



# State-Tribal Relations Interim Committee

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## 58th Montana Legislature

### SENATE MEMBERS

JOHN BOHLINGER  
EDWARD BUTCHER  
KEN HANSEN  
CAROLYN SQUIRES

### HOUSE MEMBERS

CAROL JUNEAU  
BRUCE MALCOLM  
RICK RIPLEY  
JONATHAN WINDY BOY

### COMMITTEE STAFF

CONNIE ERICKSON, Research Analyst  
EDDYE MCCLURE, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

August 27, 2003

Room 137, State Capitol  
Helena, Montana

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 the document.**

### COMMITTEE MEMBERS PRESENT

SEN. JOHN BOHLINGER  
SEN. EDWARD BUTCHER  
SEN. KEN HANSEN  
SEN. CAROLYN SQUIRES

REP. CAROL JUNEAU  
REP. RICK RIPLEY  
REP. JONATHAN WINDY BOY

### MEMBERS EXCUSED

REP. BRUCE MALCOLM

### STAFF PRESENT

CONNIE ERICKSON, Research Analyst  
EDDYE MCCLURE, Staff Attorney  
DAWN FIELD, Secretary

### AGENDA & VISITORS

Agenda. Attachment #1

Visitors' list, Attachment #2

### **COMMITTEE ACTION**

- elected Sen. Bohlinger to serve as Chair for the 2003-04 Interim;
- elected Rep. Juneau to serve as Vice Chair for the 2003-04 Interim;
- approved the HJR 8 Study Plan; and
- approved the Work Plan for the 2003-04 Interim.

### **CALL TO ORDER AND ROLL CALL**

The meeting was called to order at 9:15 a.m. by Sen. Bohlinger. Rep. Malcolm was excused. All other members were present. Sen. Bohlinger welcomed members, staff, and visitors; introductions were made. Sen. Bohlinger opened the floor for nomination of officers.

Sen. Butcher nominated Sen. Bohlinger as chair. There were no further nominations. Sen. Bohlinger was elected Chair by unanimous vote.

Sen. Hansen nominated Rep. Juneau as vice chair. There were no further nominations. Rep. Juneau was elected Vice Chair by unanimous vote.

### **OVERVIEW OF COMMITTEE RESPONSIBILITIES AND GUIDELINES, CONNIE ERICKSON, RESEARCH ANALYST, LSD**

Ms. Erickson gave the Committee an overview of the duties and responsibilities of the State - Tribal Relations Interim Committee:

- No rule review or agency monitoring is required of this Committee;
- The Committee acts as a liaison with tribal governments;
- The Committee encourages state-tribal and local government-tribal cooperation.
- The Committee fulfills its statutory duties primarily by visiting two reservations during the interim and by meeting with various state agencies to discuss issues that are brought to the attention of the Committee by tribal members and Committee members.

Ms. Erickson confirmed the Committee's first reservation visit would be on September 29 and 30, 2003 to the Fort Belknap Reservation at the invitation of Chief Benjamin Speakthunder, Chair of the Fort Belknap Tribe (Exhibit # 1). Ms. Erickson said Committee members would soon receive a packet containing information regarding lodging and restaurants and a meeting agenda. A second reservation visit will be arranged in the spring of 2004.

Ms. Erickson briefly reviewed with the Committee the Rules, Procedures, and Guidelines for Interim Committees (Exhibit #2). Ms. Erickson brought to the attention of the Committee HB 94 which was passed by the 2003 Legislature and expanded public participation rules. HB 94 mandates that:

- any member of the public must be given the opportunity to speak to any state agency or committee in an open meeting regarding any topic under the jurisdiction of that agency or committee:
- a committee or agency, in a meeting, may not take action on an item or issue that is not on the agenda or has not been noticed to the public.

Sen. Butcher said due to concerns about HB 94, he would suggest the chair set either a three minute time limit per person or set aside a specific block of time for individual testimony. Sen. Bohlinger agreed that there should be specific guidelines.

Ms. Erickson explained the Legislative Claims for Reimbursement of Interim Activities (Exhibit #3) which included the statutory provisions and guidelines for claiming expenses for attending committee meetings.

Sen. Bohlinger said that in studying HJR 8 and the proposed HJR 8 Study Plan prepared by Ms. Erickson, he could see how urgent a matter this was and urged the Committee to seriously and diligently work to formulate possible solutions.

### **GOVERNOR'S OFFICE OF INDIAN AFFAIRS (GOIA), LORI RYAN, ACTING COORDINATOR**

Ms. Ryan stated that the GOIA was located in Room 202 of the Capitol and that she was available to the Committee to provide any support needed by the Committee members.

Ms. Ryan reported the following information:

- GOIA has been working with the different tribes on the several issues: gaming, tobacco and gas taxes, and tobacco prevention programs. The tribes will receive a first installment of funding by September 5, 2003, that will provide additional funding for the tobacco prevention programs already in existence within the tribal governments.
- The dedication and renaming of U.S. Highway 2 as 163rd Infantry Regiment Heritage Highway (SB 413 sponsored by Sen. Kitzenberg) took place recently in Glasgow and was well attended. Many tribal members were participants in the dedication.
- Tribal chairmen and elected officials will meet with the Governor on October 22, 2003, to discuss HB 608 and other issues of interest. The meeting delegates will also have the opportunity to meet individually with the Governor and certain state department directors to discuss specific issues.
- The State Tribal Economic Development Commission will be meeting the end of September. There will be several new members appointed by tribal governments to this board.
- The Economic Development Advisory Council, created by HB 76, held its first meeting. There is tribal representation on the council.
- There will be a permanent coordinator for the GOIA appointed by the Governor soon.

Sen. Bohlinger said he thought there should be State-Tribal Relations Committee representation at the tribal meeting on October 22 and proposed sending three members to attend and report back to the full Committee. Sen. Butcher, Rep. Ripley, Rep. Windy Boy, and Rep. Juneau were appointed to attend. Rep. Juneau asked if Ms. Erickson and Ms. McClure would also attend. They agreed to attend.

### **HOUSE JOINT RESOLUTION NO. 8**

**Lori Falcon, Indian Education Specialist, Office of Public Instruction, (OPI)**, gave an overview of the OPI dropout prevention grant (Exhibit # 4). Ms. Falcon noted that:

- The Montana American Indian Dropout Prevention Grant works with six communities on four different reservations: Browning, Heart Butte, Box Elder, Rocky Boy, Lame Deer, and Poplar.
- The grant will be funded for three years and is expected to total \$981,872.
- The funding will be directed to the development and support of School Based Working Groups and Local Stakeholder Advisory Councils.
- A Montana American Indian Dropout Prevention Program Advisory Council has been formed.

Ms. Falcon gave the Committee a copy of the OPI report containing the Montana High School Graduation Rates for the graduating class of 2002 (Exhibit #5). The report lists each high school and graduation rate individually and by county.

Ms. Falcon gave the Committee Racial Ethnic Origin data gathered by OPI (Exhibit #6).

Ms. Falcon gave the Committee the Iowa Test of Basic Skills (ITBS) reading scores for Montana students comparing American Indian students with white students (Exhibit #7).

Ms. Falcon gave the Committee data listing each reservation's population, per capita income, and percentages for high school graduation, college graduation, and unemployment rates (Exhibit #8).

Ms. Falcon gave the Committee a copy of the Montana American Indian Dropout Report prepared by OPI (Exhibit #9). Ms. Falcon noted that it is a draft copy and said it would be completed soon. The report covered the following points:

- the impact of dropping out of school,
- how OPI calculates the dropout rate,
- 2001-02 American Indian dropout rate overview,
- dropout rates by grade and gender,
- dropout rates by grade using a four-year average,
- four year graduation rates, and
- prevention strategies.

Sen. Hansen asked how the six schools were chosen for the dropout prevention grant program. Ms. Falcon said the schools that were chosen had the highest dropout rates.

Sen. Bohlinger asked Ms. Falcon how much funding each of the six participating schools received and how the money was spent. Ms. Falcon answered each school received \$40,000 and the funding was spent on professional development for teachers, student-based activities, site coordinators, travel expenses, training, and advisory council meetings. Sen. Bohlinger asked if the six schools will focus on the reasons students drop out, as discussed in the HJR 8 Proposed Study Plan (Exhibit #10) prepared by Ms. Erickson. Ms. Falcon said that this past year, resources were mainly directed to middle school and high school students. Ms. Falcon said she hoped to begin screening fourth, fifth, and sixth graders for risk factors in the next school year.

Sen. Butcher said he thought targeting middle school and high school students for prevention was too late a start and prevention should be started at a younger age. Sen. Bohlinger asked if

the terms of the grant would allow the focus to be directed towards younger students. Ms. Falcon said the grant was flexible and it may be possible.

Ms. Erickson said as the Committee develops its HJR 8 plan, it can include provisions for targeting the younger grades. She said this plan will be good for all schools and while the emphasis will be on American Indian students, other schools will benefit.

**Joe Lamson, OPI**, said third grade was an appropriate grade to begin screening but said prevention programs in the upper grades are still necessary and must be maintained.

Rep. Juneau agreed and said the problem must be dealt with from a two-prong approach: targeting students at a young age to prevent future problems and keeping programs in place that offer support to the older students that need assistance right now.

**Vicky Turner, Prevention Resource Center, Interagency Coordinating Council (ICC)**, gave the Committee a brochure detailing the functions and activities of the Prevention Resource Center (Exhibit #11) which include:

- coordinating state policy regarding prevention,
- building community infrastructure,
- creating partnerships for prevention , and
- the five guiding goals of the Prevention Resource Center.

Rep. Windy Boy asked Ms. Turner for the names of the tribal representatives on the ICC. Ms. Turner said Mr. Bill Snell is the representative. Rep. Windy Boy asked which tribe he represents. Ms. Turner said she wasn't certain but she thought either Crow or Northern Cheyenne and also said that the ICC does not have full representation for all of the tribes. Rep. Windy Boy said he was concerned about the lack of full representation on the ICC and that this was an example of a why HB 608 (Exhibit # 12) was necessary.

Sen. Bohlinger asked Ms. Turner if the various tribes had been given the opportunity to appoint a representative and if the tribes know this resource is available to them. Ms. Turner said her resources are very limited so it has been difficult to be certain that everyone has been informed.

Ms. Erickson said it is important to remember that ICC membership is statutory and if the Committee wants to alter it in any way, it must be done by legislation.

Ms. Ryan said the GOIA does not speak for individual tribal governments. Mr. Snell has been appointed to represent the tribal population of this state but anyone from any tribe that chooses to attend and have input to the ICC is always welcome.

Ms. Turner said that when the Office of Indian Affairs was added as a statutory member of ICC, the intent was to ensure that the tribal governments were being informed and represented but in reality, it hasn't worked as well as had been anticipated.

Sen. Squires said she understood Ms. Ryan to say that it was not the responsibility of the GOIA to speak for the tribes. She asked Ms. Ryan if it was her responsibility, as Coordinator, to communicate to the tribes the information that is available and if it is, how are people like Rep. Windy Boy and Rep. Juneau not informed. Sen. Squires that she thought it would be very

difficult for Mr. Snell to fairly represent all seven tribes. Ms. Ryan answered that she does communicate with the tribal chairmen but she has no control over what happens to that information once the tribal chairmen have it. Ms. Ryan also said when Mr. Snell was appointed to the ICC, all tribal governments were contacted and were asked for input in the appointment process.

Sen. Squires asked Ms. Turner if, considering the diversity of and differences between the seven tribes, she thought Mr. Snell was able to provide unbiased and accurate information to all of them. Ms. Turner said Mr. Snell was chosen by the Governor's Office and that she had worked hard to provide information to him to pass along to the tribes.

Sen. Bohlinger said since membership on the ICC was established statutorily, the Committee could sponsor legislation to expand representation if the Committee thinks the current tribal representation is inadequate. Sen. Butcher said it would be difficult for the different tribes to come to an agreement, and that he did not think the ICC should involve itself to that extent in tribal politics.

Ms. Erickson said Ms. Eddy McClure, LSD Staff Attorney pointed out to her that the ICC is an interagency council, meaning it is an interstate agency council and that is why the membership is made up of agency positions and not individuals. As such, it may not be appropriate to have to have members from outside of state government.

Ms. Ryan said Mr. Snell works hard to represent Native American youth and covers many of his own expenses.

Rep. Juneau said this situation is just one of many examples of the lack of tribal representation on various state boards and committees. She referred to a Montana law that says that any state board or commission or committee that is appointed by a state agency should strive for gender and racial balance. She suggested this to be a discussion topic for the October 22 meeting and an issue for this Committee to examine as well.

Rep. Juneau **moved** to accept the HJR 8 Study Plan as written. The motion passed unanimously on a voice vote.

Rep. Windy Boy said the passage of HB 608 provided for the establishment of a government-to-government relationship between Montana Indian Tribes and the State of Montana and encouraged Ms. Turner to look at the membership of the ICC to determine if it is in violation of HB 608.

### **INTERIM WORK PLAN**

Ms. Erickson informed the Committee that the Committee budget is \$21,575. She said that amount will fund the usual expenses incurred by a committee and allows for seven meetings: five 1-day meetings and two 2-day meetings. Ms. Erickson suggested reserving one of the 1-day meetings for an organizational meeting for the next interim's Committee. Ms. Erickson referred the Committee to the State-Tribal Relations Committee Proposed Work Plan for the 2003-04 Interim (Exhibit #13).

Due to scheduling conflicts for several Committee members, the Committee changed the proposed meeting date of December 4, 2003, to December 5, 2003, and the proposed meeting date of March 4, 2004, to March 5, 2004.

Rep. Windy Boy **moved** to adopt the meeting schedule, as amended. The motion passed unanimously on a voice vote.

Sen. Bohlinger asked Ms. Erickson to give the Committee an overview of the possible study topics (Pages 2-4, Exhibit #13). Ms. Erickson said that in addition to the assigned HJR 8 study, the Committee would have time to address issues of their own choosing as well. Possible topics discussed were:

- monitoring and implementation of HB 608 (Exhibit #13),
- monitoring of HB 2 provisions that specifically pertain to tribal governments,
- compiling a list of tribal concerns and addressing those concerns with the appropriate state agency, and
- nine issues of interest identified by Committee members.

Rep. Windy Boy stated he thought implementation of HB 608 should be a high priority and this Committee was the logical entity to serve as a link between the state agencies and the tribal governments.

Sen. Bohlinger said he agreed with Rep. Windy Boy that HB 608 has to be one of the principal focuses of this Committee but also agreed with Ms. Erickson that there are other issues that the Committee will have time to consider.

**Nancy Wikle, Native American Liaison, Department of Corrections (DOC)**, extended an invitation to the Committee to visit any of the DOC facilities but cautioned that a visit to Montana State Prison in Deer Lodge would be difficult to complete in one day.

Sen. Bohlinger asked which correctional facility has the largest percentage of Native American population. Ms. Wikle said Montana Women's Prison in Billings has an Indian population of approximately 30-35%. Ms. Erickson suggested combining a visit to this facility with a spring visit to the Northern Cheyenne Reservation.

Ms. Erickson said completing some of the items on the study topic list would be as simple as asking a department for a written report or inviting a presentation to be made to the Committee; other items would take more time and resources to complete. She said both she and Ms. McClure recommend updating *The Tribal Nations of Montana* because it has become outdated but said that it would be a labor intensive project. She said she thought the Committee would have the time and resources to address all of the study topics but the items would have to be prioritized.

Sen. Butcher said he thought most of the topics could be fit into the HJR 8 study and said the Committee needs to be judicious with its time allocations to be certain it doesn't take on more issues than it can handle.

Rep. Juneau said it would be simple to schedule agencies to give reports on issues of importance. Ms. Erickson said it was feasible to schedule two agencies in one meeting and

suggested scheduling DPHHS to and OPI for the December 5, 2003 meeting. Sen. Butcher said the final budget numbers would be available by December 5 and that could be tied into item 4 dealing with identifying all of the funding provided to tribal governments in the most recent biennium.

Rep. Windy Boy directed the Committee's attention to HB 608 and said it clearly required an annual report by a state agency. He said he thought the reports should be given to this Committee in order to establish a good system for tracking implementation efforts and potential problems. Sen. Bohlinger asked Rep. Windy Boy if he could see a tie-in between HB 608 implementation and monitoring and updating *The Tribal Nations of Montana* and making it available to all legislators. Rep. Windy Boy said he thought that would be appropriate. Sen. Bohlinger said this is an existing document that could be updated and we could also include an effort to track progress on HB 608.

Ms. Erickson suggested another approach would be to write a letter to every agency director and bring HB 608 and its requirements to their attention, and the Committee could offer its services if help is needed in implementing this law.

Ms. McClure said HB 608 language requires the state agency reports to be made to the Governor in writing by December 15 of each year. She said the Committee could request a copy of those reports or it also could request an agency provide a presentation to the Committee detailing the information included in its report to the Governor. Sen. Bohlinger said we could ask the agencies to come before the Committee to report to us how they have implemented HB 608 at the July 2004 meeting. Ms. Erickson said this would give them a year to get at least some of it in place and the Committee could get an idea of how it is working. If there are problem areas identified, the Committee could consider sponsoring legislation to make the needed changes.

Rep. Ripley said he admired the Committee's ambition, but it was important to leave some time available for unforeseen issues that may arise. Ms. Erickson said many times, all that is required is to act as a liaison between the tribe, individual, and/or agency that is seeking assistance with a problem or simply providing needed information.

Sen. Bohlinger clarified for the Committee that with the exception of item 6, all of the other suggested study topics would be addressed. Rep. Juneau said she was unclear of the Committee's role in HB 608. She said she supported sending a letter to the agency directors but was uncertain of the Committee's role, other than a responsibility to encourage state-tribal and local government-tribal cooperation. Ms. Erickson said until the agency reports are submitted, there is little the Committee can do with HB 608. She suggested the Committee start contacting departments in the spring of 2004 to determine if there have been problems identified that the Committee could address. Sen. Butcher said in regard to HB 608, these agencies don't report to this Committee; they report to the Governor, and the Governor is the one that must be held accountable. Ms. Erickson said Sen. Butcher is correct, that there is nothing in the legislation to require the agencies to report to this Committee but said the Committee may assist with difficulties that arise. Ms. McClure suggested this Committee invite the Governor's Office to give the Committee a report on what it expects from HB 608 and request that reports received from agencies are forwarded to this Committee for review.

Rep. Windy Boy said it was the coordination effort in implementing HB 608 that was of most concern to him. Sen. Bohlinger said he thought the Committee could help with the implementation just by asking various agencies to report to us.

Sen. Butcher **moved** to adopt the work plan. The motion passed unanimously on a voice vote.

### **PUBLIC COMMENT**

**Mr. Dave Hill, Environmental Services Bureau, Montana Department of Transportation (MDO)**, reported that in an effort to adhere to HB 608, the MDO District Administrators had committed to meeting with the each of the tribes within their districts on a yearly basis.

### **WRAP UP AND ADJOURNMENT**

Ms. Erickson reminded the Committee that the next meeting on September 29 and 30 will be at the Fort Belknap Reservation in Harlem. She said she would be sending a letter out soon to Committee members with driving directions, hotel accommodations, and restaurant information. The tentative agenda includes not only executive and community meetings, but a tour of Fort Belknap College, the Indian Health Service, the Little Rockies Meat Packing Plant, the Hays/Lodge Pole School, and the Zortman/Landusky Mine.

Ms. Erickson said the majority of the Community Meeting, as required by HJR 8, would be devoted to the issue of the Indian drop out rate. She said she would invite the area school districts to participate. There will also be time allowed for community members to share concerns with and ask questions of the Committee. The Executive Committee Meeting with the Tribal Council will be used to address tribal concerns and issues.

The Committee members discussed possible revisions to the agenda times and items. Sen. Squires said the Committee members are visiting the reservation as invited guests and as such, she thought the Committee shouldn't ask to make changes to the agenda. Ms Erickson said she would check with the tribal secretary to see if any of the discussed changes would be convenient, if not, the agenda would remain unchanged. Sen. Bohlinger said he trusted Ms. Erickson's judgment in establishing an agenda that will work for everyone. He asked if the Committee should bring a gift to the tribe. Ms. Erickson said in the past, the Committee has given the tribe a CD-ROM copy of the MCA and this gift has been well received. She asked Rep. Windy Boy if he had a suggestion. Rep. Windy Boy said a state flag would be appreciated.

Rep. Juneau said she knew the Blaine County Commissioners wanted to be included in this meeting. Ms. Erickson said while there was not a specific time set aside to meet with the county commissioners, she will make a special point to notify and invite them to the meetings. Press releases will given to the local radio stations and newspapers as well.

Rep. Juneau asked to have the Committee acknowledge Lois O'Connor's recent retirement from Legislative Services. Ms. Erickson said she would mail a card signed from the State-Tribal Relations Committee to Lois.

With no further business, the meeting was adjourned at 2:40 p.m.

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