

SECTION 1. Section 12012.3 is added to the Government Code, to read:

12012.3. (a) There is within the office of the Governor, the Office of the Governor's Tribal Advisor, which is to be headed by the Governor's Tribal Advisor.

(b) The Governor's Tribal Advisor will be appointed by, and serve at the pleasure of, the Governor.

SEC. 2. Section 12012.95 of the Government Code is amended and renumbered to read:

12012.95.

*12019.35 (a) There is ~~hereby created~~ in the State Treasury the Tribal Nation Grant Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. The fund reflects a vision of facilitating ~~the development of~~ tribal ~~institutions~~ *self-government* and improving the quality of life of tribal people throughout the state.*

*(b) The Tribal Nation Grant Fund ~~shall~~will be administered by the California Gambling Control Commission, *which acts as the limited trustee, not subject to the duties and liabilities contained in the Probate Code or common law or equitable principles, as provided under the terms of applicable tribal-state gaming compacts.* Moneys in the fund ~~shall~~will be available, upon appropriation by the Legislature, for the discretionary distribution of funds to ~~nongaming~~*non-gaming* tribes and ~~limited~~*limited-gaming* tribes upon application of those *federally recognized California* tribes for purposes related to effective self-governance, self-determined community, and economic development.*

(c) The commission will only deposit moneys into the fund if there are sufficient funds in the Indian Gaming Revenue Sharing Trust Fund to distribute the quarterly payments described in Section 12012.90 of the Government Code.

SEC. 3. Article 2.3 (commencing with Section 12019.30) is added to Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 2.3. Tribal Nation Grant Fund

12019.30. Unless the context requires otherwise, for purposes of this article, the following terms have the following meanings:

- (a) "Advisor" means the Governor's Tribal Advisor.*
- (b) "Bureau" means the Bureau of Gambling Control within the California Department of Justice.*
- (c) "Commission" means the California Gambling Control Commission.*
- (d) "Eligible Tribe" means non-gaming or limited-gaming federally recognized tribes in California as defined in applicable tribal-state gaming compacts.*
- (e) "Fund" means the Tribal Nation Grant Fund.*
- (f) "Panel" means the Tribal Nation Grant Panel established by Section 12019.60.*

12019.40. (a) An eligible tribe may submit an application to the commission for a grant from the fund. Two or more eligible tribes may submit a joint application to the commission for a grant from the fund. An eligible tribe, or tribes, may only request a grant from the fund by submitting an application on a form approved by the panel and provided by the commission.

(b) A grant may be used to fund a specifically described purpose or project related to effective self-governance, self-determined community, and economic development. Eligible purposes or projects may include, but are not limited to, investment in public health, information technology, renewable energy, water conservation, cultural preservation or awareness, educational programs, scholarships, investments in tribal schools and colleges, development of curricula in a tribal language or culture, housing, support to or for compliance with the Indian Child Welfare Act, vocational training, community development, tribal government institutions, tribal courts, or non-gaming economic diversification.

(c) A grant must not be used to pay a per capita distribution to tribal members or an investment in a purpose or project related to any gaming operation or activity.

12019.45. (a) The advisor and panel, with administrative support from the commission, and in consultation with federally recognized tribes in California, will develop a concise application form for one or more eligible tribes to apply for a grant on a competitive application basis.

(b) The application must include, at a minimum, all of the following:

(1) An identification of each eligible tribe applying for a grant and the names, signature and contact information of the individuals authorized by the tribe's governing body to apply on behalf of each Indian tribe.

(2) A description of the purpose or project for which the grant is intended to be used.

(3) An assessment of the nature and extent of the potential benefits to the applying eligible tribe or tribes from the described purpose or project.

(4) The safeguards in place to ensure that the grant would be applied only to the described purpose or project.

(5) The amount and source of other moneys, or in-kind services or goods, if any, that are available to be additionally applied to the described purpose or project and when those moneys or in-kind services or goods are intended to be applied.

(6) A list of every grant from the fund previously awarded to each eligible tribe applying for the grant and the results achieved as a result of those prior distributions.

(7) A strategy for how the benefits from economic development or on-going projects will be sustainably maintained.

(8) A signed acceptance of the terms described in Section 12019.75 from an authorized representative of the eligible tribe's governing body, or where two or more eligible tribes applying, the tribes' governing bodies.

(9) Any other information the advisor and panel deems valuable to evaluating the merits of awarding a grant.

12019.50. The staff of the commission will provide all of the following services:

(a) Assistance to the individuals applying for a grant on behalf of an eligible tribe or tribes in understanding the application process. This assistance must not include completing an application for a grant on behalf of an eligible tribe or tribes.

(b) All administrative support necessary to implement this article, including,

but not limited to, administrative services to the advisor and the panel, as well as allocating and disbursing grant funds, as specified by the panel, to one or more eligible tribes. Pursuant to applicable tribal-state gaming compacts, the commission or its staff will not exercise discretion or control over the approval or disapproval of applications or the recipient tribes' use of fund moneys.

12019.55. Applications and other associated or supporting documents, records and information, including records of audits, in the possession of the commission, advisor, panel, or other state entities are exempt from disclosure under the California Public Records Act. The advisor and panel, with administrative support from the commission, may request and compile information from those eligible tribes that receive grant funds, including information on the nature of the projects awarded, the identities of recipient eligible tribes, and other summary data to publish in the annual report required by Section 12019.80.

12019.60. (a) There is in state government the Tribal Nation Grant Panel.

(b) (1) The panel will be comprised of five voting members, and two alternates. The initial panel members will be appointed by the advisor for a term of one year. Each of the initial panel members will be an elected tribal leader from a federally recognized tribe in California. The advisor must, in appointing members to the panel, endeavor to select members that represent the diversity of tribes within California. The advisor may extend the terms of the initial panel members for up to one year or appoint replacements as required but in no case may any panel member, serving by an appointment under the initial process, continue to serve beyond January 1, 2020. The panel and advisor, in consultation with federally recognized tribes in California, will develop and implement a process for selection of panel members beyond the initial appointments. The panel and advisor, in consultation with federally recognized tribes in California, may subsequently amend or refine this process as required to fairly and equitably achieve the purposes for which the fund was created.

(2) The advisor will serve as a non-voting ex officio member of the panel. The advisor will preside over the meetings of the panel and ensure the appropriate procedures are followed for the business of the panel. The advisor will advise the members of the panel on the process of applying for a grant, as needed, and will ensure that the procedure used by the panel to award grants best serves all eligible tribes.

(3) Members of the panel appointed pursuant to paragraph (1) may be compensated \$100 per diem for each day a meeting is held and actual, reasonable travel expenses to attend a meeting.

12019.65. (a) The panel must meet to consider whether to award grants at least annually and will consider at a meeting all completed applications for grants submitted by a deadline established by the panel.

(b) The panel may, to increase the likelihood that all eligible tribes are able to benefit from the fund through a competitive application process consistent with applicable tribal-state gaming compact requirements, set aside some portion of available grant funds to be distributed to eligible tribes that submit applications and, after consideration by the panel, are determined to meet the standards or criteria established by the panel. The panel may award a grant in an amount less than requested in an application.

(c) A majority of the membership of the panel is a quorum of the panel and is required for any action, duty or function of the panel, provided however, that the panel must only award a grant or a set aside by a vote of three or more voting members of the panel.

(d) The panel may, if it determines that an eligible tribe who has received grant funds, has used grant funds in a manner inconsistent with the purposes set forth in the application or the terms and conditions of the grant award, decline to award future grants from the fund to that eligible tribe for a specified period of time the panel, in its sole discretion, deems appropriate.

(e) The advisor and panel, with administrative support from the commission, and in consultation with federally recognized tribes in California, will develop an appropriate process and mechanism to reasonably ensure grant funds are used in a manner consistent with this article, the applicable tribal-state gaming compacts, the application and grant award, and any other relevant restrictions or limitations. The process should be respectful and efficient.

(f) The advisor and panel, with administrative support from the commission,

and in consultation with federally recognized tribes in California, may develop evaluation criteria and establish a process for the use of technical experts with relevant experience to review and score applications based on the pertinent criteria. The technical experts may be compensated \$100 per diem for each day they spend reviewing and scoring applications.

(g) The advisor and panel, with administrative support from the commission, and in consultation with federally recognized tribes in California, will develop an application form, grant timelines and procedures, provisions governing panel meetings that includes a process for evaluating and resolving potential conflicts of interest involving panel members, the process for how and when audits are conducted, and any other processes that may be required to award grants from the fund. A panel member may voluntarily recuse themselves from a particular decision.

(b) In order to respect tribal sovereignty and the unique composition of the panel, any standard, criterion, form, procedure, determination, rule, notice or guideline that is established pursuant to this article will be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

12019.70. The panel may, in its discretion and based on, among other things the nature and purpose of the application, require all funds awarded by a grant to be encumbered within a specified period of time from the date that the panel awarded the grant. The panel may, in its discretion and based on, among other things, the nature and purpose of the application, require that any funds not expended within a specified period of time from the date that the panel awarded the grant must be returned to the fund. The panel may, in its discretion, amend or extend the deadlines established for any particular project.

12019.75. By applying for a grant, each eligible tribe, and the individuals applying on behalf of each eligible tribe must agree to all of the following:

(a) The terms and conditions of the grant award including the limitations set forth in this section and article.

(b) To cooperate with the panel, advisor, commission, bureau or another state entity designated by the Governor to ensure that grant funds are used in a manner consistent with the assertions in the application and any conditional or limitations in the award.

(c) To provide access to the panel, advisor, commission, bureau or another state entity designated by the Governor to all documents relevant to the use of the grant funds to allow a comprehensive audit, by the bureau or another state entity designated by the Governor, to ensure the funds are used for the purposes set forth in the application, the terms and conditions of the grant award, and applicable tribal-state gaming compacts.

(d) To return to the fund any amount of a grant award not encumbered or expended in compliance with Section 12019.70. Any returned funds will be provided to the commission for deposit into the fund.

12019.80. On or before January 1, 2019, and annually thereafter, the commission will prepare and post on its Internet Web site a report detailing the status of grant awards approved from the fund.

12019.85. The activities authorized and required by this article, including, but not limited to, the administrative and procedural support services provided by the commission, its staff, and the advisor; costs and compensation of members of the panel; and, costs of audits, are regulatory costs in connection with the implementation and administration of responsibilities imposed by tribal-state gaming compacts, and will be funded by moneys in the Indian Gaming Special Distribution Fund, and must not be funded from the Indian Gaming Revenue Sharing Trust Fund or the fund.