

HB 3173 Public Hearing February 14, 2023

Good afternoon Chair Grayber and Vice Chairs Lewis, Tran and the entire committee.

For the record my name is Mark Cruz. I am an enrolled member of the Klamath Tribes, one of the 9 federally recognized tribes in Oregon. Our homelands are located in southern Oregon and northern California and I grew up in Klamath Falls and currently live in Salem. I am appearing before the committee today in my personal capacity.

I support the goals of HB 3173 but want to offer technical advice, on the legislative record, to help expedite the potential upcoming work of the task force and to avoid duplication and redundancy when it comes to existing tribal consultation policy.

As a former Deputy Assistant Secretary for Indian Affairs at the US Department of the Interior, I served as a trustee within the federal tribal-trust relationship from 2018-2020. I am very familiar with the advantages of a clear, robust and mutually agreed upon tribal consultation policy.

- 1) Section 1 (2)(d)(B) could be improved by not having the Governor select the 9 tribal task force members but instead collaborate with each of the 9 tribal governments on who they want to select as their designated member of this task force.
- 2) Provide education sessions to all task force members on ORS 182.162 to 182.168 and at the beginning of the task forces' work, identify the existing body of work that is the foundation of current state-tribal relations.
- 3) Section 1 (2)(d)(C) task force designees (2) should have experience working with tribal governments and would benefit from legal experience and familiarity with Indian Law and the history and uniqueness of Oregon-tribal relations, for example P.L. 280 and differences in tribal jurisdiction.
- 4) Section 1 (2)(b), the Speakers' designee, should be impartial toward Oregon tribal interests and have the requisite experience and credibility with Oregon tribal leadership, even though Section 1 (12) says they are advisory only. It could also be improved upon by requiring consultation with the caucus leaders, much like committee assignments in House Rule 8.05 (C). Additionally, the language in this measure could be improved by adopting similar language to Section 36 (6) of SB 762 from 2021 which states "At least 30 days before appointing a member, the presiding officers SHALL consult in good faith with the minority leaders of the Senate and House of

Representatives on the appointment.” These efforts may help prevent the task force from becoming a partisan one.

- 5) Section 1 (11) should be re-evaluated. While it may be appreciated that the Governor’s staff is supporting the task force, as a separate branch of government, the Legislature may be better served to preserve it’s equities and rely upon a legislatively created body, such as the Commission on Indian Services.
- 6) Section 2 could be enhanced by requiring the task force report (both interim draft and final) be shared at the Governor’s annual convening at which representatives of the state agencies and tribes meet to work together to achieve mutual goals as described in ORS 182.166 (2).
- 7) While I don’t want to get ahead of the work of the task force, I believe it’s critical to get it on the record and perhaps language in the bill as a component of the final report, regulatory impacts. I strongly believe that state agencies should be working with tribal governments on regulations and have some meaningful notification system on when regulations will have impacts on tribal governments, communities or businesses.

Finally, I want to note the significance of holding this hearing on the 164th anniversary of Oregon statehood. As 1) a student of history, 2) Oregon tribal member and 3) Oregonian, I find it notable and important that our sovereign interests are still working together. I am encouraged by the possibilities of this task force and am thankful to the sponsors of this bill for bringing it forward.

Thank you for the opportunity to testify and I am available for questions.