

State Jurisdiction in Indian Country

Presented by Ryan Langrill and Hannah Crumrine



Study request

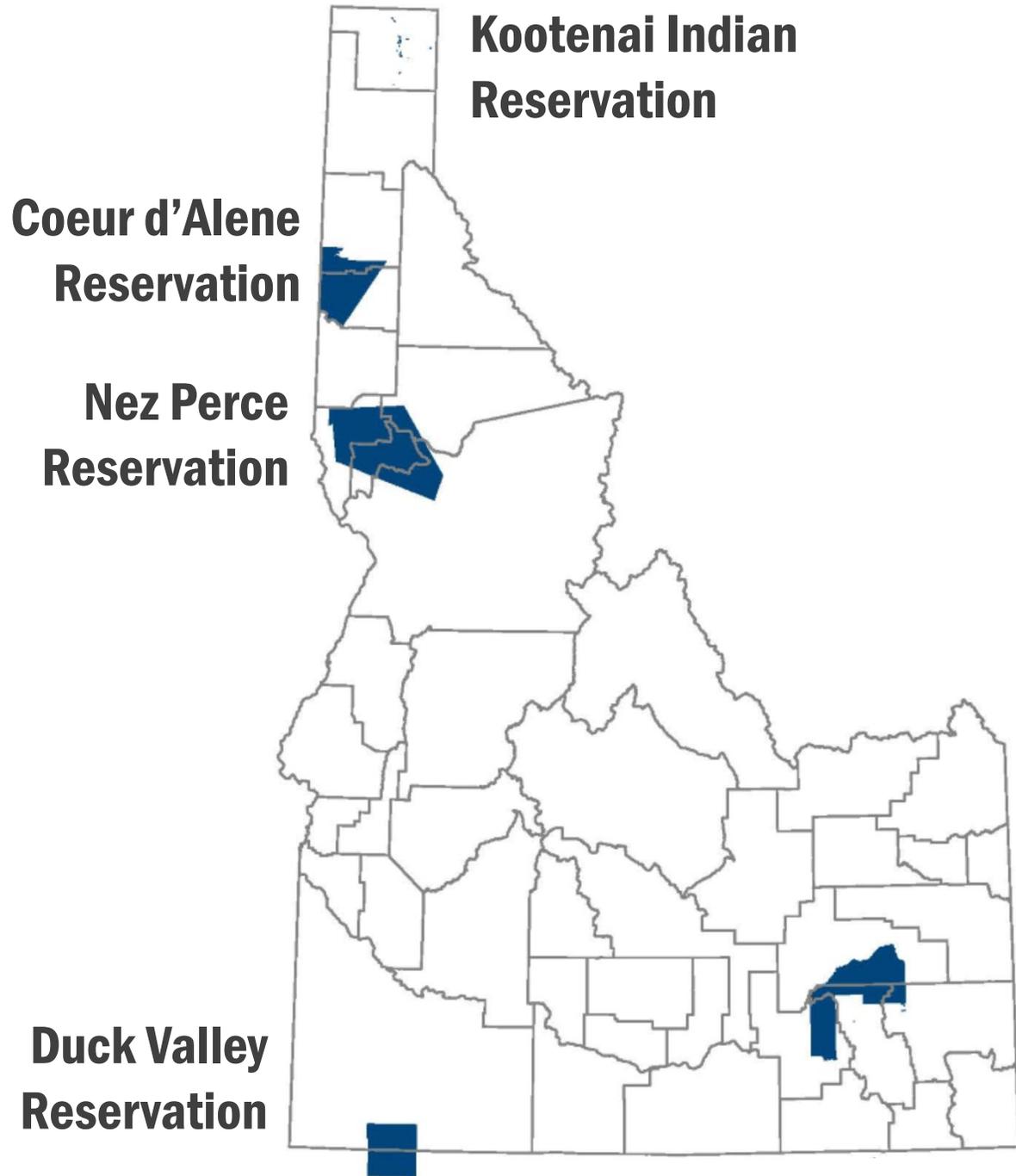
1. What state agencies implement Public Law 280?
2. Do those agencies provide the same level of service to Indians?
3. Do state agencies receive federal funding for Public Law 280?
4. **What processes have been used by other states to return jurisdiction?**

Report terms

Indian is the federal term used in statutes and court opinions for people affiliated with federally recognized tribes.

Indian country is a federal term that describes land set aside by the federal government for tribal occupancy.

Reservations constitute the largest portion of Indian country. Five federally recognized tribes have reservations in Idaho.



**Kootenai Indian
Reservation**

**Coeur d'Alene
Reservation**

**Nez Perce
Reservation**

**Duck Valley
Reservation**

**Fort Hall
Reservation**

**5
reservations**

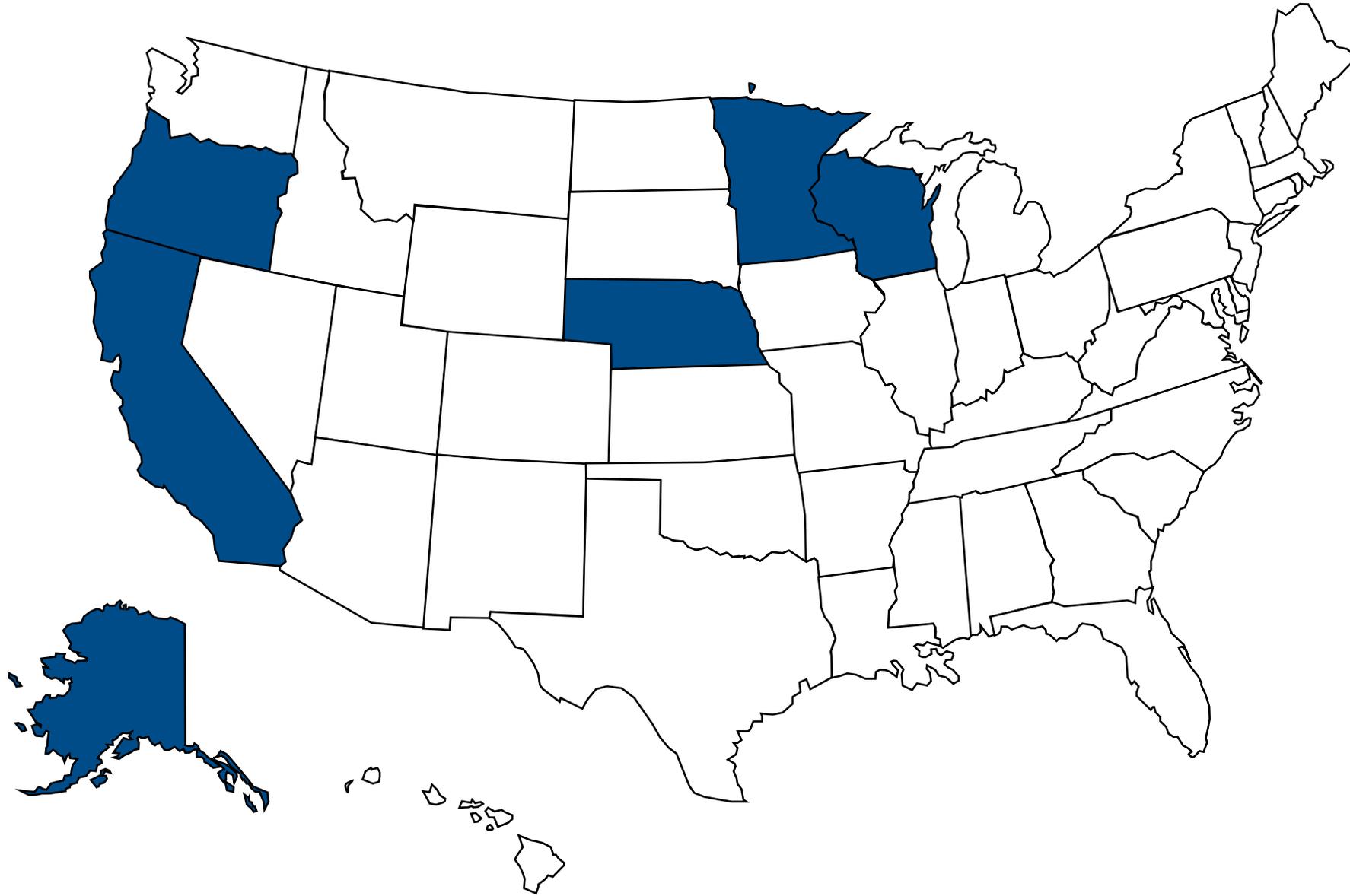
**13
counties**

**Congress passed
Public Law 280 in
1953**

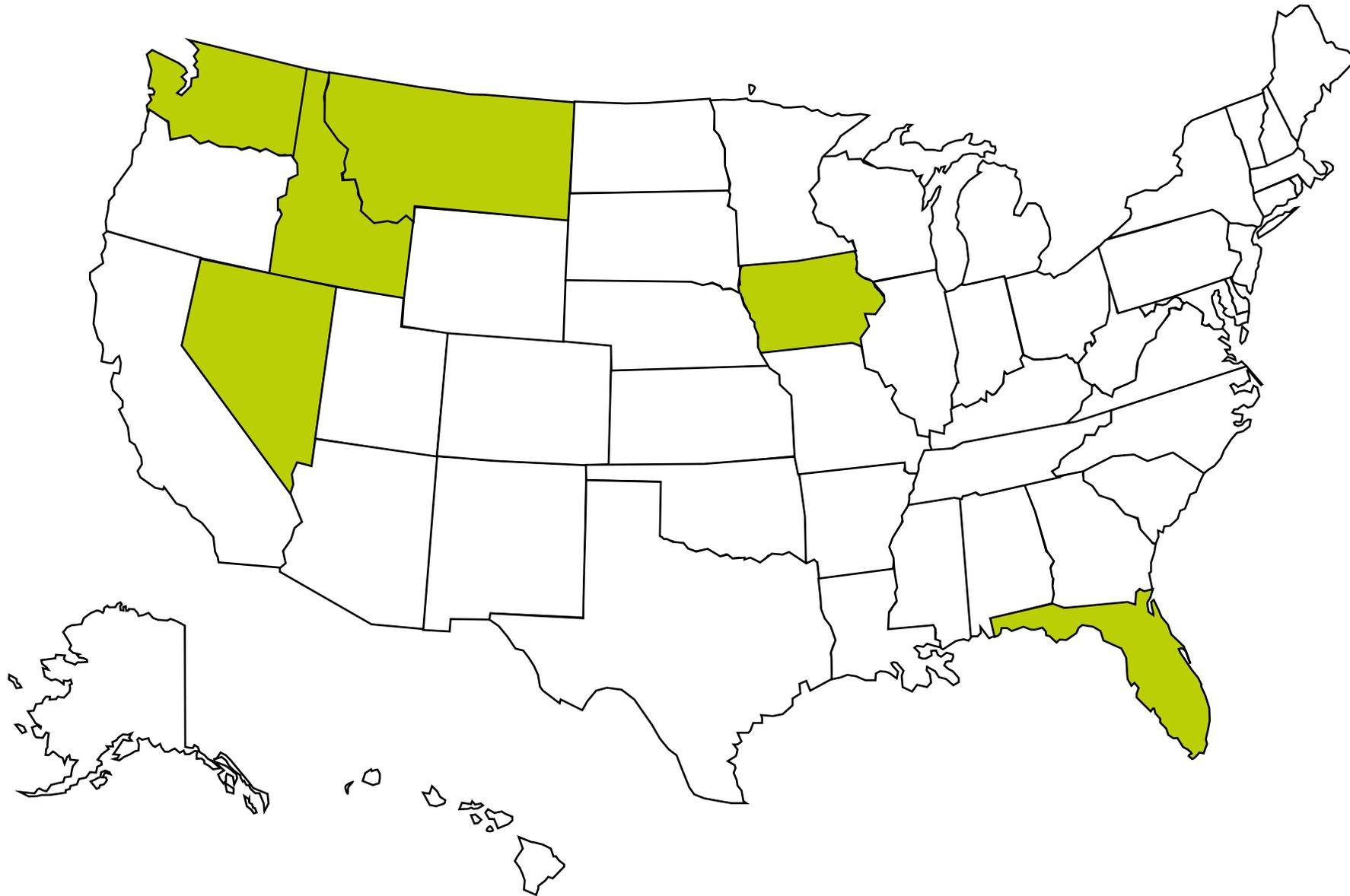
Photo, Andrew Selman



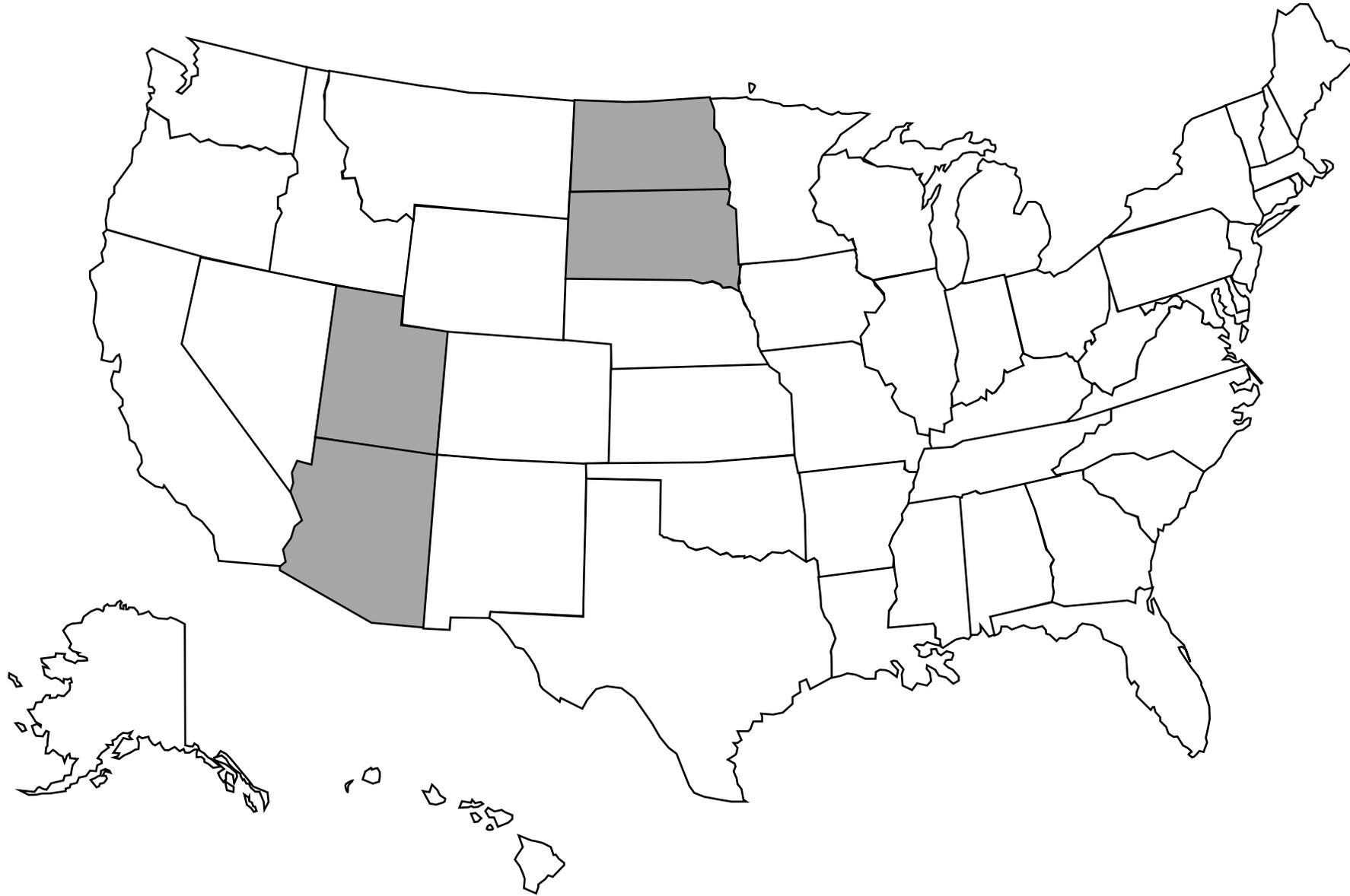
6 mandatory states



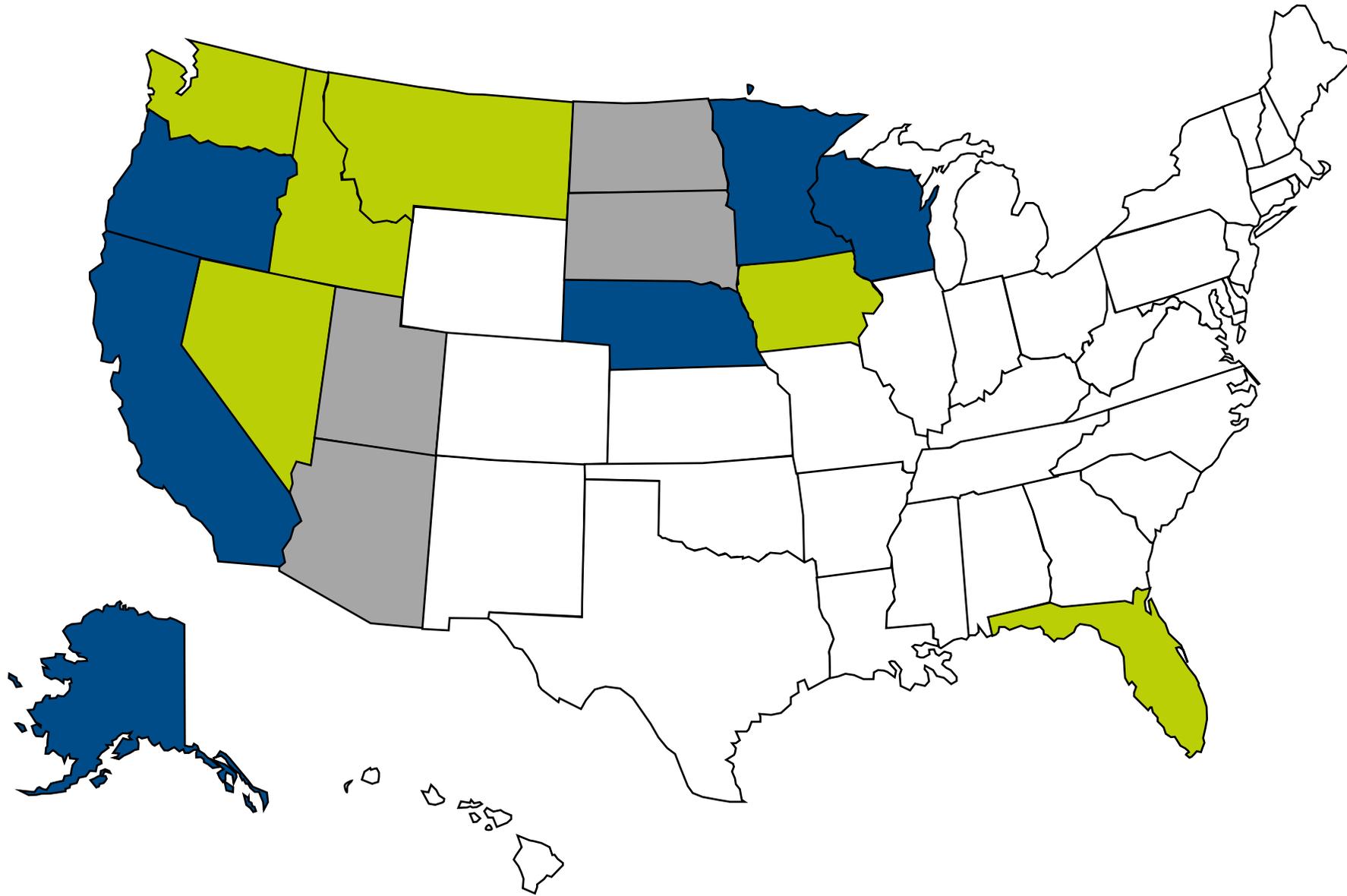
6 optional states



4 other states



16 states



**Idaho assumed partial
jurisdiction in**

1963



7 matters in Idaho Code § 67-5101

- 1. Compulsory school attendance**
- 2. Juvenile delinquency and youth rehabilitation**
- 3. Dependent, neglected, and abused children**
- 4. Insanities and mental illness**
- 5. Public assistance**
- 6. Domestic relations**
- 7. Operations and management of motor vehicles upon highways and roads maintained by the county or state or their political subdivisions**



State

Health and Welfare

State Police

Juvenile Corrections

Transportation Department

Counties

Sheriffs

Prosecuting attorneys

Courts

Commissioners

Highway districts

Tribes

Social services

Public assistance

Law enforcement

Courts

Transportation

Education

Jurisdiction + Public Law 280

Criminal: Non-Indian offender, no Indian victim
State

Criminal: Non-Indian offender, Indian victim
Federal + State

Criminal: Indian offender
Tribe, Federal (limited) + State

Jurisdiction + Public Law 280

Civil Dispute: Nonmember defendant

Tribe (limited), State

Civil Dispute: Member defendant

Tribe + State

Taxation, Civil Regulatory

Tribe (limited), State (limited)



Evaluating the level of service

Unclear scope of jurisdiction

Obligations without Public Law 280

Diverse approaches service delivery

Gaps in law enforcement

Separate legal systems

Funding concerns



Gaps in law enforcement

Lack of federal action

Insufficient jurisdiction

Coordination challenges



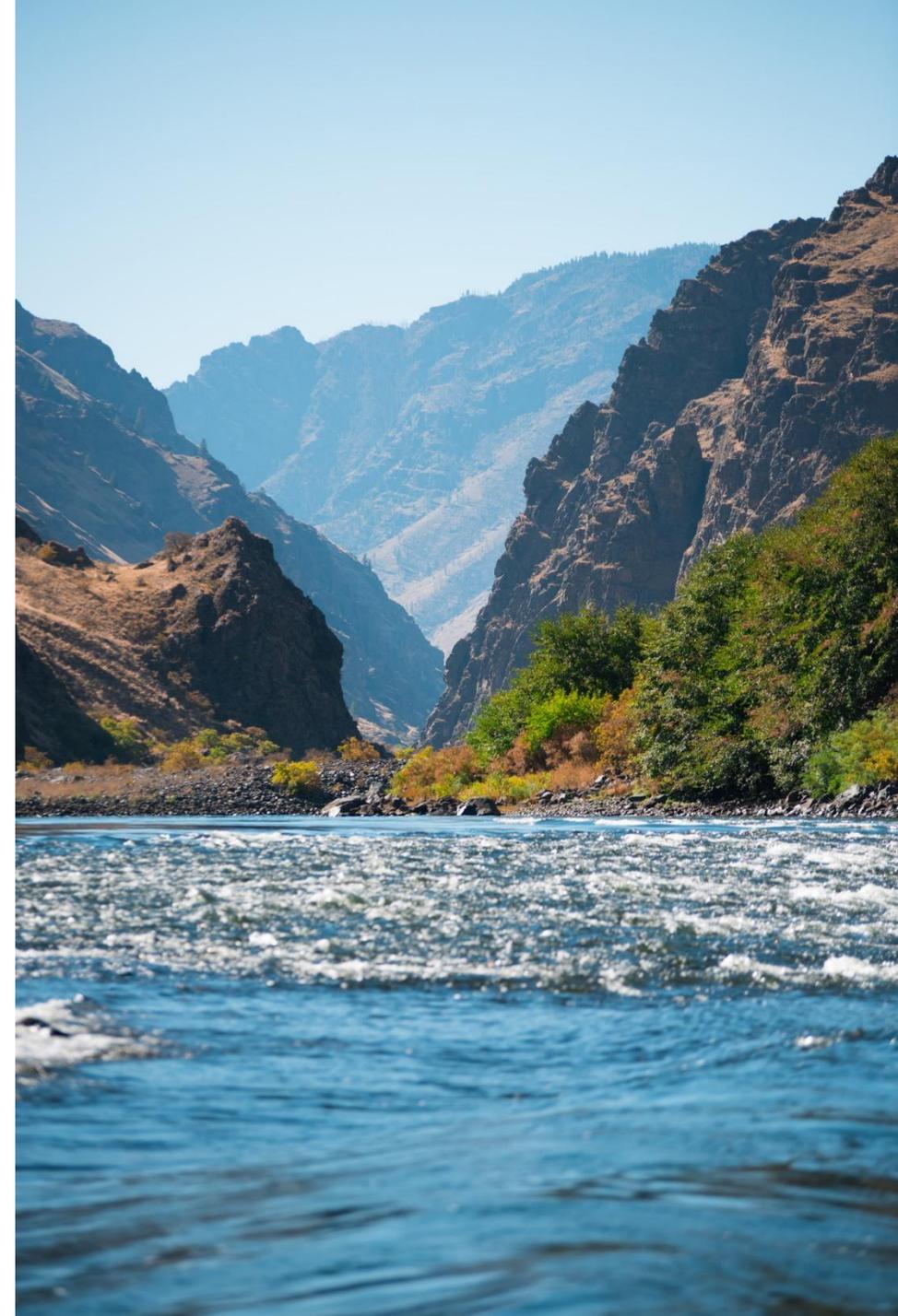
Recommendation

The Legislature should consider providing limited state authority to tribal police.

Separate legal systems

Access to resources

Sentencing limitations





Recommendation

The Legislature should consider facilitating the recognition of tribal court orders for involuntary commitment.



Funding concerns

Uncompensated local responsibilities

Federal funding to tribes



Recommendation

The Legislature should consider filling funding gaps for tribes or local governments caused by Public Law 280.



Retrocession is a complex issue with implications for public safety and intergovernmental relationships.

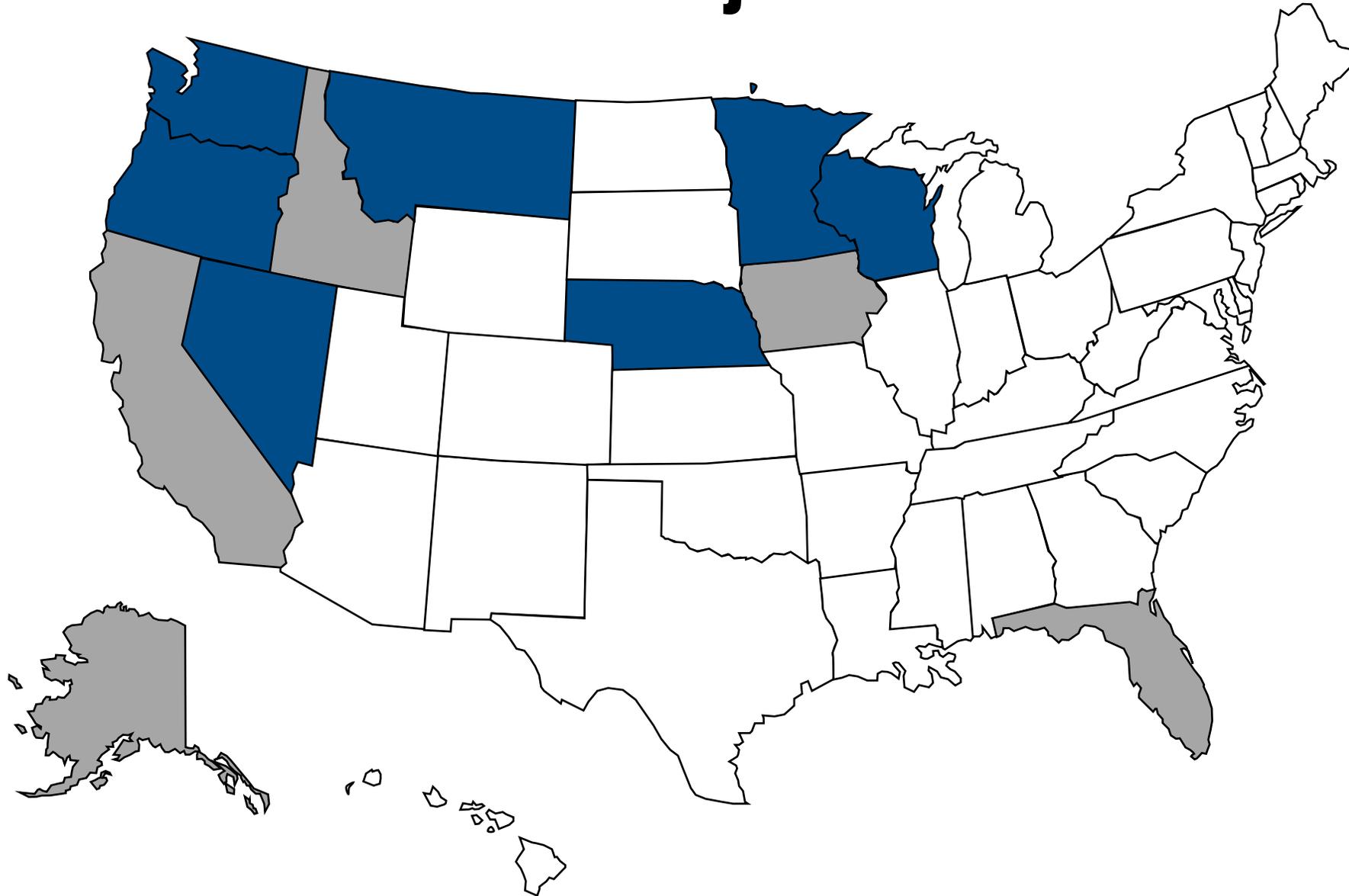
Public Law 280 was amended in **1968** to allow for the return of state jurisdiction to the federal government.

Retrocession

Retrocession

1. Request must come from states not tribes
2. Full or partial jurisdiction may be returned
3. Secretary of the Interior approves or denies request
4. **Effective when notice is published in the Federal Register**

7 states have retroceded jurisdiction





4 factors the Legislature may consider if it decides to pursue retrocession.

Transition

Partial jurisdiction

Institutional knowledge

Tribal self-determination

**Shared jurisdiction
contributes to
complicated
interactions and
relationships**





**Good relationships and
collaboration are
found across the state.**



Idaho has two state and tribal forums:

Council on Indian Affairs

Tribal State Court Forum



Recommendation

The Legislature can facilitate intergovernmental relationships with new or existing forums.

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