

Presentation to STRC

Heather Cahoon, PhD

University of Montana

Assistant Professor, Native American Studies

Director, American Indian Governance and Policy Institute

Presentation to STRC

- Tribal Sovereignty and Related Rights
- Treaty Basics
- American Indians and Taxes: Myths and Realities

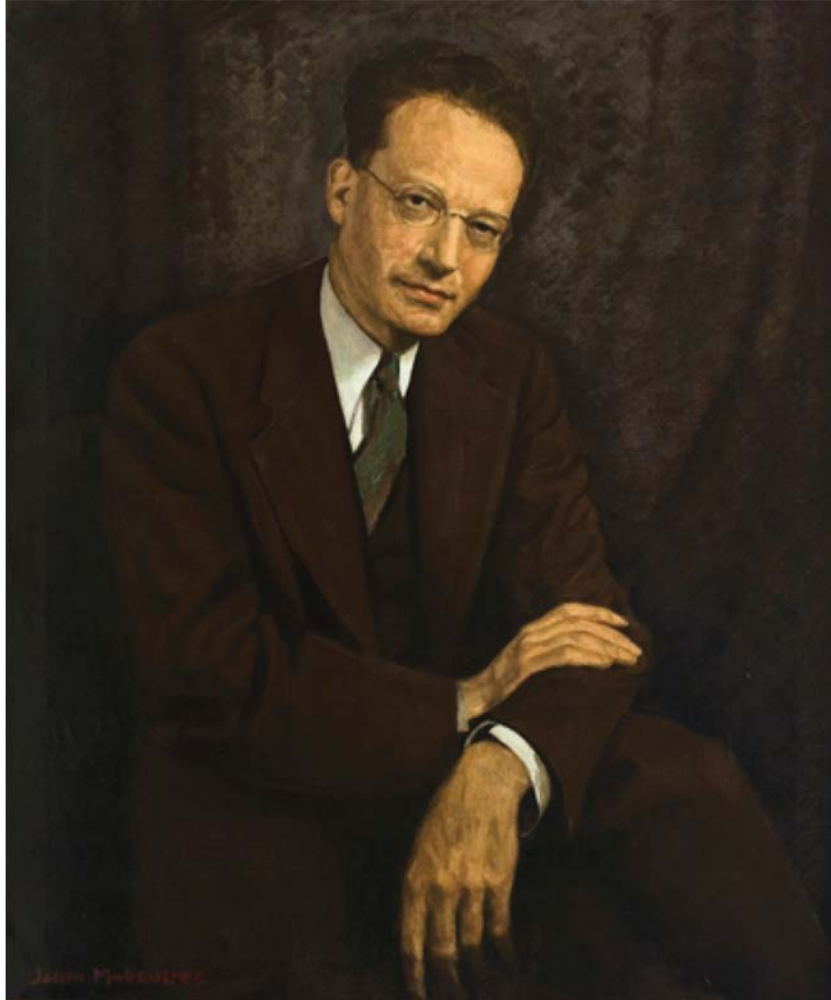
Tribal Sovereignty and Related Rights

“From the earliest years of the Republic the Indian tribes have been recognized as ‘distinct, independent, political communities,’ and as such, qualified to exercise powers of self-government, not by virtue of any delegation of powers from the Federal Government, but rather by reason of their original tribal sovereignty.”

- Felix Cohen, *Handbook of Federal Indian Law*, p. 122

What is tribal sovereignty?

Federal-Tribal Trust Relationship



Although tribes' external sovereignty has been diminished in certain circumstances, tribes retain their full powers of internal, or domestic, sovereignty. These are not delegated powers; they are "inherent powers of a limited sovereignty which has never been extinguished" (Cohen, p. 122).

Tribal governments' internal sovereign powers include the right to:

Tribal governments' internal sovereign powers include the right to:

- Determine their own form of government;

Tribal governments' internal sovereign powers include the right to:

- Determine their own form of government;
- Define the conditions of tribal membership;

Tribal governments' internal sovereign powers include the right to:

- Determine their own form of government;
- Define the conditions of tribal membership;
- Legislate (or make civil and criminal laws in relation to internal tribal matters and members. This includes regulating the domestic affairs of tribal members, prescribing the rules of inheritance, levying taxes and protecting tribal land and resources);

Tribal governments' internal sovereign powers include the right to:

- Determine their own form of government;
- Define the conditions of tribal membership;
- Legislate (or make civil and criminal laws in relation to internal tribal matters and members. This includes regulating the domestic affairs of tribal members, prescribing the rules of inheritance, levying taxes and protecting tribal land and resources);
- Administer justice (through their own tribal justice systems, which include tribal and appellate courts, detention facilities and law enforcement);

Tribal governments' internal sovereign powers include the right to:

- Determine their own form of government;
- Define the conditions of tribal membership;
- Legislate (or make civil and criminal laws in relation to internal tribal matters and members. This includes regulating the domestic affairs of tribal members, prescribing the rules of inheritance, levying taxes and protecting tribal land and resources);
- Administer justice (through their own tribal justice systems, which include tribal and appellate courts, detention facilities and law enforcement);
- Exclude individuals from tribal territory; and

Tribal governments' internal sovereign powers include the right to:

- Determine their own form of government;
- Define the conditions of tribal membership;
- Legislate (or make civil and criminal laws in relation to internal tribal matters and members. This includes regulating the domestic affairs of tribal members, prescribing the rules of inheritance, levying taxes and protecting tribal land and resources);
- Administer justice (through their own tribal justice systems, which include tribal and appellate courts, detention facilities and law enforcement);
- Exclude individuals from tribal territory; and
- Any other right not expressly extinguished by treaty or statute.
(Cohen, p. 247-252)

Tribal governments' powers over non-Indians

Tribal governments' powers over non-Indians

Tribal rights also include a varying array of powers over non-Indians in instances where:

1. non-member conduct threatens or directly affects the political integrity, economic security, or health or welfare of the tribe;

Tribal governments' powers over non-Indians

Tribal rights also include a varying array of powers over non-Indians in instances where:

1. non-member conduct threatens or directly affects the political integrity, economic security, or health or welfare of the tribe;
2. in instances where non-Indians have entered into contractual relationships with tribes (William Canby, *American Indian Law in a Nut Shell*, p. 74-75).

Federal Indian Policy Periods

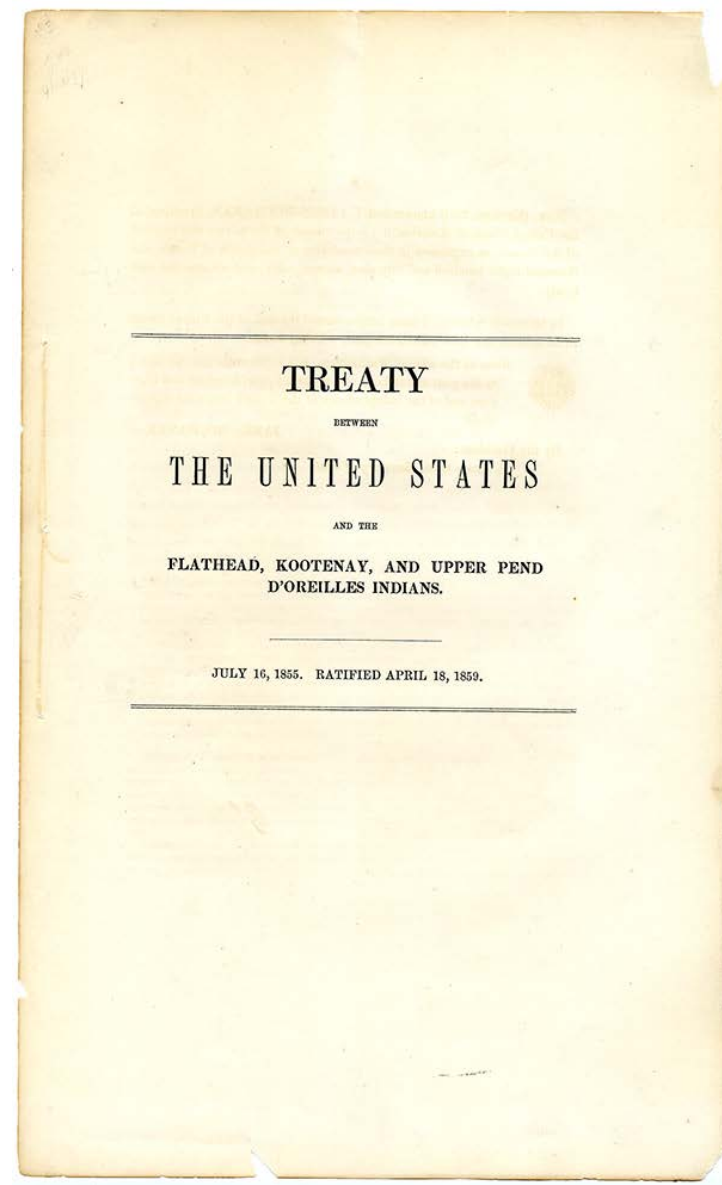
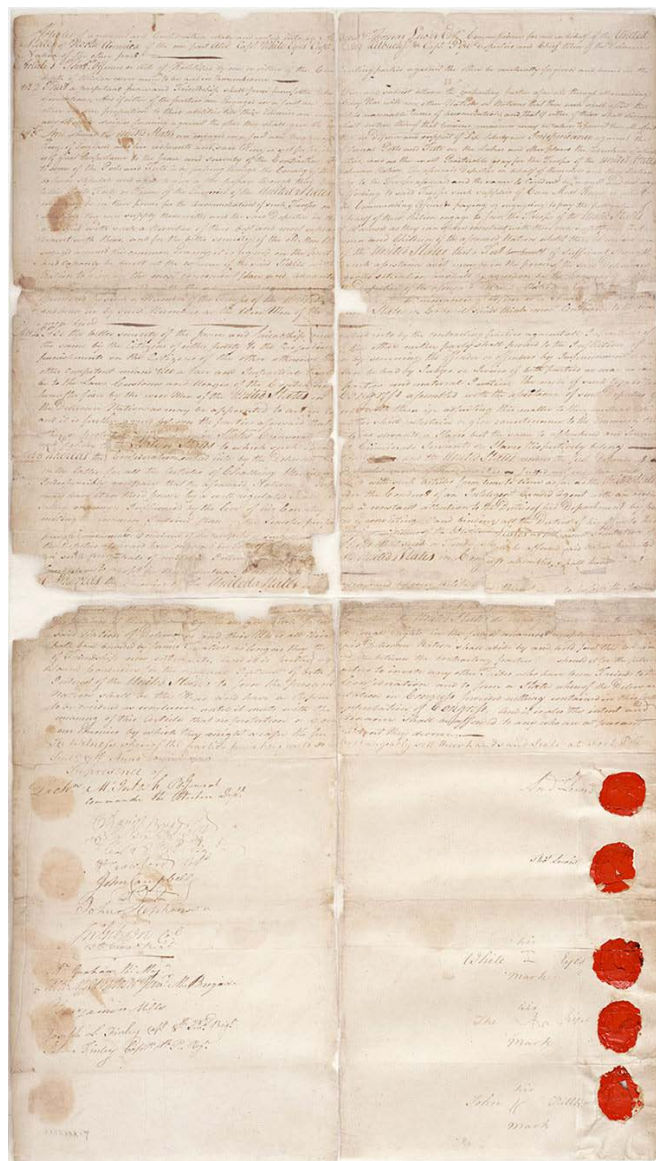
- Treaty-Making and Removal Period, 1778 - 1871
- Reservation Period - Allotment and Assimilation, 1887 – 1934
- Tribal Reorganization Period, 1934 – 1953
- Termination and Relocation Period, 1953 – 1968
- Self-Determination Period, 1975 - Present

Federal Indian Policy Periods

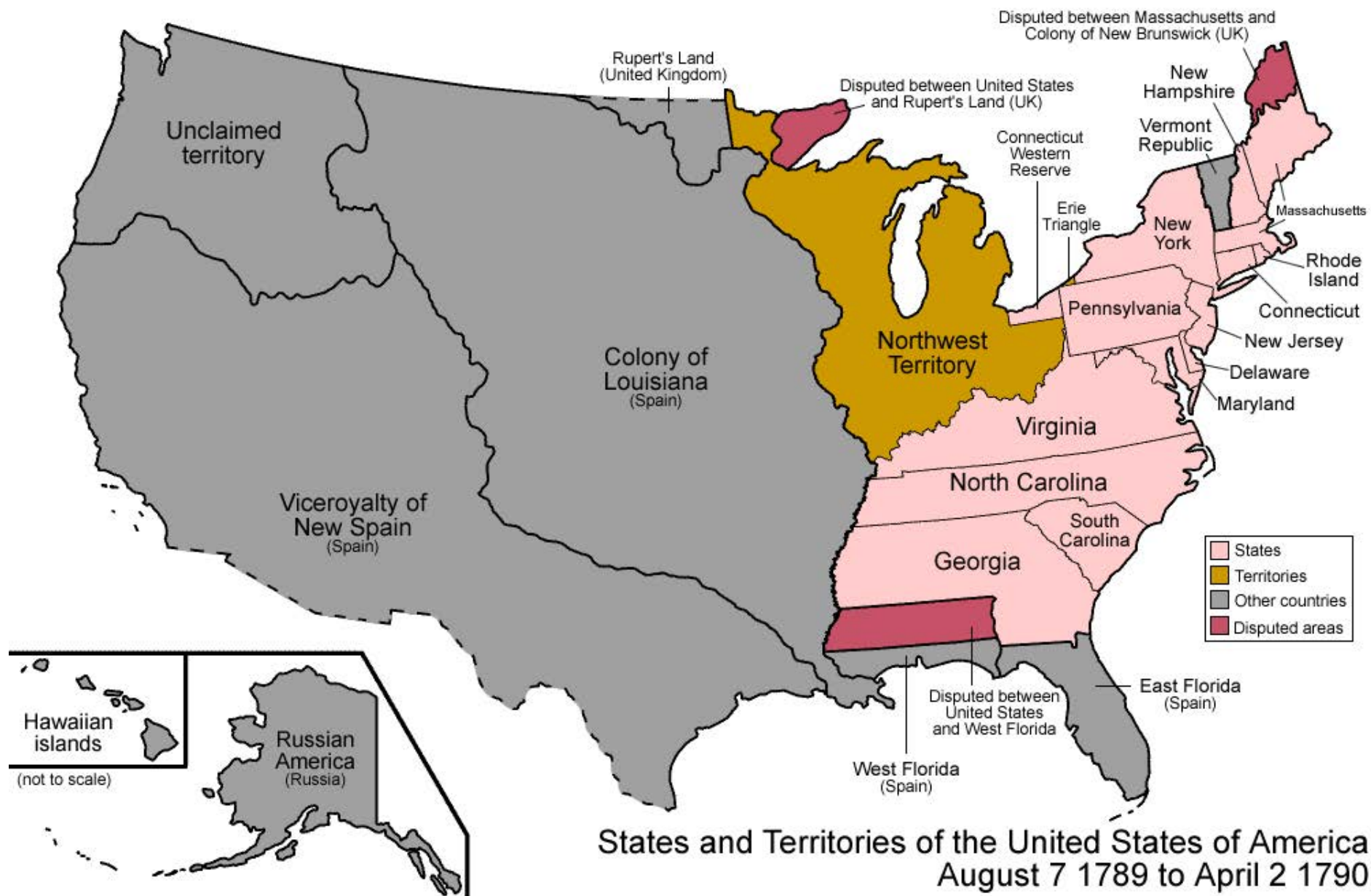
- Treaty-Making and Removal Period, 1778 - 1871
- Reservation Period - Allotment and Assimilation, 1887 – 1934
- Tribal Reorganization Period, 1934 – 1953
- Termination and Relocation Period, 1953 – 1968
- Self-Determination Period, 1975 - Present

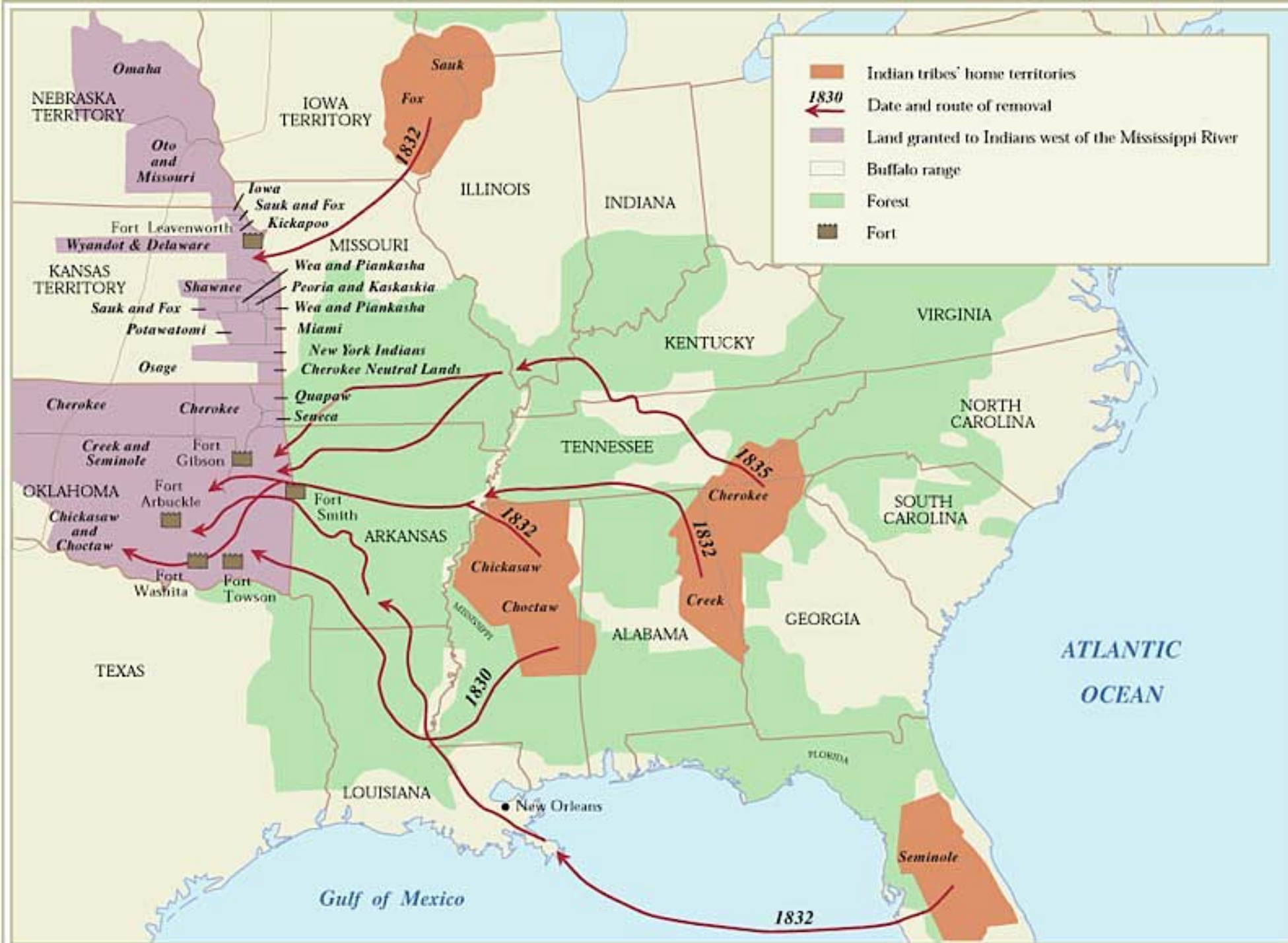
Treaty Basics

A treaty is “a formal agreement between two or more fully sovereign and recognized states operating in an international forum, negotiated by officially designated commissioners and ratified by the governments of the signatory powers” (Francis Paul Prucha, *American Indian Treaties: The History of a Political Anomaly*, p. 2).

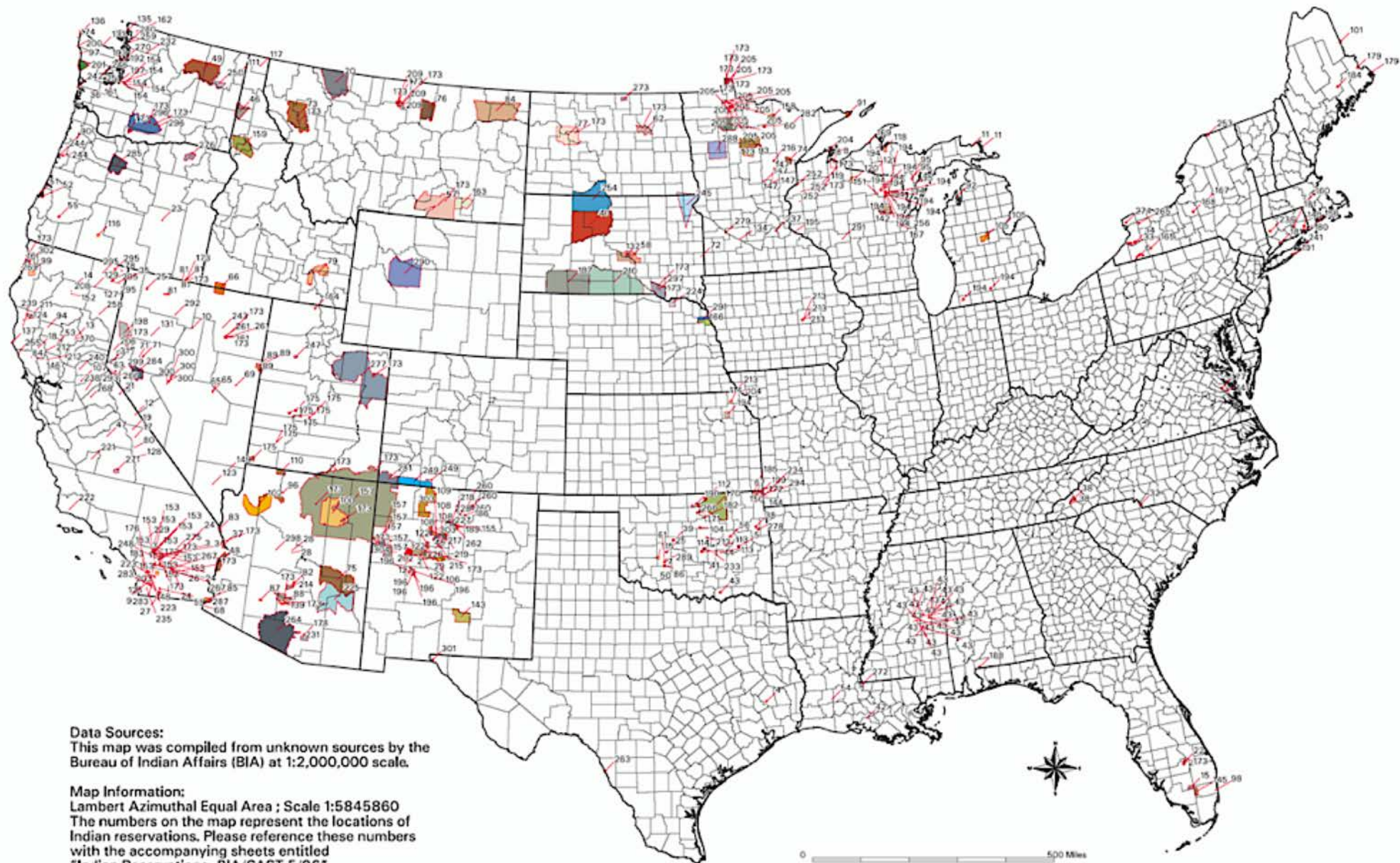


Reservation	Method and Year Established	Official Name of Tribal Government	Contemporary Name of Tribal Groups	Name Tribes Call Themselves	Language Family	Membership Population, (c. 2015)
Blackfeet	Treaty, 1855	Blackfeet Nation	Blackfeet	<i>Pikuni</i>	Algonquin	17,321
Crow	Treaty, 1868	Crow Tribe of Indians	Crow	<i>Apsaalooke</i>	Siouan	13,269
Flathead	Treaty, 1855	Confederated Salish and Kootenai Tribes	Salish, Pend d' Oreille, Kootenai	<i>Selis, Qlispe, Ksanka</i>	Salishan, Salishan, Kootenai	7,920
Fort Belknap	Congressional Statute, 1888	Fort Belknap Indian Community	Assiniboine, Gros Ventre	<i>Nakoda, A'aninin/Aaniiih</i>	Siouan, Algonquin	7,000
Fort Peck	Executive Order, 1886	Fort Peck Tribes	Assiniboine, Sioux	<i>Nakoda, Lakota, Dakota</i>	Siouan	12,975
Little Shell Landholdings in Great Falls	N/A	Little Shell Tribe of Chippewa Indians	Little Shell Chippewa	<i>Anishinaabe, Métis</i>	Chippewa	5,300
Northern Cheyenne	Executive Order, 1884	Northern Cheyenne Tribe	Northern Cheyenne	<i>Tsististas and Suhtaio/ So'taa'eo'o</i>	Algonquin	11,266
Rocky Boy's	Congressional Statute, 1916	Chippewa Cree Tribe	Chippewa Cree	<i>Annishinabe, Ne-i-yah-wahk</i>	Algonquin	6,000





Indian Reservations in the Continental United States



Federal Indian Policy Periods

- Treaty-Making and Removal Period, 1778 - 1871
- Reservation Period - Allotment and Assimilation, 1887 – 1934
- Tribal Reorganization Period, 1934 – 1953
- Termination and Relocation Period, 1953 – 1968
- Self-Determination Period, 1975 - Present

It requires no seer to foretell or foresee the civilization of the Indian race as a result naturally deducible from a knowledge and practice upon their part of the art of agriculture; for the history of agriculture among all people and in all countries intimately connects it with the highest intellectual and moral development of man. Historians, philosophers, and statesmen freely admit that civilization as naturally follows the improved arts of agriculture as vegetation follows the genial sunshine and the shower, and that those races who are in ignorance of agriculture are also ignorant of almost everything else. The Indian constitutes no exception to this political maxim. Steeped as his progenitors were, and as more than half of the race now are, in blind ignorance, the devotees of abominable superstitions, and the victims of idleness and thriftlessness, the absorbing query which the hopelessness of his situation, if left to his own guidance, suggests to the philanthropist, and particularly to a great Christian people like ours, is to know how to relieve him from this state of dependence and barbarism, and to direct him in paths that will eventually lead him to the light and liberty of American citizenship.

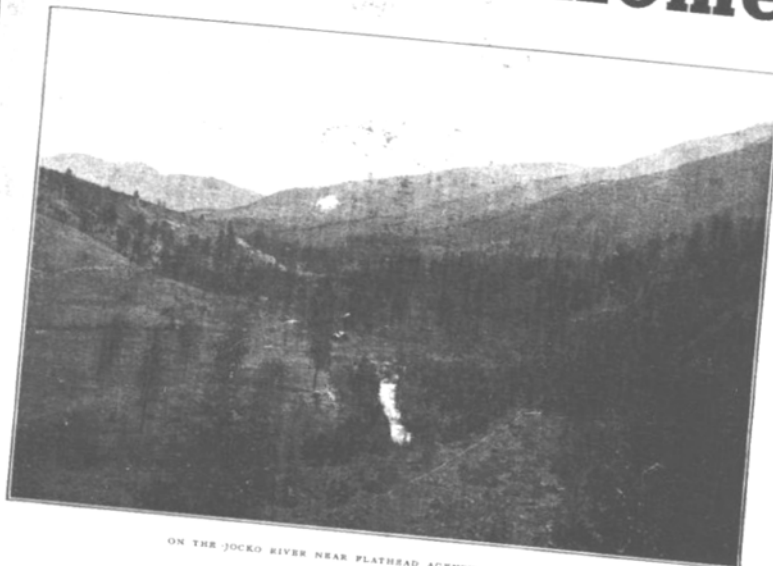
J. D. C. Atkins, Commissioner of Indian Affairs,
Annual Report of the Commissioner of Indian Affairs, 1885







Uncle Sam Will Give You a Home



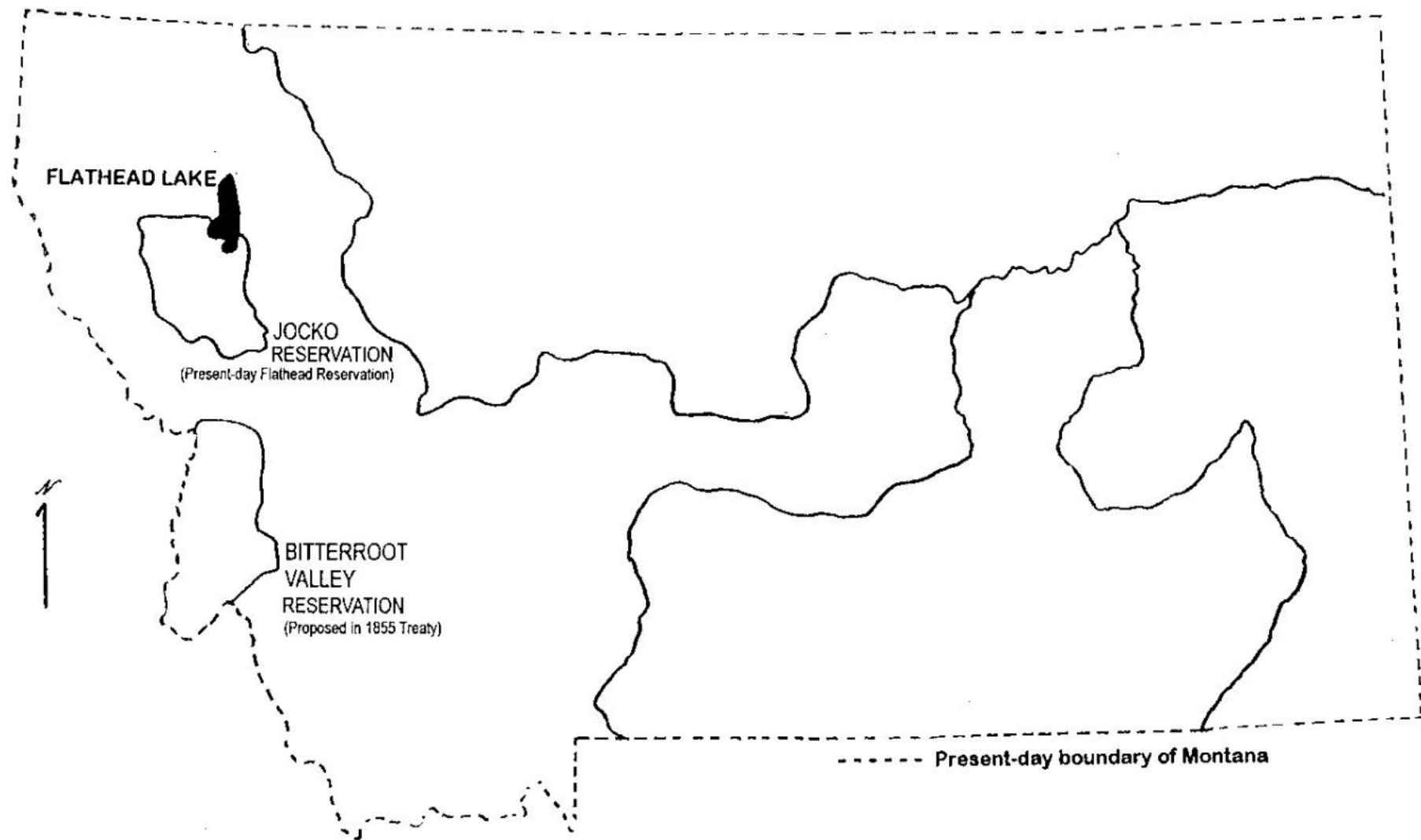
ON THE JOCKO RIVER NEAR FLATHEAD AGENCY ABOVE ARLEE

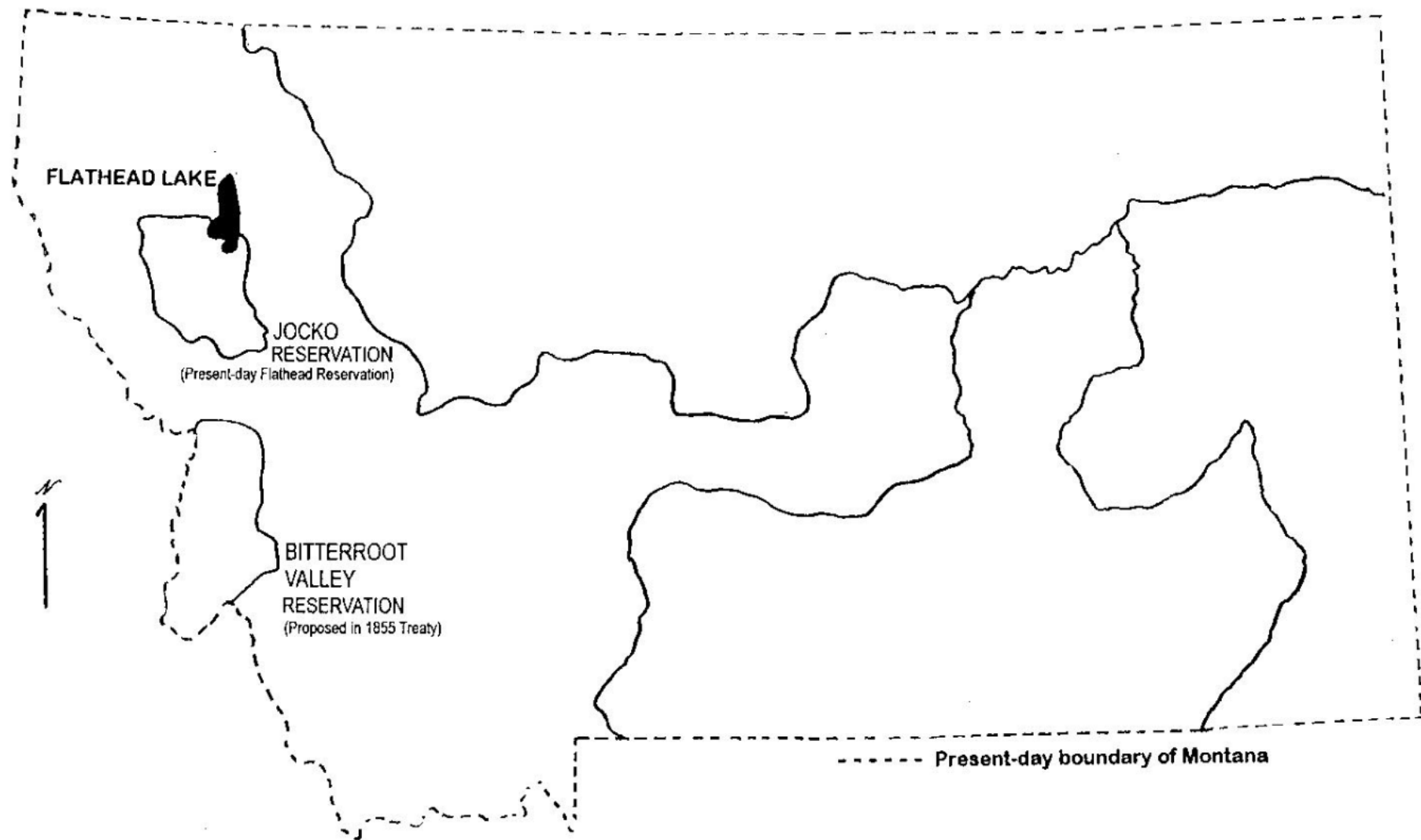
IN THE
**FLATHEAD INDIAN
RESERVATION**
WESTERN MONTANA



Directly on the Line of the
Northern Pacific Railway









 Tribal Lands
 Tribal Water

**STATE TREASURY
NATURAL RESOURCES DEPARTMENT
GIS DIVISION**

The map is intended for general planning purposes related to the Federal Inland Sea Grant, Marano. The map is a representation of the physical feature, infrastructure, natural resources, and land use. This is not a site map and is not intended to be used for any other purpose.

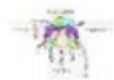
The way we needed them to be used was starting as soon as we first told them. Journal and reference materials by the Connecticut State of Economic Union, Labor and the state Police, Missouri.

Copyright © 1993, 2003 IT&E Telus Rural Services Corporation. All rights reserved.

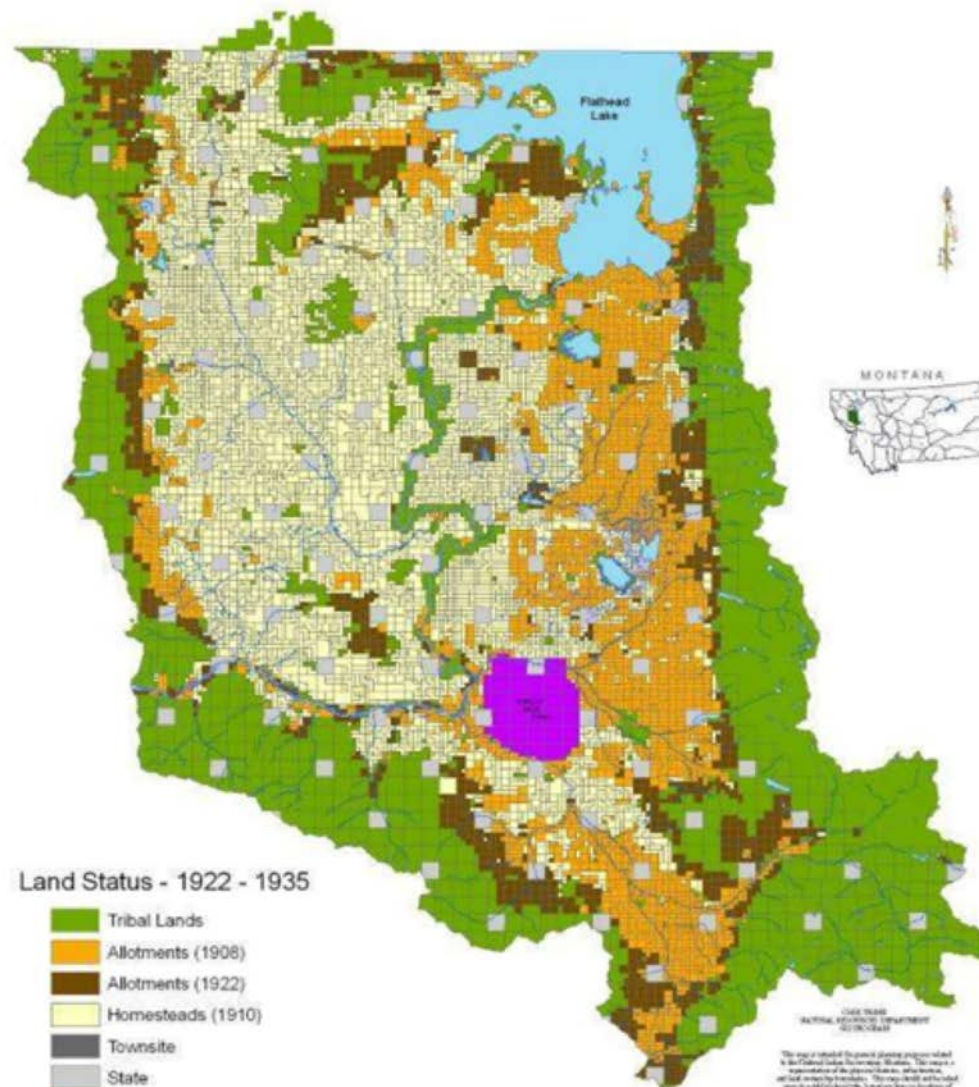
Software: EASY 4.0 (EASY) (EASY) (EASY)
Hardware: Dell Dimension 5100
Email: Gordon.Park@duke.edu

preprint 2020, 17, 20204





THE CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD NATION



Land Status - 1922 - 1935

- Tribal Lands
- Allotments (1908)
- Allotments (1922)
- Homesteads (1910)
- Townsite
- State
- National Bison Range
- Tribal Water

DATE: 10/10/10
AUTHOR: JENNIFER L. HARRIS
GEOGRAPHIC: 48.100000

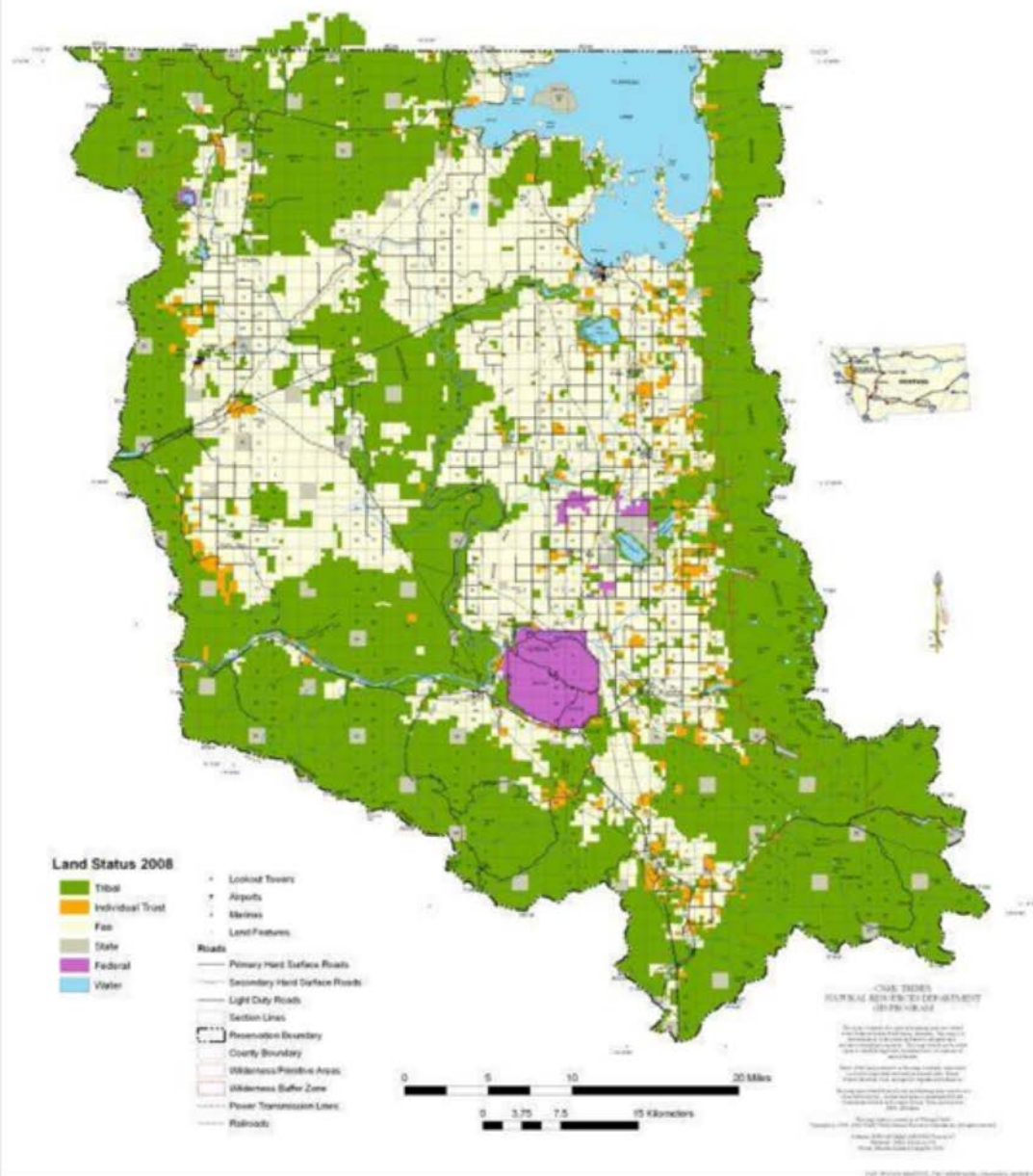
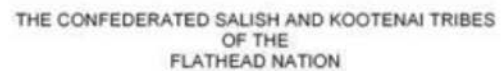
This map is intended to provide a general overview of the land status of the Flathead Nation. It is not a legal document and should not be used for legal purposes. The map is based on the best available information and is subject to change.

Most of the land is owned by the Flathead Nation. The land is divided into allotments, homesteads, townships, and state land. The land is also used for agriculture, forestry, and other purposes.

The map is based on the best available information and is subject to change. The map is not a legal document and should not be used for legal purposes.

Copyright © 2010, 2011 Flathead Nation. All rights reserved.
Flathead Nation, 2010. All rights reserved.
Flathead Nation, 2011. All rights reserved.
Flathead Nation, 2012. All rights reserved.

y:\hgis\flat192235_17_22.mxd



INSTITUTE FOR GOVERNMENT RESEARCH

STUDIES IN ADMINISTRATION

THE PROBLEM OF INDIAN ADMINISTRATION

Report of a Survey made at the request
of Honorable Hubert Work, Secretary
of the Interior, and submitted to him,
February 21, 1928

SURVEY STAFF

LEWIS MERIAM
Technical Director
RAY A. BROWN
HENRY ROE CLOUD
EDWARD EVERETT DALE
EMMA DUKE
HERBERT R. EDWARDS
FAYETTE AVERY MCKENZIE
MARY LOUISE MARK
W. CARSON RYAN, JR.
WILLIAM J. SPILLMAN

THE JOHNS HOPKINS PRESS
BALTIMORE MARYLAND

1928

Federal Indian Policy Periods

- Treaty-Making and Removal Period, 1778 - 1871
- Reservation Period - Allotment and Assimilation, 1887 – 1934
- Tribal Reorganization Period, 1934 – 1953
- Termination and Relocation Period, 1953 – 1968
- Self-Determination Period, 1975 - Present



Federal Indian Policy Periods

- Treaty-Making and Removal Period, 1778 - 1871
- Reservation Period - Allotment and Assimilation, 1887 – 1934
- Tribal Reorganization Period, 1934 – 1953
- Termination and Relocation Period, 1953 – 1968
- Self-Determination Period, 1975 - Present

COME TO DENVER

THE CHANCE OF YOUR LIFETIME !

Good Jobs

Retail Trade
Manufacturing
Government-Federal, State, Local
Wholesale Trade
Construction of Buildings, Etc.



Happy Homes

Beautiful Houses
Many Churches
Exciting Community Life
Over Half of Homes Owned by Residents
Convenient Stores-Shopping Centers



Training

Vocational Training
Auto Mech., Beauty Shop, Drafting,
Nursing, Office Work, Watchmaking
Adult Education
Evening High School, Arts and Crafts
Job Improvement, Home-making



Beautiful Colorado

"Tallest" State, 48 Mt. Peaks Over 14,000 Ft.
350 Days Sunshine, Mild Winters
Zoos, Museums, Mountain Parks, Drives
Picnic Areas, Lakes, Amusement Parks
Big Game Hunting, Trout Fishing, Camping



Federal Indian Policy Periods

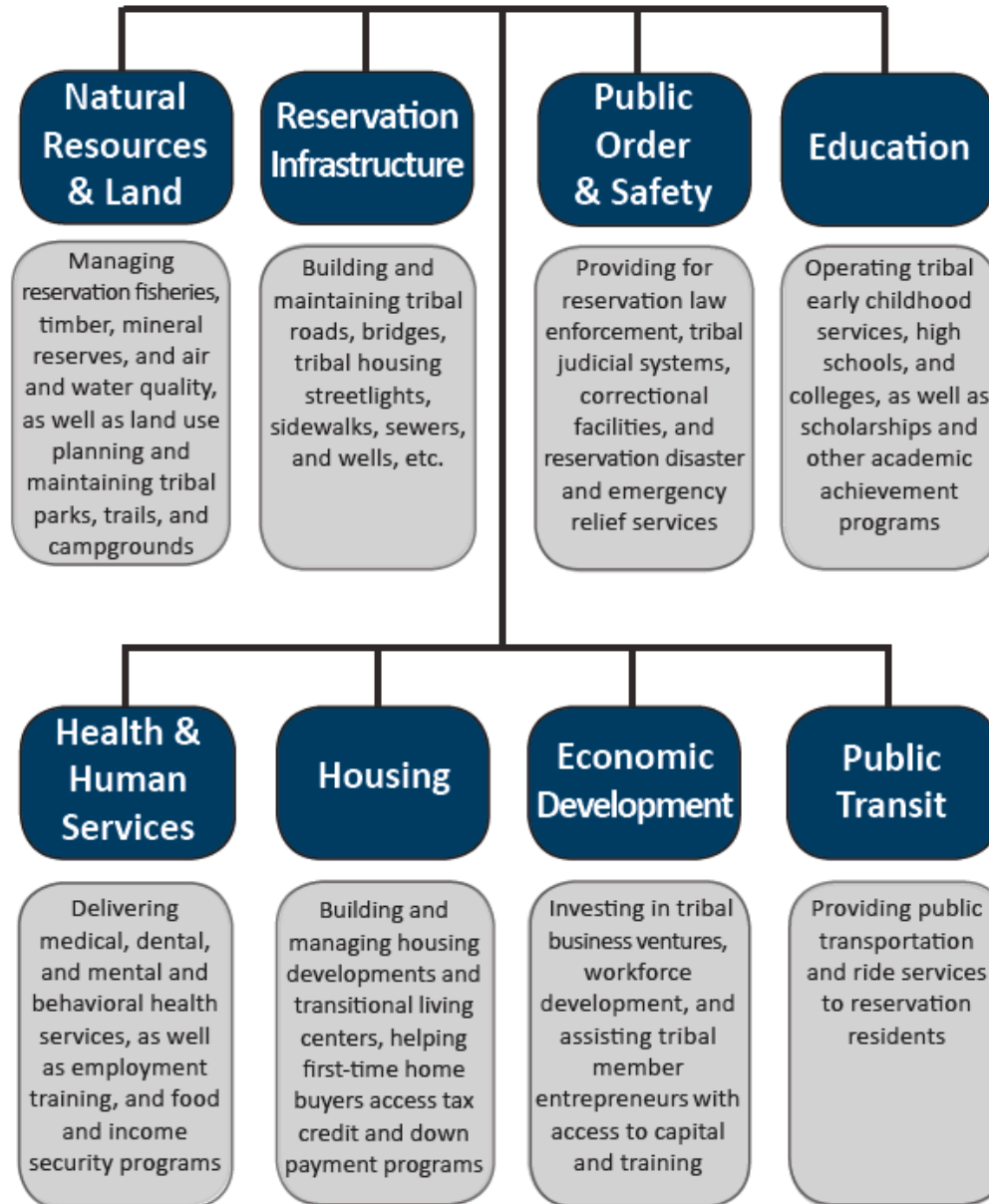
- Treaty-Making and Removal Period, 1778 - 1871
- Reservation Period - Allotment and Assimilation, 1887 – 1934
- Tribal Reorganization Period, 1934 – 1953
- Termination and Relocation Period, 1953 – 1968
- Self-Determination Period, 1975 - Present



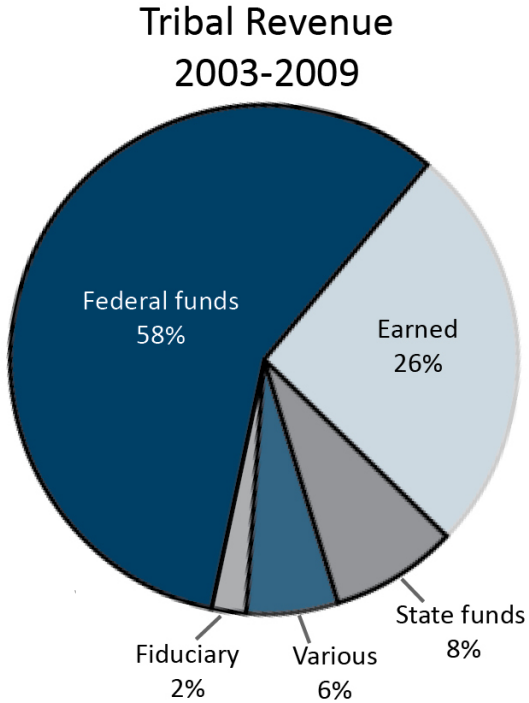




Tribal Government Services



Sources of Revenue



Myth: American Indians get “handouts”
from the federal government

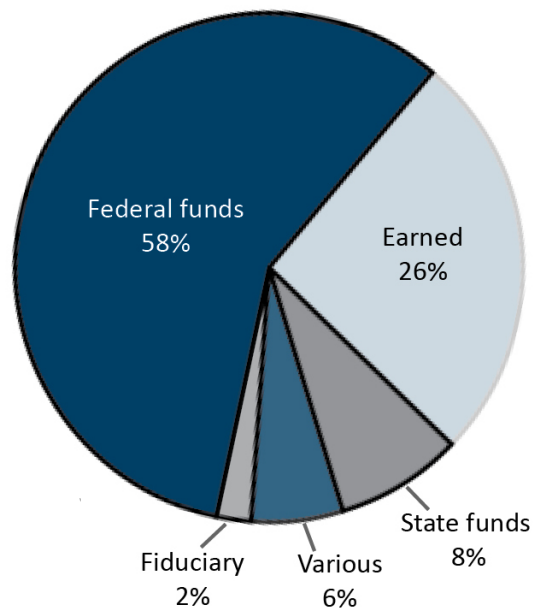
The majority of federal transfers to tribes are a direct result of the federal-tribal trust relationship and treaty agreements. Additionally, many funding transfers are made as part of **tribal self-determination contracts and self-governance compacts**, whereby the federal government contracts and compacts with tribal governments to administer a variety of programs the federal government is obligated to provide to American Indians.

A construction worker in dark cargo pants and tan work boots stands on a newly paved asphalt road. In the background, a large yellow and black paving machine is in operation, spreading material across the road surface. Other workers in high-visibility vests are visible further back on the construction site. The text "Federal government services" is overlaid in white on the right side of the image.

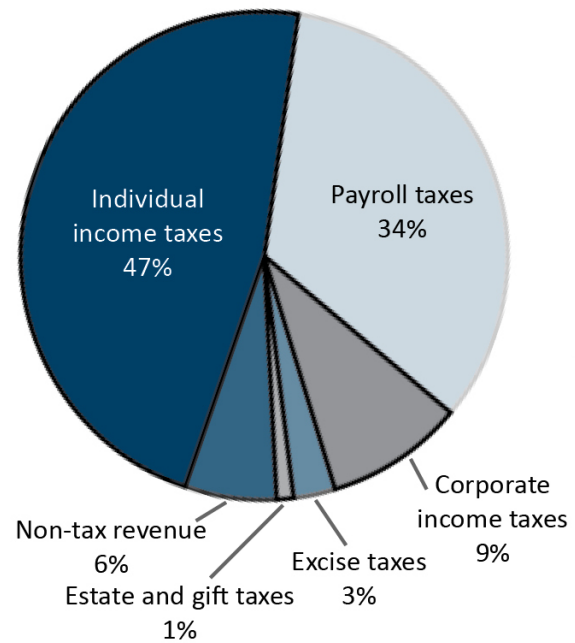
Federal government services

Sources of Revenue

Tribal Revenue
2003-2009



Federal Revenue
2016

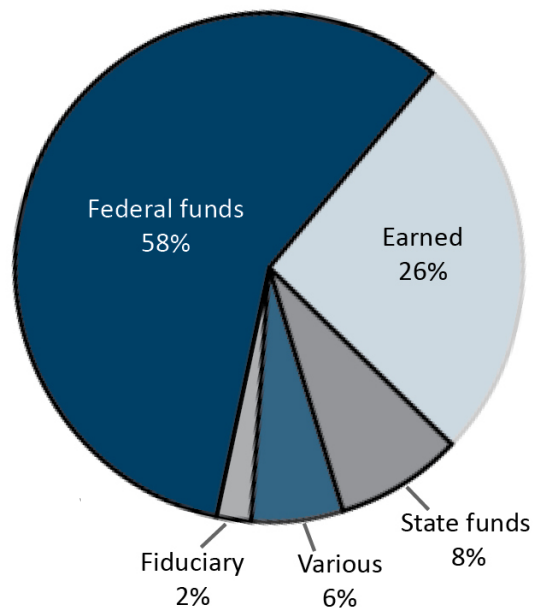


Montana state government services

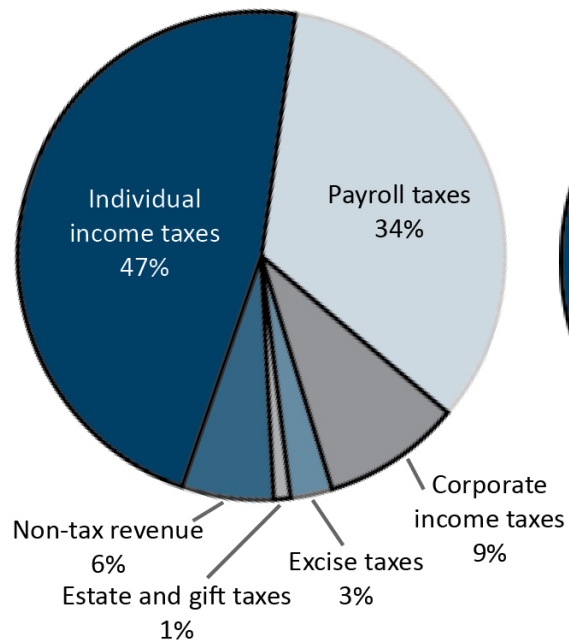


Sources of Revenue

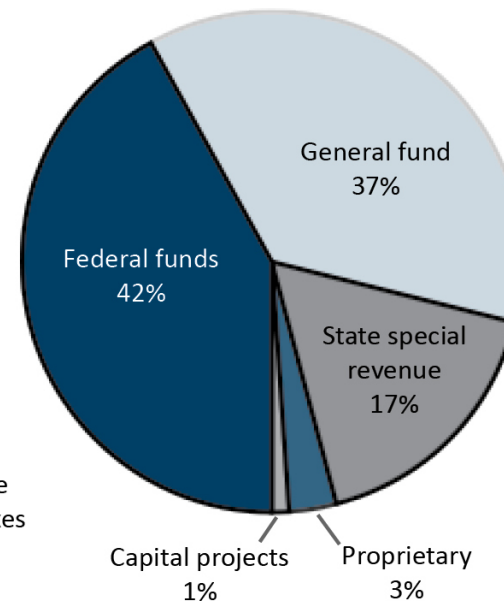
Tribal Revenue
2003-2009



Federal Revenue
2016



Montana State Revenue
2019



State general fund tax revenue:

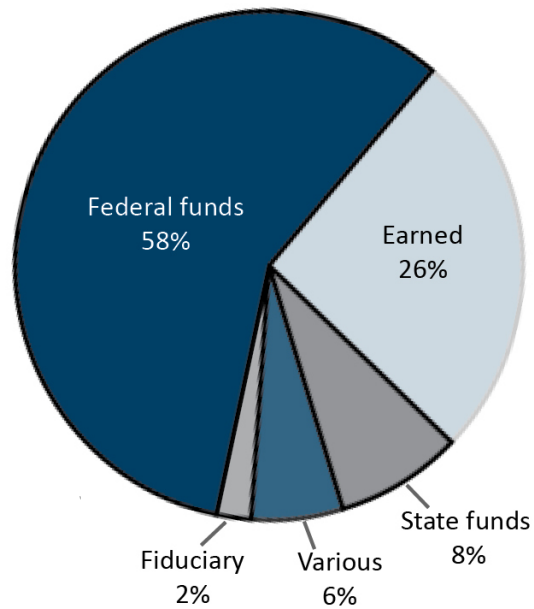
- Individual income taxes – 56%
- Property taxes – 12%
- Corporate income taxes – 6%

Local government services in Montana

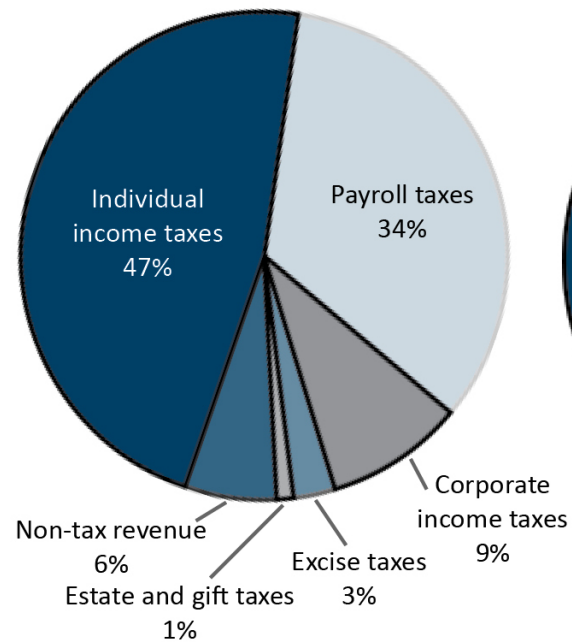


Sources of Revenue

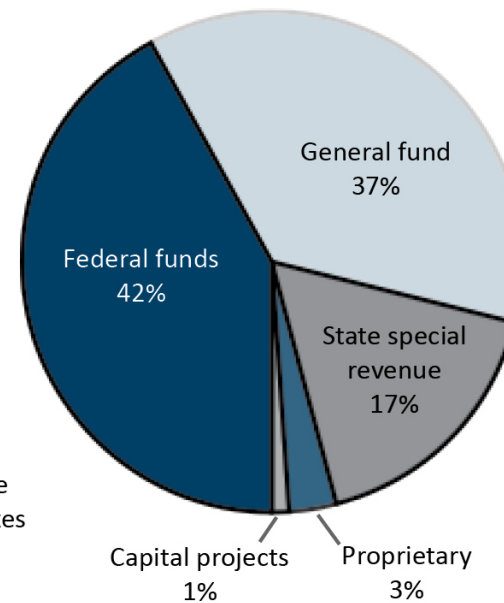
Tribal Revenue
2003-2009



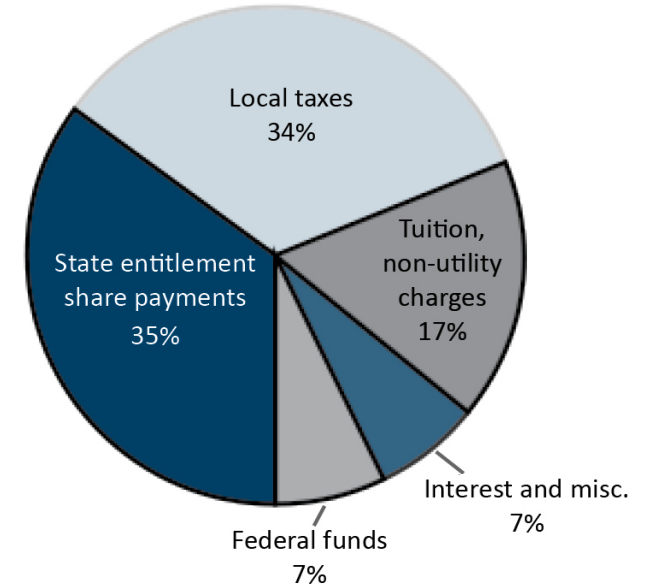
Federal Revenue
2016



Montana State Revenue
2019



Local Revenue
2013



Myth: American Indians don't pay taxes

Tax

Federal Income Taxes

State Income Taxes

FICA

Property Taxes

Hotel Occupancy Taxes

Motor Vehicle Taxes

**Alcohol, Tobacco, Fuel
Taxes**

**Als living and
working on their
reservation**

**Als living and
working on their
reservation**

**Als living off and
working on their
reservation**

**Als living and
working on their
reservation**

**Als living off and
working on their
reservation**

**Als living on and
working off their
reservation**

Tax	Als living and working on their reservation	Als living off and working on their reservation	Als living on and working off their reservation
Federal Income Taxes	Yes	Yes	Yes

Tax	Als living and working on their reservation	Als living off and working on their reservation	Als living on and working off their reservation
Federal Income Taxes	Yes	Yes	Yes
State Income Taxes	No	Yes	Yes

Tax	Als living and working on their reservation	Als living off and working on their reservation	Als living on and working off their reservation
Federal Income Taxes	Yes	Yes	Yes
State Income Taxes	No	Yes	Yes
FICA	Yes	Yes	Yes

Tax	Als living and working on their reservation	Als living off and working on their reservation	Als living on and working off their reservation
Federal Income Taxes	Yes	Yes	Yes
State Income Taxes	No	Yes	Yes
FICA	Yes	Yes	Yes
Property Taxes	Yes, on Fee Lands	Yes	Yes, on Fee Lands

Tax	Als living and working on their reservation	Als living off and working on their reservation	Als living on and working off their reservation
Federal Income Taxes	Yes	Yes	Yes
State Income Taxes	No	Yes	Yes
FICA	Yes	Yes	Yes
Property Taxes	Yes, on Fee Lands	Yes	Yes, on Fee Lands
Hotel Occupancy Taxes	Yes, if off their reservation	Yes, if off their reservation	Yes, if off their reservation

Tax	Als living and working on their reservation	Als living off and working on their reservation	Als living on and working off their reservation
Federal Income Taxes	Yes	Yes	Yes
State Income Taxes	No	Yes	Yes
FICA	Yes	Yes	Yes
Property Taxes	Yes, on Fee Lands	Yes	Yes, on Fee Lands
Hotel Occupancy Taxes	Yes, if off their reservation	Yes, if off their reservation	Yes, if off their reservation
Motor Vehicle Taxes	Yes, some	Yes	Yes, some

Tax	Als living and working on their reservation	Als living off and working on their reservation	Als living on and working off their reservation
Federal Income Taxes	Yes	Yes	Yes
State Income Taxes	No	Yes	Yes
FICA	Yes	Yes	Yes
Property Taxes	Yes, on Fee Lands	Yes	Yes, on Fee Lands
Hotel Occupancy Taxes	Yes, if off their reservation	Yes, if off their reservation	Yes, if off their reservation
Motor Vehicle Taxes	Yes, some	Yes	Yes, some
Alcohol, Tobacco, Fuel Taxes	Yes	Yes	Yes