



# State-Tribal Relations Committee

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## 57th Montana Legislature

### SENATE MEMBERS

EDWARD B. "ED" BUTCHER  
B.F. "CHRIS" CHRISTIAENS  
JERRY O'NEIL  
GERALD PEASE

### HOUSE MEMBERS

NORMA BIXBY  
CAROL C. JUNEAU  
KEN PETERSON  
RICK RIPLEY

### COMMITTEE STAFF

CONNIE ERICKSON  
RESEARCH ANALYST  
EDDYE McCLURE, STAFF ATTORNEY  
LOIS O'CONNOR, SECRETARY

## MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

Third Meeting of Interim  
Room 137, State Capitol  
January 9, 2002

### COMMITTEE ACTION

- Approved the minutes from the September 21 and 22, 2001, meeting
- Approved that a draft letter be written in support of a waiver for the Area VII Agency on Aging
- Approved that Committee staff prepare a future meeting agenda that includes topics that may require legislation in the 2003 Session
- Approved March 27, 2002, as the next meeting date

### CALL TO ORDER AND ROLL CALL

The meeting was called to order by Sen. Christiaens, Chair, at 9:00 a.m. Attendance was noted; all members were present. (ATTACHMENT #3)

Rep. Juneau **moved** that the minutes from the September 21 and 22, 2001, meeting be approved. Motion passed unanimously.

### STATE-TRIBAL GAMING COMPACTS

**Gene Huntington, Administrator, Gambling Control Division, Department of Justice** provided an overview of the Indian Gaming Regulatory Act (IGRA)--state-tribal gaming compacts--with an overlay of Montana law. (EXHIBIT #1)

Rep. Juneau asked why liquor licenses were required for video gambling. Mr. Huntington said that most of the gambling activities and machines were in taverns at the time that gambling was made legal. The legislative intent was control, in that it did not want gambling opening up everywhere. As a result, gambling activities were tied to liquor licenses. **Sarah Bond, Assistant**

**Attorney General, Civil Services Bureau, Department of Justice**, added that bars had age restrictions on people entering them. The theory was that it would limit gambling to people over 18 years of age.

Sen. O'Neil asked if liquor licenses were required for video gambling, how could the Rocky Boy Reservation, for example, have gambling when it is a dry reservation. Mr. Huntington said that gaming on the Rocky Boy Reservation is tribally operated. A state-tribal gaming compact must be in place on reservations that have non-Indian residents who own gambling machines. It changes the dynamics of bargaining. For example, the Flathead Reservation has 331 non-tribal video gambling machines. A compact must be in place or they will be shut down.

Sen. Christiaens asked if Virginia City was denied its request for slot machine use because there was no law in place or because it did not have legislative authority. Mr. Huntington said that Virginia City formed a planning group for the purposes of raising money. One option included the use of slot machines. Virginia City was informed that it needed to have the law changed. He added that slot machines were legal in Montana for use by the state's fraternal organizations until 1947. As the result of a 1947 Supreme Court action that stated that slot machines were an illegal form of a lottery which was prohibited by the Constitution, slot machines were made illegal (Joyland case from Lewistown). Electronic gaming grew in the 1980s and the Legislature put all gambling regulation under the administration of the state and made all of the laws uniform.

Rep. Juneau asked if the lottery on the Blackfeet Reservation was eliminated when the previous gaming compact was rescinded. Ms. Bond said that because the lottery is considered Class III gaming under federal and state regulations, it is illegal to sell lottery tickets on reservations once a compact is terminated. Rep. Juneau stated that Montana's gaming business employment was the third largest employment sector with 18,800 jobs and that it was a significant economic resource to the state and to reservation communities. She was unsure if the employment figures included the compacted tribes.

**Representative Frank Smith, House District #98, Wolf Point**, provided a letter that he wrote to the Montana Tavern Times regarding accusations made in the article that he felt were inaccurate and have caused problems with gaming compact negotiations. (EXHIBIT #2) He expressed his displeasure with the way that the compacts were being negotiated and requested that the Committee analyze what was written in the article.

**Doug Morigeau, Indian Bar Owner, Flathead Reservation**, said that as a member of the Confederated Salish and Kootenai Tribes and as an Indian bar owner, he must apply for a state liquor license but he falls under different guidelines than non-Indian bar owners on the Reservation. Non-Indian bar owners pay 15% of their gaming machine money to the state and put 85% in their pockets. As a tribal member, he is not allowed to own gaming machines. He must get them from the Tribes. He is required to give 58% to the Tribes while 42% comes back to him. He said that there is no parity on the Flathead Reservation between an Indian liquor-license owner and a non-Indian liquor-license owner. He said that the increase in pay outs will benefit only tribal operations such as Kwa Taq Nuk and that tribal member rights were being eroded by their own Tribes. He felt that tribal governments should be negotiating for tribal members who have been left out of the loop.

Sen. Christiaens asked if Mr. Morigeau has talked with the Confederated Salish and Kootenai Tribal Council. Mr. Morigeau said yes and that it was the consensus of the tribal lawyers and the negotiating committee that negotiations were held for businesses such as Kwa Taq Nuk. He added that in comparison, individual tribal liquor-license holders and other non-drinking tribal casinos provide much more income to the Tribes than tribally owned casinos.

Rep. Peterson asked what solution was needed to put Mr. Morigeau in the same position as a non-tribal member. Mr. Morigeau was unsure. He said that he did not mind giving 58% to the Tribes, but he would like the same choices afforded to non-Indian owners--to own his machines or take the Tribe's machines and continue to pay them as a business-bar owner relationship.

Ms. Bond added that federal internal revenue codes require a 60-40% split of all gaming revenue with a tribe. Unlike state law that allows gaming to occur off reservation as a commercial activity completely owned by private individuals, federal law intends for IGRA to benefit tribes. One hundred percent of the net revenue of all tribal casinos must go to the tribes because the intent is for the revenue to be used for economic development for the tribes. IRA and other federal regulatory frameworks discourage tribes from licensing individual operators as opposed to the state where all owners are individual operators. Federal regulations also more stringently regulate the individual licensing of Indian operators.

Sen. Christiaens said that the Committee has requested a visit to the Flathead Reservation. He suggested that this be an agenda topic at that meeting. Sen. Christiaens asked if the same regulations applied to all reservations in Montana where there is gaming and private bars. Ms. Bond said that IGRA applies to all Indian gaming in Montana but each tribe has the choice to license individual operators.

Sen. Butcher questioned whether the Committee should be involved in the issue because he felt that it was a sovereignty issue within the tribes.

Rep. Peterson asked why Mr. Morigeau was not afforded the same privileges as non-Indian operators on the Flathead Reservation. Ms. Bond said that the Flathead Reservation compact allocates jurisdiction to regulate gaming on the Flathead Reservation by two criteria: (1) land status and (2) Indian status of the operator of a facility. All facilities on the Flathead Reservation that are owned by an Indian or located on tribal trust land are regulated by the Tribes. It was not perceived by the state to be a change in the understanding of what jurisdiction was but rather a clarification of how the state understood federal law with respect to jurisdiction in Indian Country would apply in any situation. She added that the state Executive Branch committee that negotiates gaming compacts are precluded from giving up state jurisdiction. According to federal law, if a person is an Indian or if a person was operating on tribal trust properties, the tribes have jurisdiction, along with the federal government, to regulate gaming activities. Non-Indians on fee land fall under state jurisdiction. She added that in Montana, both the state and the tribes have authority to regulate liquor because of its historic circumstances in Indian Country. Rep. Peterson asked if because Mr. Morigeau is an enrolled member of the Salish and Kootenai Tribe, it precludes him from getting a state gaming license. Ms. Bond said yes, under IGRA, state law is preempted.

**Gary Langley, Montana Tavern Times**, had no comment on the letter written by Rep. Smith (See Exhibit #2) but said that the only factual error in the December issue of the Montana Tavern Times was corrected in the January issue.

### **AREA VII AGENCY ON AGING**

**Charlie Rehbein, Aging Services Bureau, Department of Public Health and Human Services (DPHHS)**, stated the following:

- In 1999, a financial audit on the Area VII Agency on Aging showed a misappropriation of funds and the contract was terminated.
- The state began negotiating new contracts with individual tribes and a planning committee was established to put the Area VII Agency of Aging back together and make it a viable organization again.
- The planning committee believed that it was in the best interests of Montana's Native American elders to have an Area Agency specifically focused on tribal needs.
- At about the time that the Area VII Agency on Aging was reestablished, the Administration on Aging in Denver informed Montana that it was out of compliance with the Older Americans Act in its funding formula because the formula was based upon the fact that the state took tribal elders out of the geographical area that they fell in an earmarked them to belong to Area VII.
- The Older Americans Act states that planning must be conducted for all populations 60 years of age and older in a given area.
- Two recommendations were to eliminate the Area VII Agency on Aging all together or put all of the people in Area VII into a certain geographical area which meant changing the structure of the Area Agency so it would not have a focus on Native American elders.
- A waiver was requested to allow Montana to continue to have an Area VII Agency on Aging that deals directly with tribal elders.
- Mr. Rehbein requested that the Committee write a letter to the Administration on Aging in Denver in support of the waiver.
- The state has been given until July 15 to resolve the overlapping geographical boundaries issue related to the appropriation of funds.
- The Department is in the process of completing its State of Aging in Montana. He provided a copy of the Blackfeet Reservation State of Aging (EXHIBIT #3) and a copy of LONG TERM CARE: Your Future is in Your Hands which is provided to all elderly people in Montana when they call the Department (EXHIBIT #4)

Sen. Butcher questioned the structure of the Area Agencies on Aging, whether there would be cost savings by eliminating some of them, and what percentage of the Agencies' funding comes from its participants. Mr. Rehbein said that the Older Americans Act mandates that Montana have Area Agencies on Aging. The Department could eliminate the number, but four of the agencies were part of other geographical area agencies, specifically Cascade, Missoula, Flathead, and Hill Counties. The Counties opted to become Area Agencies on Aging in the early 1980s. He added that aging services are different from other programs in that they have more flexibility to provide services and they are more locally controlled. Mr. Rehbein was unsure about the amount of Agency funding that comes from its participants.

Rep. Peterson questioned the rationale for combining the reservations into one Area Agency on Aging. Mr. Rehbein said that it was a question of sovereignty. The Tribes have voiced that they

would like to receive their funding directly from the federal government. However, under Title III, aging funds must flow through the state and on to the tribes.

Sen. Christiaens asked what the Department was doing to verify that the Aging Ombudsman was visiting the state's nursing homes. Mr. Rehbein said that the Department requires that local ombudsmen fill out a reporting form every month to track their nursing home visits. The ombudsman program is a local program and the state is required to have a state ombudsman. There are approximately 28 people throughout Montana who carry out the ombudsman functions but it is still not enough resources to fulfill the criteria. Sen. Christiaens said that ombudsmen provide essential services and he hoped that the budget increase for ombudsman services would be in the Department's budget proposal for the 2003 session.

Rep. Bixby spoke in favor of the waiver stating that an Area VII Agency on Aging was needed because it had a better understanding of tribal needs and because of the lack of a working relationship between the counties and the tribes.

Sen. Butcher questioned why a state office was needed when the Administration on Aging in Denver could allocate the funds directly to the Area Agencies. Mr. Rehbein said the Older Americans Act established the area agencies and mandated that the funds come first to the state before being passed on to the Area Agencies. To eliminate the state office would require a change to the Older Americans Act.

Sen. Christiaens said that the Older Americans Act will be reauthorized in 2004 and the State-Tribal Relations Interim Committee in place at that time could let its wishes be known to Montana's Congressional delegates as to whether the Tribes should receive Title III aging funds directly.

Rep. Ripley **moved** that a draft letter be written in support of a waiver for the Area VII Agency on Aging.

Rep. Peterson spoke in opposition to the motion. He said that as the parent of a Native American child and because reservations were first established to be internment camps for Indians, he could not support any proposal or motion that segregated Indians from the rest of the population. He felt that it perpetuated discrimination, and until reservations were gone, discrimination would continue. He felt that Indians should be treated like everyone else. Although Rep. Bixby agreed that Indians should be treated like everyone else, she said that the reality is that they are not treated like everyone else. Native Americans are discriminated against and the counties are not providing services. She felt that segregation was needed at times because Indians are a different culture, a different people, and the counties do not understand that.

Rep. Ripley's motion passed on a 7 to 1 vote with Rep. Peterson voting no.

### **DISCUSSION OF STUDY TOPICS AND MEMBER ISSUES**

Rep. Juneau questioned **Gail Gray, Director, DPHHS**, about the following issues:

- DPHHS staffing on the Rocky Boy Reservation--80% of the FAIM participants in Blaine County are from the Rocky Boy Reservation, and yet, county welfare employees visit the reservation only once a week;

- American Indian membership on state boards and commissions--Rep. Juneau provided a copy of section 2-15-108, MCA, regarding gender and racial balance on state boards and commissions and provided an overview of the Native American membership on Montana's boards and commissions (EXHIBITS #5 and #6 respectively)

Sen. Christiaens said that since the Governor makes many of the appointments to the boards and commissions, he felt it would be helpful if the legislators had a list of the different boards and the positions open so that they could encourage Native American people to apply for them.

Ms. Gray responded:

- The trend for increased services that the Department is receiving is getting more significant while funding is not which impacts people at the lowest level of economic status. There is a disproportionate number of Native Americans in that group.
- The Department is currently discussing ways to improve service delivery to the reservations and one recommendation is to move county welfare offices to the reservations.
- DPHHS has an advisory committee that includes representatives from all seven reservations who are appointed by tribal leadership. The committee also includes a representative from Indian Health Services and Cherish Your Indian Children.
- The Department has had great difficulty getting anyone to serve on the SB 454-- children's initiative committee. The Department has been working with Bruce Meyers, Coordinator of Indian Affairs to work with tribal colleges which would allow for a more consistent membership.

Rep. Ripley said that another concern of the Rocky Boy Tribal Council was the lack of Native American representation on the Community Advisory Councils. Ms. Gray said that she was not aware of the lack of representation of Native Americans on the Community Advisory Councils but she would review the issue and report back to the Committee. (Later in the meeting, Ms. Gray reported that there are Native American representatives on the Hill County Advisory Council, but they have been unable to fully participate because of other important commitments.) She added that one of the reasons that the Department has an in-house Native American advisor and a new draft consultation plan is to receive Native American input. Ms. Gray will provide further updates on the questions raised by the Chippewa Cree Tribal Council.

Sen. Christiaens requested that there be Native American representation on any committee addressing the proliferation of methamphetamine labs.

#### **Letter to the Congressional Delegation**

Sen. O'Neil said that the federal government is sending money to the state for various social programs for Montana citizens, some specifically for the Tribes. He requested that a letter be sent to Montana's Congressional delegation stating that any federal money to be used for tribal purposes go directly to the Tribes rather than going through the state first. The objects are that the Tribes will receive more money; they will be responsible for the services provided by the federal money; and they will have less reason to complain about the counties outside the reservations. The counties would also have less reason to say that the Tribes were receiving too much of the budget.

Sen. Pease added that through membership on other interim committees, he and Sen. O'Neil have found that some funds allocated to the Tribes are not fully channeled to the Tribes because of seepage at the state level. Each agency that the funds pass through takes a certain percentage of the funds for administrative purposes. He felt, however, that before the Congressional delegation became involved, the state needed to get a handle on the problem. Sen. Christiaens said that various funding sources may be reallocated at different times when the Older Americans Act is reauthorized in 2004. He suggest that staff research the proper way to proceed on the issue. **Eddye McClure, Staff Attorney, Legislative Services Division**, stated that staff would research how the funds are allocated, why certain funds are sent directly to the Tribes by the federal government and why other funds must pass through the state before it goes to the Tribes, and involve the Tribes in the research. Staff will work with DPHHS and the Children, Families, Public Health and Human Services Interim Committee staff on the issue and report to the Committee at its next meeting.

**Ernie Big Horn, IDEA Inc., Miles City**, stated the following:

- Off-reservation counties receive grant funds to be specifically used for tribal members who are living in off-reservation counties who are unemployed, underemployed, and undereducated.
- His office coordinates Bureau of Indian Affairs, IHS, state, and welfare funds to put Native American children and adults through school.
- He has also acquired resource support from HRDCs and other entities that gives him the opportunity to coordinate with Job Service and welfare.
- For the last three years, he has worked on the development plan for the Workforce Investment State Board and fought hard to include Native Americans in those plans.
- He followed through with the plan and helped write some components in HB 87 which defines Indians as hard to serve and a special needs population.
- He attends the meetings of the local Workforce Investment State Board and it has never addressed the needs of Native Americans.
- He requested that the Committee review HB 87, how the state was addressing special needs and hard to serve populations, and who is best to apply the services provided.

Sen. Christiaens asked if Mr. Big Horn was receiving less funding than what he was previously receiving or was it that he needs funding more specific to the population that he was serving. Mr. Big Horn said that there are two sources of money--one for Native Americans living on the reservation and one for those who live off the reservation. There is also state funding which goes to counties and HRDCs to provide services. In the past, he coordinated services with HRDCs and Job Service. Under the new process and because decisions are made locally, Native Americans living off the reservation in his area are not receiving resources needed to help them get a job or receive an education. Sen. Christiaens suggested that Mr. Big Horn contact Wendy Keating, Director, Department of Labor and Industry because that is the Department through which the bulk of funds passed other than those that are allocated directly to the Tribes. He added that the Governor had discretionary job training money and that Mr. Big Horn should coordinate with Bruce Meyers, Coordinator of Indian Affairs, to see if any of the funds could be directly allocated for program use. He also requested that Mr. Big Horn provide the Committee with a progress report at its next meeting and provide some suggestions on how the Committee could provide some assistance.

Sen. Butcher asked if Mr. Big Horn's programs were being bypassed, where were the funds going. Sen. Christiaens said that the federal government provides approximately six sources of money through the Work Force Investment Act that can be used for various programs. The amount of money has declined over the last few years. Committees with representatives from local governments, county commissions, and local membership review all of the programs and allocate the funds based on placement criteria and cost of placement, etc. He requested that Commissioner Keating and Sue Mohr attend the Committee's next meeting. The Committee will then follow the issue up at its June meeting.

Sen. O'Neil asked what would happen if the money was allocated directly to the Tribes and the Tribes disbursed the money to off-reservation Native Americans and would Mr. Big Horn agree to sending a letter to Montana's Congressional delegation recommending that the money be sent directly to the Tribes. Mr. Big Horn said federal law mandates that there be two separate pots of money--one for on-reservation and one for off-reservations Indians. At this point, he would not agree to a letter to Montana's Congressional delegation because he knew tribal politics and he felt that he would be better off under state politics. He said that he was trying to find the best way for Native American providers who have been providing certain services for many years to be recognized and who have, to date, been totally ignored by certain state agencies.

#### **REPORT FROM COORDINATOR OF INDIAN AFFAIRS**

**Bruce Meyers, Coordinator of Indian Affairs, Office of the Governor** stated the following:

- During the Governor's visits to the Tribes, the biggest factor behind all the issues raised was the lack of communication between the Tribes and the state.
- To resolve some of the issues, the Governor's Office sponsored a Tribal-State Relations Day in September followed by tribal meetings with the Department of Transportation and the DPHHS in an attempt to improve communication.
- During the Tribal-State Relations Day, he presented a concept paper to the tribal representatives regarding Montana's Indian Town Hall Process. (EXHIBIT #7)
- The purpose of the town hall meetings is to increase the dialogue related to issues involving the DPHHS, the Department of Corrections, the education community, and economic development for the Tribes.
- Some of the issues to be discussed at the meetings are HB 528 (cultural awareness in schools): what is the status of funding, how can the current curriculum be assessed, what is the teacher development curriculum, and what are some of the hindrances to Indian education in schools.
- Other topics of discussion will be the disproportionate number of minorities in correctional confinement, economic development, and how the state and Tribes can respond to those issues. Mr. Meyers provided a copy of Governor Martz's A Framework for Economic Development. (EXHIBIT #8)
- Another discussion topic will be the DPHHS. By its very nature, the DPHHS is a huge bureaucracy and, often times, the Tribes do not know who to contact.
- He will meet with DPHHS's Native American Advisory Committee to identify where tribal input would be better served.
- The state will be much richer if it recognizes the diversity and cultures that exist within its borders.
- The town hall meetings will choose a topic that will result in a win-win situation for the Tribes and the state.



- With small victories, the state and Tribes can move onward to better communication, understanding, and larger issues.
- Holding the town hall meetings will depend on fund raising (grant proposals to various agencies and federal funds).

Sen. Christiaens asked about the cost of the town hall meetings, the amount of the grants, and would the town hall meeting related to education be held in conjunction with the Governor's road show on education. Mr. Meyers said that four town hall meetings will be held at central locations throughout the state at a cost of \$36,000 per meeting. He hoped that there would be 300 people per meeting (160 tribal members in addition to at least that many state agency representatives, Cabinet members, and program managers). **Lori Ryan, Office of Indian Affairs**, added that the concept of the town hall meetings is much more detailed than the Governor's education meetings and she did not see the two meetings conjoined.

Rep. Peterson commented that there is a large American Indian population in both Great Falls and Billings. His concern was that the views of the off-reservation Indians were different from the Indians living on the reservation and he felt that they should have some input and be a part of the discussion. Mr. Meyers said that by bringing the Little Shell Chippewa Tribe to the meetings, urban representation would be included. The town hall meetings were not meant to rehash the issues. A work plan will be provided for each issue and members will be asked to come prepared on how to solve problems whether they be problems related to economic development, education, corrections, or the DPHHS. He did not envision the meetings as a wide-open conference.

Sen. Christiaens reminded the Committee that progress had been made by the Department of Corrections regarding the Native American liaison position and he has been urging the Department to make the position full time. He provided a copy of a letter that he wrote to Ms. Ruth Steinberger of the Native American Times regarding a Native American inmate at MSP and his alleged complaints of discrimination and racial profiling. (EXHIBIT #9)

Rep. Peterson remained concerned that the issues among Indians living off the reservations were different from the issues among Indians living on the reservations. He felt that every effort should be taken to inform and involve off-reservation Indians in the town hall meetings. Ms. Ryan said that the Native American population is very mobile. She added that for Indians residing off the reservation, even if the issues are different, benefits do not follow tribal members living off the reservation. There are urban Indian centers funded through Indian Health Service that help off-reservation Indians. The concept behind the town hall meetings is communication on a government-to-government basis with the Tribes and state working on issues that the two have been unable to come to agreement on or those issues that the Tribes have been unable to participate in fully with the state. She added that many of the issues related to Native Americans do not cross reservation boundaries. Rep. Peterson said that he felt that the concept was a mistake and wanted some assurance that Indians living outside of reservation boundaries would be allowed to participate. Mr. Meyers requested that Rep. Peterson write a letter directly to the Tribes expressing his concerns.

Sen. Butcher asked if Indians living off the reservations were denied services. Mr. Meyers said that because tribes are sovereign nations, they can decide who and when tribal members living off reservations are no longer eligible for services. Sen. Butcher felt that when tribal members

left the reservations, they became participating citizens like everyone else. He questioned the concern over off-reservation, tribal member participation in the town hall meetings when they were either living on state welfare or were wage earners like everyone else.

Sen. Christiaens clarified that job training money under the Work Incentive Act that is not being allocated to Native Americans living off of the reservations would not be a topic of discussion at a town hall meeting because it was not an on-reservation tribal issue. However, TANF would be a topic of discussion because of the number of tribal members moving back to the reservations because of the 5-year limit on welfare and the impact of that move on the Tribes.

Ms. Ryan added that TANF is a government-to-government issue. Tribal TANF programs are impacted by off-reservation tribal members moving back to the reservations because, for some reason, they may be unable to comply with what needs to be done to receive those services.

Sen. Butcher was concerned about tribal members moving back to the reservations where TANF time limits do not apply because he felt that they were unwilling or incapable of working like normal people and that tribal elders and parents were encouraging their children to move back to the reservations. He felt that it was unfair for the Tribes to support what he believed to be dysfunctional children who were unwilling to function in a normal society.

Sen. Christiaens said that Sen. Butcher had partially mis-spoken because Native Americans falling off of the TANF rolls after 5 years and moving back to the reservations were those who, for one reason or another, have been unable to enter the employment stream. They are not dysfunctional people who choose not to work. They are people who have disabilities or other barriers to employment that have not been addressed in the 5-year TANF window.

Sen. Butcher reiterated his concern about individual accountability and the fact that it should be placed on those who were placing a burden on the reservations, the Tribes, and other taxpayers. He said that other people do not have escape valves like reservations. They must deal with the issue and move on.

Rep. Juneau and Sen. Pease were personally offended by Sen. Butcher's comments. Rep. Juneau stated that many people, other than Indians, move all over the country for various reasons, one being family. To categorize a group of people as unwilling or incapable of working and moving home because of it was a very derogatory statement to make about a group of people.

Sen. Pease said that his son left the reservation to get an education and stands in line every day to find work for that day to support his family. He could not believe that attitudes such as Sen. Butcher's still existed.

Mr. Meyers said that the discussion highlighted the need for the town hall meetings and government-to-government communications so that stereotypes and prejudicial statements could be rectified for all of the people of Montana. He added that the Tribes were not a dysfunctional group of people and they contributed approximately \$3 billion annually to Montana's economy, much of which goes to areas outside of the reservation to support non-Indians.

Rep. Bixby said that the town hall meetings were an excellent opportunity to bring everyone to the table to discuss the issues. They provide an opportunity for Indians to become a part of the process. Even as a state representative, she is often not included in discussions that affect people of the Northern Cheyenne Tribe. Tribes need to be a part of the process but are often not asked to attend any meeting that affects them. If the town hall meetings are held, off-reservation Indians will attend and express their concerns leaving this discussion moot because off-reservation Indians cannot be stopped from attending.

**Vincent Goes Ahead, Vice President, Crow Tribe**, stood in support of the town hall meetings, stating that people of all colors refuse to work and take advantage of the system, not just Indians, and that citizens of Montana needed to realize that government-to-government discussions included two different worlds. Citizens need to open themselves up to both worlds and discontinue living in a box.

Sen. O'Neil questioned the justification for the cost of the town hall meetings stating that he felt that the State-Tribal Relations Committee was a forum set up to enhance communications between the state and the Tribes, that it has been traveling to individual reservations to discuss tribal concerns, and that they are held at a much lesser cost. He preferred offering reservation residents a roll of postage stamps so that they could send their complaints to the state. Sen. O'Neil's concern was lessened when Mr. Meyers reiterated his previous testimony that the town hall meetings would be held at no cost to the state. Funds for the meetings would be found through grants from foundations and corporations who believe that there is a government-to-government communication gap between the state and tribal governments.

Ms. Ryan felt that the confusion on this issue stemmed from the name "town hall". The issue is communications on a government-to-government basis. There are tribal issues that are dealt with during the legislative sessions and there are issues with state agencies and specific programs that benefit Native Americans or do not benefit Native Americans, but should. All stakeholders need to come to the table on a government-to-government basis to solve the problems. She added that the Office of Indian Affairs deals with urban Indian issues on a daily basis, it just deals with them on a different playing field.

Followup on this issue will be a future agenda item.

## **CONTINUATION OF STUDY TOPICS AND MEMBER ISSUES**

### **High School Graduation rates of American Indian students in Montana and Coordination of Employment/unemployment statistics between the Department of Labor and Industry and Tribal Governments**

Rep. Juneau provided a copy of Montana's labor force statistics by reservation. (EXHIBIT #10) She expressed her concern about the discrepancies between the Department of Labor employment-unemployment statistics and the tribal statistics. She felt that the Committee should work closely with the Department to either get it to reflect more accurate figures or try to determine who is accurate--the state or the Tribes. She said that if the state receives money based upon statistics that Montana presents to the federal government, is it missing out on funding that could benefit the state if the figures were inaccurate.

Rep. Juneau also provided a 5-year comparison of freshmen Indian enrollments and graduation rates and a copy of an article from the School Reform News entitled Without HS Diploma.

Earnings Drop Sharply. (EXHIBITS #11 and #12) She said that there were 4,202 Indians enrolled as freshman in public schools on the seven reservations in Montana between 1993-1994 and 1997-1998. There were only 2,019 Indian graduates in the following four year period or 48%, while 83% of the white students in Montana public schools graduated. She requested that the issue be added to the Committee's study plan and that it be discussed at length to, perhaps, come up with some recommendations. She felt that not enough of the Indian students are finding success. Therefore, alternatives need to be provided within Montana's school systems and communities to allow Indian students to find some level of success and earn a high school diploma or GED equivalent.

Sen. Christiaens asked if statistical information was available on the relationship between education and income for the state rather than just the nation. Rep. Juneau suggested that the Office of Economic Opportunity conduct a comparison throughout the state in the areas of economic levels, education, and eastern versus western Montana.

Rep. Peterson asked if tribal governments tracked individuals who drop out of high school as to whether they get their GEDs or whether they go on to receive advanced degrees. Rep. Juneau was unsure but felt that tracking students would be up to the individual schools or programs. She felt that it would be a good idea to ask the school systems to conduct a pilot study to find out what is happening to some of the student dropouts.

Sen. O'Neil asked about the K-12 funding per student on reservation schools, both federal and state. Rep. Juneau said that in terms of state funding, they receive the same as off-reservation students, but the funding varied between elementary students and high school students. Ms. McClure added that Montana received \$24 million in federal impact aid which is based on how much area in a school district is federally owned. This money is received in lieu of local property taxes that schools could have received and is it not based on the number of students. She added that there are many reasons why Native American students drop out of school, many of them are not related to funding. Committee staff will revisit the TRACKS program which was set up through the Board of Regents to track Native American students (i.e., at what point in the school system were they dropping out and why). Some of the issues were addressed in HB 528 when Indian students began stating that their educations were not relevant to them.

Sen. Butcher suggested revisiting Rep. Juneau's legislation introduced in the 2001 Session relating to the expansion of ANB money for students until they were 21 years of age to encourage local schools to reaccept students for the purposes of picking up courses that they need to graduate.

**Connie Erickson, Research Analyst, Legislative Services Division**, provided an overview of the Staff proposal for study topics and agenda items for the remainder of the interim. (EXHIBIT #13) She also provided an overview and packet of research information in response to questions asked by the Chippewa Cree Tribal Council at the Committee's Rocky Boy's Reservation visit. (EXHIBIT #14)

## **COMMITTEE BUSINESS AND ADJOURNMENT**

Agenda items for future meetings are as follows:

- A reply from Wendy Keating, Commissioner, Department of Labor and Industry and Bob Rafferty who compiles the statistics for the Department regarding employment-unemployment;
- A report from Susan Fox, Research Analyst, Legislative Services Division on districting and apportionment;
- Information on the tracking of Native American dropouts;
- A written summary on wind generation;
- Rep. Ripley **moved** that Committee staff prepare a future meeting agenda that includes topics that may require legislation in the 2003 Session. Motion passed unanimously.
- A report from the Environmental Quality Council on coal bed methane development on or near reservations; and
- An update from Senators Pease and O'Neil as to what the Law and Justice Interim Committee was doing about prison sentences related to methamphetamine labs in Montana.

Sen. Butcher asked the Committee to consider legislation that would make each reservation its own county. This would eliminate conflicts between tribal and county governments. Sen. Christiaens suggested that Sen. Butcher discuss this idea with the Montana Association of Counties (MACo) at its mid-winter meeting in February. Sen. Pease also suggested that the idea be discussed the tribal councils. If both groups support the idea, then it can be discussed at the March 27 meeting of the Committee.

Ms. McClure stated that legislation adjusting county boundaries is extremely technical in nature and very labor intensive because of the need to amend county boundaries and to get survey information. If the Committee is going to request the legislation, Ms. McClure requested that the decision be made no later than March to give staff time enough to work on it.

The Committee approved March 27, 2002, as the next meeting date.

There being no further business, the meeting adjourned at 4:10 p.m.

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