

Public Law 102-416
102d Congress

An Act

To restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes.

Oct. 14, 1992
[H.R. 2144]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Advisory
Council on
California
Indian Policy
Act of 1992.
25 USC 651 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advisory Council on California Indian Policy Act of 1992".

SEC. 2. FINDINGS.

25 USC 651 note.

The Congress has reviewed the social, economic, and political circumstances of California Indians and of governmental policies and programs affecting California Indians and finds that—

(1) the Congress has recognized a special government-to-government relationship with Indian tribes in the United States;

(2) due to the unique historical circumstances of the Indians of California, Federal law and policies have often dealt specifically with California Indians;

(3) there is an urgent need to clarify the eligibility of unrecognized and terminated California Indian tribal groups to be federally acknowledged as Indian tribes with all the rights and powers attendant to that status;

(4) there is among California Indians a continuing social and economic crisis, characterized by, among other things, alcohol and substance abuse, critical health problems, family violence and child abuse, lack of educational and employment opportunities, and significant barriers to tribal economic development;

(5) these conditions exist even though public policies and programs adopted by the Federal Government have been intended to improve the conditions of California Indians; and

(6) California Indian tribes and tribal organizations have expressed a need for a review of the public policies and programs affecting California Indians and to make such policies and programs more effective in accomplishing Federal policy objectives.

SEC. 3. DEFINITIONS.

25 USC 651 note.

For purposes of this Act—

(1) The term "California Indian tribe" means any federally recognized or unacknowledged Indian tribe located in the State of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(4) The term "federally recognized Indian tribe" means any Indian tribe, band, group, or community that—

(A) has been federally recognized or acknowledged by the United States Government through an Act of Congress, a Federal judicial decision, or an administrative decision by the Secretary pursuant to part 83 of title 25, Code of Federal Regulations;

(B) was terminated by an Act of Congress and has been restored through an Act of Congress, a Federal judicial decision, an administrative determination or action by the Secretary; or

(C) is included, as of the date of the enactment of this Act, on the list of federally recognized tribes maintained by the Secretary.

(5) The term "unacknowledged Indian tribe" means any Indian tribe, band, group, or community that is not now federally acknowledged by the United States Government and has not been terminated by an Act of Congress.

(6) The term "terminated Indian tribe" means any Indian tribe, band, or community that has been terminated by an Act of Congress and has not been restored through an Act of Congress, a Federal judicial decision, or an administrative determination or action by the Secretary.

(7) The term "Council" means the Advisory Council on California Indian Policy established pursuant to section 4.

25 USC 651 note. **SEC. 4. ESTABLISHMENT OF ADVISORY COUNCIL.**

(a) **ESTABLISHMENT.**—There is hereby established the Advisory Council on California Indian Policy.

(b) **MEMBERS.**—The Council shall be composed of 18 members who, other than the members provided for by paragraph (8), shall be appointed by the Secretary not later than 90 days after the date of the enactment of this Act as follows:

(1) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(2) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(3) Three tribal government representatives (or their designees) from the federally recognized Indian tribes located within the central California Agency area of the Bureau, including all field and subagencies.

(4) Three tribal government representatives (or their designees) from the unacknowledged Indian tribes located in the central California Agency area of the Bureau, including all field and subagencies.

(5) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(6) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(7) Two tribal government representatives (or their designees) from the terminated Indian tribes located within the northern, central, or southern California Agency areas of the Bureau, including all field and subagencies.

(8) The Area Director of the California Area Office of the Bureau and the Area Director of the California Area Office of the Indian Health Service who shall serve ex officio and as nonvoting members of the Council.

(c) **RECOMMENDATIONS FROM CALIFORNIA INDIAN TRIBES.**—In making appointments to the Council under subsection (b), the Secretary shall ensure that the California Indian tribes have been afforded a full and fair opportunity to select by consensus, in accordance with procedures developed by the California Indian tribes, representatives they will recommend to the Secretary for appointment to the Council, consult with the California Indian tribes; and make appointments to the Council from among those recommended or nominated by California Indian tribes.

(d) **INITIAL MEETING.**—The Council shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Council have been appointed.

(e) **VACANCY.**—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(f) **QUORUM.**—Ten voting members shall constitute a quorum for the transaction of business, but a smaller number, as determined by the Council, may conduct hearings.

(g) **CHAIRPERSON; VICE CHAIRPERSON.**—The Council shall select a Chairperson, a Vice Chairperson, and such other officers as it deems necessary.

(h) **COMPENSATION.**—No compensation shall be paid to a member of the Council solely for his services on the Council. All members of the Council shall be reimbursed for travel expenses, including per diem in lieu of subsistence, during the performance of duties of the Council while away from home or their regular place of business in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

SEC. 5. DUTIES OF THE COUNCIL.

25 USC 651 note.

The Council shall—

(1) develop a comprehensive list of California Indian tribes and the descendency list for each tribe based upon documents held by the Bureau including, but not limited to those specified in section 6;

(2) identify the special problems confronting unacknowledged and terminated Indian tribes and propose reasonable mechanisms to provide for the orderly and fair consideration of requests by such tribes for Federal acknowledgement;

(3) conduct a comprehensive study of—

(A) the social, economic, and political status of California Indians;

(B) the effectiveness of those policies and programs of the United States that affect California Indians; and

(C) the services and facilities being provided to California Indian tribes, compared to those being provided to Indian tribes nationwide;

(4) conduct public hearings on the subjects of such study;

(5) develop recommendations for specific actions that—

(A) will help to ensure that California Indians have life opportunities comparable to other American Indians of federally recognized tribes, while respecting their unique traditions, cultures, and special status as California Indians;

(B) will address, among other things, the needs of California Indians for economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems; and

(C) will respect the important cultural differences which characterize California Indians and California Indian tribes and tribal groups;

Reports.

(6) submit, by no later than the date that is 18 months after the date of the first meeting of the Council, a report on the study conducted under paragraph (3) together with the proposals and recommendations developed under paragraphs (2) and (5) and such other information obtained pursuant to this section as the Council deems relevant, to the 3Congress, the Secretary, and the Secretary of Health and Human Services; and

Public information.

(7) make such report available to California Indian tribes, tribal organizations, and the public.

25 USC 651 note. **SEC. 6. ACCESS TO DESCENDENCY LISTS.**

The Secretary shall provide to the Council, not later than 30 days after the first meeting of the Council, the following documents:

(1) The rolls of California Indians developed in 1972 pursuant to the distribution of the Indian Claims Commission award of July 20, 1964, including but not limited to dockets Nos. 31, 37, 80, 80-D, and 347, and authorized by the Act of September 21, 1968 (82 Stat. 860).

(2) The rolls of California Indians developed in 1955 pursuant to the distribution of the 1944 United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602), as amended by the Act of June 30, 1948 (62 Stat. 1166), the Act of May 24, 1950 (64 Stat. 189), and the Act of June 8, 1954 (68 Stat. 240).

(3) The rolls of California Indians developed in 1933 pursuant to the distribution of the United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602).

(4) The lists and rolls of California Indians registered as Indian by the Bureau of Indian Affairs developed pursuant to section 19 of the Act of June 18, 1934 (48 Stat. 984).

(5) The lists and rolls of California Indians developed pursuant to the Acts of Congress terminating reservations and rancherias, including distributee rolls developed for the distribution of assets under the Act of August 18, 1958 (72 Stat. 619), the Act of July 10, 1957 (71 Stat. 283), and the Act of March 29, 1956 (70 Stat. 58).

(6) Any other rolls developed for Indian Claims Commission judgment awards covering any California land areas.

(7) Upon the consent of each tribe, the current tribal membership rolls of California Indian tribes, except that, nothing in this paragraph or any other provision of this Act shall

be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by consent of such tribal government to the Council under this Act.

SEC. 7. POWERS OF THE COUNCIL.

25 USC 651 note.

(a) STAFF.—(1) Subject to such rules and regulations as may be adopted by the Council, the Chairperson of the Council shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to the number, classification, and General Schedule rates) of an Executive Director of the Council and of such other personnel as the Council deems advisable to assist in the performance of the duties of the Council, at rates not to exceed a rate equal to the maximum rate of basic pay payable under section 5376 of such title for a position classified above GS-15 pursuant to section 5108 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title for a position classified above GS-15 pursuant to section 5108 of such title.

(2) Service of an individual as a member of the Council shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Council, or as an employee of the Council, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(b) ACTIONS.—The Council may hold such hearings and sit and act at such times, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, make such expenditures, and take such other actions, as the Council may deem advisable provided, however, that no such action, contracting arrangement or expenditure be committed beyond the duration of the life of the Council pursuant to section 8. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

(c) TASK FORCES.—The Council is authorized to establish task forces which include individuals who are not members of the Council only for the purpose of gathering information on specific subjects identified by the Council as requiring the knowledge and expertise of such individuals. Any task force established by the Council shall be chaired by a voting member of the Council who shall preside at any task force hearing authorized by the Council. No compensation (other than compensation and expenses authorized

under section 4(h) to a member of the Council) may be paid to a member of a task force solely for his service on the task force, but the Council may authorize the reimbursement of members of a task force for travel expenses, including per diem in lieu of subsistence, during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Council shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Council staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Council.

(d) **FUNDING.**—The Council is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of California, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this title.

(e) **FEDERAL ADVISORY COMMITTEE ACT.**—The provisions of the Federal Advisory Committee Act shall not apply to the Council.

(f) **COOPERATION OF FEDERAL AGENCIES.**—(1) The Council is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Council may require to carry out the purposes of this title, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics, directly to the Council, upon request made by the Chairperson of the Council.

(2) Upon the request of the Council, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Council and detail any of the personnel of such department, agency, or instrumentality to the Council, on a nonreimbursable basis, to assist the Council in carrying out its duties under this title.

(3) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(g) **NO INFRINGEMENT ON TRIBAL AUTHORITY.**—The creation of the Council is not intended to, nor shall it, restrict, preempt or infringe the right of any California Indian tribe to interact or communicate with Congress or other branches of the Federal Government on a government-to-government basis.

25 USC 651 note. **SEC. 8. TERMINATION.**

The Council shall cease to exist on the date that is 180 days after the date on which the Council submits the report required under section 5(6). All records, documents, and materials of the Council shall be transferred to the National Archives and Records Administration on the date on which the Council ceases to exist.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

25 USC 651 note.

There are authorized to be appropriated \$700,000 to carry out the provisions of this Act. Such sums shall remain available, without fiscal year limitation, until expended.

Amend the title so as to read: "An Act to establish the Advisory Council on California Indian Policy, and for other purposes."

Approved October 14, 1992.

LEGISLATIVE HISTORY—H.R. 2144:**SENATE REPORTS:** No. 102-441 (Select Comm. on Indian Affairs).**CONGRESSIONAL RECORD,** Vol. 138 (1992):

Aug. 11, 12, considered and passed House.

Oct. 2, considered and passed Senate, amended.

Oct. 3, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 14, Presidential statement.