

MINUTES
Approved by Council
Idaho Council on Indian Affairs
Monday, March 06, 2017
1:30 P.M.
Room WW17
Boise, Idaho

Chairman Senator Jim Guthrie called the meeting to order at 1:34 p.m.; a silent roll call was taken. Council members in attendance: Senator Jim Guthrie; Senator Cherie Buckner-Webb; Representatives Neil Anderson and Paulette Jordan; Pete Katsilometes, Office of the Governor; Lindsey Manning, Shoshone-Paiute Tribes; Darrell Shay, Shoshone-Bannock Tribes; Charlotte Nilson, Coeur d'Alene Tribe; and McCoy Oatman, Nez Perce Tribe. Vice-Chair Gary Aitken, Jr., Kootenai Tribe, participated via conference-phone. Legislative Services Office staff present were: Mike Nugent and Ana Lara.

Other attendees: Joyce Broadsword, Nicole Shackelford, and Michelle Weir, Dept. of Health and Welfare; Johanna Jones, Idaho State Dept. of Education; Patty Sanchez and Randall Brumfield, Office of State Board of Education; Tim Olson, Nez Perce Tribe; Leta Campbell, Coeur d'Alene Tribe; LeeJuan Tyler, Shoshone-Bannock Tribes; and Janet Gallimore, Idaho State Historical Society.

Note: presentations and handouts provided by presenters/speakers are posted on the Idaho Legislature website: www.legislature.idaho.gov; and copies of those items are on file at the Legislative Services Office in the State Capitol.

Chairman Guthrie invited Mr. LeeJuan Tyler to offer the opening prayer. Chairman Guthrie thanked Mr. Tyler, and began his opening remarks. He proceeded to recognize Vice-chair Aitken, Jr., who was participating via conference-phone. Vice-chair Aitken, Jr., welcomed the council members and presenters, and thanked them for their participation in the meeting.

Chairman Guthrie called for approval of the minutes from both February 21, 2014 and December 8, 2015. Senator Buckner-Webb made a motion to approve the February 21, 2014 minutes. Mr. Shay seconded the motion. The motion passed unanimously. Senator Buckner-Webb made a motion to approve the minutes from December 8, 2015. Mr. Oatman seconded the motion. The motion passed unanimously.

Chairman Guthrie invited the council members to provide any updates regarding leadership changes or elections.

Coeur d'Alene Tribe

Ms. Nilson introduced herself as a tribal council member, and explained that Mr. Chief Allen was unable to attend the meeting. She stated that there is a tribal council election scheduled in May.

Shoshone-Bannock Tribes

Mr. Shay introduced himself as the Vice-chairman for the Shoshone-Bannock Tribes, and explained that council member Blaine Edmo, the tribes' Chairman, was unable to attend the meeting. He stated that there is a tribal council election scheduled in May; there are four seats up for election. He then proceeded to introduce some of the tribal council members, as well as some members of their staff.

Shoshone-Paiute Tribes

Mr. Manning stated that there are two council seats up for election.

Kootenai Tribe

Vice-chair Aitken, Jr., stated that there would be tribal council elections in the fall.

Nez Perce Tribe

Mr. Oatman introduced himself as the Vice-chair for the Nez Perce Tribe, and explained that Ms. Miles was not able to attend the meeting. He stated that there would be elections held in April and May.

Chairman Guthrie invited the Office of Performance Evaluations (OPE) to begin their presentation regarding their report on Public Law 280.

State Jurisdiction in Indian Country – Mr. Ryan Langrill and Ms. Hannah Crumrine

Ms. Crumrine, Senior Evaluator for OPE, began the [presentation](#) by introducing the study request. The study request included:

- What state agencies implement Public Law 280;
- Do those agencies provide the same level of service to Indians?;
- Do state agencies receive federal funding for Public Law 280?; and
- What processes have been used by other states to return jurisdiction?

Highlights and additional facts for the presentation include:

- Public Law 280 was passed by Congress in 1953. Before Public Law 280 passed, states had very little involvement in tribal affairs. Public Law 280 mandates that the six states shown on [slide 6](#) assume full criminal and civil jurisdiction over Indians living in Indian country.
- Public Law 280 also allowed all other states the option to assume jurisdiction at their discretion and without consent from the federal government or the tribes.
- No state has received federal funding to implement Public Law 280.
- Idaho is one of six states to assume optional jurisdiction. Idaho assumed partial jurisdiction in 1963 over the seven matters listed on [slide 11](#), and are also found in Section 57-5101, Idaho Code.

Mr. Langrill, Senior Evaluator for OPE, proceeded to speak about jurisdiction in Indian country and what Public Law 280 actually does change.

Highlights and additional facts for the presentation include:

- Jurisdiction differs based on the type of legal proceeding, the Indian status of the parties involved, or the tribal membership of the parties involved. Public Law 280 does affect state jurisdiction, but it does not affect tribal jurisdiction, and in Idaho, does not affect federal jurisdiction.
- Public Law 280 affects civil jurisdiction, but only for lawsuits brought before tribal members.
- The scope of state jurisdiction is not always clear; it is not always clear whether a law is criminal or regulatory.
- Most of Idaho's obligations in Indian country are not tied to Public Law 280.
- Thirteen counties in Idaho intersect with Indian country, and each county has a different approach to implementing its obligations.
- Three main challenges relating to Public Law 280:
 - Gaps in law enforcement;
 - Separate legal systems; and
 - Funding concerns.
- Gaps in law enforcement are attributed to three causes:
 - Lack of federal action;
 - Insufficient jurisdiction; and
 - Coordination challenges.
- OPE recommends that the Legislature consider providing limited state authority to tribal police.
- The second sets of concerns involve the multiple legal systems operating at the same time. The first concern involves access to resources. The second concern involves sentencing limitations.

- OPE recommends that the Legislature consider facilitating the recognition of tribal court orders for involuntary commitment.
- There are funding concerns that include uncompensated local responsibilities for local governments. There is also a concern that Public Law 280 may affect the tribes' access to federal funds.
- OPE recommends that the Legislature consider filling funding gaps for tribes or local governments caused by Public Law 280.

Ms. Crumrine proceeded to speak about retrocession.

- Public Law 280 was amended in 1968 to allow for the return of state jurisdiction to the federal government.
- As far as requesting retrocession:
 - Request must come from the states, not the tribes;
 - Full or partial jurisdiction may be returned;
 - The Secretary of the Interior approves or denies request; and
 - Effective when notice is published in the Federal Register.
- Seven states have retroceded jurisdiction.
- Four factors that the legislature may consider if it decides to pursue retrocession:
 - Transition;
 - Partial jurisdiction;
 - Institutional knowledge; and
 - Tribal self-determination.
- Idaho has two state and tribal forums:
 1. Council on Indian Affairs
 2. Tribal State Court Forum
- OPE recommends the Legislature facilitate intergovernmental relationships with new or existing forums.

Discussion:

Representative Anderson asked what had precipitated the report. Chairman Guthrie explained that he had received requests from the representatives of the Shoshone-Bannock Tribes for more information regarding jurisdictional issues. He then approached the Joint Legislative Oversight Committee (JLOC) and requested an OPE study regarding Public Law 280.

Rep. Anderson asked what the next steps will be now that the study has been completed and presented. Sen. Guthrie opined that it would be unwise for Idaho to proceed with full retrocession on its own. He explained that any retrocession in the seven matters listed in Idaho Code should be done in conjunction with the tribes' approval. He further explained that some tribes may wish to retrocede on some matters, and other tribes may not wish to do so. This study provides a blueprint in the case that retrocession steps wish to be taken.

Mr. Manning asked if a recommendation had been made for a tribal liaison to be formed in the Office of the Governor. Ms. Crumrine responded in the affirmative, and that this recommendation had been included in the OPE Report. Mr. Katsilometes introduced himself as a liaison for the Office of the Governor. He explained that while there is not an official 'tribal liaison' title in the Office of the Governor, the request for one is certainly open for discussion.

Mr. Shay reiterated his tribes' position regarding Public Law 280. He explained that the Shoshone-Bannock Tribes have publicly pushed for the state to retrocede from Public Law 280 several times. He further explained some of the tribal issues that have occurred due to Public Law 280, including the impacts it's had on their federal funding.

Rep. Jordan made a motion to accept the OPE report as given. Senator Buckner-Webb seconded the motion. The motion passed unanimously.

Rep. Jordan suggested making a motion to follow through with the recommendation given in the OPE report to appoint a tribal liaison in the Office of the Governor.

Rep. Jordan voiced her concern that, while each of the five tribes are completely sovereign, each tribe has a different opinion regarding Public Law 280. She expressed her wish that the council be respectful to the wants and needs of each tribe, and that this conversation continue to the next meeting.

Sen. Buckner-Webb clarified with Mr. Katsilometes that his role in the Office of the Governor was not exclusive to the tribes. Sen. Buckner-Webb stated that she had broached the subject of a tribal liaison with the Governor in the past. The representatives for the tribes voiced their support to working cooperatively with the Office of the Governor to create a tribal liaison.

Indian Education – Ms. Johanna Jones

Chairman Guthrie called upon Ms. Johanna Jones to present next. Ms. Jones, Coordinator for the Idaho State Dept. of Education, began her [presentation](#) by speaking on the social study standards that the Idaho Indian Education Committee has been working on. Some of the changes and recommendations that have been made by the Indian Education Committee include:

- Identifying the sovereign status of Indian tribes;
- Identifying the federally recognized tribes of Idaho;
- Discussing the impact of colonization on tribes;
- Analyzing the concept of manifest destiny;
- Government relationships between local, state, and tribal governments;
- Trace federal policies that have impacted American Indians historically and currently;
- Impact of forced assimilations; and
- Identify and discuss the influences of American Indians on the history and culture in the United States.

Highlights and additional facts for the presentation include:

- The Professional Standards Commission makes recommendations to the State Board of Education and renders decisions that provide Idaho with competent, qualified, ethical educators dedicated to rigorous standards, preK-12 student achievement, and improved professional practice.
- A conceptual framework has been developed for culturally sustaining and revitalizing pedagogy.
- Guiding principles include:
 - Expression of Indigenous sovereignty;
 - Need to reclaim and revitalize what has been disrupted and displaced by colonization; and
 - Need for community-based accountability.
- The Essential Understandings were created partly from meeting with tribes and accommodating requests for appropriate and accurate curriculums. The Essential Understandings are intended to be unique to each tribe.
- The Essential Understandings and frameworks are also research-based.

Discussion:

Rep. Jordan asked whether tribal education has been implemented in the school system across the state. Ms. Jones expressed hope to have this curriculum implemented throughout the state, if and when it is passed. It is their hope that the curriculum will pass in June. Once it does, they will begin the statewide implementation process, which will include professional development opportunities as well.

Indian Child Welfare Act – Ms. Nicole Shackelford

Chairman Guthrie called upon Ms. Shackelford, Indian Child Welfare Act Program Specialist for the Dept. of Health and Welfare, to present next. Ms. Shackelford began her presentation by introducing herself, and stating her intent to speak about present activities in the Indian Child Welfare Act program.

Highlights and additional facts for the presentation included:

- In June 2016, the Bureau of Indian Affairs (BIA) released the first comprehensive regulations for the substantive legal requirements of the Indian Child Welfare Act in the Federal Register. These regulations provide the first legally binding federal guidance on how to implement the Indian Child Welfare Act since 1978.
- These regulations ensure that states have consistent language, congressional intent, and promote stability and security of Indian families and tribes. These regulations went into effect in December of 2016.
- In December 2016, the BIA released guidelines for implementing the Indian Child Welfare Act. This is the second update since the original release in 1979. These guidelines are intended to assist those involved in child custody proceedings.
- The Idaho Dept. of Health and Welfare's Child and Family Service Program has been working on updating the Indian Child Welfare Act standard to ensure that the standard is consistent with the new regulations and guidelines.
- The Child and Family Service Program is currently updating the Indian Child Welfare Act Academy. The Indian Child Welfare Act Academy is mandatory for all new child welfare staff. It provides an educational foundation regarding the intent and spirit of the Indian Child Welfare Act, as well as specific legal requirements. This training also provides a brief history and locations of tribes in Idaho.
- The Dept. of Health and Welfare provides a two-day training called "Knowing Who You Are." This training focuses on helping child welfare professionals explore and understand race, ethnicity, and culture specific to Native Americans, as well as other races and ethnic groups. This curriculum helps participants identify professional and personal assumptions and biases that hinder respect and values for racial and ethnic differences.

Discussion:

Mr. Oatman inquired about how the coordination has been carried out with the tribes in regard to trainings and other matters. Ms. Shackelford explained that once the revision process for standards are finalized internally, they are sent to the tribal partners for feedback. In regard to trainings, she said, the Dept. of Health and Welfare typically contacts local tribes when trainings are held in their local areas.

Idaho State Museum – Executive Director Janet Gallimore

Chairman Guthrie called upon Ms. Janet Gallimore, Executive Director for the Idaho State Historical Society (ISHS), to present next. Executive Director Gallimore began her [presentation](#) by introducing herself, and stating her intent to provide some detailed information about exhibitions that are specifically related to Idaho's five tribes.

Highlights and additional facts for the presentation include:

- In 2014, the tribal chairmen agreed to participate in the development of the new Idaho State Museum. The intent of this relationship was to co-create the content about the tribal exhibitions to ensure that the content is respectful and accurate. The tribes assigned cultural department liaisons to the Idaho State Museum, and there has been an ongoing community engagement process.
- The Idaho State Museum is located in the Julia Davis Park. This project is an expansion and renovation of the museum; it is intended to re-imagine how we tell Idaho's story.

- The Origins Gallery will feature an introduction to each tribe, a tribal theatre that illuminates the tribal creation stories, a large artifact display area, and hands-on opportunities to design and create a Parfleche.
- Also in the Origins Gallery is an exhibition on petroglyphs. This exhibition's focus is on respecting and protecting petroglyphs and pictographs.
- In the Introduction Gallery, a feature will be Sacajawea and her role in the Lewis and Clark expedition, and Wat-Ku-Weis in greeting the Lewis and Clark expedition as they entered Nez Perce territory.
- Idaho: the Land and its People Gallery will feature contemporary tribal land stewardship stories.
- In the Culture Conflict Gallery, we discuss the difficulties of white incursion into traditional tribal lands and the Bear River massacre.
- Also under development, pursuant to the request of our Tribal Advisory Committee, is a section that illuminates cultural trauma and its impact today.
- Executive Director Gallimore explained that in some cases, the initial drafts began with the Idaho Historian, and then were sent to tribal members for feedback and revisions. In other cases, such as with the subject of cultural trauma, the writing was done by a tribal representative.

Executive Director Gallimore ended her presentation by expressing her gratitude for the partnerships that were developed during this project.

Discussion:

Chairman Guthrie expressed his appreciation toward Executive Director Gallimore for the inclusive nature that was incorporated in this project. Rep. Jordan also thanked Executive Director Gallimore for her dedicated work on behalf of the tribes and the state.

Chairman Guthrie invited the public to provide comments to the council. Mr. Leejuan Tyler, from the Shoshone-Bannock Tribes, was called upon to provide his comments. Mr. Tyler had a suggestion for Ms. Jones for another potential item to include in the new school curriculum - the diminishment of natural resources. He also reminded the council that many of their tribal members have served in the military, and would like to see their tribal flags accompany the state flag, as done in other states.

Council Discussion:

Chairman Guthrie commented that the council is required to meet twice a year. He asked the council members for input on what time of the year would be best to hold meetings. Rep. Jordan suggested that the council could coordinate around tribal regional meetings, such as the Affiliated Tribes of Northwest Indians meetings for example. Chairman Guthrie concurred, and asked if Rep. Jordan would assist in determining potential meeting dates that would coordinate with tribal meetings. He added that certainly one meeting during session would be appropriate, and the second could coordinate with other tribal meetings or activities.

Mr. Shay invited members of the Legislature to visit the tribes, especially during public events, and to introduce themselves to the tribal council members.

Rep. Jordan suggested that, in addition to the two required council meetings each year, the council have a third meeting, and that it be hosted by a tribe each year on their respective land. Chairman Guthrie commented that this was a worthy suggestion. Senator Buckner-Webb asked if the tribes could possibly provide a list of activities and events that the legislative members could attend.

Vice-chair Aitken, Jr., expressed his gratitude towards the council members and everyone that participated in the meeting.

Chairman Guthrie thanked the council members, as well as all those who had presented at the meeting. The council adjourned at 3:07 p.m.