

Montana State- Tribal Relations Committee

January 14

2022

The STRC typically tackles a broad array of topics over an interim. Meeting the statutory deadline for this work is rooted in the thoughtful consideration members give to planning the interim workload. This work plan is integral to meeting STRC goals.

Work Plan
for the 2021-
2022 Interim



History of the State-Tribal Relations Committee

5-5-229, MCA, establishes the STRC and tasks it with the following responsibilities:

- (1) acting as a liaison with tribal governments;
- (2) encouraging state-tribal and local government-tribal cooperation;
- (3) conducting interim studies as assigned; and
- (4) reporting its activities, findings, recommendations, and any proposed legislation to the legislature.

Perhaps the most important responsibility of the STRC is to act as a liaison between the state and the eight tribal governments in Montana. This responsibility has been part and parcel of the work of the Committee since its inception in 1977 as the Committee on Indian Legal Jurisdiction. That Committee was charged with meeting with the various Indian tribes to identify common bonds between Indians and non-Indians and to propose legislation for the mutual benefit of both groups.

The Committee's major recommendation to the 1979 Legislature was the creation of a select committee on Indian affairs to be followed by a permanent committee if the 1981 Legislature felt the select committee proved valuable in improving Indian/non-Indian relations.

The 1979 Legislature accepted the recommendation and created the Select Committee on Indian Affairs. However, although subsequent Legislatures recognized the importance of the Committee's work, there was a reluctance to create a permanent committee.

Finally, in 1989, the Committee on Indian Affairs was established as a permanent, statutory committee. In 1999, the Legislature passed Senate Bill No. 11 (SB 11) that reorganized the interim committee structure by consolidating committees and establishing permanent interim committees with membership drawn from specific session standing committees. SB 11 eliminated the Committee on Indian Affairs and folded its responsibilities into the newly created Law, Justice, and Indian Affairs Interim Committee (LJIAC).

The LJIAC was selected to serve as the forum for state-tribal relations because many of the issues affecting state-tribal relations would most likely be addressed by the House and Senate Judiciary Committees. The membership of the LJIAC was drawn from these committees.

At the same time, the Coordinator of Indian Affairs (a position created by the Legislature in 1951 and appointed by the governor) was circulating a proposal to create a Commission on Indian Affairs that would be attached to the Executive Branch. This proposal eventually became a study resolution assigned to the LJIAC.

At the end of the 1999-2000 interim, after months of study, the LJIAC recommended that because of a lack of general support for the idea, the proposal for a Commission on Indian Affairs be tabled. In its place, the LJIAC recommended to the Legislative Council and the 57th Legislature that a separate State-Tribal Relations Committee be created that would assume the LJIAC's state-tribal liaison responsibilities.

The STRC, as we know it today, was established during the 2001 legislative session with the passage of Senate Bill No. 10.

Introduction

This 2021-2022 work plan for the State-Tribal Relations Committee (STRC or Committee) is based on the committee's discussions at its July 23 meeting in Browning. In this document you will find:

- An explanation of how this work plan will be used
- A description of work plan topics
- A list of meeting agenda items
- A draft timeline for completing the work plan

The STRC will review and finalize the work plan at its October 8 meeting.

How this work plan will be used

At its July 23 meeting, the STRC set its priorities for study in the 2021-2022 interim with a deadline of completing its work by September 15, 2022.

During the legislative interim, STRC will explore several topics, while also visiting with tribal governments to learn about tribal issues of concern. The STRC visited the CSKT Tribal Council and the Blackfeet Tribal Business Council on July 22 and 23, respectively, and hopes to visit each of the tribal governments in person by the end of the interim.

Staff developed a work plan for each study topic and timetables for completing each major task. A timeline illustrating the overall schedule that these work plans will fit into is presented at the end of this document.

The STRC may provide additional input and direction to staff for each work plan topic, and request additional agenda items and follow up as needed.

Proposed Studies

I) Study of Fee-to-Trust Conversion and related issues

Background: Land within the boundaries of Indian reservations includes land with various ownership statuses, primarily:

- **Tribal trust lands** that are held in trust by the federal government for the use and benefit of an Indian tribe. The United States holds the legal title for tribal trust lands, and the tribe holds the beneficial interest, managing the land for communal benefit of tribal members. Tribal trust lands are not taxable.
- **Allotted trust lands** that are held in trust for the use of individual tribal members. Again, the federal government holds the title, and the individual holds the beneficial interest. Allotted trust lands are not taxable.
- **Fee lands** that are generally private property like any other privately-owned lands owned by a tribal member or non-tribal member. Fee lands are subject to property taxation.

The percentage of fee land within Montana's seven reservations varies from 0% on Rocky Boy's to 48% on Fort Peck.

Fee-to-trust conversion refers to the federal government's process through which a tribe or individual tribal member can convert privately held fee land into trust land. This federal process, despite being recently streamlined, is complex and lengthy.

In 2011 the Montana Legislature passed [SB 412](#) (Augare) which created a 5-year property tax exemption for tribally owned fee land that the tribe is seeking to convert to trust land. In recent legislative sessions, bills have been proposed to repeal or amend the section of law created by SB 412—[15-6-230, MCA](#): Temporary exemption for certain tribal property. The 2021 Legislature passed [SB 214](#) (Hertz) which amends 15-6-230 to:

1. require the Department of Revenue (DOR) to notify the county in which the property is located prior to an exemption being granted and provide to the county the tribe's application;
2. require DOR to provide to the county the tribe's annual certification that the trust application is still under consideration;
3. require DOR to continue to appraise the property while the trust application is in process; and
4. implement a recapture of property taxes on the property if the trust application is denied or not approved within 5 years.

Committee resources allocated: 25%

Study timeline

October 2021:

- Background information, including history, variations among Montana reservations, and review of SB 214

January 2022:

- Presentation from DOR on use of 15-6-230 and implementation of SB 214
- Presentation from BIA on fee-to-trust conversion process and data on numbers of applications, success rate, etc.
- Tribal representatives and county officials invited to testify/identify issues and explore options

March 2022:

- Further information as requested
- Tribal representatives and county officials invited to testify/identify issues and explore options

May 2022:

- Further information as requested
- Tribal representatives and county officials invited to testify/identify issues and explore options
- STRC provides input/direction on recommendations or legislation, as needed

July 2022:

- Further information as requested
- Tribal representatives and county officials invited to testify/identify issues and provide feedback on any proposals
- Review any recommendations/legislation, if requested

September 2022: Finalize any recommendations/legislation, if requested

II) Voting access: alternative/satellite election offices and places of deposit

Background: In the 2019-2020 interim, the STRC studied barriers to voting by American Indians in Montana pursuant to House Joint Resolution 10 (2019). That study included data on the distances between tribal communities and county election offices, which vary from 18 to 176 miles round trip with an average of 85 miles.

Those distances improved on the Fort Belknap, Crow, and Northern Cheyenne Reservations under a settlement agreement in the *Wandering Medicine* case, which resulted in satellite offices in Crow Agency, Busby, Fort Belknap, Hays, Lodgepole, and Lame Deer starting in 2015. Other counties not involved in the litigation offer satellite or alternative election offices in Box Elder, Browning, Heart Butte, Elmo, Poplar, and Frazer.

Despite the effort, there is a lack of consistency in information available about the satellite/alternative election services and a lack of consistency between county jurisdictions to provide satellite/alternative election services. Effective communications between counties and tribal governments and a lack of county staffing and funding resources remain challenges.

Committee Resources Allocated: 25%

Study timeline

January 2022:

- Review the history and litigation of the voting rights of American Indians in Montana
- Review HJ 10 Final Report and HB 613 (2021—not enacted)
- Tribal representatives and county officials invited to testify/identify issues and explore options

March 2022:

- Review process to establish satellite or alternative election offices and review their locations, hours of operation, and use by tribal and nontribal members in each election since the *Wandering Medicine* settlement (moved from January)
- Review analysis on what is an adequate number of satellite/alternative election offices and places of deposit for ballots on each reservation
- Review staffing, equipment, and funding needs of each county and potential alternative funding sources
- Review potential use of election judges and other trained community-based volunteers to staff satellite/alternative election offices
- Tribal representatives and county officials invited to testify/identify issues and explore options

May 2022:

- Assess challenges for effective communications and relationships between counties and tribal governments regarding election matters
- Identify processes and procedures to improve communications and relationships between counties and tribal governments
- Tribal representatives and county officials invited to testify/identify issues and explore options
- STRC provides input on recommendations/legislation, as needed

July 2022:

- Further information as requested
- Tribal representatives and county officials invited to testify/identify issues and explore options
- Review any draft recommendations/legislation, if requested

September 2022: Finalize/approve any recommendations/legislation, if requested

Meeting Agenda Items

The STRC will receive overviews and updates on the below options, keeping in mind that some options may be allocated more or less meeting time than others depending on members' interest, available meeting time, complexity of the issue, and any emerging issues that the STRC chooses to respond to during the interim.

1. Overview of Indian Country programs that receive one-time-only appropriations (October 2021)
2. Aquatic invasive species funding for tribes (provided by email September 2021)

3. Updates on implementation of legislation related to child protective services and ICWA (March 2022)
4. Updates on Indian Education for All litigation (throughout the interim)
5. Updates on redistricting process (throughout the interim)
6. Treatment of American Indians incarcerated in Montana and education programs at the Women's Prison (October 2021)
7. ARPA funds distributed to tribes (January 2022)
8. MCEP (formerly TSEP) fund applicants (January 2022)
9. History and impacts of residential boarding schools in Montana (March 2022)
10. Decennial report pursuant to 90-1-105(7), MCA (ongoing)

State-Tribal Relations Interim Committee Draft Meeting Schedule

[Note: This draft meeting schedule is provided to give you an idea of the timeline that each study topic will need to fit into in order to complete the work on time. It is subject to final approval of the STRC. The timeline shows the last date for completion of certain items.]

July 22-23, 2021	Meet at CSKT and Blackfeet: Organize the committee and prioritize the interim work plan.
October 7-8, 2021	Meet in Great Falls and at Rocky Boy's: Meet in joint session with tribal governments, adopt a final work plan, and receive first installments of interim research.
January 13-14, 2022	Meet in Helena and by Zoom. Continue to receive installments of interim research.
March 2022	Proposed tribal visit: Meet in joint session with tribal governments. Continue through steps of the work plan.
May 2022	Proposed tribal visit: Meet in joint session with tribal governments. Continue through steps of the work plan.
July 2022	Meet in Helena or by Zoom: Decisions on draft recommendations, any proposed legislation, and draft report contents should be made.
September 2022	Meet in Helena or by Zoom: Final approval of recommendations, reports, and any proposed legislation. Select bill sponsors.

Committee interim work must be completed September 15, 2022.