



STATE-TRIBAL RELATIONS COMMITTEE 67th Montana Legislature

SENATE MEMBERS

Bob Brown
Mike Fox
Jason Small - Vice Chair
Susan Webber

HOUSE MEMBERS

Casey Knudsen
Joe Read
Tyson Running Wolf - Chair
Lola Sheldon-Galloway
Frank Smith
Sharon Stewart Peregoy

COMMITTEE STAFF

Fong Hom - Secretary
Pad McCracken - Research Analyst
Jameson Walker - Attorney

MINUTES LOG

January 13, 2022
Room 102/Zoom
Helena, Montana

Please note: This document is a Minutes Log and provides annotation 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 recording 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 the 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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MEMBERS PRESENT:

Rep. Tyson Running Wolf, Chair (D)
Sen. Jason Small, Vice Chair (R)
Sen. Bob Brown (R)
Sen. Mike Fox (D)
Rep. Casey Knudsen (R)
Rep. Joe Read (R)
Rep. Lola Sheldon-Galloway (R)
Rep. Frank Smith (D)
Rep. Sharon Stewart Peregoy (D)
Sen. Susan Webber (D)

MEMBERS EXCUSED:

MEMBERS ABSENT:

STAFF PRESENT:

Fong Hom, Secretary
Pad McCracken, Research
Analyst
Jameson Walker, Attorney

AGENDA (Attachment 1)

VISITORS' LIST (Attachment 2)

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

13:32:15 Rep. Tyson Running Wolf called the meeting to order. The committee secretary took roll.

CALL TO ORDER/ROLL CALL/OPENING PRAYER/WELCOME

13:35:10 Rep. Running Wolf gave opening remarks.

13:35:28 Mr. McCracken discussed the meeting materials in the mailed packets and the day of meeting documents.

13:38:00 Rep. Running Wolf commented on visiting tribes.

13:38:41 Sen. Webber gave the opening prayer.

13:40:00 Mr. McCracken introduced the temporary committee secretary, Fong Hom, and the temporary committee attorney, Jameson Walker.

INDIAN LAW AND TREATY BASICS

13:40:47 Rep. Running Wolf began introductions.

13:41:50 Heather Cahoon, Director of American Indian Governance and Policy Institute, and Assistant Professor of Native American Studies at the University of Montana, gave a presentation on tribal sovereignty and related rights, treaty basics, and myths regarding American Indians and Taxes. [\(Exhibit 1\)](#)

14:12:36 Professor Monte Mills, Director of Margery Hunter Brown Indian Law Clinic, gave comments on Dr. Cahoon's presentation and the federal government's role in Indian Country.

Questions and Answers

14:21:58 Sen. Webber asked whether there was a reason why some tribal governments in Montana did not choose to reorganize when they were given the opportunity during the self-determination era, focusing the question on her personal connection to the Blackfeet Tribe.

14:22:32 Dr. Cahoon answered by stating that the Blackfeet Tribe chose to reorganize at that time, and for other tribes, reorganization during the self-determination era depended on their previously established governing politics.

14:23:38 Sen. Webber asked Dr. Cahoon to explain the difference between a contract and a compact.

14:24:17 Dr. Cahoon answered by stating that a contract is a negotiated agreement between the federal government and Indian tribes that gave tribes access to one federal program, and a compact was a revision to a contract that gave tribes the ability to "bundle" multiple federal programs under one negotiation.

14:25:31 Rep. Sheldon-Galloway asked Dr. Cahoon if the federal government's goal for reservations was to enable the reservations to become independent from the federal government.

- 14:26:16 Dr. Cahoon answered Rep. Sheldon-Galloway's question by stating that the federal government's goal in creating reservations was to create space for American citizens as well as to create self-sustaining tribal governments.
- 14:29:26 Sen. Brown asked Dr. Cahoon about the tracking of federal funds given to tribes, and how they establish accountability for those funds.
- 14:30:25 Dr. Cahoon answered Sen. Brown by stating that federal audits hold the tribes accountable for the money they are given.
- 14:30:44 Sen. Brown asked about how the federal audits work.
- 14:31:00 Dr. Cahoon answered by stating that every dollar is trackable.
- 14:31:33 Rep. Running Wolf talked about his experience working with federal funding agreements for tribes.

VOTING ACCESS STUDY

- 14:34:36 Sen. Small commented on the existence of active lawsuits and asked the committee to stick to the facts regarding Indian voting rights.
- 14:35:18 Rep. Running Wolf gave opening remarks.

Indian Voting Rights Background

- 14:36:06 Professor Mills gave a presentation on the history of Native American voting rights in Montana. ([Exhibit 2](#))

Review HJ 10 Final Report

- 14:52:12 Mr. McCracken spoke on the final report handout. ([Exhibit 3](#))
- 14:56:33 Mr. McCracken mentioned House Bill 613. ([Exhibit 4](#))
- 14:58:42 Mr. McCracken mentioned the State Administration and Veteran's Affairs committee legislation document. ([Exhibit 5A](#))

New Agenda Topic

- 14:59:17 Rep. Running Wolf asked for questions regarding the handouts or the Wandering Medicine settlement discussion.
- 14:59:40 Rep. Running Wolf introduced discussion for tribal perspectives on voting access.

Tribal Perspectives

- 14:59:50 Jacqueline De Leon, Attorney for the Native American Rights Fund, presented tribal perspectives on the inability to access to voting sites. ([Exhibit 5](#))

County Perspectives

- 15:13:40 Ed Joiner, Rosebud County Commissioner representing the southern part of the county and the Northern Cheyenne tribe, presented his perspective on the ability for tribal members to access post offices and other government access sites. Mr. Joiner stated that there has been improvement in voting participation due to the county's efforts in providing better access to voting sites.
- 15:22:03 Joan Duffield, Clerk and Recorder for Rosebud County, commented on Mr. Joiner's perspective. She spoke regarding the improvement within the county to provide voters in the tribal community better access to voting sites.
- 15:26:07 Dulcie Bear Don't Walk, Election Administrator for Big Horn County, discussed the utilization of the satellite offices and the cost accompanying their use.

Public Comment

15:33:19 Ed Joiner, Rosebud County Commissioner, Zoom
15:34:56 Ta'jin Perez, Western Native Voice, Billings

Committee Questions/Discussion/Next Steps

15:40:24 Sen. Webber asked Ms. De Leon about directive 01-2015 from Secretary of State, Linda McCulloch, and Ms. De Leon's definition of satellite offices versus alternative voting offices.

15:42:03 Ms. De Leon answered Sen. Webber by explaining the difference between satellite voting offices and alternative voting offices. Ms. De Leon also commented on the importance of uniform voting access sites across the counties as well as the clarification of which site is being used.

15:43:30 Sen. Webber read directive 01-2015, which states that satellite offices must be established. Sen. Webber requested that definitions of sites be established.

15:44:11 Ms. De Leon answered Sen. Webber by commenting on the effect that the different definition usage has had on the voting public.

15:45:07 Ms. Bear Don't Walk explained the difference between satellite office and alternate election office, and why it was necessary for their office to establish the alternate election site.

15:47:10 Sen. Small asked Commissioner Joiner and Ms. Bear Don't Walk what the hardest part is in coordinating the election offices.

15:48:07 Commissioner Joiner answered Sen. Small by describing the current "hiccups" in coordinating with the tribe.

15:51:07 Ms. Bear Don't Walk answered Sen. Small by agreeing with Commissioner Joiner, stating that communication as well as finding a secure location are the hardest parts of coordinating with tribe members for election services.

BREAK

15:54:39 Reconvened at 16:05:57.

FEE-TO-TRUST STUDY

16:05:57 Mr. McCracken discussed Sen. Morigeau's comment about elected officials' concern for their constituents' finances. Mr. McCracken presented a table on the increases and decreases of taxable value as well as the document showing the fees statement. ([Exhibit 6](#))

Presentation by Department of Revenue on Usage of 15-6-230

16:10:22 Robin Rude, Deputy Administrator for the Property Assessment Division, gave opening remarks.

16:11:15 Eric Dale, Program Support Unit Manager for the Property Assessment Division, discussed data on tribal exemption. ([Exhibit 7](#))

Committee Questions/Discussion/Next Steps

16:14:43 Rep. Running Wolf asked Mr. Dale if he focused solely on the Confederated Salish and Kootenai Tribe.

16:14:48 Mr. Dale answered Rep. Running Wolf by stating that his chart represented counties from all over the state.

16:14:55 Rep. Running Wolf pointed out that he didn't see Glacier County or Pondera County within the document.

16:14:58 Mr. Dale responded to Rep. Running Wolf by stating that the document shows only properties that applied for temporary exemption within the state.

16:15:24 Sen. Webber asked Mr. Dale if he knew the average number of parcels that exceeded the wait limit for entering into trust.

16:16:34 Mr. Dale responded by stating that he did not know for sure about those records. Mr. Dale only looked at the tribal properties that were exempt.

16:17:35 Sen. Webber asked Mr. Dale if the document included individual tribe members.

16:17:50 Mr. Dale responded to Sen. Webber by stating that the document does not include individual tribe members.

16:18:02 Rep. Read asked Mr. Dale if there is a list of properties who applied for trust status and were denied. Rep. Read continued by asking if those denied properties produced property taxes that were collected.

16:19:20 Mr. Dale responded to Rep. Read by stating that, to his knowledge, very few properties were denied and, during the time period in discussion, there was no recapture of taxes on those properties.

16:20:09 Mr. Dale continued with his presentation.

16:23:13 Ms. Rude discussed changes that occurred in HB 214.

16:26:11 Sen. Webber asked Ms. Rude if the taxable values were on the Property Assessment Division website.

16:26:28 Ms. Rude answered Sen. Webber by stating that the taxable values were not on their website if the property is exempt. She followed by saying that the market value might still be on the website.

16:26:38 Rep. Running Wolf asked Ms. Rude about the process for tribes in counties not reporting that they're in the application process.

16:27:17 Ms. Rude answered Rep. Running Wolf by stating that the requirement for tribes to receive the temporary tax exemption benefit was to apply with the Property Assessment Division. She continued by stating that tribes who did not apply with them did not receive the temporary tax exemption.

16:27:31 Rep. Running Wolf followed by asking Ms. Rude if the counties were able to document taxable funds.

16:28:07 Ms. Rude answered that properties are documented as taxable, they can apply to put it into trust, then they can apply for the exemption. If they do not apply, then it will remain taxable. If the property gets into trust through another agency, then Ms. Rude's agency is notified, and it becomes exempt.

16:28:45 Rep. Running Wolf followed by asking Ms. Rude if it's possible that tribes are skipping the exemption through Ms. Rude's agency by applying through a different trust agency.

16:28:48 Ms. Rude answered by saying it is possible.

16:29:30 Rep. Running Wolf mentioned Blackfeet tribe and his experience working with them. He continued his statement by asking Ms. Rude about the consequences that come from tribes not reporting their application for trust.

16:29:33 Ms. Rude responded to Rep. Running Wolf that her agency would not experience a negative consequence, but the tribe would experience the burden of not taking advantage of that tax exemption.

16:30:15 Rep. Running Wolf stated that the deep issue is the tribes not being properly taxed and the county experiencing the financial burden.

Confederated Salish and Kootenai Tribe Perspective

- 16:31:11 Jordan Thompson, Deputy Executive Officer representing the Confederated Salish and Kootenai Tribes (CSKT), gave an overview of the CSKT perspective on the fee-to-trust study.
- 16:33:46 Mark Couture, Lands Department Head for the CSKT Land Department, explained the difference between geocodes and the Tribal Tracking System. He explained the difference between the roles of CSKT Land Tracking and the Bureau of Indian Affairs.
- 16:39:35 Sen. Webber asked Mr. Couture about the average time it takes to take land from fee to trust.
- 16:40:05 Mr. Couture answered by stating that the time it takes ranges from parcel to parcel.

Lake County Perspective

- 16:41:12 Gail Decker, Commissioner for Lake County, commented on temporary tribal tax exemption. He stated that temporary tribal tax exemption is currently under litigation between Lake County and the Department of Revenue and is going into arbitration in February. He continued by stating that Lake County might dissolve into Missoula County and Flathead County if tribal properties continue to go into tax exemption and back into tribal trust.

Bureau of Indian Affairs presentation on conversion process

- 16:50:50 Susan Messerly, Regional Director for Billings Bureau of Indian Affairs, introduced the Bureau of Indian Affairs team attending to present the fee-to-trust conversion process.
- 16:54:08 Dawn Old Elk, Realty Specialist for Acquisition and Disposal with the Bureau of Indian Affairs at Rocky Mountain Regional Office, began the presentation on the fee-to-trust process. ([Exhibit 8](#))
- 17:14:38 Richard Ferguson, Acting Regional Realty Officer for the Northwest Region, continued the presentation on Off-Reservation trust acquisitions. (See [Exhibit 8](#))
- 17:16:10 Bryan Mercier, Regional Director for the Northwest Region, continued the presentation on the causes that lengthen the fee-to-trust process. (See [Exhibit 8](#))

Committee Questions/Discussion/Next Steps

- 17:20:56 Rep. Smith asked Mr. Thompson if it makes a difference for land to be sold or gifted.
- 17:21:34 Mr. Thompson re-referred the question to Mr. Couture.
- 17:21:56 Mr. Couture explained the difference between gifted trust and trust that goes from trust-to-fee.
- 17:22:17 Rep. Sheldon-Galloway asked why a non-native who owns land on a reservation cannot hunt or fish on that land.
- 17:22:59 Mr. Thompson responded to Rep. Sheldon-Galloway by stating that the rules for reservations originated from that reservation's treaty.
- 17:24:04 Rep. Sheldon-Galloway said that it was on the CSKT Reservation.
- 17:24:36 Mr. Thompson responded to Rep. Sheldon-Galloway by stating that he can get her in touch with someone who can answer her question.
- 17:24:50 Sen. Fox asked whether payment in lieu of taxes is still an active program, and if it "kicks in" when land goes from fee-to-trust.

- 17:25:40 Mr. Mercier answered Sen. Fox by stating that some agencies have agreed to make payment in lieu of taxes on behalf of some tribes, and that it is an option.
- 17:26:17 Commissioner Decker said in Lake County and on the Flathead Reservations there are no payments in lieu of taxes for properties that go into trust.
- 17:27:04 Rep. Running Wolf asked Ms. Old Elk about the biggest barrier between tribal applications and individual applications within the 16-step process.
- 17:27:44 Ms. Old Elk responded to Rep. Running Wolf by stating that cost and communication are the greatest barriers in phase one of the process.
- 17:28:57 Sen. Webber asked Ms. Old Elk if there are problems that come from keeping survey lists that are only endorsed by their agency.
- 17:30:10 Ms. Old Elk responded to Sen. Webber that they have licensed surveyors trained through the standards of the Bureau of Land Management, and there is a website to get access to one of those surveyors.
- 17:30:56 Rep. Sharon Peregoy joined the meeting.

Public Comment

- 17:32:24 Commissioner Decker, Lake County

POSTSECONDARY EDUCATION UPDATES

- 17:36:13 Angela McLean, Director of American Indian and Minority Achievement and K-12 Partnerships for the Montana University System, gave updates on American Indian students in post-secondary education. ([Exhibit 9](#))

Committee Questions/Discussion/Next Steps

- 17:52:38 Rep. Smith asked Dr. McLean why students can't transfer their credits from North Dakota to schools in the Montana University System.
- 17:53:17 Dr. McLean answered Rep. Smith by stating that there are a lot of factors and each case is different, but their campuses take a close look at the transcripts.
- 17:54:04 Rep. Smith responded to Dr. McLean saying that his granddaughter went to school in Williston, then transferred to Havre and her credits didn't transfer over.
- 17:54:30 Dr. McLean offered to meet Rep. Smith and his granddaughter at their earliest convenience to go over her transcripts.
- 17:54:53 Rep. Sheldon-Galloway asked Dr. McLean whether the increased number of American Indian students are from Montana.
- 17:55:15 Dr. McLean answered Rep. Sheldon-Galloway by stating that most of the American Indian students are from Montana, but there are some from out-of-state who are also included in the number.
- 17:55:40 Sen. Brown asked Dr. McLean what they are doing to get her information out to the general public.
- 17:57:30 Dr. McLean answered Sen. Brown by stating that her data had been shared with the American Indian Minority Achievement Council and the Montana Advisory Council on Indian Education during a joint meeting in December. She followed her response by saying she would consider how they can continue to elevate the information which she shared.
- 18:00:05 Sen. Brown gave a comment about getting that message to the youth.
- 18:00:48 Rep. Running Wolf asked about the success rate, or limiting factors, in the HiSET test that Native Americans are taking.
- 18:02:15 Dr. McLean responded to Rep. Running Wolf by stating that she made a note and hopes to return with answers to his question.

RECESS

Adjournment: 18:03:28