) the Navajo Technical College.

(c) Method of payment

For each applicable fiscal year, the Secretary shall provide funding under this section to each tribally controlled postsecondary career and technical institution selected for the fiscal year under subsection (a)(1) in a lump sum payment for the fiscal year.

(d) Distribution

(1) In general

For fiscal year 2009 and each fiscal year thereafter, of amounts made available pursuant to section 1864 of this title, the Secretary shall distribute to each tribally controlled postsecondary career and technical institution selected for the fiscal year under subsection (a)(1) an amount equal to the greater of—

(A) the total amount appropriated for the tribally controlled postsecondary career and technical institution for fiscal year 2006; or

(B) the total amount appropriated for the tribally controlled postsecondary career and technical institution for fiscal year 2008.

(2) Excess amounts

If, for any fiscal year, the amount made available pursuant to section 1864 of this title exceeds the sum of the amounts required to be distributed under paragraph (1) to the tribally controlled postsecondary career and technical institutions selected for the fiscal year under subsection (a)(1), the Secretary shall distribute to each tribally controlled postsecondary career and technical institution selected for that fiscal year a portion of the excess amount, to be determined by—

(A) dividing the excess amount by the aggregate Indian student count (as defined in section 2327(h) of title 20) of such institutions for the prior academic year; and

(B) multiplying the quotient described in subparagraph (A) by the Indian student count of each such institution for the prior academic year.

(Pub. L. 95–471, title V, § 502, as added Pub. L. 110–315, title IX, § 941(j)(1), Aug. 14, 2008, 122 Stat. 3463.)

§ 1863. Applicability of other laws

(a) In general

Paragraphs (4) and (8) of subsection (a), and subsection (b), of section 1801 of this title, sections 1805, 1808, 1811, 1812 and 1813 of this title, subchapters II and III of this chapter, and title II[1] shall not apply to this subchapter.

(b) Indian self-determination and education assistance

Funds made available pursuant to this subchapter shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(c) Election to receive

A tribally controlled postsecondary career and technical institution selected for a fiscal year under section 1862(b) of this title may elect to receive funds pursuant to section 1862 of this title in accordance with an agreement between the tribally controlled postsecondary career and technical institution and the Secretary under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) if the agreement is in existence on August 14, 2008.

(d) Other assistance

Eligibility for, or receipt of, assistance under this subchapter shall not preclude the eligibility of a tribally controlled postsecondary career and technical institution to receive Federal financial assistance under—

(1) any program under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.);

(2) any program under the Carl D. Perkins Career and Technical Education Act of 2006 [20 U.S.C. 2301 et seq.]; or

(3) any other applicable program under which a benefit is provided for—

(A) institutions of higher education;

(B) community colleges; or

(C) postsecondary educational institutions.

(Pub. L. 95–471, title V, § 503, as added Pub. L. 110–315, title IX, § 941(j)(1), Aug. 14, 2008, 122 Stat. 3464.)

REFERENCES IN TEXT

Title II, referred to in subsec. (a), is title II of Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1329, known as the Navajo Community College Assistance Act of 1978, which enacted section 640c–1 of this title, amended section 640c of this title, and enacted provisions set out as notes under sections 640a and 640c–1 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 640a of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (b) and (c), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14

[1] See References in Text note below.

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 Higher Education Act of 1965, referred to in subsec. (d)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (d)(2), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, § 1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§ 2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

§ 1864. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary for fiscal year 2009 and each fiscal year thereafter to carry out this subchapter.

(Pub. L. 95–471, title V, § 504, as added Pub. L. 110–315, title IX, § 941(j)(1), Aug. 14, 2008, 122 Stat. 3465.)

CHAPTER 21—INDIAN CHILD WELFARE

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§ 1901. Congressional findings

Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

(1) that clause 3, section 8, article I of the United States Constitution provides that ''The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes[1]'' and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

(Pub. L. 95–608, § 2, Nov. 8, 1978, 92 Stat. 3069.)

SHORT TITLE

Section 1 of Pub. L. 95–608 provided: ''That this Act [enacting this chapter] may be cited as the 'Indian Child Welfare Act of 1978'.''

§ 1902. Congressional declaration of policy

The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

(Pub. L. 95–608, § 3, Nov. 8, 1978, 92 Stat. 3069.)

§ 1903. Definitions

For the purposes of this chapter, except as may be specifically provided otherwise, the term—

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