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Background Brief on ...

Tribal Governments in Oregon

Indian affairs were originally governed by the Continental Congress that created a Committee on Indian Affairs in 1775. In an effort to incorporate the American Indian tribes and their peoples into federal policies, the Committee was replaced with the Bureau of Indian Affairs (**BIA**) in 1824. For over 190 years, the BIA has been a key player in the evolution of federal-tribal relations. Since its inception, the BIA has continued to evolve, and is currently located in the U.S. Department of Interior and is responsible for the administration and management of 56-plus million acres of land held in trust by the U.S. for American Indians, Indian tribes, and Alaska Natives. The BIA provides federal services to approximately 1.2 million American Indians and Alaska Natives who are members of more than 566 federally recognized Indian tribes.

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."

Tribal Government: Legal Status and Definitions

Federally Recognized Tribes – 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.

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 been resistant to the classification of tribes as sovereign governmental entities. The U.S. Supreme Court has repeatedly recognized tribal sovereignty in court decisions for more than 160 years.

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 of trust lands are reservation land; however, not all reservation land is 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 – Trust lands are lands held by the U.S. for the use or benefit of American Indian tribes. Percentages 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 those Indians who live and make their income on a reservation. State property tax does not apply on reservation or trust lands. Tribes that hold a portion of property “in fee” (not the same as “in trust”) are subject to state property tax laws with a limited exemption for property being placed into trust.

Indian Gaming Regulations – In 1988, Congress enacted the National Indian Gaming Regulatory Act. This act 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 cards, a tribal-state gaming compact must exist. The general rule is gaming that is legal in a particular state is 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.

Tribal Governments in Oregon

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

Ft. McDermitt is technically a tenth 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 and vigorously 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. During the 2001 Legislative Session, Senate Bill 770 was enacted (ORS 182.162 to 182.168), codifying key elements of the order. These provisions are the Legislative Assembly’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 also live off-reservation within Oregon or in another state. As of 2014, the total enrolled membership of the nine federally recognized tribal governments in Oregon was 27,433. Although the 2010 Census indicates that there are nearly double that number of Indians in Oregon, the Census figure includes Oregon residents who are members of tribes in other states or are “self-identified” Indians. These individual Indians do not have “governmental status.” Likewise, organizations in Portland or elsewhere throughout the State which are run by Indians and/or serve Indians are not tribes and have no 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 have been 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, then Senator Victor Atiyeh sponsored legislation to create the Legislative Commission on Indian Services (LCIS). This 14-member advisory body serves as the forum for discussion of Indian issues for the State, as a vehicle to monitor state agency action, and to make recommendations for improvement to the Executive and Legislative Branch on services and programs for Indians and on state-tribal relations. Commission members are jointly appointed by the Senate President and Speaker of the House to two-year terms. A tribal leader from each of the nine federally recognized tribal governments in Oregon plus two senators and two representatives serve. LCIS members have discretion to appoint a 14th member. The Commission holds regular meetings, special events, and trainings throughout the year at the State Capitol and at tribal locations.

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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.

Committee Services provides centralized, non-partisan research and issue analysis for the Legislative Branch. Committee Services does not provide legal advice. Background Briefs are intended to give the reader a general understanding of a subject, and are based on information which is current as of the date of publication. Legislative, executive, and judicial actions subsequent to publication may affect the timeliness of the information.