

The Centennial Accord: What has been its impact on government-to-government relations between tribes and the State in Washington?¹

By

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Abstract: *In 1989 the federally recognized tribes and the State of Washington developed and signed the Centennial Accord. Washington became the first state to establish a government-to-government relationship through this type of formal agreement. Coming after the highly contentious years following the US v Washington case (often called the Boldt decision) on Indian fishing rights, the Centennial Accord was “intended to build trust and confidence among the parties in the government-to-government relationship” ...and...“improve the respectful relationship and services delivered to people by the parties” (2004). This case explores the history of the Centennial Accord, its impact, and the lessons about intergovernmental relationships.*

In 1989 the 26 federally recognized tribes and the State of Washington under Governor Booth Gardner signed the Centennial Accord, making Washington and the tribes the first in the Nation to establish such a relationship to strengthen tribal and state government-to-government relations.² Three additional, then federally unrecognized tribes –the Snoqualmie (2002), the Samish (2002), and the Cowlitz (2003) Tribes-- later signed the Accord after being federally recognized. Though they sometimes attended the Accord meetings, the Yakama and Kalispel tribes declined to sign the Accord, believing that their primary relationship was with the federal Government. Several out of state tribes – the Warm Springs, Umatilla and Nez Perce tribes---with treaty reserved rights within the Washington state also became parties to the agreement in 2004. This case explores the history of the Accord, its rationale, and its impact and lessons about government-to-government relations and respect between sovereigns.

Background

The work on intergovernmental cooperation between tribes and state government in Washington state dates back decades. There was growing recognition among state leaders that stronger and more effective approaches were needed. Governor Dan Evans, Governor from 1965-1977, established the Governor’s Indian Advisory Council by Executive Order 1972 to act as the policy advisor between the

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² New Mexico is the one other state that has established a somewhat similar agreement. Since 2003 the New Mexico Indian Affairs Department has implemented state-tribal policies aimed at improving tribal and state relations after the legislature passed SB 196-the State-Tribal Collaboration Act.

State of Washington, Indian tribal governments and Indian organizations, and assist the Governor and state agencies in formalizing relations and reaffirming the sovereign status of federally recognized tribes within Washington State. Their meetings, he said, were sometimes difficult. The issues were complex. At first it was difficult to even figure out how to convene the discussions about significant issues. The difficulty proved to be that the Governor's Indian Advisory Council was divided into three groups – Federally recognized Tribes, unrecognized Tribes, and urban Indians. When presented with a question from the State, they often received three different answers. Eventually in 1980 Congress established the Northwest Power and Conservation Council, a four state commission. Evans remembers the discussions about how to balance the needs for power with the need for water. Tribes were vitally important participants in these discussions.

In 1978-79 Governor Ray asked the Tribes what should be done about the State – Tribal relationship. They suggested that she should hire a person that would be directly on her staff and develop a new policy that put a focus on the State relationship with federally recognized Tribes. She committed to that and hired Randy Scott as an Assistant for Indian Affairs. Then the Governor's Office working with the Tribes developed a new Executive Order 80-02 establishing the Governor's Office of Indian Affairs. The Tribes began the discussions about establishing the government-to- government relationships and committed that on their side of the agreement they would include the unrecognized Tribes and urban Indian groups. The Governor empowered the Assistant for Indian Affairs to coordinate and interact with any and all state agencies to benefit the State/Tribal relationship.

Meanwhile, the tribes were increasingly pushing for formal recognition of the government-to-government relationship and support of their treaty rights. In the 1960s and early 1970s Indian activism grew in Washington and nationally, especially over Indian fishing rights. Billy Frank Jr. (Nisqually) was an important leader in the "fish-ins" protesting Indian fishing rights. He became a founding leader of organizations later established such as the Northwest Indian Fisheries Commission and a key player in subsequent efforts to deal with natural resource issues in Washington.³

In the 1974 *US v. Washington* case, commonly known as the "*Boldt decision*," the Court upheld Indian treaty fishing rights. The very prescriptive decision said that

...the State and tribes were prescribed to work together to create and maintain harvest equity, conservation of the resource, and the production of knowledge for management. After five more years of litigation, the decision was upheld by the US Supreme Court in 1979 and split the harvest of salmon at fifty percent for each party...The tribal governments also gained managerial authority over fisheries in areas on and off the reservation. The framework for the formation of cooperative management between the tribes and the State had been established...the Boldt decision required treaty tribes to develop the capacity in fisheries before they could assert their authority in management decisions. This aspect of the decision has allowed for disagreement on the basis of technical information...The Northwest Indian Fisheries Commission was formed to give tribes technical assistance. (Brown and Footen).⁴

³ See Hefferman, Trova, *Where the Salmon Run: The Life and Legacy of Billy Frank Jr.* (2012). Also Charles Wilkinson, (2000) *Messages from Frank's Landing: A Story of Salmon, Treaties and the Indian Way.*

⁴Brown and Footen (2018). *Pacific Northwest Salmon Habitat: The Culvert Case and the Power of Treaties.* Available at <http://native.cases.evergreen.edu>.

This decision restored the tribes' Treaty rights, but the resistance was substantial and led to years of highly contentious intergovernmental disputes and additional litigation. But the Court had mandated that the tribes and the state cooperate. "In 1984, a tribal-state plan for cooperative management of fisheries in Puget Sound was finally jointly developed and approved by the federal court" (Zaferatos, p. 197). This approach called Comprehensive Cooperative Resource Management (CCRM) eventually spread to other areas of natural resource management as described in later sections of this case.

Judge Boldt did not rule on the broader issues about habitat preservation, but this issue was addressed in the subsequent Orrick decision in 1980 which upheld the tribes' right to have salmon protected from man-made destruction. In subsequent years this decision was appealed and remanded to district courts culminating ultimately in the Martinez decision in 2007, often referred to as the "Culvert case," which ruled that the State was responsible for protecting salmon streams—including fish passage through culverts on state-owned highways and roads. That decision was upheld in the appeal process in 2013 which found that the tribes did have an implied right to environmental protection of the fish habitat, at least to the extent of fish blocking culverts. The State of Washington continued to challenge this decision through litigation with an ultimate ruling from the US Supreme Court favoring the tribes in 2018.⁵

Other forces also contributed to empowering Native Americans. Local and national Indian activism movements starting in the 1960s with the civil rights movement certainly played an important role.⁶ In Washington State the Colville Tribe's defeat of efforts to terminate them was an important stepping stone. Leaders in that effort like Lucy Covington and Mel Tonasket became instrumental in subsequent statewide efforts to find a more productive approach to working with state government.

The Nixon administration ended the Indian termination effort on the part of the Federal government and made a significant turn towards supporting local control, home rule, and self-determination. The Indian Self Determination and Education Act of 1975 and the Indian Health Care Improvement Act of 1976 were especially significant. A number of Washington tribes (the Port Gamble S'Klallam, Jamestown S'Klallam, Makah, and Lummi Tribes) were among the first tribes to seize the opportunities for tribes to operate functions previously run by the Bureau of Indian Affairs (BIA). These tribes were called Self-Governance Tribes.

Direct action was also paying off. After the tribal occupation of Fort Lawton in Seattle, 20 acres was transferred to United Indians of All Tribes to establish a Native cultural and education center. This became the Daybreak Star Center and opened in 1977 under the leadership of Bernie Whitebear. Other organizations were formed including the Puget Sound Planning Organization and other tribal consortia such as Small Tribes of Western Washington (STOWW) became increasing active. New alliances were forged to improve the Tribes' collective efforts to protect and advance Indian rights and needs.

⁵ That decision was upheld in the 2018 appeal process the State of Washington took to the US Supreme Court when the Court split in a 4-4 decision after Justice Kennedy recused himself since he had participated in the previous appeal court decision.

⁶ See Bradley Shreve, *Red Power Rising* and Paul Smith and Robert Allen Warrior, *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee* for accounts of this era.

Concerted efforts were made to send tribal leaders such as Randy Scott to work with the Democrats as Indian advisors.

In the 1980s the focus of tribal-state conflict and litigation in Washington shifted from treaty fishing rights to concerns about tribal land claims, land use, and natural resource management. Civil jurisdictional disputes posed new challenges about the interests of tribes, the state, local governments, and non-Indian owners of reservation property. Some of these issues arose from the fact that the Puget Sound tribes have extensive non-Indian property holders within their reservations. This situation is a result of the 1887 General Allotment Act which allowed the sale of reservation lands out of federal trust status (Zaferatos, 2004). The shifting sands of federal policies towards tribes created many tribal problems at the state and local level and great ambiguity about how to resolve them. Nonetheless, some tribes such as the Swinomish began working on new approaches to intergovernmental cooperation rather than litigation in the 1980s.⁷ Litigation, legislation, and/or negotiation were strategies used to work government-to-government issues with an increasing preference for negotiation of disputes whenever possible.

1989 was a historical benchmark year in many ways for Tribes in Washington State. The Tribal Canoe Journey began in 1989 (which included First Nations located in British Columbia and Alaska Natives in Alaska) as part of the celebration of the State's 100th anniversary. New directions had been enabled with the passage of the national Indian gaming legislation in 1988, and most relevant to this case, the Centennial Accord was developed and signed.

Development of the Centennial Accord

When Booth Gardner (Democrat) became Governor in 1985 he indicated he wanted to clarify the responsibility of the State to be respectful of tribal sovereignty and make things better with the tribes. His interest was in establishing strong government-to-government relationships that would last beyond his administration and tenure. His Executive Director of the Office of Indian Affairs, Michelle Aguilar Wells, said Gardner hoped to lessen the reliance on lawsuits to settle issues. Even when they happened, he hoped the tribes and the State agencies would maintain long term friendly relationships.

Gardner had his Chief of Staff Dick Thompson talk with leaders about facilitating a process to develop a new framework for working together. The conversation began with a preliminary meeting with the staff of his Office of Governor's Affairs, Michelle Aguilar-Wells (Luiseno/Soboba) and Jennifer Scott (Quinault). They then held another meeting with widely respected tribal leaders Mel Tonasket (Colville) and Joe DeLa Cruz (Quinault). At the end of that conversation Gardner asked them about next steps, and all agreed that it was time to call the tribes together. Jamestown S'Klallam Tribal Chair/CEO W. Ron Allen became chairman of an ad hoc team of tribal leaders to develop the new process which led to the Centennial Accord. Tonasket remembers Ron Allen as an important writer of the Accord in collaboration with Bob Turner, Governor's Policy Advisor as they sat in the hallway with him working the language and precepts of the integrity and objectives of the state/tribal relationship on his computer. They brought the draft to Thompson the next day and he said he liked it.

⁷ See N. Zaferatos, (2015) *Planning the American Indian Reservation: From Theory to Empowerment*. Syracuse U. Press for an excellent account of the efforts in reservation planning at Swinomish.

Tonasket recalls what a turning point this was many years ago. Before that the State and the tribes were constantly fighting about taxes and jurisdiction, he said.

it was all conflict, fighting, who's the toughest, who's the most sovereign, who runs what when we developed the language for the Centennial AccordTribes would fight in one meeting and pat each other on the back in another...We thought wouldn't it be nice if we didn't have to always go through the beginning process each time of 'Who's got the most sovereignty? Which is the most important in governance, state or tribes? Who's the toughest? Who has the most attorneys?. ...We wanted to develop a paper that says we'll agree, we won't fight over whose most sovereign, but will agree to fight if we have to without jeopardizing the positive things that we're doing for the benefit of not only our people, but the state too. So we can develop businesses that will help the county and state without fighting over the jurisdictional issues, licensing issues, stuff like that. (Rosenbam, 2017).

Participants reported that the process was difficult, partly because of the different interests among the tribes. Predictably, fisheries issues were especially difficult. They met for nearly a year and ultimately developed a framework and process with clear responsibilities to make it happen including training for state government agencies and personnel. Michelle Aguilar Wells and Jennifer Scott, then staff of the Governor's Office of Indian Affairs, had 3 months to develop the training. Training, they said, was a critical component for building and maintaining the relationships over the long term.



Jamestown S'Klallam Chairman W. Ron Allen and Skokomish Tribal Chair Denny Hurtado at the Centennial Accord Signing

The stated purpose of the Accord was “to build confidence among the parties in the government-to-government relationship ...and “improve the services delivered to people by the parties.” The Centennial Accord began with a strong statement recognizing the sovereignty of each of the tribes and of the state that was reaffirmed in a gubernatorial proclamation on January 3, 1989. A clear and detailed process for implementing the Accord is described in the agreement. (See Appendix A)

Initially only the Governor's Executive Cabinet agencies were part of the Accord, but this involvement was eventually expanded to include all state agencies as well as other statewide elected officials. The Governor's Chief of Staff was accountable to the Governor for implementing the Accord with the assistance of the Governor's Office of Indian Affairs. The state agencies were, in turn, responsible for initiating procedures to implement the government-to-government process. Signatory tribes were to establish procedures to implement the spirit of the Accord as appropriate to their governments. The objective of the Accord was to establish a foundation of trust and respect between the parties and instruct all of the Executive Branch leaders to contribute to this mission.

The Accord states that annual meetings would be held at which the tribes and the state departments would "develop joint strategies and specific agreements to outline tasks, overcome obstacles, and achieve specific goals." Setting goals, reviewing and evaluating progress and setting new goals for the next year are key features of the Accord with required annual meetings and reports.

With underlying principles of promoting trust, cooperation, understanding and respect, clear process, and institutionalization, education about government-to-government relations was seen as the baseline fundamental to achieving the goals of the Accord. Education was to be achieved by having the Governor's Office of Indian Affairs offer training to agencies. This is an ongoing need and responsibility as it became clear that the general public and many state officials had little understanding of tribes and tribal treaty rights and the importance of productive intergovernmental relations.⁸ Furthermore, turnover in staff in state agencies and at the tribes required ongoing training.

In the three decades since the Accord was signed, annual meetings between tribal and state leadership have been held with the recent ones now attracting more than 300 attendees. The agenda for the meetings is negotiated between tribal leaders and representatives of the Governor's Office. Setting the annual location, date and agenda and deciding which issues to focus on varies from year to year, and can be challenging given the complexity of issues and the large of number of divergent players and participants.

The 1999 Ten Year Review of the Centennial Accord

In 1999 a ten year external review of the Accord process was commissioned. The Ross and Associates Environmental Consulting firm was hired to conduct the review. A staff member, Martha Prothro, did interviews and wrote the report (hereafter referred to as the "Prothro Report"). Individual and group interviews were held. Sixteen tribes and leaders at 16 state agencies were interviewed plus the Governor and the Attorney General. The fact-finding interviews addressed concerns, areas of agreement, and other topics raised by the interviewees.

On October 11, 1999 the Preliminary Report "Challenges to Relations between the State of Washington and the Washington Tribes" was released. The report was rich in suggestions on how to improve the process, and it became a template for subsequent changes.

The first section of the Prothro report addressed issues about general governance. The final three sections focused on issues in specific areas: 1) natural resources, 2) economic development, and 3)

⁸ In the first six months of 2018 the GOIA announced six trainings at various locations throughout the State. Most of the trainings were for local Department of Social and Human Services offices.

social, cultural, education, and law enforcement. The sections included a series of findings and suggestions for the future.

In the **General Governance** section there were two key findings:

Finding 1: Communications between State and Tribal government leaders needs improvement.

The Prothro report indicated that all parties believed that working together and having good communication was critical. The move was timely since management was shifting from the federal government to the states. In the interviews tribes noted that the relationship with the Executive Branch reached a new high in 1989 with the signing of the Accord while relationships with the legislature and some local governments were more problematic. At the same time, they said communication was challenging as a result of “the complexity of State government, regular turnover in State and Tribal leadership and/or staff, and the large number and diversity (in terms of location, size, and economic situation) of Tribes.” (Prothro, 3)

Communication style differences were noted with tribes often preferring to work on building personal relationships while state officials focused on efficiency and closure. Both sides complained about the tendency of the others to send low level staff to the meetings rather than elected leaders. Group vs individual communication was also noted as an issue. Working with all tribes could be difficult vs negotiating with single tribes. The role and use of tribal consortia was discussed. Inter-tribal organizations such as the Northwest Indian Fisheries Commission could be seen as a good solution to many issues, including any threats to tribal sovereignty. Dispute resolution, especially through litigation, was seen as undesirable, but sometimes necessary, since some issues were of specific concern to some tribes but not others. There was a strong preference for working on areas of agreement rather than differences since this was more likely to be successful.

The Prothro report included various practical suggestions offered by the interviewees to improve the process including visits to tribes, establishing structural connections to the Legislature, working out the appropriate level of leadership at meetings in advance, establishing tribal liaisons in all state agencies and departments, regular communication and follow-up, and strengthening the Governor’s Office of Indian Affairs.

Finding 2: Cultural misunderstanding, intolerance and harassment against Indians appear to be increasing in society generally.

The report indicated that population increase and competition over tribal fishing and hunting rights was increasing resentment against Indians as was perceived competition over tribal economic development, especially in rural areas. Racist rhetoric during the Makah whale hunt and criticism of tribal reliance on “sin industries” were also cited as issues. “Most interviewees saw education as a key to improving the situation...Tribal leaders said it was important that such education not be guilt producing, and instead focus on being informative and forward-looking.” (Prothro, 9) Prefiguring later efforts, the participants said curriculum for K-12 schools should be developed.

Natural Resources

Natural resource issues were a primary concern and remains central to discussions at the Accord meetings.

Finding 1: Salmon restoration is a priority for the State and Tribes, but the effectiveness of cooperation between the State and Tribes has been disappointing.

Finding 2: The State's water allocation program needs reform, but Tribes are not optimistic about the State's current efforts to improve the program.

Finding 3: Tribal and State leaders are very concerned about disagreements related to the exercise of Tribal treaty rights to hunt and fish on non-Tribal lands.

Economic Development

Finding 1: State and Tribal leaders agree on the need for an Economic Development Strategy for Tribes.

Social, Cultural, Education and Law Enforcement Issues

Finding 1: Although the relationship between the State and Tribes on health and social services is generally good, this is an area of enormous challenge and requires continuous improvement.

Finding 2: Tribal governments seek State support in meeting the difficult challenges of crime prevention and law enforcement, even though jurisdictional issues are complex and troublesome.

Finding 3: State agencies could show more respect for Tribal culture and traditions through certain specific improvements

Finding 4: Improving education for Indian children is a high priority, especially given high drop-out rates.

The 1999 review set the stage for even more substantial movement on productive intergovernmental relations.

The Millennium Agreement (1999)

The Tribal and State Leaders Summit in November 1999 at Leavenworth led to signing the Millennium Agreement which was a commitment to work to create an even stronger foundation for tribal/state relations. While many of the points in the new Agreement echoed previous language in the Accord, there were a number of specific new commitments including the following:

- Encouraging the Washington Legislature to establish a structure to address issues of mutual concern to the state and tribes;
- Educating the citizens of our state, particularly the youth who are our future leaders, about tribal history, culture, treaty rights, contemporary tribal and state government institutions and relations and the contribution of Indian Nations to the State of Washington to move us forward on the Centennial Accord's promise that, "The parties recognize that implementation of this Accord will require a comprehensive educational effort to promote understanding of the government-to-government relationship within their own governmental organizations and with the public.";
- Working in collaboration to engender mutual understanding and respect and to fight discrimination and racial prejudice; and,
- Striving to coordinate and cooperate as we seek to enhance economic and infrastructure opportunities, protect natural resources, and provide the educational opportunities and social and community services that meet the needs of all our citizens.

One of the issues mentioned in the Prothro report that the participants recognized as important to address was the lack of protocols or processes that fully defined the implementation of a government-to-government relationship. With the high turnover of personnel in both tribes and state agencies, this gap and challenge was a persistent issue. The participants at the meeting agreed to write and broadly distribute very specific Government-to-Government Implementation Guidelines to address this issue.⁹ Over the course of many years, the parties to the Centennial Accord continued to refine and codify the process of working together.

Recent Developments

In 2004 a new Accord ---the Out of State Accord---was developed and signed between the State of Washington and three out-of-state federally recognized tribes with treaty reserved rights in Washington State---the Nez Perce, the Umatilla and the Warm Springs tribes. This agreement was modeled on the Centennial Accord. The involvement of these tribes has been mostly issue-based. The Umatilla Tribe has been especially active. They have extensive landholdings in southeast Washington and have worked for many years on watershed restoration of the Walla Walla River.

By 2006 Tribal Affairs Committees were established in both houses of the Legislature. Several years earlier John McCoy (Tulalip) had been elected to the House and became a key figure in carrying important issues into the state legislature. Many of the state responsibilities under the Accord were adopted by the state legislature in the State Tribal Relations Act of 2012 (Chapter 122 Laws of 2012) and now codified as Chapter 43.376 Revised Code of Washington (RCW) GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH INDIAN TRIBES. Having an agency designated tribal liaison positions became required in 2012 with the adoption of the State Tribal Relations Act.

As required under RCW 43.376, the agencies and the tribes continue to meet annually to review issues of mutual concern and progress made in the previous year. These reports are published each year. The meetings have become more complex. Recently a private dinner has been hosted by the Governor for tribal leaders the night before the actual meeting. A number of areas such as Natural Resources, Health, and Education also sometimes hold meetings prior to or after the formal Accord meeting. The Accord has been vitally important in setting up expectations and a framework for how external organizations should work with tribes in a climate of respect and collaboration on issues of mutual concern. The 2017 report highlights the efforts at cooperation by 67 state agencies, a substantial increase over the years. Earlier reports on the Accord meetings suggested issues, often in the form of recommendations about collaboration in general while the 2017 report is very specific about steps taken and concrete actions to address issues.

Governor Inslee's continuous improvement initiative, called *Results Washington*, was established by executive order in 2013. It is a multi-agency effort designed to make state government more data-driven, collaborative and effective. Monthly multi-agency meetings come together to address critical issues in five areas: education, a prosperous economy, sustainable energy and a clean environment, healthy and safe communities, and efficient and effective government. Their progress report in the 2017 Centennial Accord agency highlights touches on numerous issues important to tribes.

⁹ GOIA. Government-to-Government Implementation Guidelines available at <https://goia.wa.gov/relations/millennium-agreement/implementation-guidelines>

Meanwhile, the tribal self-governance movement in Washington continues to evolve and has been very strong. Tribes are increasingly working on the linkage between building their communities, economic development, and education. Considerable investments are being made to support education. More efforts are being made to provide avenues for tribal members to acquire appropriate credentials and training in high priority areas such as Natural Resources that currently have few Native employees. Meanwhile in a number of areas such as education progress has been substantial since the highlighting of this need in the Millennial Agreement. Often the Centennial Accord discussions have acted as a kind of incubator to highlight a need, and the issue has then been taken up by other agencies and leaders. Legislation has been a key avenue of progress in Indian education.

Arenas of Collaboration: Education.

In 2003 a Washington State Tribal Education Summit called “Leave No Indian Child Behind” was held at Quinault Beach Resort. The conference was a collaboration between the Governor’s Office of Indian Affairs and the Office of the Superintendent of Public Instruction’s Office of Native Education. Denny Hurtado, OSPI Indian Education Director and former Chair of the Skokomish Tribe, Pearl Capoeman-Baller, President of the Quinault Nation, and Joe Pakootas, Chairman of the Colville Confederated Tribes were the Summit Mc’s.

The gathering focused on three identified critical education issues: 1) push out/dropout rates and truancy, 2) low self-esteem, and 3) alcohol and substance abuse. Governor Gary Locke and Terry Bergeson, State Superintendent of Public Instruction, gave keynote addresses, and spent a day each, listening to the concerns of the tribal leaders in a round table discussion. Commitment to Action was a central piece of the Summit with a committee established to lead the effort. At the end of the conference Representative John McCoy asked what needed to be done and the unanimous response was “we need to see our history and culture in the schools.” This became McCoy’s mission in subsequent years.¹⁰

In the years following the Quinault Summit, Indian education has received considerable attention in the legislature and state agencies, partly a result of having leaders such as John McCoy (Tulalip) elected. McCoy was first elected to the House in 2003 and the Senate in 2013. He has been tireless and highly effective in working with tribes and his legislative colleagues to identify pressing issues in Indian education and pass legislation for improvement. Constructive organizational leadership frameworks such as the Tribal Leaders Congress on Education, a new organization, and the Office of

Figure 1: Recent Education Milestones

2005 House Bill 1495 encouraging schools districts to review curriculum and include information about tribal history & culture

2007 Senate Bill 5269 Establishes First Peoples’ Language & Culture Certification Program

2008 Legislature commissions study of the achievement gap

2013 House Bill 1134 sets up process to establish tribal compact schools

2016 SB 5433 Mandate to use STI curriculum in all common schools

¹⁰ See the case “Waiting Patiently 500 Years” by Denny Hurtado and Barbara Leigh Smith at <http://nativecases.evergreen.edu> for an account of the legislation that was developed.

Native Education at the Office of the Superintendent of Public Instruction have played an important role in staying the course and building the vision. Annual reporting on progress made has been a key element of this success since it builds transparency and accountability. As the timeline in Figure 1 attests, the cumulative results over the last decades are impressive.

In 2005, the Legislature passed House Bill 1495 which encouraged school districts to review their curriculum and incorporate information about the history, culture, and government of the nearest federally recognized tribe or tribes so that students could learn about the unique heritage and experience of their closest neighbors (HB 1495). The word ‘encouraged’ was a political compromise to pass the bill. Unfortunately, no funding was provided. Despite the weak language of the bill, the Superintendent’s Office of Public Instruction (OSPI), and its Office of Native Education, led by Denny Hurtado, spent the next several years developing a sophisticated online tribal sovereignty curriculum (Office of Native Education, *Since Time Immemorial Curriculum*) and offered workshops to interested pilot schools. OSPI provided some funding as well as philanthropic organizations such as the Gates Foundation, but most of the funding came from the tribes.

In 2007, the legislature passed SB 5269 establishing the First Peoples language and culture certification program. Designed to encourage teaching and preservation of indigenous languages, the legislation provided a process for exceptions in terms of certification program instruction. This was subsequently woven into teacher certification programs at UW, Heritage University, and Evergreen.

In 2008, the Washington Legislature commissioned studies on the ‘achievement gap’ in education with individual reports on each major ethnic group. The report on Native American achievement, *From Where the Sun Rises: Addressing the Achievement of Native Americans in Washington*, was written by Michael Pavel and a team of researchers at Washington State University (Pavel, et. al, 2009). The report offered five major recommendations: 1) shift the paradigm through relationship building between tribes (including urban Indians) and schools to integrate Native teaching and learning, 2) provide resources for pre-and in-service educators whose knowledge, skills, and cultural understanding will bring about the changes needed to improve education of Native children and youth, 3) improve data collection and reporting (the study found that much of the data from existing sources did not even include Native Americans because the number of Native students did not meet the minimum threshold to be counted), 4) develop a partnership with the National Education Association which has a good research-based resource titled *C.A.R.E.: Strategies for Closing the Achievement Gap*, and 5) increase state support and collaboration. (Pavel et. al., 2009)

The Educational Opportunity Gap Oversight and Accountability Committee (EOGOAC) was established by Second Substitute Senate Bill 5973 to address the opportunity gap in Washington State. The committee was charged by RCW 28A.300.136 to synthesize the findings and recommendations from the five 2008 Achievement Gap Studies into an implementation plan and to continue to recommend policies and strategies to the Superintendent of Public Instruction, the Professional Educator Standards Board, and the State Board of Education. Their 2015 annual report made numerous specific recommendations for the common schools, noting that whole system coordinated efforts were required to accomplish the goal of substantially closing the achievement gaps among students of color in Washington State (EOGOAC, 2015). Other progress reports from OSPI also kept the issue at the forefront (Pauley, 2015).

In 2013 the legislature passed House Bill 1134 which outlined the process for establishing Tribal compact schools. The bill purposely avoided the language of ‘charter schools’ in order to maintain independent control. It authorized the Superintendent of Public Instruction to enter into state-tribal compacts, set requirements for school subject matter, and included a school district’s levy base. Since then five tribal schools have been established—at Lummi, Suquamish (Chief Kitsap Academy), Muckleshoot, Quileute, and Wa He Lut Indian School.¹¹ Other Bureau of Indian Education schools are currently exploring this option.

SB 5433, passed in 2016, mandated the inclusion of “tribal history, culture, treaty rights, contemporary tribal and state government institutions and relations, and the contributions of Indian nations to the state of Washington” in the common schools. Recognizing that excellent free curriculum materials were already available on the OSPI website through the *Since Time Immemorial* (STI) curriculum, the legislation stated that school districts should “collaborate with the Superintendent of Public Instruction on curricular areas regarding tribal government and history that are statewide in nature, such as the concept of tribal sovereignty, the history of federal policy towards federally Indian recognized tribes, and the history and culture of tribes.”

The 2015 OSPI update on the state of Native education indicated that 93 school districts, four private schools, and nine tribal schools had attended STI trainings, and important partnerships between the Office of Native Education at OSPI, and tribal organizations, and other educational organizations were continuing to grow. The 2015 reported that there are 63,153 Native students in Washington (Pauley). Native American graduation rates, the lowest of all groups, had slightly improved by 1.2% to 53.7%, but dropout rates (26.6%) increased by almost the same percentage. Recognizing that this takes time, the report concluded that Indian education is moving forward with the Office of Native Education continuing to build strong relationships between tribes, tribal communities and organizations, Native parents and educational institutions (Pauley, 2015).

Arenas of Collaboration: Health

One of the important developments after the Centennial Accord was signed has been the emergence of new organizations to further the goals of tribal-state collaboration. In the health area this has been a very notable development. The American Indian Health Commission (AIHC) was created in 1994 as a tribally driven non-profit organization serving the federally recognized tribes in Washington and the two urban Indian health organizations –the Seattle Indian Health Board and the Native Health Clinic in Spokane. The stated mission of the American Indian Health Commission is “ to improve the health of American Indians and Alaska Natives (AI/AN) through tribal-state collaboration on health policies and programs that will help decrease disparities.”

The two urban centers are often referred to as UIHP’s—Urban Indian Health Programs. Each of the 29 tribes have tribally appointed delegates to the Commission and the urban organization representatives serve as members at large. With over half of the American Indian/Alaska Native population residing in urban areas, the involvement of urban Indian health centers is important.

¹¹ See the case by Winstead, Hopkins, and Vendiola, *Are Tribal Compact Schools the Answer to Improving Native Student Success in Washington?* 2018 at <http://nativecases.evergreen.edu>

Many of the founders of this new health focused organization had been actively involved in the development of the Centennial Accord including W. Ron Allen (Jamestown S’Klallam) and Mel Tonasket (Colville). Marilyn Scott (Upper Skagit), Ralph Forquera (Seattle Indian Health Board) and Joe Finkbonner (Lummi) were also early important leaders. The Governor’s Chief of Staff Dick Thompson later became secretary of DSHS and Mel Tonasket resigned from his position as Colville tribal chair to head up the DSHS Office of American Indian Policy. Colleen Cawston (Colville) became Colville tribal chair and later head of the American Indian Policy office at DSHS. Continuity of personnel certainly helped with successful implementation of the goals of the Centennial Accord in the health area. Tonasket said “we were lucky to have the right people in the right place at the right time. The signing of the Centennial Accord was only a beginning, not the end. We could build on it and we did.”

At the 2002 AIHC Summit specific goals were established for agencies that did not yet have a Centennial Accord plan. AIHC made arrangements over the next biennium to coordinate its work with related state agencies. Like many start up organizations, its strategies and power have evolved and grown over time. Looking back from 2018, the importance of this Commission is clear and its accomplishments are many. This organization has been vitally important in keeping up with the major health system transformation initiatives over time in programs such as Medicare, Healthier Washington, Accountable Communities of Care and Foundational Public Health Services and sharing information about best practices.

Jan Ward Olmstead, tribal liaison for the Health Care Authority (HCA) from 2002-2011, noted that the agency was required to have a Centennial Accord plan when she became tribal liaison. Up until that point, the agency had limited interaction with tribes and there was a lack of understanding about Tribal sovereignty and how to implement government-to-government relationships. She recalls being in a meeting she was asked to staff in 2002 when Tribal leaders from Quinault Nation, Port Gamble S’Klallam Tribe, and Jamestown S’Klallam Tribe, including Ron Allen, met with Ida Zodrow, HCA Administrator in an effort to resolve administrative obstacles that were causing barriers for tribal members to qualify for the state’s Basic Health Program (a state-subsidized health insurance program which ended in 2014). During that meeting, Allen encouraged HCA to work toward building stronger relationships with tribes. He suggested seeking advice from other agencies, like the Department of Health who had recently completed their first Centennial Accord Plan. Olmstead began with a process to establish relationships with tribes by visiting tribes and state agencies to learn more about effective processes and potential tribal opportunities. In general, she found that agency staff lacked knowledge and understanding about tribal needs, tribal governments, tribal sovereignty and the state’s responsibility. The common practice was to begin to address barriers for Tribal participation after the fact.

In 2004 HCA produced its first Centennial Accord plan that set out specific goals which included tribal government-to-government training for staff, tribal site visits, engagement in tribal meetings

Figure 2: Key Activities of AIHC

- Identifying health policy issues and advocating strategies to address tribal concerns
- Coordinating policy analysis
- Soliciting & collecting information from the state for tribal review and response
- Disseminating information to tribes
- Promoting government-to-government relations between tribes and state health agencies

*Source: American Indian Health Commission website: aihc-wa.com

and interagency collaboration. This dramatically improved communication and understanding about tribal experiences and issues that presented barriers to accessing health care programs and potential opportunities for tribal participation on a government-to-government basis.

An example of the implementation of the Centennial Accord plan, in 2006 under the leadership of Steve Hill, HCA Administrator, HCA worked jointly with Tribes and the AIHC, and Senator Claudia Kauffman (47th District, 2006-2010) to develop SB5640. The 2006 legislation expanded eligibility of PEBB to tribes for their employees under the same conditions as counties, municipalities, and other political subdivisions. The law became effective January 1, 2009.

New structures to work together were created and the strategic plans in the agencies began to reflect this new thinking. Olmstead said, "The Centennial Accord was crucial in motivating and enhancing relationships. This duty and engagement began to be recognized all the way up the organization chart. Different people were now present and the question of where tribes fit in was on the table."

The American Indian Health Commission has a significant role as it is structured (indicated in Figure 2) to provide a variety of services, including collecting and disseminating information to tribes, identifying policy issues and advocating solutions, and developing programs and policy legislation to promote Indian health care improvements. Examples include the American Indian Health Care Delivery Plan (AIHCDP) first published in 1997 with periodic updates tracking progress and challenges and the Washington Indian Health Care Improvement Plan. The Plan recommended a variety of health care improvement strategies and Medicaid changes that required legislative fixes.

Another AIHC tribally designed program called *Pulling Together for Wellness* (PTW) provides a framework for culturally-grounded prevention programs. The Commission works to engage tribal leadership and builds close relationships to tribal communities through a variety of services and events. It collaborates with related agencies such as the Health Care Authority, the Office of the Insurance Commissioner, the Department of Children, Youth and Families (DCYF), the Department of Health, and the Department of Social and Health Services (DSHS).

Another important initiative in the works since 2017 is the AIHC led effort for the passage of the "Washington State Indian Health Care Improvement Act." The purpose of this bill is to (1) reduce health care disparities and improve AI/AN overall population health while provide cost savings to the state; (2) preserve the government-to-government relationship between the state and tribes by mitigating impacts from the shift of state responsibilities in providing health care to non-governmental actors; (3) support Indian health care providers who have been providing primary care to non-American Indians and Alaska Natives, where few to no Medicaid primary care providers exist; and (4) address longstanding inefficiencies in Washington's Indian health delivery system.

Health services for American Indians are now statewide in Washington with 34 tribal medical clinics and urban clinics in Spokane and Seattle. While federal Indian Health Service funding remains limited, Washington tribes have made substantial progress in providing health care in the last 40 years by pursuing multi-source strategies that increase their overall health resources. Utilization rates of tribal health facilities have increased substantially (Fox, p. 32). Nonetheless, health disparities and access to health care remain issues. The State currently has a 23% American Indian (AI) uninsured rate, twice that of the overall population. The State's AI uninsured rate is the 12th lowest in the US (Fox, p.7).

Arenas of Collaboration: Natural Resources

Natural resources remains a major focus and a difficult arena for government-to- government collaboration. Tom Laurie worked for the Port Gamble S’Klallam Tribe for 12 years and was the Tribe’s Director of Natural Resources. He later joined the Department of Ecology as Tribal Liaison in 1989. His long term perspective is invaluable. He remembers meeting with Dick Thompson in 1987 where he represented Port Gamble. He said

Ron Allen, Joe DeLa Cruz, and Mel Tonasket really stood out. They had great insight and foresight. It was great to witness their interaction. The combination of humor and seriousness really helped. They didn’t take setbacks too hard. The language was very important and needed to stress the tribes as governments, not minorities, so the word “sovereignty” was used many times. When Chris Gregoire became Director of the Department of Ecology the commitment got stronger. I was surprised we signed the Accord. Often government gets cold feet. Taking a risk requires lots of moral authority. It was taken seriously at Ecology. They saw the issues coming about hatcheries and habitat and Gregoire said we needed to get ready.

Laurie said the annual meetings are very interesting and they have evolved. Now there is a Natural Resource Summit separate from the big Centennial Accord Meeting on the day before and sometimes mid-year. Last year, Laurie noted, the Governor stayed at this meeting all day. Now they stress implementation plans but the state agencies are more likely to have these on file and share them than the tribes. At first the Executive Offices took it most seriously with the other offices later adding tribal liaisons. State law now requires tribal liaisons who report directly to the director. In general, Laurie said, the more involved the liaisons are with their executive the better.

Many former ecology staff went on to higher positions eventually which helped with integration across agencies, but really, Laurie said, integration happened because of tribes. The natural resource issues span many departments – Ecology, Natural Resources, Fish and Wildlife and even health. “Everything we do can effect tribes. On many issues it’s hard to know who’s interested so pursuing an open door policy is best,” said Laurie

After years of fighting and litigation between the tribes, environmental groups and industries trying to overturn the Boldt decision, all parties agreed to try a more cooperative approach to address natural resource issues including watershed planning, fisheries management, endangered species, hatcheries, and forest practices. The new approach called Comprehensive Cooperative Resource Management (CCRM) changed the way many natural resource issues were discussed and resolved in the years that followed. Some of this preceded the Centennial Accord.

Figure 3: Recent Natural Resource Milestones

1984 Cooperative Fisheries Management Agreement
1984 Northwest Renewable Resources Center (NRRC) established
1985 US/Canada Pacific Salmon Treaty
1986 Watershed Planning Agreement
1987 Timber, Fish and Wildlife Agreement
1988 Forest & Fish Report
1999 Salmon Recovery Act

The approach was first successfully applied to resolve the dispute about co-management of the fisheries and then later produced the Pacific Salmon Treaty and the 1986 Watershed Planning Agreement.

In 1984 the tribes and industries developed the Northwest Renewable Resources Center (NRRC) to facilitate alternative dispute resolution of natural resource issues in the state (Call, 8). The parties chose Jim Waldo, the Director of the NRRC, to facilitate the resolution process using a collaborative approach that has greatly influenced environmental problem solving in Washington State and elsewhere (Call, pp. 8-9). In studies of the effectiveness of this process, Waldo, Billy Frank Jr, Department of Fisheries Director Bill Wilkerson, and Stu Bledsoe of the Forestry industry are cited as key leaders that made the process productive.

The process required representation of all relevant parties who had to agree to try to find common ground beyond the entrenched positions of the groups. Bringing the timber industries, environmental groups, the state agencies and the tribes together was no easy task. Clear ground rules were a necessary element of this dispute resolution process. These included the following:

- “Commitment to attempt to reach consensus on a plan.”
- “All issues identified by any party must be addressed by the whole group.”
- “Give the same priority to solving the problems of others as well as your own.”
- “Negotiators are free to walk away from the table at any time, but must state the reason why they are leaving. This gives others another chance to see if they can resolve the issue.”
- “Negotiators must truly listen, in order to find a solution to the problem instead of only trying to prove points. They must ask questions in order to understand and make statements to explain or educate.”
- “Weapons of war are to be left at home or at least at the door.” (Timber, Fish Wildlife Agreement, p. 14)

In 1986 a meeting was held at Port Ludlow with all interested parties in state government, industry, tribes and environmental groups to explore the use of interest-based negotiation to resolve forest resource conflicts. The goal was to find science-based solutions that would keep the timber industry viable and protect fish and wildlife resources. “After identifying the central controversial issues a consensus-based mediation was used during a six month period with sixty meetings” (Zaferatos, 199) The result was the Timber, Fish and Wildlife Agreement of 1987.

Leading up to the historic Forest Practices Habitat Conservation Plan was the [Forest and Fish Report](#). Issued in 1999, the document was produced by a collaboration of tribes, forest landowners, local governments, environmental groups, and others. These diverse stakeholders outlined several ways to protect water quality and aquatic and riparian-dependent species on non-federal forestlands in Washington.

The Report identified four goals:

- **Provide compliance with the federal Endangered Species Act for aquatic and riparian-dependent species on state and private forestlands**
- **Restore and maintain riparian habitat to support a harvestable supply of fish**

- Meet the requirements of the Clean Water Act for water quality
- Keep the Washington timber industry economically viable

Following the release of the Forests and Fish Report was passage and enactment of the state's [Salmon Recovery Act of 1999](#) (sometimes called the 'Forests and Fish Law'). This Act directed the adoption of the goals of the Forests and Fish Report into the State Forest Practices Rules. Those rules are guided by the state's Forest Practices Board, which set standards for timber harvests, pre-commercial thinning, road construction, and other forest practices on millions of acres of public and private forestland.

Laurie sees this process and series of events as a maturing relationship. Even though they can't always agree on everything, the tribes and the agencies celebrate what they've accomplished and continue to work together.

In their 2017 Agency Report on highlights for the Centennial Accord meeting the Department of Ecology cited a variety of accomplishments with tribes including Port Gamble Bay cleanup with the Port Gamble S'Klallam Tribe, the Yakima River Basin integrated Water Resource Management Plan with the Confederated Tribes and Bands of the Yakama Nation, bay-wide restoration work with the Lower Elwha Klallam, Skokomish, Suquamish, Jamestown S'Klallam, and Port Gamble S'Klallam Tribe and others.

In the last two legislative sessions tribal voices and tribal lobbyists were very successful in keeping tribal concerns and treaty rights for fisheries instream flows in front of the legislature and Governor as they attempted to address the upheaval caused the State Supreme Court's decision in the Hirst case (which limited the building of residential water wells in some areas based on possible interference with instream flows.)

New issues? In addition to the enduring issues of confirming and protecting tribal water rights and integrating the lessons of the culvert case into state natural resources management, Laurie reports that they are pursuing an integrated approach on a variety of issues such as Puget Sound clean up, Orca recovery, and the recent accidental release of Atlantic salmon. Working on non-point pollution issues is also major and very complicated.

Conclusion: What works in promoting cooperation between Tribes and States?

As the 2009 National Conference of State Legislatures report *Government to Government Models of Cooperation between States and Tribes* points out there are a variety of models of cooperation between tribes and states. Some are very modest such as having Native artwork in government buildings and observing Native American Heritage days. Other approaches are more substantial and include state legislative committees, state commissions and offices, state-tribal government-to-government agreements, inter-tribal organizations, tribal delegates in state legislatures, training for legislators and tribal leaders on respective government processes, and agency specific solutions such as cross-deputation in law enforcement, among others.

In states like Washington where efforts go back many decades, many of these approaches are now present making "whole system" change more possible. Continuity in personnel has helped considerably with key figures like Ron Allen, John McCoy, Billy Frank Jr, Mel Tonasket, Joe DeLa Cruz, Denny Hurtado, Brian Cladoosby, Leonard Forsman, Fawn Sharp and Craig Bill in place with decades of experience in

inter-governmental work. An ongoing commitment to the process by the Governor's Office has certainly helped increase institutionalization across state agencies.

Also over the past 25 years, a number of tribes have become the largest or one of the largest employers in their areas, especially in rural areas. And they have realized that they need to be heard in Olympia during session and with local governments. This is a significant development that has made many legislators, cities and counties much more conversant on tribal issues and government-to-government communication.

Jamestown S'Klallam Chairman/CEO W. Ron Allen likes to recommend an approach of *aggressive incrementalism* "because the greatest progress often is made through small steps" over many years (Johnson et al. 58). The 1989 Centennial Accord has set the context for this "incrementalism" and continues today as the touchstone for state and tribal relations. Issues to work on and solutions will vary from state to state and need to be tailored to that environment. At the same time there are certain imperatives: leadership and the involvement of key decision makers and policy leaders, appropriate structuring of the process, working collaboratively with clear ground rules and commitment to the process, knowledgeable and skillful mediation and/or leadership of the negotiation, clear implementation goals and follow-up, and a long-term commitment to the overall goals and relationships.

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Appendix 1 --1989 Centennial Accord

I. Preamble and Guiding Principles

This ACCORD dated August 4, 1989, is executed between the federally recognized Indian tribes of Washington signatory to this ACCORD and the state of Washington, through its governor, in order to better achieve mutual goals through an improved relationship between their sovereign governments. This ACCORD provides a framework for that government-to-government relationship and implementation procedures to assure execution of that relationship.

Each party to this ACCORD respects the sovereignty of the other. The respective sovereignty of the state and each federally recognized tribe provide paramount authority for that party to exist and to govern. The parties share in their relationship particular respect for the values and culture represented by tribal governments. Further, the parties share a desire for a complete accord between the State of Washington and the federally recognized tribes in Washington reflecting a full government-to-government relationship and will work with all elements of state and tribal governments to achieve such an accord.

I. Parties

There are twenty-six federally recognized Indian tribes in the state of Washington. Each sovereign tribe has an independent relationship with each other and the state. This ACCORD provides the framework for that relationship between the state Washington, through its governor, and the signatory tribes.

The parties recognize that the state of Washington is governed in part by independent state officials. Therefore, although this ACCORD has been initiated by the signatory tribes and the governor, it welcomes the participation of, inclusion in and execution by chief representatives of all elements of state government so that the government-to-government relationship described herein is completely and broadly implemented between the state and the tribes.

III. Purpose and Objectives

This ACCORD illustrates the commitment by the parties to implementation of the government-to-government relationship, a relationship reaffirmed as state policy by gubernatorial proclamation January 3, 1989. This relationship respects the sovereign status of the parties, enhances and improves communication between them, and facilitates the resolution of issues.

This ACCORD is intended to build confidence among the parties in the government-to-government relationship outlining the process for implementing the policy. Not only is this process intended to implement the relationship, but also it is intended to institutionalize it within the organizations represented by the parties. The parties will continue to strive for complete institutionalization of the government-to-government relationship by seeking an accord among all the tribes and all elements of state government.

This ACCORD also commits the parties to the initial tasks that will translate the government-to-government relationship into more-efficient, improved and beneficial services to Indian and non-Indian

people. This ACCORD encourages and provides the foundation and framework for specific agreements among the parties outlining specific tasks to address or resolve specific issues.

The parties recognize that implementation of this ACCORD will require a comprehensive educational effort to promote understanding of the government-to-government relationship within their own governmental organizations and with the public.

IV. Implementation Process and Responsibilities

While this ACCORD addresses the relationship between the parties, its ultimate purpose is to improve the services delivered to people by the parties. Immediately and periodically, the parties shall establish goals for improved services and identify the obstacles to the achievement of those goals. At an annual meeting, the parties will develop joint strategies and specific agreements to outline tasks, overcome obstacles and achieve specific goals.

The parties recognize that a key principle of their relationship is a requirement that individuals working to resolve issues of mutual concern are accountable to act in a manner consistent with this ACCORD.

The state of Washington is organized into a variety of large but separate departments under its governor, other independently elected officials and a variety of boards and commissions. Each tribe, on the other hand, is a unique government organization with different management and decision-making structures.

The chief of staff of the governor of the state of Washington is accountable to the governor for implementation of this ACCORD. State agency directors are accountable to the governor through the chief of staff for the related activities of their agencies. Each director will initiate a procedure within his/her agency by which the government-to-government policy will be implemented. Among other things, these procedures will require persons responsible for dealing with issues of mutual concern to respect the government-to-government relationship within which the issue must be addressed. Each agency will establish a documented plan of accountability and may establish more detailed implementation procedures in subsequent agreements between tribes and the particular agency.

The parties recognize that their relationship will successfully address issues of mutual concern when communication is clear, direct and between persons responsible for addressing the concern. The parties recognize that in state government, accountability is best achieved when this responsibility rests solely within each state agency. Therefore, it is the objective of the state that each particular agency be directly accountable for implementation of the government-to-government relationship in dealing with issues of concern to the parties. Each agency will facilitate this objective by identifying individuals directly responsible for issues of mutual concern.

Each tribe also recognizes that a system of accountability within its organization is critical to successful implementation of the relationship. Therefore, tribal officials will direct their staff to communicate within the spirit of this ACCORD with the particular agency which, under the organization of state government, has the authority and responsibility to deal with particular issue of concern to the tribe.

In order to accomplish these objectives, each tribe must ensure that its current tribal organization, decision-making process and relevant tribal personnel is known to each state agency with which the tribe is addressing an issue of mutual concern. Further, each tribe may establish a more detailed organizational structure, decision-making process, system of accountability, and other procedures for

implementing the government-to-government relationship in subsequent agreements with various state agencies. Finally, each tribe will establish a documented system of accountability.

As a component of the system of accountability within state and tribal governments, the parties will review and evaluate at the annual meeting the implementation of the government-to-government relationship. A management report will be issued summarizing this evaluation and will include joint strategies and specific agreements to outline tasks, overcome obstacles, and achieve specific goals.

The chief of staff also will use his/her organizational discretion to help implement the government-to-government relationship. The Office of Indian Affairs will assist the chief of staff in implementing the government-to-government relationship by providing state agency directors information with which to educate employees and constituent \groups as defined in the accountability plan about the requirement of the government-to-government relationship. The Office of Indian Affairs shall also perform other duties as defined by the chief of staff.

V. Sovereignty and Disclaimers

Each of the parties respects the sovereignty of each other party. In executing this ACCORD, no party waives any rights, including treaty rights, immunities, including sovereign immunities, or jurisdiction. Neither does this ACCORD diminish any rights or protections afforded other Indian persons or entities under state or federal law. Through this ACCORD parties strengthen their collective ability to successfully resolve issues of mutual concern.

While the relationship described by this ACCORD provides increased ability to solve problems, it likely will not result in a resolution of all issues. Therefore, inherent in their relationship is the right of each of the parties to elevate an issue of importance to any decision-making authority of another party, including, where appropriate, that party's executive office.

Signatory parties have executed this ACCORD on the date of August 4, 1989, and agreed to be duly bound by its commitments.

Appendix 2--1999 Millennial Agreement

Institutionalizing the Government-to-Government Relationship in Preparation for the New Millennium

The work of the 1999 Tribal and State Leaders' Summit will be the foundation upon which our children will build. A stronger foundation for tribal/state relations is needed to enable us to work together to preserve and protect our natural resources and to provide economic vitality, educational opportunities, social services and law enforcement that allow the governments to protect, serve and enhance their communities.

The undersigned leaders of American Indian Nations and the State of Washington, being united in Leavenworth, WA on November 1, 2 and 3, 1999 in the spirit of understanding and mutual respect of the 1989 Centennial Accord and the government-to-government relationship established in that Accord, and desiring to strengthen our relationships and our cooperation on issues of mutual concern, commit to the following:

- Strengthening our commitment to government-to-government relationships and working to increase the understanding of tribes' legal and political status as governments;
- Continuing cooperation in the future by developing enduring channels of communication and institutionalizing government-to-government processes that will promote timely and effective resolution of issues of mutual concern;
- Developing a consultation process, protocols and action plans that will move us forward on the Centennial Accord's promise that, "The parties will continue to strive for complete institutionalization of the government-to-government relationship by seeking an accord among all the tribes and all elements of state government."
- Enhancing communication and coordination through the Governor's commitment to strengthen his Office of Indian Affairs and the member tribes' commitment to strengthen the Association of Washington Tribes;
- Encouraging the Washington Legislature to establish a structure to address issues of mutual concern to the state and tribes;
- Educating the citizens of our state, particularly the youth who are our future leaders, about tribal history, culture, treaty rights, contemporary tribal and state government institutions and relations and the contribution of Indian Nations to the State of Washington to move us forward on the Centennial Accord's promise that, "The parties recognize that implementation of this Accord will require a comprehensive educational effort to promote understanding of the government-to-government relationship within their own governmental organizations and with the public.";
- Working in collaboration to engender mutual understanding and respect and to fight discrimination and racial prejudice; and,
- Striving to coordinate and cooperate as we seek to enhance economic and infrastructure opportunities, protect natural resources and provide the educational opportunities and social and community services that meet the needs of all our citizens.

We affirm these principles and resolve to move forward into the new millennium with positive and constructive tribal/state relations.