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State-Tribal Relations Committee

66th Montana Legislature

SENATE MEMBERS

JEN GROSS
DAN SALOMON
JASON SMALL
FRANK SMITH

HOUSE MEMBERS

JADE BAHR
ALAN DOANE
DALE MORTENSEN
RAE PEPPERS
JOE READ
SHARON STEWART PEREGOY

COMMITTEE STAFF

HOPE STOCKWELL, Research Analyst
LAURA SANKEY KEIP, Staff Attorney
LAURA SHERLEY, Secretary

MINUTES LOG

August 26, 2019
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. JEN GROSS
SEN. DAN SALOMON
SEN. JASON SMALL
SEN. FRANK SMITH

REP. JADE BAHR
REP. ALAN DOANE
REP. RAE PEPPERS
REP. JOE READ
REP. SHARON STEWART PEREGOY

COMMITTEE MEMBERS EXCUSED

REP. DALE MORTENSEN

STAFF PRESENT

HOPE STOCKWELL, Research Analyst
LAURA SANKEY KEIP, Staff Attorney
LAURA SHERLEY, Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

CALL TO ORDER, OPENING PRAYER, AND ROLL CALL

08:05:40 Sen. Smith called the meeting to order at 8:05 a.m.
08:05:57 Rep. Peppers gave the opening prayer.
08:06:45 The committee secretary took roll call ([Attachment 3](#)) and Sen. Smith called for a moment of silence for Sen. Small's father.

Committee and Staff Introductions

08:08:15 Ms. Sherley
08:08:34 Ms. Stockwell
08:09:08 Ms. Sankey Keip
08:09:59 Sen. Small
08:10:14 Sen. Gross
08:10:37 Rep. Read
08:10:57 Rep. Peppers
08:11:07 Sen. Smith
08:11:26 Rep. Doane
08:11:35 Sen. Salomon

ADMINISTRATIVE MATTERS

STRC Budget Overview

08:12:09 Ms. Stockwell

Committee and Staff Responsibilities

08:14:13 Ms. Stockwell

ADOPTION OF STRC RULES

08:18:09 Ms. Stockwell ([Exhibit 1](#))

08:20:02 Rep. Stewart Peregoy arrived at the meeting at 8:20 a.m.

Committee questions/comments

08:20:33 Committee discussion on the Legislative Council recommendations to require positive votes by each chamber.
08:21:23 Rep. Doane asked Ms. Stockwell if there was a formal draft of STRC rules.

MOTION

08:22:21 Sen. Salomon moved to remove the positive votes requirement by each chamber on motions from the STRC rules.

DISCUSSION ON THE MOTION

08:23:27 Rep. Doane asked for clarification on the motion.

VOTE

08:23:50 The motion passed on an unanimous voice vote.

MOTION

08:24:09 Rep. Doane moved to remove the allowance of proxy votes.

DISCUSSION ON THE MOTION

08:24:30 Rep. Doane

VOTE

08:25:05 The motion passed on an unanimous voice vote.

MOTION

08:25:56 Rep. Doane moved to adopt the Rules, Procedures, and Guidelines for Interim Committees set by Legislative Council with the changes made by the committee (see Exhibit 1).

VOTE

08:26:11 The motion passed on an unanimous voice vote.

ELECTION OF STRC CHAIR AND VICE-CHAIR

08:26:47 Sen. Salomon nominated Sen. Small as presiding chair.

08:27:06 Rep. Peppers nominated Rep. Doane as presiding chair.

MOTION

08:27:39 Rep. Stewart Peregoy moved to close presiding chair nominations.

DISCUSSION ON THE MOTION

08:28:14 Sen. Small

08:28:46 Rep. Doane

08:29:00 Sen. Gross ([Exhibit 2](#))

SUBSTITUTE MOTION

08:30:47 Rep. Stewart Peregoy made a substitute motion to nominate Sen. Small as presiding chair and Rep. Doane as vice-presiding chair.

DISCUSSION ON THE MOTION

08:31:25 Ms. Stockwell made clarifying comments on the motion.

MOTION WITHDRAWN

08:31:52 Rep. Stewart Peregoy withdrew her substitute motion.

VOTE

08:32:08 The motion passed on an unanimous voice vote.

MOTION

08:32:44 Sen. Salomon moved to nominate Sen. Small as presiding officer.

VOTE

08:32:59 The motion passed on a 5-4 voice vote, with Sen. Salomon, Sen. Small, Sen. Gross, Sen. Smith, and Rep. Stewart Peregoy voting 'yes'.

MOTION

08:34:15 Rep. Doane nominated Rep. Peppers as vice-presiding chair.

MOTION

08:34:46 Rep. Read moved to close nominations for vice-presiding officer.

VOTE

08:34:56 The motion passed on an unanimous vote.

VOTE

08:34:57 Sen. Smith acknowledged Rep. Peppers election by acclamation.

DRAFT INTERIM WORK PLAN & OPTIONS**Overview & review of individual elements**

08:38:09 Ms. Stockwell ([Exhibit 3](#)) ([Exhibit 4](#))

Committee questions/discussion

08:48:33 Sen. Small asked the committee to discuss additional agenda or study items.

08:48:56 Rep. Stewart Peregoy requested the committee study treaty issues.

08:50:27 Rep. Peppers recommended a study on communication issues between Child Protective Services (CPS) and tribes.

08:51:33 Sen. Small commented on a potential CPS Task Force.

08:52:15 Rep. Bahr requested a study on opioid prescribing rates for tribal members and reviewing housing models of those suffering from substance abuse.

08:52:48 Sen. Small asked for clarification on Rep. Bahr's request.

08:53:28 Sen. Gross requested the committee have updates on the Missing and Murdered Indigenous Persons task force and peer support implementation.

08:54:50 Sen. Small recommended the committee study the Universal Commercial Code (UCC) as it relates to reservations.

08:55:53 Rep. Stewart Peregoy commented on the implementation of the UCC and economic development by tribes.

08:57:57 Rep. Doane discussed the possibility of implementing an STRC subcommittee to meet with various tribal councils.

09:00:00 Sen. Smith commented on the suggestion for a subcommittee and economic development issues.

09:00:43 Sen. Small recommended committee conference calls with tribal councils.

09:01:37 Sen. Gross discussed the importance of visiting with tribal councils in person.

09:02:22 Rep. Peppers discussed sitting in on tribal council hearings.

09:02:58 Rep. Stewart Peregoy commented on the committee's state-tribal relation history and the importance of visiting with tribal councils in person.

09:07:28 Ms. Stockwell reviewed and asked the members for clarification on their recommended agenda and study items.

- 09:12:01 Sen. Small asked for clarification on Rep. Doane's subcommittee recommendations.
- 09:13:18 Ms. Stockwell asked for clarification on Rep. Doane's subcommittee recommendations.

Public comment

None

HB 712 STUDY

- 09:19:27 Amy Carlson, Director, Legislative Fiscal Division (LFD) ([Exhibit 5](#))

Committee Questions/Discussion

- 09:26:36 Rep. Stewart Peregoy commented on the calculations of local county funding and how it would include tribes.
- 09:30:55 Sen. Small commented on Rep. Bahr's HB 632 (2019) and how it relates to the HB 715 study.
- 09:32:37 Rep. Doane asked for clarification on non-risk/non-natural resource economy.
- 09:35:46 Rep. Doane asked if the study's definition of natural resource economy was limited to fossil fuel.

Public comment

None

BREAK (Reconvened at 10:04 a.m.)

HERRERA DECISION - U.S. SUPREME COURT

Overview

- 10:05:37 Ms. Sankey Keip

Implementation

- 10:13:53 Ms. Dockter, chief legal counsel, Department of Fish, Wildlife, and Parks ([Exhibit 6](#))

Public comment

None

Committee Questions/Discussion

- 10:21:34 Sen. Smith asked if trust land located off the reservation is considered occupied.
- 10:22:35 Rep. Stewart Peregoy asked if the Department of Fish, Wildlife and Parks (FWP) is aware of the Crow Act of 1920 which set aside land for education purposes.
- 10:24:12 Rep. Stewart Peregoy commented on the 1934 accounting of funding 1920 Act lands brought into the reservations.
- 10:25:07 Sen. Gross asked if the Wyoming court is required to take action on the Herrera case.
- 10:26:00 Sen. Small asked who classifies unoccupied lands. The question was redirected to Zach Zipfel, attorney, FWP.
- 10:29:07 Sen. Small asked if the department will adopt a game count allowance and how is it currently done in the state.

10:32:10 Sen. Small commented on the relationship between the state and tribes regarding game counts.

10:32:50 Rep. Stewart Peregoy commented on the 1851 and 1868 Crow treaties and asked which treaty the Herrera case is referencing. The question was redirected to Mr. Zipfel.

10:34:40 Rep. Stewart Peregoy asked Mr. Zipfel if the Herrera case decision was applicable to outfitters and if they would be subject to state law.

10:36:00 Rep. Doane asked Mr. Zipfel if the FWP memo only references national forest land or if it would also apply to block management land (see Exhibit 6).

10:37:12 Rep. Doane asked Mr. Zipfel if occupied lands are defined by federal definitions.

10:39:31 Rep. Peppers commented on reservation populations and how it affects member hunting numbers.

10:41:11 Sen. Smith asked how many tribes have hunting regulation agreements with FWP.

10:43:56 Sen. Smith asked for clarification on Fort Peck hunting regulations.

10:45:03 Sen. Gross if hunting right treaties are stated elsewhere in law.

10:46:16 Rep. Read asked how the FWP has been responding to chronic wasting disease. The question was redirected to Dave Loewen, Chief of Law Enforcement, FWP.

10:48:44 Rep. Stewart Peregoy asked Mr. Loewen where chronic wasting disease is currently located in the state and if there are any other chronic wasting disease restrictions in other parts of the state.

GOVERNOR'S OFFICE OF INDIAN AFFAIRS UPDATE

10:51:06 Jason Smith, Director, Office of Indian Affairs

10:51:37 Heather Sobrepena, Department of Commerce

10:51:51 Elisa Fiaschetti, Department of Commerce

10:52:18 Director Smith

10:53:20 Ms. Fiaschetti

10:57:32 Director Smith

Public comment

None

Committee Questions/Discussion

11:08:03 Rep. Doane asked for information on the bison bulls that were transported to Fort Peck.

11:08:57 Rep. Doane asked what the long term plan is for the bison.

11:09:44 Rep. Doane asked if there is a breeding plan for the bison.

11:10:20 Sen. Gross commented on Rep. Bahr's involvement in the HB 632 report.

11:10:59 Sen. Small recommended that the Department of Commerce communicate with LFD on their similar economic development studies.

11:11:30 Rep. Peppers asked Director Smith about safety maintenance for Highway 212 and asked to be made aware of meetings schedule by his office.

11:13:14 Ms. Sobrepena continued the presentation (**Exhibit 7**) (Note: Exhibit 7 is available upon request at the Legislative Services Division).

11:17:57 Ms. Fiaschetti (**Exhibit 8**)

Committee Questions/Discussion

- 11:18:39 Sen. Small asked how many tribes took advantage of the SB 309 (2017) economic development and tourism grant program.
- 11:20:35 Sen. Smith commented on the bison bulls transported to Fort Peck .

CENSUS 2020 PREPARATION AND TRIBAL COMMUNITIES UPDATE

- 11:22:15 Director Smith
- 11:22:33 Mary Craigle, Research and Information Services Bureau Chief, Department of Commerce, and Director, Economic Information Center
- 11:22:50 Emily Ritter Saunders, Director, Communications and Public Affairs, Department of Commerce
- 11:23:10 Director Smith
- 11:26:16 Director Craigle

Public comment

None

Committee Questions/Discussion

- 11:29:33 Rep. Doane asked Director Smith for clarification on reservation census counts. The question was redirected to Director Craigle.
- 11:31:15 Sen. Gross asked Director Craigle to update the committee on the census citizenship question.
- 11:31:46 Sen. Gross asked Director Craigle if the citizenship question is not on the census due to the supreme court decision.
- 11:32:43 Rep. Doane asked Director Craigle for clarification on the census count process.
- 11:35:04 Rep. Peppers asked Director Craigle what census staff does for those who cannot complete the census via internet.

BREAK (Reconvened at 1:40 p.m.)

STRC TOURS DEPARTMENT OF JUSTICE DIVISION OF CRIMINAL INVESTIGATION

- 13:40:05 Sen. Small commented on the tour the committee received from the Department of Justice (DOJ) Division of Criminal Investigation.
- 13:41:21 Sen. Gross commented on the DOJ Missing Persons staff.
- 13:42:00 Rep. Stewart Peregoy commented on the work of the Missing Indigenous Persons Task Force.

MOTION

- 13:44:33 Rep. Stewart Peregoy moved that the committee send a letter to the Bureau of Indian Affairs (BIA) and the Federal Bureau of Investigation (FBI), cc'd to the state congressional delegates, asking for their involvement in the Missing Indigenous Persons Task Force.

DISCUSSION ON THE MOTION

- 13:45:16 Sen. Smith
- 13:45:44 Rep. Doane
- 13:46:11 Ms. Stockwell clarified the committee's options on sending a letter to the BIA, FBI, and congressional delegates.

13:46:57 Sen. Small asked when the next Missing Indigenous Persons Task Force meeting is.
13:48:00 Rep. Doane asked Ms. Stockwell if the committee could vote via email on the letter.
13:48:58 Sen. Small

VOTE

13:49:57 Rep. Stewart Peregoy withdrew her motion.

MOTION

13:50:09 Sen. Gross moved that the committee direct staff to write a letter to the director of Bureau of Indian Affairs (BIA) and the director of the Federal Bureau of Investigation (FBI), cc'd to the state congressional delegates, regarding their participation in the Missing Indigenous Persons Task Force.

VOTE

13:51:44 The motion passed on an unanimous voice vote.

13:51:55 Sen. Small asked Ms. Stockwell when the committee should vote on the letter.
13:52:56 Rep. Doane commented on legislation related to missing persons during the last legislative session.

Public comment

None

13:54:10 Sen. Small reviewed the committee's actions.

PUBLIC COMMENT

13:54:54 Rikki Henderson, Montana Voices
13:55:36 Jill Read, self

CONTINUE REVIEW AND DISCUSSION OF WORK PLAN

13:59:30 Sen. Small asked the committee to discuss the work plan and potential agenda and study items (see Exhibit 3).
14:00:48 Rep. Stewart Peregoy commented on the history of voting on reservations, ICWA and CPS communication issues, and meeting with tribal councils to discuss issues they are dealing with on their reservations.
14:04:11 Rep. Doane asked how committee research and study staff hours are calculated and how it can be used by the committee.
14:06:55 Rep. Stewart Peregoy asked Ms. Henderson for information on reservation voting right issues.
14:08:40 Sen. Small asked Ms. Stockwell for clarification on the committee's interim work plan, agenda items, and study requests.
14:10:09 Rep. Doane commented on revising the work plan.
14:11:04 Committee discussion on studying the maintenance of highways within reservation boundaries (see Exhibit 3).
14:14:45 Committee discussion on studying native youth runaways, the Indian Child Welfare Act, and CPS issues (see Exhibit 3).

14:24:24 Rep. Peppers suggested removing Colstrip reclamation from the proposed list of meeting agenda items.

14:25:32 Sen. Gross asked for an update on SB 30 implementation and use of peer-to-peer support resources.

14:26:12 Sen. Small asked for clarification on Sen. Gross' request.

14:26:44 Committee discussion on opioid abuse and how opioids are prescribed to tribal members.

14:30:09 Committee discussion on the universal commercial code.

14:33:00 Sen. Small reviewed the committee's requested agenda and study items.

14:33:36 Committee discussion on communication between CPS and tribes.

14:36:00 Sen. Small reviewed the committee's requested agenda and study items.

14:36:17 Sen. Gross commented on receiving an update on peer-to-peer support and asked Ms. Stockwell and Rep. Doane how much staff time should be kept aside for emerging issues.

14:38:53 Sen. Small reviewed the committee's requested agenda and study items.

14:39:00 Committee discussion on including treaty issues as an agenda item.

14:42:36 Rep. Bahr commented on the opioid abuse agenda item.

14:43:19 Rep. Doane asked for clarification on the treaty rights agenda item.

14:44:08 Sen. Small asked the committee to discuss the work plan.

14:44:37 Rep. Doane asked for clarification on the listed agenda items.

14:45:10 Committee discussion on the HJ 10 study of barriers to voting by American Indians in Montana.

14:45:54 Committee discussion on the study of maintenance of highways within reservation boundaries.

14:50:21 Committee discussion on options to break the cycle of youth who run away from home and the communication issues between CPS and tribes.

14:53:26 Sen. Small reviewed the committee's discussion on the work plan and asked Ms. Stockwell to comment on the committee's discussed work plan.

14:56:03 Rep. Doane recommended changes to hours allotted to runaway youth and the CPS issue.

14:56:30 Committee discussion on agenda items.

Public comment

None

ADOPTION OF WORK PLAN OPTIONS

Committee action

MOTION

15:00:58 Rep. Doane moved to adopt the committee work plan, allotting 250 hours to HJ10, 100 hours to highway maintenance, 50 hours to repetitive youth runaways, and 200 hours to the communication issues between CPS and tribes with a remaining 120 hours for emerging issues.

Public comment

None

VOTE

15:01:55 The motion passed on an unanimous voice vote.

ADOPTION OF INTERIM STRC CALENDAR

15:02:53 Ms. Stockwell

Committee discussion

15:04:44 Rep. Stewart Peregoy asked for clarification on the draft meeting dates to visit reservations.

15:06:00 Ms. Stockwell commented on multiple day meetings for travel, tours, and meeting with tribal councils.

15:08:39 Sen. Gross commented on the importance of tours and field work.

15:09:15 Sen. Small discussed meeting in person with tribal councils.

15:09:40 Sen. Salomon commented on the idea of STRC subcommittees.

15:10:24 Ms. Stockwell reviewed the dates for the Rocky Mountain Tribal Leaders Council meeting and the Crime Control Conference.

15:10:59 Committee discussion on meeting dates.

15:14:47 Committee discussion on STRC subcommittees.

15:19:32 Committee discussion on meeting dates.

OTHER BUSINESS

15:26:53 Sen. Small reviewed the committee's work plan and tentative schedule.

15:27:21 Rep. Stewart Peregoy commented on treaties issues in the Billings area.

ADJOURNMENT

15:29:00 Sen. Small adjourned the meeting at 3:29 p.m.

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