

25 USC 5361: Establishment

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From Title 25-INDIANS

CHAPTER 46-INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
SUBCHAPTER IV-TRIBAL SELF-GOVERNANCE-DEPARTMENT OF THE INTERIOR

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§5361. Establishment

The Secretary of the Interior (hereinafter in this subchapter referred to as the "Secretary") shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (hereinafter in this subchapter referred to as "Self-Governance") in accordance with this subchapter.

(Pub. L. 93–638, title IV, §401, as added Pub. L. 103–413, title II, §204, Oct. 25, 1994, 108 Stat. 4271 .)

CODIFICATION

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

SHORT TITLE

For short title of this subchapter as the "Tribal Self-Governance Act of 1994", see section 201 of Pub. L. 103–413, set out as a Short Title of 1994 Amendment note under section 5301 of this title.

CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 103–413, title II, §202, Oct. 25, 1994, 108 Stat. 4270 , provided that: "Congress finds that-

"(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

"(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

"(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

"(4) the Tribal Self-Governance Demonstration Project [see Pub. L. 93–638, title III, as added by Pub. L. 100–472, title II, §209, Oct. 5, 1988, 102 Stat. 2296 , formerly set out as a note under former 25 U.S.C. 450f] was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

"(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that-

"(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities, or portions thereof, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

"(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination."

CONGRESSIONAL DECLARATION OF POLICY

Pub. L. 103–413, title II, §203, Oct. 25, 1994, 108 Stat. 4271 , provided that: "It is the policy of this title [enacting this subchapter] to permanently establish and implement tribal self-governance-

"(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

"(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

"(3) to coexist with the provisions of the Indian Self-Determination Act [title I of Pub. L. 93-638, see Short Title note set out under section 5301 of this title] relating to the provision of Indian services by designated Federal agencies;

"(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

"(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

"(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy."