Montana
Office of Public Instruction
Denise Juneau, State Superintendent
opi.mt.gov

Social Studies Model Lesson Plan

Tribal Sovereignty and Power

High School
Suggested Duration: two-three class periods

Stage 1 Desired Results

Established Goals:

Students understand the concept of sovereignty, especially as it is defined in the Essential Understandings (EU) Regarding Montana Indians.

IEFA Essential Understanding 7 Under the American legal system, Indian tribes have sovereign powers, separate and independent from the federal and state governments. However, the extent and breadth of tribal sovereignty is not the same for each tribe.

Social Studies Standard 2, Benchmark 4 Students relate the concept of tribal sovereignty to the unique powers of tribal governments as these interact with local, state, and federal governments.

Understandings:	Essential Questions:
• Sovereignty is "The supreme power from which all political powers are derived." It is inherent--it cannot be given to one group by another. [EU 7] • Under the American legal system, Indian tribes have sovereign powers separate and independent from the federal and state governments. However, the extent and breadth of tribal sovereignty is not the same for each tribe. [EU 7] • Before colonization, Indian tribes possessed complete sovereignty. [EU 7]	• What is sovereignty? • What are some ways in which tribes exercise their sovereignty? • What are some examples of how Montana Tribal Nations interact with local, state and federal government?
Students will be able to… • Understand sovereignty as defined in Essential Understanding 7 and give examples of sovereign powers possessed by two or more Montana Indian tribes. • Discuss or write about contemporary and past sovereignty issues, with regard to specific Montana Indian tribes and the state of Montana.	*Students will know…* • Tribal sovereignty is what makes American Indian Nations unique and separate from other minority groups in the U.S. • The Tribal Nations of Montana have a unique legal and political relationship with the Federal Government that stems from constitutional law, Federal Indian policy, treaties, and Executive Orders.

Stage 2 Assessment Evidence

Performance Tasks:

1. Students will analyze historical and contemporary quotes from noteworthy American leaders (Native American and Non-Indian) regarding tribal sovereignty.

2. Students will be assigned a quote and be asked to explain some of the surrounding circumstances in which the quote was made and offer supporting evidence to reaffirm or disagree with some or all of the statement.

Other Evidence:

Students may present supporting evidence including but not limited to the following: the U.S. Constitution, Treaties, Executive Orders, court cases, Government-to-Government Proclamations, legal briefs, and relevant news articles.

Stage 3 Learning Plan

Learning Activities:

Display the term "sovereignty" on the board or on an overhead.

Have students brainstorm definitions of the term and discuss.

Provide them with a sample quote regarding sovereignty (see the attached list of quotes for starters; you might also want to do an Internet search on tribal sovereignty to access more quotes).

Discuss the sample in class, provide a historical context in which the quote was made and offer up insights into what aspects of sovereignty the person was describing.

Distribute the quotes to the students and ask them to address the following questions:

◊ What is this particular quote addressing?
◊ Who said it? What is their credibility on this issue?
◊ What context was this quote made? i.e., court case, speech, proclamation, etc…
◊ Do you agree/disagree with the statement? Explain your supporting evidence/justification for your answer.
◊ What are some specific examples of how your particular quote might apply to Montana tribal nations?

Materials/Resources Needed:

For more lessons/ideas/fast facts on teaching about tribal sovereignty please refer to the Montana Indian Education Association Website at http://www.mtiea.org/

Tribal Sovereignty Primer http://www.indian-ed.org/resources/learn-tribal-sovereignty/
http://www.americanindianpolicycenter.org/pubs/indinsov.html

Sovereignty Quotes

1. From U.S. President George Bush Sept 23, 2004:

Memorandum for the Heads of Executive Departments and Agencies
Government-to-Government Relationship with Tribal Governments

The United States has a unique legal and political relationship with Indian tribes and a special relationship with Alaska Native entities as provided in the Constitution of the United States, treaties, and Federal statutes. Presidents for decades have recognized this relationship. President Nixon announced a national policy of self-determination for Indian tribes in 1970. More recently, Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments, was issued in 2000. I reiterated my Administration's adherence to a government-to-government relationship and support for tribal sovereignty and self-determination earlier this year in Executive Order 13336, entitled American Indian and Alaska Native Education.

My Administration is committed to continuing to work with federally recognized tribal governments on a government-to-government basis and strongly supports and respects tribal sovereignty and self-determination for tribal governments in the United States. I take pride in acknowledging and reaffirming the existence and durability of our unique government-to-government relationship and these abiding principles.

President Bush, responding to a question about what tribal sovereignty meant in the 21st century, said: "Tribal sovereignty means just that; it's sovereign. You're a -- you've been given sovereignty, and you're viewed as a sovereign entity."

2. Felix S. Cohen, in his authoritative and extensive work entitled Federal Indian Law (U.S. Department of Interior, 1944), explains the nature of the residual sovereignty of Indian tribes:

"Perhaps the most basic principles of all Indian law supported by a host of decisions...is the principle that those powers which are lawfully vested in Indian tribes are not, in general delegated powers granted by express acts of Congress, *but rather inherent powers of a limited sovereignty which has never been extinguished.* Each Indian tribe begins its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. The powers of sovereignty have been limited from time to time by special treaties and laws designed to take from the Indian tribes control of matters which, in the judgment of Congress, then, must be examined to determine the limitations of tribal sovereignty rather than to determine its sources or its positive content. *What is not expressly limited remains within the domain of tribal sovereignty*."

3. The status of the Indian nations was initially given expression by Mr. Chief Justice John Marshall when he delivered the opinion of the court regarding Worcester v. Georgia, 31 U.S. 515, 8 L.Ed. 483 (1832). He considered the application of the words "nation" and "treaty" to the various Indian people:

"The very term 'nation,' so generally applied to them (Indians) means 'a people distinct from others.' The Constitution, by declaring treaties already made, as well as those to be made to be the supreme law of the land,

has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties. The words 'treaty' and 'nation' are words of our own language, selected in our diplomatic and legislative proceedings by ourselves, and have a definite and well-understood meaning. We have applied them to the other nations of the earth. They are applied to all in the same sense."

4. The Fifth Circuit, in Maryland Cas. Co. v. Citizens National Bank North Hollywood, 361 F2d. 517, 520 (1966), explained the origin of this concept:

"Indian nations, as an attribute of their quasi-sovereignty, are immune from suit, either in the federal or state courts, without Congressional authorization...from the beginning of our government, Indian nations or tribes have been regarded as dependent political communities or nations; and as possessing the attributes of sovereignty, except where they had been taken away by Congressional action. They are quasi-sovereign nations."

5. Quote from Susan Masten (former president of the National Congress of American Indians) addressing the National Governors Association, 2001:

"The fact that states and tribes are both sovereign governments should be better understood than it is. Everyone knows that the U.S. Constitution set up our federal system of government, but how many people know that the Constitution also recognizes the sovereignty of Indian tribes? Far too few. Hundreds of treaties, Supreme Court decisions, federal laws and executive orders have repeatedly affirmed that Indian Nations retain our fundamental and inherent powers of self-government. Most people are not aware of this because it is not taught in our schools.

Why is there so little understanding of tribal government in our country? The reason is found in our history. Indian tribes have been forcibly moved from one part of the country to another, our lands and resources have been stolen despite the guarantees of treaties and federal laws, and finally, when there was little left to take from us, our rights and needs have simply been ignored. This is the dark history we have inherited. A history which all of us need to understand better."

6. John Echohawk, Director, Native American Rights Fund:

"If you don't understand sovereignty, you don't understand Indians."