



LPRO: Legislative Policy and Research Office

# TRIBAL GOVERNMENTS IN OREGON

## BACKGROUND BRIEF

The federal government recognizes 567 American Indian and Alaska Native tribes and villages in the United States, nine of which are in Oregon. The U.S. Constitution contains a number of provisions that outline the federal government's relations with Indian tribes. The Treaty Clause, the Indian Commerce Clause, numerous federal statutes, and court decisions provide support for the governmental status of Indian tribes and the trust relationship between the U.S. government and the "domestic, dependent nations."

***Sovereignty:*** Indian tribes existed as sovereign governments before European settlers arrived in North America. Treaties were signed with European nations and later the U.S. government guaranteed their continued recognition and acknowledgment as sovereign. In the past, some state governments have resisted classifying tribes as sovereign governmental entities. The U.S. Supreme Court has repeatedly recognized tribal sovereignty in court decisions for more than 160 years.

### TRIBAL GOVERNMENT: LEGAL STATUS AND DEFINITIONS

***Federal Recognition:*** Federally recognized tribes are those tribes and groups that have a special, legal relationship with the U.S. government. This relationship is treated as a government-to-government relationship. In addition, federally recognized tribes or nations are considered self-governing, sovereign nations by Congress. Each recognized tribe has the right to shape its own government, determine membership, administer justice, raise taxes, establish businesses and exclude individuals from reservations.

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***Reservations:*** Indian reservations are lands reserved for a tribe by the federal government as permanent tribal homelands. These lands were reserved when the tribes relinquished other land areas to the U.S. through treaties, Congressional Acts, Executive Orders or administrative acts. Much of the 56 million acres Reservations may or may not be on trust land. Currently,

there are approximately 275 Indian land areas in the U.S. administered as Indian reservations. States with reservations have limited powers over such lands as provided by federal law. Each reservation has a local governing authority that is the tribal government.

***Trust Lands:*** Fifty-six million acres of land are held in trust by the U.S. for the use or benefit



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of American Indian tribes. Much of the trust lands are located in or near reservations and the tribes possess the authority to purchase land and to petition the federal government to hold it in trust, which protects the land from encroachment and seizure. Acquisition of land by a tribe for housing and economic development is considered a high priority by the federal government.

**Indian Country:** Court decisions define Indian country as reservation and trust land in the lower 48 states.

**Ceded Lands:** During the treaty-making period, Indian tribes gave (or ceded) millions of acres of land to the U.S. government. In Oregon, the Confederated Tribes of the Warm Springs Indian Reservation gave 10 million acres, 6 million in the case of the Confederated Tribes of the Umatilla Indian Reservation, and 20 million in the case of the Klamath Tribes, in exchange for a guaranteed area (a reservation) where the tribes could continue to live and govern their members. The Supreme Court has ruled (along with other courts) that certain Oregon tribes retain the right (often called “reserved rights”) to hunt, fish, gather roots and berries, and co-manage the cultural and natural resources in the ceded areas and “usual and accustomed” places.

**Application of Laws:** As U.S. citizens, and as citizens of the state in which they reside, Indians are generally subject to federal, state and local laws. On Indian reservations, however, only federal and tribal laws apply to members of the tribe unless Congress provides otherwise. The Federal Assimilative Crimes Act created law stating that any violation of state criminal law on a reservation is treated as

a federal offense. Most tribes have a tribal court system and facilities to detain tribal members convicted of specific offenses that have been committed within the reservation.

**Taxes:** Similar to state and local governments, tribal governments do not pay taxes. Individual Indians pay federal income tax, with a small exception for some income that is derived from treaty resources. As Oregonians, individual Indians pay state and local taxes. The one exception for paying state income tax is for Indians who live and make their income on a reservation. State property tax does not apply to reservation or trust lands. Tribal property held “in fee” (not the same as “in trust”) is subject to state property tax laws with a limited exemption for property placed in trust.

**Indian Gaming Regulations:** In 1988, Congress enacted the National Indian Gaming Regulatory Act, which permits bingo, pull tabs, lotto, punch boards, tip jars, traditional Indian gaming and certain card games on tribal land. For a gaming center to offer slot machines and other forms of casino-style gaming or card games, a tribal-state gaming compact must exist. In general, gaming that is legal in a particular state is also available to a tribe. The U.S. government recognizes that gaming offers tribes an economic opportunity to generate jobs and revenue to fund tribal governments and social services. Congress established the National Indian Gaming Commission to develop regulations for the Indian gaming industry.



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Currently, Oregon has nine federally recognized Indian tribes:

- Burns Paiute Tribe
- Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
- Coquille Tribe
- Cow Creek Band of Umpqua Tribe of Indians
- Confederated Tribes of the Grand Ronde Community of Oregon
- The Klamath Tribes
- Confederated Tribes of Siletz
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of the Warm Springs Indian Reservation

Fort McDermitt is technically an Oregon tribe; however, its reservation occupies both Oregon and Nevada. The population of the tribe resides in the Nevada portion and maintains its primary relationship with Nevada.

In the 1950s, the U.S. government “terminated” approximately three percent of the country’s Indian population. Termination was the process whereby the government ended the federal trusteeship with the tribes. This termination was an effort to assimilate Indians into mainstream America. Although the intent of this action was emancipation, the net effect to the terminated tribes was cultural,

political and economic damage. Of the 109 tribes and bands terminated, 62 were native to Oregon. During the past thirty years, terminated tribes have actively sought to restore the trust relationship. In 1977, the Confederated Tribes of Siletz won restoration, and other tribes followed. The Confederated Tribes of Warm Springs, the Confederated Tribes of Umatilla and the Burns Paiute were never terminated.

On May 22, 1996, Governor Kitzhaber signed Executive Order 96-30, officially recognizing state-tribal government-to-government relations. In 2001, the legislature passed Senate Bill 770 (ORS 182.162 to 182.168), codifying key elements of the order. These provisions are the legislature’s instructions to state agencies on government-to-government communication and cooperation with Oregon tribes. Only designated representatives of an Oregon tribal government can be a part of the government-to-government process in Oregon.

Indians reside in all 36 Oregon counties. Many members of the nine federally recognized tribes in Oregon live on or near their reservations but they may live off-reservation in Oregon or in another state. According to the Legislative Commission on Indian Services, as of 2016, the total enrolled membership of the nine federally recognized tribal governments in Oregon was 27,867. There are an approximately equal number of Indians who live in Oregon but may be members of tribes in other states or who self-identify as Indian. These individual Indians do not have “governmental status.” Likewise, organizations in Portland or elsewhere in Oregon, which are run by Indians and/or serve Indians, are not tribes and have no



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government status. About 1.6 percent of lands in Oregon, or approximately 897,535 acres, are tribal reservation or trust lands. Only federally recognized Indian tribal governments have tribal lands in Oregon.

In addition to the state-tribal government-to-government relations, Oregon Indians share some common interests and may be a part of non-governmental or joint organizations and associations. For example, to address regional issues, the Columbia River Inter-Tribal Fish Commission represents one tribe in Washington (Yakama), two in Oregon (Warm Springs and Umatilla) and one in Idaho (Nez Perce). To address statewide issues, many inter-tribal organizations developed to deal with such issues as education, health, legal matters, aging, alcoholism and adoption.

Importantly, though, each of the tribal governments in Oregon is separate and distinct. One tribal government cannot speak for another.

Likewise, only duly authorized representatives on a particular issue can represent the view of that specific tribal government.

## LEGISLATIVE COMMISSION ON INDIAN SERVICES

In 1975, Senator Victor Atiyeh sponsored legislation to create the Legislative Commission on Indian Services (LCIS). The LCIS is a 13-member legislative branch advisory body that is charged with improving services to American Indians in Oregon and promoting communications and relations between the State and the nine federally recognized tribes in Oregon. Each of the nine tribal governments nominate their

representatives who are then jointly appointed by the Senate President and Speaker of the House. The Speaker and President also jointly appoint two members each from the House of Representatives and the Senate. The LCIS holds public meetings, trainings and special events throughout the year at the State Capitol and at tribal locations. The Commission has an office in the Capitol, Room 167.

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The website for the [Legislative Commission on Indian Services](#) includes links to the Oregon Directory of American Indian Resources, websites of Oregon tribal governments, the Key Contact Directory for State-Tribal Government-to-Government, as well as other information about state-tribal relations.

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