

Minutes of the Joint Legislative Oversight Committee

March 2, 2017

Room EW42, Capitol, Boise, Idaho



Cochair Representative Mat Erpelding called the meeting to order at 4:03 p.m. He indicated that Senator Bayer had been detained in another meeting and would not be available to conduct. Attending were Senators Mark Harris, Michelle Stennett, and Cherie Buckner-Webb, Representatives Maxine Bell, Caroline Nilsson Troy, and Elaine Smith. Also present were Rakesh Mohan, director, Margaret Campbell, administrative coordinator, and other OPE staff. Audience members included the following:

Senator Jim Guthrie
Mary Jane Miles, Chairman, Nez Perce Tribe Executive Council
Tyrel Stevenson, Legislative Director, Coeur d'Alene Tribe
Bill Bacon, General Counsel, Shoshone-Bannock Tribes
Vaugh Killeen, Executive Director, Idaho Sheriffs Association
Pete Katsilometes, Special Assistant, Governor's Office
Bobbi-Jo Meuleman, Department of Commerce
Sharon Harrigfeld, Director, Department of Juvenile Corrections

Approval of committee minutes

Representative Smith moved to approve the minutes of the meeting on February 6, 2017. Senator Stennett seconded the motion, and it passed by voice vote.

Report release: *State Jurisdiction in Indian Country*

Senator Buckner-Webb moved to receive the report *State Jurisdiction in Indian Country*. Representative Smith seconded the motion, and it passed by voice vote.

Cochair Erpelding called on Rakesh to introduce the report. Rakesh thanked the tribes; the Attorney General's Office; local governments; the Association of Counties; the Association of Prosecuting Attorneys; the Sheriffs' Association; the Idaho State Police; the departments of Transportation, Health and Welfare, Juvenile Corrections, and Education; the Idaho Courts; the Office of the US Attorney; and the Bureau of Indian Affairs for their cooperation and help on the evaluation. Rakesh pointed out that responses from the Governor, the Coeur d'Alene Tribe, the Nez Perce Tribe, the Shoshone-Bannock Tribes, and the Prosecuting Attorneys Association were in the back of the report.

Ryan Langrill and Hannah Crumrine, senior evaluators, summarized the findings and recommendations. Public Law 280 was a federal statute that allowed state jurisdiction on reservations. Ryan said laws governing jurisdiction were incredibly complex. He discussed the differences and challenges of enforcing laws among tribal, local, state, and federal governments. He said nearly every stakeholder had a different understanding of some aspects of jurisdiction. Shared jurisdiction had resulted in gaps in law enforcement and difficulty in serving the people of Idaho, both on and off reservations. He said that retrocession was a complex issue with implications for public safety and intergovernmental relationships.

Hannah said that under Public Law 280, Idaho had options to fully or partially retrocede its jurisdiction on reservations to the federal government. She described the process of retrocession. Senator Buckner-Webb clarified that the state must initiate a request for retrocession.

Hannah said the office did not take a position on whether Idaho should retrocede jurisdiction but offered factors for the Legislature to consider if it decided to pursue retrocession. Regardless of retrocession, she outlined recommendations for the Legislature to consider that would promote intergovernmental cooperation among tribal, local, and state governments in providing quality services on reservations.

Representative Erpelding asked what the Legislature could do to help make cross-deputization easier to develop. Hannah said a few years ago a bill was introduced but did not pass on cross-deputization. Ryan said that during the evaluation, both sheriffs and tribal police shared reasons for and against cross-deputization. Ryan suggested that an intergovernmental forum could help.

Representative Bell said the evaluation was unusual and unique for this committee. She asked how Senator Buckner-Webb, one of the requesters, anticipated using the report. Senator Buckner-Webb said the Council on Indian Affairs recognized a lack of continuity among the tribes about how things were administered and a lack of understanding about what was accessible for each tribe. The report was requested to clarify these issues before moving forward.

Cochair Erpelding extended an invitation to the Governor's office, the Kootenai Tribe of Idaho, the Prosecuting Attorneys Association, and the Association of Counties to speak to the report. No one in the audience offered to speak.

Cochair Erpelding invited the Coeur d'Alene Tribe to respond to the report. Tyrel Stevenson, Legislative Director, said the tribe had submitted a formal response and would speak more to the issue at a meeting of the Council on Indian Affairs.

Cochair Erpelding invited the Nez Perce Tribe to respond to the report. Mary Jane Miles, Chairman of the Executive Council, thanked the office for its work. She said she appreciated that the report included how confusing jurisdiction was under Public Law 280. She also appreciated the recommendation for forums that would work with local governments. She said the report was informative and she understood why there was so much in tribal court that then moved to federal court. Her legal counsel suggested handing the report out to legislators so they can understand the confusion.

Cochair Erpelding invited the Shoshone-Bannock Tribes to respond to the report. Bill Bacon, General Counsel, said the tribe would like the state to retrocede jurisdiction for better access to federal funding. He indicated the tribe had tried to collect \$30 million from the federal government to build a justice center but were told under Public Law 280 the tribe was not entitled to funds. He said Public Law 280 was to provide services in the reservation, not off the reservation. Of the seven matters in statute, he said not many were being provided in the reservation—a problem that he thought could create the potential of civil liability.

Cochair Erpelding invited the Idaho Sheriff's Association to respond to the report. Vaughn Killeen, Executive Director, commended the office on a thorough and detailed report with information new to him. He said some counties work well together, and some do not. Law enforcement scratched their heads about how to move forward because of complicated issues. He asked that consideration be given to which individuals sit on forums. Sheriffs do not sit on these forums and yet they were integral in working with Indian police. He noted that when

Washington retroceded, a lot of issues that people thought would be bad about retrocession did not come to fruition. He also noted that Washington and Idaho were two different states. He said that before doing anything quickly, the state would need to understand the issues of retrocession to avoid unintended consequences.

Senator Buckner-Webb moved to close the report. Representative Smith seconded the motion, and it passed by voice vote.

Follow-up report release: *Confinement of Juvenile Offenders*

Senator Harris moved to receive the report *Confinement of Juvenile Offenders*. Representative Smith seconded the motion, and it passed by voice vote.

Tony Grange, senior evaluator, reviewed the implementation of recommendations. He said the department and the courts had addressed recommendations that were still in process after the February 2016 follow-up. He reviewed those efforts.

Senator Buckner-Webb asked about the age of juveniles in the system. Tony said that juveniles younger than 10 years cannot be committed to the department. Some 12-year-olds can be committed, and under some circumstances, a juvenile can be in the system until age 21.

Representative Smith asked which counties had undergone a probation system review. Tony said Jefferson and Twin Falls counties had received probation system reviews.

Senator Buckner-Webb asked how a small facility would address the age difference of a 10-year-old and a 21-year-old juvenile. Representative Erpelding invited Sharon Harrigfeld, Director, Department of Juvenile Corrections, to address the question. Ms. Harrigfeld said that when a young person was committed, the department separated them from older groups. Staff assessments determine the maturity of the child and place that child in an appropriate group. She said she was pleased with the evaluation, which helped move the whole system forward through counties, courts, and facilities.

Representative Troy moved to close the report. Senator Harris seconded the motion, and it passed by voice vote.

Other business

Rakesh said the committee would need to have two more meetings before session ends to select topics for the coming year. At the next meeting, the office will also present updates to reports and review requests for topics.

The meeting adjourned at 5:17 p.m.