

Public Law 101-301
101st Congress

An Act

May 24, 1990
[S. 1846]

To make miscellaneous amendments to Indian laws, and for other purposes.

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

SECTION 1. (a) Public Law 100-581 is amended—

102 Stat. 2939.

(1) by striking out “shall take effect upon enactment of this Act” in section 203 and inserting in lieu thereof “shall take effect upon enactment of this Act if the plan has not taken effect before the enactment of this Act”;

25 USC 450m-1.

(2) by striking out “section 201” in subsections (a) and (c) of section 212 and inserting in lieu thereof “section 206”;

25 USC 608.

(3) by striking out section 213;

102 Stat. 2946.

(4) by striking out “section 3” in section 702(a) and inserting in lieu thereof “section 703”;

102 Stat. 2948.

(5) by striking out “section 602” in the last sentence of paragraph (1) of section 703(b) and inserting in lieu thereof “section 702”; and

(6) by striking out “section 602” in section 703(c) and inserting in lieu thereof “section 702”.

(b) Subsection (c) of the first section of the Act of July 28, 1955 (69 Stat. 392; 25 U.S.C. 608(c)) is amended to read as follows:

Real property.

“(c) Lands and interests in lands acquired by the Secretary pursuant to subsection (a)(1) and for the benefit of the Yakima Indian Nation pursuant to section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465) shall be held in trust by the United States for the benefit of the Yakima Indian Nation.”

SEC. 2. (a) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.) is amended—

(1) by inserting a comma after “688” in section 4(e) (25 U.S.C. 450b(e)),

(2) by striking out “the appropriate the Secretary” in section 4(j) and inserting in lieu thereof “the appropriate Secretary”,

(3) by striking out “pursuant to this Act” each place it appears in section 4(j) and inserting in lieu thereof “under title I of this Act”,

(4) by striking out “the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.),” in section 5(a)(2) (25 U.S.C. 450c(a)(2)) and inserting in lieu thereof “chapter 75 of title 31, United States Code”,

(5) by striking out “the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224; 92 Stat. 3)” in section 9 (25 U.S.C. 450e-1) and inserting in lieu thereof “chapter 63 of title 31, United States Code”,

(6) by striking out “an Indian appointed” in section 104(m) (25 U.S.C. 450i(m)) and inserting in lieu thereof “an Indian (as defined in section 19 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 479)) appointed (except temporary appointments)”.

(7) by striking out "sub-contracts in such cases where the tribal contractor has sub-contracted the activity" in section 105(a) (25 U.S.C. 450j(a)) and inserting in lieu thereof "sub-contracts of such a construction contract",

(8) by striking out "the Single Agency Audit Act of 1984 (chapter 75 of title 31, United States Code)" in section 106(f) (25 U.S.C. 450j-1(f)) and inserting in lieu thereof "chapter 75 of title 31, United States Code",

(9) by striking out "agency personnel" in section 106(i) (25 U.S.C. 450j-1(i)) and inserting in lieu thereof "agency personnel (area personnel in the Navajo Area and in the case of Indian tribes not served by an agency)", and

(10) by striking out "providing notice and hearing" in section 109 (25 U.S.C. 450m) and inserting in lieu thereof "providing notice and a hearing".

(b) Subsection (b) of section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1(b)) is amended to read as follows:

"(b) The Secretary shall not revise or amend a self-determination contract with a tribal organization without the tribal organization's consent."

(c) Subparagraph (C) of section 3371(2) of title 5, United States Code, is amended by striking out "section 4(m)" and inserting in lieu thereof "section 4".

SEC. 3. (a) Notwithstanding section 18 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 478), sections 2 and 17 of that Act (25 U.S.C. 462 and 477) shall apply to—

(1) all Indian tribes,

(2) all lands held in trust by the United States for Indians, and

(3) all lands owned by Indians that are subject to a restriction imposed by the United States on alienation of the rights of the Indians in the lands.

(b) The proviso of section 13 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 473) is amended by striking out "sections 2, 4," and inserting in lieu thereof "sections 4,".

(c) Section 17 of the Act of June 18, 1934 (25 U.S.C. 477), is amended—

(1) by striking out "by at least one-third of the adult Indians," and inserting in lieu thereof "by any tribe,";

(2) by striking out "at a special election by a majority vote of the adult Indians living on the reservation" and inserting in lieu thereof "by the governing body of such tribe";

(3) by striking out "ten years any of the land" and inserting in lieu thereof "twenty-five years any trust or restricted lands".

SEC. 4. Subsection (c) of section 1 of Public Law 100-425 is amended by striking out "NE $\frac{1}{4}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ " each place it appears and inserting in lieu thereof "NE $\frac{1}{4}$,E $\frac{1}{2}$ NW $\frac{1}{4}$ ".

SEC. 5. (a) Paragraph (5) of section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended by striking out "104(a)" and inserting in lieu thereof "103(a)".

(b) Subsection (a) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508) is amended by striking out "105" and inserting in lieu thereof "104".

(c) Subparagraph (C) of section 5314(e)(1) of the Indian Education Act of 1988 (25 U.S.C. 2604(e)(1)(C)) is amended to read as follows:

25 USC 478-1.

Real property.

25 USC 713f note.

State and local
governments.
Children and
youth.

“(C) No local educational agency may be held liable to the United States, or be otherwise penalized, by reason of the findings of any audit that relate to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, a child’s eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act.”

(d)(1) Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended—

(A) by striking out “0.133 percent” in paragraph (3)(A) and inserting in lieu thereof “0.2 percent”,

(B) by striking out “\$4,000” in paragraph (3)(C)(i) and inserting in lieu thereof “\$5,000”,

(C) by striking out clause (ii) of paragraph (3)(C) and inserting in lieu thereof the following:

“(ii) the lesser of—

“(I) \$15,000, or

“(II) 1 percent of such allotted funds.”

(D) by striking out paragraph (2), and

(E) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(2) Section 5324(c)(4)(B) of the Indian Education Act of 1988 (25 U.S.C. 2624(c)(4)(B)) is amended by striking out “section 1128(c)(4)(A)(i)” and inserting in lieu thereof “section 1128(c)(3)(A)(i)”.

25 USC 2001
note.

(e)(1) Subsection (b) of section 5504 of Public Law 100-297 (25 U.S.C. 2001, note) is amended—

(A) by inserting “the Executive Director of the National Advisory Council on Indian Education and of” after “which shall consist of” in paragraph (1),

(B) by inserting “(but not the Executive Director of the National Advisory Council on Indian Education)” after “Task Force” in paragraph (3), and

(C) by adding at the end thereof the following new paragraph:

“(7) Sums appropriated under the authority of section 5508 shall not be used to pay the salaries of employees of the Department of the Interior or the Department of Education who are assigned as staff to the Task Force; but the salaries of such employees shall be paid out of funds appropriated to the employing Department under the authority of other provisions of law.”

25 USC 2001
note.

(2) Subsection (a) of section 5506 of Public Law 100-297 is amended—

(A) by striking out “and” at the end of paragraph (5),

(B) by striking out the period at the end of paragraph (6) and inserting in lieu thereof “; and”, and

(C) by adding at the end thereof the following new paragraph:

“(7) the chairman of the National Advisory Council on Indian Education.”

25 USC 2001
note.

(3) Section 5508 of Public Law 100-297 is amended by striking out “1988, 1989, and 1990” and inserting in lieu thereof “1990, 1991, and 1992”.

(f) Subsection (d) of section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a(d)) is amended by adding at the end thereof the following new paragraph:

“(4) In applying this section and section 106 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

“(A) receives funds under this section for administrative costs incurred in operating a contract school or a school operated under the Tribally Controlled Schools Act of 1988, and

“(B) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs, and of the indirect costs, that are associated with operating the contract school, a school operated under the Tribally Controlled Schools Act of 1988, and all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.”.

(g)(1) Paragraph (2) of subsection 5205(a) of the Tribally controlled Schools Act of 1988 (25 U.S.C. 2504(a)) is amended to read as follows:

“(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination Act (25 U.S.C. 450j), or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to all those referenced under section 1126(d) of the Education Amendments of 1978, or any other law), and”.

(2) Subsection (b) of section 5205 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)) is amended by adding the following new paragraph:

“(4) Notwithstanding the provision of paragraph 5204(a)(2) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(a)(2)), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant under such paragraph (a)(2), the grantee shall maintain a separate account for such funds and shall, at the end of the period designated for the work covered by the funds received, render a separate accounting of the work done and the funds used to the Secretary. Funds received from these accounts may only be used for the purposes for which they were appropriated and for the work encompassed by the application or submission under which they were received. Where the appropriations measure or the application submission does not stipulate a period for the work covered by the funds so designated, the Secretary and the grantee shall consult and determine such a period prior to the transfer of funds: *Provided*, That such period may be extended upon mutual agreement.”.

SEC. 6. Notwithstanding any other provision of law, the term “class II gaming” includes, for purposes of applying Public Law 100-497 with respect to any Indian tribe located in the State of Wisconsin or the State of Montana, during the 1-year period beginning on the date of enactment of this Act, any gaming described in section 4(7)(B)(ii) of Public Law 100-497 that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated made a request, by no later than November 16, 1988, to the State in which such gaming is operated to negotiate a Tribal-State compact under section 11(d)(3) of Public Law 100-497.

25 USC 2703
note.

SEC. 7. Section 9 of the Lac Vieux Desert Band of Lake Superior Chippewa Indians Act (25 U.S.C. 1300h-7) is amended—

(1) by striking out “Notwithstanding” and inserting in lieu thereof “(a) Notwithstanding”, and

(2) by adding at the end thereof the following new subsection:

“(b) The Secretary shall accept as voters eligible to vote on any amendments to the constitution of the Keweenaw Bay Indian Community—

“(1) all those persons who were deemed eligible by the Keweenaw Bay Indian Community to vote in the most recent election for the Tribal Council, and

“(2) any other person certified by the Keweenaw Bay Indian Community Tribal Council as—

“(A) a member of the Keweenaw Bay Indian Community, and

“(B) eligible to vote in any election for the Tribal Council.”.

SEC. 8. Section 3(l) of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended—

(1) by inserting “(not including laws relating to spousal allowance and maintenance payments)” immediately after “inheritance laws of Minnesota in effect on March 26, 1986”, and

(2) by adding at the end of section 7 the following new subsection:

“(e)(1) After publication of the second list under subsection (c), the Secretary may, at any time, add allotments or interests to that second list if the Secretary determines that the additional allotment or interest falls within the provisions of section 5(c) or subsection (a) or (b) of section 4.

“(2) The Secretary shall publish in the Federal Register notice of any additions made under paragraph (1) to the second list published under subsection (c).

“(3) Any determination made by the Secretary to add an allotment or interest under paragraph (1) to the second list published under subsection (c) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.”.

SEC. 9. The Hoopa-Yurok Settlement Act (25 U.S.C. 1300i, et seq.) is amended—

(1) by adding at the end of paragraph (2) of section (5)(a) the following new sentence: “Children under age 10 on the date they applied for the Settlement Roll who have lived all their lives on the Joint Reservation or the Hoopa Valley or Yurok Reservations, and who otherwise meet the requirements of this section except they lack 10 years of Reservation residence, shall be included on the Settlement Roll.”,

(2) by adding at the end of subsection (d) of section 5 the following new paragraph:

“(4) For the sole purpose of preparing the Settlement Roll under this section, the Yurok Transition Team and the Hoopa Valley Business Council may review applications, make recommendations which the Secretary shall accept unless conflict-

Federal
Register,
publication.

Courts, U.S.
Minnesota.

25 USC 1300i-4.

ing or erroneous, and may appeal the Secretary's decisions concerning the Settlement Roll. Full disclosure of relevant records shall be made to the Team and to the Council notwithstanding any other provision of law."

Records.

(3) by striking out "counseling," in section (9)(a)(3) and inserting in lieu thereof "counseling and assistance, shall", and

25 USC 1300i-8.

(4) by adding at the end of subsection (a) of section 14 the following new sentence: "The Yurok Transition Team, or any individual thereon, shall not be named as a defendant or otherwise joined in any suit in which a claim is made arising out of this subsection."

25 USC 1300i-11.

SEC. 10. The Secretary of the Interior is authorized to retain collections from the public in payment for goods and services provided by the Bureau of Indian Affairs. Such collections shall be credited to the appropriation account against which obligations were incurred in providing such goods and services.

25 USC 14b.

SEC. 11. There is authorized to be appropriated to the Secretary of Health and Human Services, Administration for Native Americans, \$1,000,000 for the purpose of conducting a feasibility study for the establishment of a National Center for Native American Studies and Policy Development.

Appropriation authorization.

SEC. 12. (a) The following proviso in title I of the Act of June 24, 1967 (81 Stat. 59), under the heading "Office of the Solicitor", is repealed: "Provided, That hereafter hearing officers appointed for Indian probate work need not be appointed pursuant to the Administrative Procedures Act (60 Stat. 237), as amended".

25 USC 372-1.

(b) Hearing officers heretofore appointed to preside over Indian probate proceedings pursuant to the proviso repealed by subsection (a), having met the qualifications required for appointment pursuant to section 3105 of title 5, United States Code, shall be deemed to have been appointed pursuant to that section.

25 USC 372-1 note.

(c) The first sentence of section 1 of the Act of June 25, 1910 (36 Stat. 855; 25 U.S.C. 372), is amended by deleting "his decision thereon shall be final and conclusive" and inserting in lieu thereof "his decisions shall be subject to judicial review to the same extent as determinations rendered under section 2 of this Act".

SEC. 13. Notwithstanding the Act of March 7, 1928 (45 Stat. 210-211), and the Act of August 7, 1946 (60 Stat. 895-896), the Secretary

of the Interior is authorized to allocate not to exceed \$2,000,000 from power revenues available to the San Carlos Irrigation Project to pay for the operation and maintenance charges associated with the delivery of 30,000 acre-feet of water from the Central Arizona Project to the San Carlos Irrigation Project.

Approved May 24, 1990.

LEGISLATIVE HISTORY—S. 1846:

SENATE REPORTS: No. 101-226 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 136 (1990):

May 2, considered and passed Senate.

May 10, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

May 24, Presidential statement.