



State-Tribal Relations Committee

61st Montana Legislature

SENATE MEMBERS

JOHN BRUEGEMAN
RICK LAIBLE
SHARON STEWART-PEREGOY
JONATHAN WINDY BOY

HOUSE MEMBERS

FROSTY BOSS RIBS
KEN PETERSON
SCOTT REICHNER
J. DAVID ROUNDSTONE

COMMITTEE STAFF

CASEY BARRS, Research Analyst
JEREMY GERSOVITZ, Staff Attorney
CLAUDIA (CJ) JOHNSON, Secretary

MINUTES

Fort Belknap Reservation

Tribal Council Chambers

October 8 & 9, 2009

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COMMITTEE MEMBERS PRESENT

SEN. RICK LAIBLE
SEN. JONATHAN WINDY BOY
REP. FROSTY BOSS RIBS
REP. KEN PETERSON
REP. SCOTT REICHNER

COMMITTEE MEMBERS EXCUSED

SEN. JOHN BRUEGEMAN
SEN. SHARON STEWART-PEREGOY

COMMITTEE MEMBER ABSENT

REP. J. DAVID ROUNDSTONE

STAFF PRESENT

CASEY BARRS, Research Analyst
JEREMY GERSOVITZ, Staff Attorney
CLAUDIA (CJ) JOHNSON, Secretary

Visitors/Agenda

Visitors' list, Attachment #1.
Agenda, Attachment #2.

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COMMITTEE ACTION

The State-Tribal Relations Committee (STR):

- approved the minutes from the June 29, 2009 meeting.
- voted to have STR staff, the Governor's Office - Jennifer Perez Cole and Andy Huff, and Montana Association of Counties (MACo) come up with an option for a legislative fix for fees and gas tax regarding tribal roads.
- voted to invite the Office of Public Instruction (OPI), Office of the Commissioner of Higher Education (OCHE), the Board of Regents (BoR), and the Department of Corrections to the January meeting to discuss issues and outline higher education for Native Americans.

CALL TO ORDER AND ROLL CALL

Actual time on the clock:

10:06 Chair Reichner opened the committee meeting at 10:06 a.m. The committee members introduced themselves.

The Tribal Council Members introduced themselves.

President Julia Doney

Vice President Raymond Chandler, Sr.

Secretary Treasurer, Julie King Kulbeck

Chief Administrative Officer Loren "Bum" Stiffarm

Council Member Tracy "Ching" King

Council Member Brian Wing

Council Member Andrew Werk Jr.

Council Member John Allen

Council Member William "Snuffy" Main

Council Member Kermit Horn

Council Member Mel L. Adams Doney

Council Member Marilyn Bigby

Other presenters and public members who introduced themselves are:

- Jennifer Perez Cole, Director of Indian Affairs, Governor's Office
- Andy Huff, Legal Counsel, Office of Budget and Programing Planning (OBPP), from the Governor's Office-Indian Law and Policy Legal Advisor and Chippewa Cree Tribal Member.
- Dolores Plumage, Blaine County Commissioner
- Mike Bartles, Hill County Probation & Parole Officer
- Mark Bosch, Sgt. Montana Highway Patrol
- Bum Calf Boss Ribs, Rep. Calf Boss Ribs' husband
- Frankie Laible, Administrator of Ravalli County

AGENDA

10:19

Chair Reichner presented Madam President Doney and the Fort Belknap Tribal Members with a full set of the newly published 2009 MCA code books and he thanked her and the members for their hospitality.

Opening Prayer

10:22 Fort Belknap President and Council Member Julia Doney offered the prayer.

It was noted that Jennifer Perez Cole is from the Ft. Belknap Reservation.

10:27 Chair Reichner explained to the Tribal Members and the public what the STR committee does and what they represent.

10:28 The committee secretary noted the roll. Attachment #3. Sen. Brueggeman and Sen. Sharon Stewart-Peregoy were excused. Rep. Roundstone is absent.

Update on Indian Affairs and the GAIN Council

Presenter:

- **Ms. Jennifer Perez Cole, Director of Indian Affairs In the Governor's Office.**

10:29 Ms. Perez Cole introduced herself and explained how she was appointed by the Governor to oversee the State's Office of Indian Affairs. (**Exhibit 1**) She discussed her statutory duties as they pertain to tribal governments. She talked about how Governor Schweitzer has prioritized state-tribal government relations, and the 650 state-tribal agreements, projects, training and programs that are currently in place. Ms. Perez Cole distributed a report that gives an overview of state-tribal relations and it provides a summary of all the agreements that are in place. (**Exhibit 2**) Ms. Perez Cole also distributed and discussed a handout titled "Tribal Relations Report 2009 - The Art of Cooperation". (**Exhibit 3**) The report provides information regarding; Tribal Relations with the state, state activities impacting tribal populations and tribal governments.

10:40 Vice President Raymond Chandler, Sr. talked about the tribal agreements. Sen. Windy Boy discussed state contracts and asked Mr. Huff to explain the language in the contracts. Mr. Huff said that the Foster Care contract is negotiated language. He said there is jurisdictional language for resolutions, and language for disputes. He talked about the issues between the state district courts and Tribal courts. Mr. Huff noted the overall content is that the agreements are moving forward. Rep. Peterson commented that most jurisdictional questions are federal.

10:56 Madam President Doney talked about the Governor's American Indian Nations (GAIN) Council and the Blaine County Commissioner, Dolores Plumage who wanted to meet with Jim Lynch, Director of the Montana Department of Transportation (MDT). Ms. Perez Cole said she will facilitate a meeting with the Tribes and the County Commissioners regarding the roads. They want to discuss the fees on the Tribe's highways, fuel taxes, and employment rights.

11:11 Ms. Plumage and Mr. Werk, Jr. discussed how some of the roads have been taken from their jurisdiction and have gone back to the state. Mr. Werk, Jr. asked the committee for their assistance in handling these road issues. Ms. Perez Cole and the Tribal members discussed the maintenance of the roads and how the GAIN Council can help. Chair Reichner said that he and the committee

members will work with the GAIN Council to resolve the road issues. Mr. Huff discussed how this issue has gone on since 1992. He explained how the gas tax has worked and the maintenance of the roads. Sen. Windy Boy and Sen. Laible talked about how they will come up with a solution to present to the next STR meeting.

Motion

11:29

Sen. Laible made a motion that STR staff, the Governor's Office, and Tribes get together to resolve the road issues. Sen. Brueggeman and Sen. Stewart-Peregoy voted by proxy. Rep. Roundstone was absent.

Discussion

11:32

Rep. Peterson said he would like to have all the County Commissioners at the table that are involved with the reservation. Ms. Plumage said she will talk to the other commissioners about addressing this issue. Mr. Huff discussed who is liable if there is a lawsuit.

Vote

11:43

Sen. Laible restated the motion: The STR staff, the Governor's Office - Jennifer Perez Cole and Andy Huff, and MACo to come up with an option for a legislative fix regarding the road issues. The motion **Passed**. Rep. Peterson voted no. Sen. Brueggeman and Sen. Stewart-Peregoy voted by proxy. Rep. Roundstone was absent.

Cultural and Historical Preservation

Presenters:

- **Mr. Casey Barrs, STR Research Analyst**
- **Sen. Jonathan Windy Boy**

11:46

Mr. Barrs discussed a work group that was formed at the Rocky Boy's Reservation meeting yesterday, October 7, 2009 that will work on historic preservation. He distributed Senate Bill No. 488 (**Exhibit 4**) that was introduced by Sen. Windy Boy in the 2009 Legislature. It requires state agencies to cooperate with and recognize the authority of the Montana Tribal governments in the protection and management of Tribal cultural resources.

11:51

Sen. Windy Boy discussed SB 488 which he had presented at the regular session and why it had failed. Chair Reichner informed Madame President Doney that all Tribes will be represented in forming a committee bill to present to the upcoming 2011 Legislature.

12:07

Andrew Werk, Jr. questioned who uses tribal statistics and why the funding doesn't trickle down to the Tribes.

Mr. Barrs distributed other handouts regarding Jurisdiction on Indian Lands (**Exhibit 5**), and the Native American Graves Protection and Repatriation Act that provides protection of Native American Graves and other purposes. (**Exhibit 6**)

Lunch

Committee members on their own.

1:05 Chair Reichner called the committee back to order.

Education: Drop Out Rates

Presenter(s):

- **Mr. Casey Barrs, STR committee staff**
- **Ms. Joyce Silverthorne, P-20 Policy Advisor, Office of Public Instruction**
- **Mr. Andy Boehm, Data Information Coordinator, Office of Public Instruction**
- **Ms. Carol Falcon Chandler, President, Fort Belknap College, re: Ft. Belknap College Programs & Issues (Non-beneficiary students)**

- 1:07 Casey Barrs, LSD staff, distributed and explained three handouts. The first handout addressed the impact of student dropouts from school and why, the data and analysis of dropout rates, and how to prevent dropouts. (**Exhibit 7**) The second handout showed statistics of students who have dropped out of school due to pregnancy reasons. (**Exhibit 8**) The last handout is a PowerPoint titled: "Raising the Bar Improving the educational experience and outcomes for American Indian Students" by Denise Juneau, Superintendent, Montana Office of Public Instruction (OPI). It showed trends and categories comparing American Indians, whites and statewide dropout rate statistics. (**Exhibit 9**)
- 1:10 Joyce Silverthorne and Andy Boehm distributed and explained a PowerPoint handout "Dropout and Graduate Report" on OPI's involvement. (**Exhibit 10**)
- 1:28 Chair Reichner and the committee members talked about the dropout rates across the board. Mr. Boehm and Ms. Silverthorne explained the various categories of the rates. They discussed the Achievement in Montana (AIM) program. Ms. Silverthorne said that AIM can track a student all the way through school.
- 1:33 Sen. Windy Boy asked about a report on dropout rates that Chris Lohsey, former LSD Staff had presented. Ms. Silverthorne said that Mr. Lohsey's report is the first time that data has been explained and used for individual identifiers. She stated that it is just starting to take effect. She also distributed a handout that summarizes an analysis of Montana 2007-2008 dropout rates. (**Exhibit 11**)
- 1:35 Sen. Laible, Andy Boehm and Ms. Silverthorne discussed the American Indian school completers and the programs that are working. Ms. Silverthorne said there is a new position at OPI for a community development counselor that will address "at risk" students specifically. The committee members and the Tribal members discussed the development of a bill that will assist OPI in finding solutions to keep Indian students in school.
- 1:56 Rep. Boss Ribs said she is a teacher and she talked about services that are available to the schools and the teachers. Rep. Peterson commented on the education community and how the Tribes look at students who have dropped out. He commented "its not how you fill the bucket, but how you light the fire."

- 2:05 Marsha Hamnett talked about being involved with after school meetings with teachers and parents. She said that kids who are enrolled in boarding schools do better.
- 2:11 Carol Falcon Chandler, President of Ft. Belknap College, said she is speaking today on behalf of all the tribal colleges in Montana. She talked about the funding the schools receive for each Indian student who attends school. She said they lose money when a non-Indian attends their campus. She discussed being involved in the legislature and lobbying every 2 years to find the funds needed to keep students in class.
- 2:27 Sen. Windy Boy and the committee members discussed the transfer of credits from a two year college to a four year college. Ms. Silverthorne reported that she is looking at various programs that will work .
- 2:31 Rep. Boss Ribs talked about the Tribal faculty attending the legislature when it is in session to learn what takes place in Montana government.
- 2:33 The Council questioned why there isn't an Native American on the Board of Regents. Sen. Laible stated that Jeanette Pease is on the Board of Regents and represents all tribal colleges.

Motion

- 2:42 Sen. Laible had distributed a handout (**Exhibit 12**) that invites all of the higher education agencies such as OPI, Office of the Commissioner of Higher Education (OCHE), Board of Regents, and the Department of Corrections, to come together at the next STR meeting to discuss the issues and outline higher education for Native Americans. The motion **passed**. Sen. Brueggeman and Sen. Stewart-Peregoy voted by proxy. Rep. Roundstone was absent.

Health: Disparities in Care

Presenter:

- **Ms. Mary Dalton, Medicaid and Health Services Branch Manager, Department of Public Health & Human Services (DPHHS)**

- 2:44 Ms. Dalton discussed the reorganization of the Medicaid and Health Services branch. She talked about the immunization H1N1 and when and where the shots will be given. She distributed a PowerPoint (**Exhibit 13**), and other handouts explaining Indian issues:
- Healthy Montana Kids (HMK) who qualifies and the cost. - (**Exhibit 14**)
 - HMK application form - (**Exhibit 15**)
 - Income Eligibility Guidelines 100% - 300% FPL (Federal) - (**Exhibit 16**)
 - Age-adjusted mortality rates for selected conditions among American Indians and Montanans overall, 2008. (**Exhibit 17**)
 - A table showing selected chronic conditions, risk factors for cardiovascular disease, preventive screening practices, and general health status among adults by American Indian, annual household income and total adult population, behavioral risk factor surveillance system survey, Montana 2007. (**Exhibit 18**)

Ms. Dalton said in regard to the H1N1 vaccine that she didn't know if it will be distributed to the Tribes, but she will check into it and let them know. Ms. Dalton said that the state is no longer tracking H1N1 because it has become an epidemic.

Law Enforcement: Extraditions

Presenter:

- **Mr. Jeremy Gersovitz, STR staff attorney**

- 3:05 Mr. Gersovitz distributed a handout that explained extradition agreements between Montana and the Tribes within the state's boundaries. (**Exhibit 19**)
- 3:18 Mr. Gersovitz said that the agreements are in line with the Montana Attorney General's Office. Chair Reichner said that the U.S. Attorney's Office would like the committee to come up with some legislation regarding extraditions.
- 3:31 Chair Reichner said the sheriff who was at the Rocky Boy meeting has asked for all information regarding the problems between the Tribes and law enforcement. Mark Bosch, highway patrolman from Havre, discussed the process and explained how and why they can have surveillance on the two highways that are at issue. He addressed the judge's comments and talked about having an interlocal agreement in place.
- 3:40 Mike Bartles, Probation and Parole Officer and a former law enforcement officer talked about law enforcement involvement with the Tribes.
- 3:45 Chair Reichner asked Madam President Doney if the sheriffs or Attorney General's Office could visit the Tribes to resolve their issues. Madam President Doney said they currently have a verbal agreement in place for extraditions with the Attorney General's Office.
- 3:46 Rep. Peterson suggested that Jim Smith, the lobbyist for the Montana Sheriffs and Peace Officers Association, could meet with the Tribes. Mr. Gersovitz informed the committee that the Highway Patrol Officers are deputized as federal officers. Mark Bosch, Highway Patrolman said the positions are already in place. He said the highway patrolmen need to be trained on tribal law enforcement. It was suggested that the highway patrolmen go through a two week training course.

Tribal/State Foster Program

Presenter:

- **Basil Doney, Ft. Belknap Social Services**

- 03:50 Mr. Doney said he works with Ms. Speakthunder who was not available today. Mr. Doney talked about how the Tribes do not have access to general funds for foster care. He said the foster parents are not receiving their money. He wanted to know why the Indian kids do not get the money like the other kids. Andy Huff responded to Mr. Doney's comment regarding agreements on IV-E funding for Indian kids. He said it is a match between the federal government and the state.

Mr. Huff said the state receives the funding because the Tribes have no direct funding source. The IV-E funding is a Title program which goes through the state before it can be appropriated to the Tribes. Mr. Huff said there are other services available to the Tribes, but the IV-E funds are monitored through the state.

Chair Reichner and Mr. Doney discussed how the Tribes use the IV-E funds for foster care and how the Tribes have signed a contract with the state for the IV-E funds. Sen. Windy Boy talked about the IV-E explaining it is social security funds.

Mr. Gersovitz explained how the funds are used. When there is a situation where the state thinks there is an unfit parent and takes temporary custody of the children who are placed in a foster care home they in turn need to be reimbursed for providing services for food, shelter, etc. Mr. Gersovitz distributed a handout that he had written to the STR committee members regarding the implications of recent changes to Title IV-E of the Social Security Act. (**Exhibit 20**) He also distributed a memo he had written that explains the federal government's obligation to provide health care services to Indians in Montana. (**Exhibit 21**)

Mr. Doney said they don't have the funds to pay their foster parents. The money comes in 2 to 3 months late and the Tribes do not have the money to pay for the care up-front. He said they want access to the general fund. Sen. Windy Boy said the state does reimburse the foster parents but only at 80% and not 100%.

4:05 Chair Reichner reiterated that the state receives the money then it goes to the Tribes. The Tribes receive the money 2 to 3 months late. The Tribes pay the foster parents from the funds in their account then have to wait for the IV-E funds.

Mr. Huff said that IV-E funds is a federal program - the state receives the IV-E funds that is part of a general package to handle foster care within the state. He said there is no direct funding to the private sector. There was an agreement that was signed 1 to 2 years ago between the state and the Tribes for this program.

Mr. Doney, Sen. Windy Boy, and Mr. Gersovitz discussed the IV-E funds. Mr. Doney said they don't get to use the general funds on the reservation like other people do. The Tribes need the foster care funds up front. Chair Reichner reiterated how he understands the situation. The kids off the reservation can access the funds and don't have to wait like the Indian kids do on the reservation.

Mr. Huff said that kids off of the reservation and the foster parents have a spectrum of services that are greater than what the Indian kids receive on the reservation. He said the reason for this is the money has to go through the state's IV-E program, and the BIA is supposed to put money/resources into this program. There was discussion regarding grandparents having rights to their grandchildren.

Tribal Employment Rights Office (TERO)

Presenter:

- **Mr. Bruce “Buzz” Doney, Director, Ft. Belknap TERO**

4:15 Mr. Doney addressed employment rights. He said there is no agreement in writing with MDT and contractors. Madam President Doney talked about a letter sent to Mr. Doney regarding a contract with the MDT attorney, but it had been sent to the wrong address and they had missed out on the closing date. Chair Reichner asked Jennifer Perez Cole if this issue had been addressed. She informed the committee that she has talked to Director Jim Lynch, MDT who is sending a letter of apology. There was discussion about how contracts are done and if they are done in tribal court.

Health Issues

Presenters:

- **Ms. Velva Doore, Director, Ft. Belknap Tribal Health Department**
- **Ms. Delores Little Owl, Data Entry Clerk (billing)**
- **Ms. Ethel Bear, Medicaid Outreach (billing)**

4:27 Ms. Doore, Ms. Little Owl, and Ms. Bear introduced themselves. Ms. Doore said that she and the other two ladies that are with her do not have any problems with the state. Ms. Little Owl said she has a good relationship with the Medicaid office in Helena. Ms. Bear explained what she does. She said that everything is on time and they do not have a problem with the Medicaid office.

4:32 Dolores Plumage talked about the County Health Department stating that the Tribes are in need of emergency structure. The volunteer fire department is also lacking in equipment for emergencies. She said they have resource funds that could be used, but the funds have to go through the state. They had a drowning because there was no boat to rescue them with. She would like the disaster emergency funds that go through the state to come straight to the Tribes.

Public Comment

Comments were made by Tribal member Mr. Chandler who would like to have more dialogue and communication to resolve the Tribe's issues. Some of the committee members shared their experiences as legislators to the tribal members.

Wrap Up and Adjourn

There being no further discussion Chair Reichner adjourned the STR committee meeting at 4:45 p.m.

Field trip on the Fort Belknap Reservation: October 9, 2009

At 8:30 a.m. on Friday Representatives Frosty Boss Ribs and Rep. Ken Peterson along with State-Tribal Relations Committee staff Casey Barrs, Jeremy Gersovitz and Cj Johnson assembled at the main administration building at the Fort Belknap Reservation. The members were taken on a tour of the BIA Route 6 (White Bear Road). This is a federal stimulus project involving fencing, signage, cleaning and clearing of right-of-way and chip sealing of the highway, according to Ben Speakthunder of the BIA. He had six laborers, three flaggers and two supervisors at work on the project on the day of the committee's tour. Completion is slated for September 30, 2010. The committee members were told the Tribe has some \$4.9 million for six projects with approximately 38 people being put to work and another 38 working on the BIA's six projects.

The committee members also toured the site of the two lane Savoy bridge, another stimulus project, which was under construction at a cost of \$2 million according to the Tribe's Transportation Planner Wesley Cochran. Finally, the committee members toured the Tribe's Buffalo Pasture and listened to plans to increase the size of the herd with disease free animals from Yellowstone Park. The Tribal Fish and Game Officer Mike Fox indicated the tribe currently has about 400 adult head of buffalo and approximately 120 calves on some 13 thousand acres. The buffalo are important for cultural and traditional reasons as well as for economic development, genetics and tourism.

Back at the main administration building the committee members met with the Fort Belknap Community Council and listened to some of their concerns including a 24-hour border crossing at Harlem, problems with criminal extraditions, and issues with the buffalo. Madam President Julia Doney gave the committee members and staff a tribal flag as well as a very generous package from the Pride of the Little Rockies Smoke House (a Tribal business), of buffalo summer sausage, buffalo jerky, cheese and crackers for the trip back to Helena.

The committee members and staff went their separate ways at 11:30 a.m. for their trip back home.

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