

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON TRIBAL AFFAIRS**

February 18, 2020

8:05 a.m.

**MEMBERS PRESENT**

Representative Tiffany Zulkosky, Chair  
Representative Bryce Edgmon, Vice Chair  
Representative John Lincoln  
Representative Chuck Kopp  
Representative Dan Ortiz  
Representative Dave Talerico  
Representative Sarah Vance

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 221

"An Act providing for state recognition of federally recognized tribes; and providing for an effective date."

- MOVED CSHB 221 (TRB) OUT OF COMMITTEE

PRESENTATION: ALASKA TRIBAL CHILD WELFARE COMPACT

- HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 221

SHORT TITLE: STATE RECOGNITION OF TRIBES

SPONSOR(s): REPRESENTATIVE(S) KOPP

01/27/20	(H)	READ THE FIRST TIME - REFERRALS
01/27/20	(H)	TRB, CRA
02/13/20	(H)	TRB AT 8:00 AM CAPITOL 106
02/13/20	(H)	Heard & Held
02/13/20	(H)	MINUTE (TRB)
02/18/20	(H)	TRB AT 8:00 AM DAVIS 106

**WITNESS REGISTER**

PAULETTE MORENO, Grand President

Alaska Native Sisterhood  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

HEATHER GURKO, Grand President  
Alaska Native Brotherhood  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

LIZ MEDICINE CROW  
First Alaskans Institute  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

BETTY JO MOORE  
Alaska Native Sisterhood  
Sitka, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 221.

NICOLE BORROMEO, Executive Vice President/General Counsel  
Alaska Federation of Natives  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

EBON PETER  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

FAYE EWAN  
Copper River, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

MARY BISHOP  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during the hearing of HB 221.

KARLA SHEPARD  
Barrow, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 221.

CHERYL BOWIE  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing of HB 221.

FRANCINE EDDY-JONES, Tribal Family & Youth Services Director  
Central Council Tlingit & Haida Indian Tribes of Alaska  
("Tlingit & Haida")

Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

ROBERTA MOTO

Deering, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

BOB SAM

Sitka, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

JOEL JACKSON, President

Organized Village of Kake

Kake, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

DAWN JACKSON, Executive Director

Organized Village of Kake

Kake, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

MIKE JACKSON, Chief Justice and Director of Transportation

Organized Village of Kake

Kake, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

CHARLOTTE LARUE

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

NIKKI POLLOCK

Bethel, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

MARY ANN MILLS, Council Member

Kenaitze Indian Tribe

Kenai, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

BERNADINE ATCHISON, Vice Chair

Kenaitze Indian Tribe

Kenai, Alaska

**POSITION STATEMENT:** Testified in support of HB 221.

#### **ACTION NARRATIVE**

[8:05:50 AM](#)

**CHAIR TIFFANY ZULKOSKY** called the House Special Committee on Tribal Affairs meeting to order at 8:05 a.m. Representatives Vance, Edgmon, Lincoln, Ortiz, Kopp, Talerico, and Zulkosky were present at the call to order.

**HB 221-STATE RECOGNITION OF TRIBES**

[8:06:35 AM](#)

CHAIR ZULKOSKY announced that the first order of business would be HOUSE BILL NO. 221, "An Act providing for state recognition of federally recognized tribes; and providing for an effective date."

[8:06:45 AM](#)

CHAIR ZULKOSKY announced there was an amendment to be considered and that she would entertain a motion to amend HB 221.

[8:06:53 AM](#)

REPRESENTATIVE EDGMON moved to adopt [Amendment 1], labeled 31-LS1321|U.2, Caouette, 2/17/20, which read as follows:

Page 1, following line 3:

Insert a new bill section to read:

**"\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE FINDINGS AND INTENT. (a) The history of tribes in the state predates the United States and predates territorial claims to land in the state by both the United States and Imperial Russia. Indigenous people have inhabited land in the state for multiple millennia, since time immemorial or before mankind marked the passage of time.

(b) It is the intent of the legislature to exercise the legislature's constitutional policy-making authority and acknowledge through formal recognition the federally recognized tribes in the state."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

[8:06:58 AM](#)

REPRESENTATIVE ORTIZ objected to the motion, for the purpose of discussion.

[8:07:05 AM](#)

REPRESENTATIVE EDGMON said that the purpose of Amendment 1 was to add uncodified language into HB 221 to give more context and definition, and to put into state law recognition that tribes have been in Alaska and in the U.S. since time immemorial. Representative Edgmon added that HB 221, of which he is a strong supporter, would be strengthened with the addition of uncodified language.

[8:07:44 AM](#)

REPRESENTATIVE KOPP said that he was in full support of Amendment 1 and that it adequately reflected legislative intent.

[8:08:01 AM](#)

REPRESENTATIVE ORTIZ withdrew his objection.

[8:08:07 AM](#)

CHAIR ZULKOSKY announced that there being no further objection, Amendment 1 was adopted.

CHAIR ZULKOSKY announced that the committee would return to public testimony on HB 221 [opened during the prior committee meeting on 2/13/20].

[8:09:14 AM](#)

PAULETTE MORENO, Grand President, Alaska Native Sisterhood, imparted to the committee that "recognition or what is defined as recognition changes," but that [Alaska Natives] never stopped knowing who they were as a people. She added that [Alaska Natives] have done their part, and have met [the Alaska State Legislature] more than halfway. Ms. Moreno urged the committee to support HB 221.

[8:12:44 AM](#)

HEATHER GURKO, Grand President, Alaska Native Brotherhood, told the committee that future generations were watching [to see what happened with HB 221]. She added that HB 221 would let elders and future generations alike know that they matter.

[8:14:28 AM](#)

LIZ MEDICINE CROW, First Alaskans Institute, began by acknowledging that HB 221 has come at a "critical time" for Alaska. She imparted that it is one thing to acknowledge the past, and another to do something about it. She added her support for Amendment 1, mentioning that there is no doubt tribes have been [in Alaska] since time immemorial. What is in doubt is the willingness and the good faith effort of Alaska to engage in meaningful government-to-government relationships with tribal governments in Alaska.

[8:19:25 AM](#)

BETTY JO MOORE, Alaska Native Sisterhood, stated that she does not support HB 221 on the basis of tribes' exemption from Title VII of the Civil Rights Act [of 1964], which allows horrific and damaging discrimination to an individual within a tribal government, Ms. Moore put forth, adding that HB 221 "does not provide a road map for healing, wholeness and restoration for all Alaska's people and communities." Tribal governments are not sovereign, she continued, but dependent on tax dollars and the U.S. political system. Sovereignty is nation to nation, not nation to state, she added, so when a tribal government violates its own constitution, ordinances, policies, and procedures, claiming that "because of sovereignty they can do whatever they want," they are wrong. Ms. Moore urged the committee to "go back" and make amendments and laws to protect all tribal citizens within government organizations.

[8:22:34 AM](#)

NICOLE BORROMEO, Executive Vice President/General Counsel, Alaska Federation of Natives, pointed out that HB 221 would not only provide the legal foundation to move forward at the state level, but would leverage tribal resources. Ms. Borrromeo referenced Ms. Moore's comments and said that she wished to explain for the record tribal sovereignty/immunity and what those terms mean to tribes in Alaska and across the U.S. In exercising their right to be sovereign, she continued, tribes are asking for self-determination and self-governance. The Bill of Rights extends to every citizen including tribal citizens,

she continued, so a tribe cannot violate its members' civil rights that are guaranteed to all Americans under the Constitution. Because tribes are sovereign, they do get to determine and define their membership, she added.

[8:25:15 AM](#)

EBON PETER said that he believes that HB 221 is "just another step in the right direction," and that having the respect and understanding of indigenous nations within Alaska everyone can work together. He said that he doesn't believe any government is perfect, but that "we are all on a path toward healing."

[8:27:59 AM](#)

FAYE EWAN informed the committee that she is very happy HB 221 is under consideration because [Native Alaskans'] traditional way of life is being threatened.

[8:30:53 AM](#)

MARY BISHOP mentioned a [2017] lawsuit in which the Douglas Indian Association tried to sue Tlingit & Haida and "learned from [the Alaska Supreme Court] that they could not do that," and that the dispute must instead be settled in tribal court. Ms. Bishop told the committee that there is a tremendous need for understanding of "Indian Country" law; what it is and what it isn't. Sovereignty means that tribes have authority over their membership and relationships between their members; it also means they have immunity from [lawsuit] for breach of contract, Ms. Bishop added. She then stated that what she thinks tribes could, and must, do, is to do something about sexual assault and domestic violence between tribal members. She summarized by adding that tribes should not only recognize the benefits, but also shoulder the responsibilities of sovereignty.

[8:35:14 AM](#)

KARLA SHEPARD imparted to the committee that she had brain surgery "for nothing" because of tribal health. Ms. Shepard surmised that being a corporation shareholder is irrelevant if one is not a tribal member, and that the majority of Alaskans did not understand where their rights to medical care came from. She added that because of "illegal activity being conducted by tribes" her family members had not been seen by doctors at the Alaska Tribal Health Consortium. Medical care, according to Ms.

Shepard, is not being given to patients, and the consortium is to blame for several of her personal health problems including a brain tumor.

[8:37:22 AM](#)

CHERYL BOWIE told the committee that she, too, was "personally paying the price for physicians' mistakes." Organizations hold considerable power over communities. Ms. Bowie added that there is a need for accountability, uniformity, and reciprocity in the law to establish a uniform set of laws between the tribes and the state.

[8:41:51 AM](#)

The committee took an at-ease from 8:41 a.m. to 8:42 a.m.

[8:42:15 AM](#)

CHAIR ZULKOSKY announced that the committee would hold HB 221, as amended, until the completion of a presentation.

[8:42:48 AM](#)

The committee took an at-ease from 8:42 a.m. to 8:44 a.m.

**Presentation: Alaska Tribal Child Welfare Compact**

[8:44:35 AM](#)

CHAIR ZULKOSKY announced that the next order of business would be a presentation on the Alaska Tribal Child Welfare Compact.

[8:44:52 AM](#)

FRANCINE EDDY-JONES, Tribal Family & Youth Services Director, Central Council Tlingit & Haida Indian Tribes of Alaska ("Tlingit & Haida"), showed an eight-minute video providing background on the Alaska Tribal Child Welfare Compact ("Child Welfare Compact").

[8:55:10 AM](#)

MS. EDDY-JONES then showed the committee a PowerPoint presentation, beginning with a slide entitled "Why the Work Began," which was broken into two sub-categories: "Significant General Disparities by Race" and "Significant Specific Disparity

by Race (Repeat Maltreatment)." In January 2020, she informed the committee, there were 3,121 Alaska children in the State foster care system. Of these, she added, 2,043 were Alaska Native, to a disproportionality rate of 65 percent. Over the past several years, she added, the disproportionality rate continues to rise. In terms of significant specific disparity by race, in 2018, 17 percent of Alaska Native/American Indian children experienced repeated maltreatment compared to 9 percent for non-Native children.

MS. EDDY-JONES added that in addition, Alaska has had a "continuous, ongoing, difficult" time recruiting and retaining a proficient workforce, and typically operates at a 30 percent positional vacancy rate, requiring its frontline workers to carry caseloads more than three times the national average. She added that tribes have continuously been providing child welfare under the Indian Child Welfare Act for 42 years, starting from a grassroots program to many across the state with different levels of development providing services from prevention to intervention. Some tribes have more capacity than others, Ms. Eddy-Jones continued, but with the Child Welfare Compact in place work with smaller tribes has also begun.

MS. EDDY-JONES explained the Tribal State Collaboration Group [slide 3, "How the Work Began"], a 26-year partnership between state and tribal representatives and invited private stakeholders, some of the goals of which are to: strengthen Indian Child Welfare Act compliance; reduce Alaska Native/American Indian disproportionality; and build and strengthen working relationships. Ms. Eddy-Jones acknowledged the importance of 11 tribal partners that have been in a relationship with Alaska's Office of Children's Services since 2000, two of which, Tanana Chiefs Conference and Tlingit & Haida, also have a maintenance agreement, which allows the opportunity to transfer cases from state court to tribal court.

MS. EDDY-JONES noted that tribes do receive a higher reimbursement rate than the state and can leverage resources, particularly general funds, under the Tribal Title IV-E Agreements, which provide federal funds for states and tribes to provide foster care, transitional independent living programs, guardianship assistance, and adoption assistance.

[8:59:08 AM](#)

MS. BORROMEIO took a moment to dispel the notion that Alaska Native people are forced to go to the Alaska Tribal Health

System (ATHS) for care; but that those with unfortunate experiences could have gone anywhere they wanted for care. Turning back to the presentation, Ms. Borrromeo mentioned that that the Child Welfare Compact was still in its early stages of educating the public of what the compact is [slide 4]. Ms. Borrromeo explained that the Child Welfare Compact is an intergovernmental agreement between the State of Alaska and certain Alaska tribes and tribal organizations to improve the well-being of Alaska children and families [slides 4-5].

MS. BORROMEEO added that the child welfare compact was founded in 2017 and was modeled after the compacts the federal government routinely negotiates with tribes and tribal organizations under the Tribal Self Governance Program (TSGP) of the Indian Self-Determination and Education Assistance Act (ISDEAA). Ms. Borrromeo added that what the child welfare compact does specifically is define the services and supports to be carried out by the tribal cosigners in their respective service delivery areas for their respective populations.

[9:02:54 AM](#)

MS. BORROMEEO called the committee's attention to this first-ever compact negotiated at the state level. She also mentioned that there were 18 tribal cosigners representing 161 individual tribes that signed the Child Welfare Compact [slide 7]. She discussed the compact's implementation, from program development and infrastructure building in fiscal year 2018 (FY 18), to the sharing of protective services reports in FY 19, to implementing new scopes of work in FY 20.

[9:05:15 AM](#)

MS. BORROMEEO drew an important distinction between the State's focus on intervention versus tribes' focus on prevention when it came to matters of child welfare. A major turning point in FY 19 was a sharp decrease in the number of children in custody. One of the "new scopes of work" in FY 20 was a "Diligent Relatives Search" in which a child goes first to his or her immediate family, then extended family, and then another Native family before being placed outside of his or her tribal community [slides 8-9].

[9:08:14 AM](#)

MS. EDDY-JONES added that steps 3-5 in slide 9, safety evaluations of homes, foster home licensing, and family

contact/visits, are "ready to go" but on hold because of the higher insurance coverage the state is requiring. Ms. Eddy-Jones informed the committee that one of the strongest supporters has been the Casey Family Programs (CFP), a private national foundation that focuses on child welfare and foster care [slide 10]. The long-term vision of the Child Welfare Compact, Ms. Eddy-Jones stated, is three-pronged: Alaska children and families will be served locally, as close to home as possible; services provided will be more cost effective and efficient; and children and families will be more receptive to abusive or neglectful behaviors, which will mean the number of children in state custody will decrease [slide 11].

MS. EDDY-JONES finished her presentation by stating that in order to move forward, the Child Welfare Compact will advocate for Governor Mike Dunleavy to uphold the original 2017 compact, which was a rigorous negotiation process to which both the state and tribes committed a lot of time and resources; encourage the state to come up with a workable solution for the increased insurance coverage they are requiring of tribal co-signers; and provide additional financial resources for the Office of Children's Services to support tribal co-signers doing this work [slide 12].

[9:12:57 AM](#)

REPRESENTATIVE KOPP asked how many children were served through the Child Welfare Compact.

[9:13:14 AM](#)

MS. BORROMEO lamented that because the compact is an "input/output" model, the state needs to supply the names of children and families, and that process has been slow.

#### **HB 221-STATE RECOGNITION OF TRIBES**

[9:15:10 AM](#)

CHAIR ZULKOSKY announced that the final order of business would be a return to HOUSE BILL NO. 221, "An Act providing for state recognition of federally recognized tribes; and providing for an effective date."

CHAIR ZULKOSKY returned to public testimony.

[9:15:47 AM](#)

ROBERTA MOTO stated that when communities are empowered and given the tools to solve problems, results are more sustainable and create long-term change. She explained that village leaders used to be the peacekeepers and restore justice in villages, but through the erosion of tribal powers there has been a rise in social problems in villages. Tribes should be empowered to prevent adverse childhood experience and even health problems such as heart disease, she opined.

[9:19:52 AM](#)

BOB SAM, a sixty-six-year resident of Alaska and tribal citizen, told the committee he believes lives of future generations are improved when decisions are made together as a people.

[9:24:15 AM](#)

JOEL JACKSON, President, Organized Village of Kake, told the committee that giving up even part of sovereignty "was never an option." He said that state recognition of tribes would be a lot better than the current state of discord.

[9:27:22 AM](#)

DAWN JACKSON, Executive Director, Organized Village of Kake, recommended to the committee a uniform set of laws and procedures be implemented so that daily collaboration between tribes and local, state, and federal governments can run smoothly.

[9:30:17 AM](#)

MIKE JACKSON, Chief Justice and Director of Transportation, Organized Village of Kake, echoed Mr. Sam's comments that through "love, respect, and forgiveness" communities can be made stronger.

[9:34:11 AM](#)

CHARLOTTE LARUE pointed out that there is a discrepancy in the state's celebration of Native art whilst not giving proper recognition to the cultures from which that art has come.

[9:36:11 AM](#)

NIKKI POLLOCK used the "pie" analogy with regard to tribal recognition: recognition of tribes by the state does not mean less rights for the state.

[9:39:56 AM](#)

MARY ANN MILLS, Council Member, Kenaitze Indian Tribe, let the committee know that state recognition would allow for better care of tribal members within her community.

[9:43:52 AM](#)

BERNADINE ATCHISON, Vice Chair, Kenaitze Indian Tribe, let the committee know that the Kenaitze Indian Tribe turns away funding they could use because of requests to waive sovereign immunity, which she feels strongly they should not have to do.

[9:45:09 AM](#)

CHAIR ZULKOSKY closed public testimony on HB 221.

[9:45:29 AM](#)

REPRESENTATIVE KOPP brought attention to Section 4 of HB 221, "Recognition of tribes":

The state recognizes the special and unique relationship that the United States government has with federally recognized tribes and specifically recognizes the relationship between the United States government and federally recognized tribes in the state.

REPRESENTATIVE KOPP noted again the importance of recognition in Alaska, with it being home to so many tribes.

[9:49:33 AM](#)

REPRESENTATIVE TALERICO said that he understands the "need and desire folks have," but believes there will still exist some "jurisdictional questions." He added that he believes through the Child Welfare Compact, Alaska has started down a "pathway for some good cooperation."

[9:51:09 AM](#)

REPRESENTATIVE VANCE asked what, if anything, HB 221 would do in terms of sovereign immunity.

[9:52:39 AM](#)

CHAIR ZULKOSKY stated that she would like concerns around trust obligations and jurisdictional issues to be addressed, and she believes HB 221 is a step in the right direction. She reminded the committee of an invited testifier who had replied to a question of what was needed in terms of mutual respect moving forward: visibility and acknowledgement.

[9:56:19 AM](#)

REPRESENTATIVE EDGMON moved to report HB 221, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 221(TRB) was reported out of the House Special Committee on Tribal Affairs.

[9:56:57 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Tribal Affairs meeting was adjourned at 9:57 a.m.