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# State-Tribal Relations Interim Committee

## 59th Montana Legislature

### SENATE MEMBERS

JERRY O'NEIL  
GERALD PEASE  
FRANK SMITH  
DONALD STEINBEISSER

### HOUSE MEMBERS

GORDON HENDRICK--Vice Chair  
JONATHAN WINDY BOY--Chair  
JOAN ANDERSEN  
JOEY JAYNE

### COMMITTEE STAFF

CHRIS LOHSE, Lead Staff  
EDDYE MCCLURE, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

January 23, 2006

Room 172, 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

REP. JONATHAN WINDY BOY, Chair  
REP. GORDON HENDRICK, Vice Chair

SEN. JERRY O'NEIL  
SEN. GERALD PEASE

REP. JOAN ANDERSEN  
REP. JOEY JAYNE

### COMMITTEE MEMBERS EXCUSED

SEN. FRANK SMITH  
SEN. DONALD STEINBEISSER

### STAFF PRESENT

CHRIS LOHSE, Lead Staff  
EDDYE MCCLURE, Staff Attorney  
DAWN FIELD, Secretary

### AGENDA & VISITOR'S LIST

Agenda, [Attachment #1](#).  
Visitors' list, [Attachment #2](#).

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

REP. WINDY BOY called to the meeting to order at 10:04 a.m. and asked Rep. Jayne to lead the Committee in prayer. REP. WINDY BOY welcomed the Committee members and interested persons.

## **INDIAN EDUCATION FOR ALL / GAIN COUNCIL**

**Reno Charette, Indian Affairs State Coordinator, (GAIN) Governor's Office**, explained the services provided by the Governor's American Indian Nations Council. Ms. Charette distributed copies of the Governor's executive order creating the Governor's Interagency Revenue Sharing Negotiation Task Force, which evolved into the GAIN Council ([EXHIBIT #1](#)). She gave a detailed explanation of an organizational chart diagramming the structure of the GAIN Council and the relationships between the GAIN Council, the tribal governments, and the various state agencies with which it interacts ([EXHIBIT #2](#)). Ms. Charette reviewed the GAIN Council website ([www.gain.mt.gov](http://www.gain.mt.gov)) and said that all of the activities and reports by the Council are available on the website ([EXHIBIT #3](#)). Ms. Charette said that training has been provided to key personnel from all of the departments involved with the GAIN Council. She provided copies of the power point presentation used for the training, which included information on ([EXHIBIT #4](#)):

- the Governor's American Indian Nation Strategy (GAIN) and history;
- requirements of HB 608;
- implementation of HB 608;
- provisions of Executive Order 1-2005;
- GAINS terminology; and
- other related information.

Ms. Charette said the GAIN Council wishes to be an active participant in promoting the Indian Education for All program and wishes to be used as a tool to include tribal governments in the process. The Council has established a sound working relationship with each of the tribal governments, and its central theme is that state and tribal governments all have a vested interest in the success of Indian Education for All and that all leaders must be included.

Ms. Charette reported that the GAIN Council meets every Wednesday at 3:30 p.m. in the Office of Budget and Program Planning and that the Council has served as a clearing house for working effectively with tribes, assisting them with negotiations and in managing contracts, grants, and revenue sharing agreements. She concluded her presentation by stating that the GAIN Council agendas and minutes are posted on the GAIN website and that suggested agenda items may be submitted to the core team leader appropriate to the issue or area of business.

Ms. Charette also provided copies of the 2005 Report on Agency Activities with Tribal Nations and Populations ([EXHIBIT #5](#)).

**Denise Juneau, Director of Indian Education, Montana Office of Public Instruction**, reported on the status of Indian Education for All in the State of Montana. She discussed the ongoing initiatives of the Indian Education for All program ([EXHIBIT #6](#)), which included information on:

- staffing;
- grant administration;

- curriculum development;
- professional development; and
- public education.

Ms. Juneau said that the Montana Advisory Council on Indian Education was created in 1979 and consists of seven representatives appointed by tribal governments, representatives from the Board of Public Education, the Montana Indian Education Association, and MEA-MFT. The Advisory Council actively participates in all aspects of the Indian Education for All program.

Ms. Juneau reported that OPI offers a Class Seven teacher certification, which allows native language certification for each tribe and is indicative of a true government-to-government relationship. Ms. Juneau described the process through which Class Seven certification is granted, and said there are over 150 individuals teaching in Montana schools with a Class Seven teaching certificate.

Ms. Juneau passed out a list of the Montana Advisory Council on Indian Education members (EXHIBIT #7).

REP. JAYNE said she has received questions from the public asking why Indian Education for All is necessary for non--Indian students and asked if there will be more effort put into public education on why it is necessary. Ms. Juneau said that issue is a large portion of the public information campaign that is being planned by OPI. She said that the public awareness level is very important and is where the work must begin. She said this issue dates back to the 1972 Constitutional Convention, when Indian education became a constitutionally required element of education in Montana public schools. There have been stumbling blocks that have had to be overcome, such as sovereignty and cultural differences, and that it has been difficult to move forward on this because of those issues. OPI also plans to concentrate on teacher education, specifically on how to teach culturally different students.

**Eddy McClure, Staff Attorney, LSD**, asked if OPI has asked to be part of the annual August MEA-MFT teacher conference, as well as Montana School Board Association (MSBA) conferences. Ms. Juneau said that OPI has participated in those conferences and that over 100 Indian Education for All workshops have been conducted through out the state. She said OPI will soon begin providing a guide to school boards to assist them in choosing Indian education materials.

REP. WINDY BOY asked who determines the selection of members on the Montana Advisory Council on Indian Education. He referred to the membership list (EXHIBIT #7) and asked how certain members fit into the "government-to-government relationship" discussed earlier by Ms. Juneau. Ms. Juneau said that letters are sent every year to the tribal governments and to the educational organizations who appoint representatives to the Advisory Council and that the decision of whom to appoint is left up to each tribe or organization. Ms. Juneau said that OPI is working to improve communication, specifically with tribal chairman; the important point to remember is that it is people and organizations working together on educational policy, curriculum, and a multitude of other issues and that is the true power. REP. WINDY BOY asked how individuals from Billings and Great Falls with no formal tribal connections, for example, fit in with government-to-government relations. Ms. Juneau said that there are tribal government representatives on the Advisory Council, as well as others. Ms. Juneau said the members are all interested in education and work together as members of the Advisory Council. REP.

WINDY BOY asked who or what tribal government authorized the appointments of Lucille Tucker of Missoula, Corri Smith of Great Falls, John Walter of Browning, Callen Gilbert of Great Falls, Emma Core of Billings, and Everall Fox of Helena and what qualified them to be members of the Advisory Council. Ms. Juneau said all of the individuals were appointed by their respective organizations and that, for example, Emma Core is a representative for urban Indians as well as the Crow Tribe. She added that membership is not done geographically.

REP. WINDY BOY said that the Governor has requested a one-time appropriation of \$7 million for Indian Education for All. He asked how OPI plans to work with the Governor's Office to oversee the expenditure of the money and who would be accountable. Ms. Juneau asked Joe Lamson to respond. **Joe Lamson, OPI**, said one of the first meetings the Governor held was with the State Superintendent of Public Instruction, Linda McCulloch. One of the discussion points was the budget for Indian Education for All and the Superintendent worked closely with the Governor to form the budget. Mr. Lamson said that the Superintendent will be accountable for administering the Indian Education for All funds, as well for as the educational goals of the program. OPI staff will monitor how schools are spending the funds and will share information and resources with all schools. REP. WINDY BOY encouraged Superintendent McCulloch to continue to work closely with the Governor and said that the taxpayers are going to want accountability. Mr. Lamson said that OPI is very aware that this program will be under close scrutiny by many and that OPI will put forth great effort to cooperate with all involved.

REP. WINDY BOY said that in order for there to be true government-to-government relations, there must be more tribal involvement. He said that distribution of information needs to improve and said that in his seven years of serving as a tribal chairman, he was never asked to appoint a tribal representative to the Montana Advisory Council on Indian Education. Mr. Lamson said it is the goal of the Superintendent to improve communications with the tribes and to more actively involve them on issues of importance to the tribes.

REP. JAYNE said that the role of the Advisory Council is to work with OPI on Indian education issues and asked if OPI is still going to work directly with the tribal governments. Ms. Juneau said that is correct and that the goal is to create communication pipelines to all agencies, all tribal governments, and all those who want to be involved in Indian education.

REP. ANDERSON said that a number of Montana schools have developed their own Indian education curriculum and asked if OPI is including any of those materials in OPI's curriculum development. Ms. Juneau said that OPI has consulted with schools that have developed their own curriculum and that the resources and programs being used by those schools are being posted on the OPI website so that other schools may also access them. The goal is to create a clearinghouse of information for use by all schools.

REP. HENDRICK asked for a detailed explanation of how an individual is appointed to the Montana Advisory Council on Indian Education. Ms. Juneau said the tribes and organizations are consulted and that each is allowed to make the appointment of its choice. REP. HENDRICK asked if the appointees usually have a background or interest in education. Ms. Juneau said that most of them are involved in education in some capacity.

REP. WINDY BOY cautioned Ms. Juneau that the tribal governments want to be dealt with directly. Ms. Juneau said there are plans to visit tribal communities and to directly contact the

tribal governments. She said that the tribal governments should feel free to contact OPI as well if there are questions or concerns.

**Anna Whiting Sorrell, Governor's Policy Advisor and Co-Chair of the GAIN Council**, said she co-chairs the GAIN Council with David Ewer, the Governor's Budget Director. She said that the Governor remains firmly committed to establishing strong government-to-government relations with the Tribes and realizes that this is a difficult task. It has never been done in any state and is a pioneer effort. The GAIN Council is the Governor's internal strategy for making sure that his goals are met, to ensure that tribal business is conducted appropriately and consistently, and to establish a protocol for government-to-government relationships.

Ms. Sorrell said that the Governor asked for resources for Indian Education for All and that he expects to be accountable for making sure that the funds are expended in the best manner. To that end, he will convene a meeting in February of 2006 to make sure that the work being done is as it was intended to be.

Ms. Sorrell related her personal history as a member of the Salish-Kootenai Tribe, an employee of the State of Montana, a citizen of Montana, a parent, and a teacher. She has a heartfelt passion for this issue. She said that she remembers the 1972 Constitutional Convention and made the observation that 30 years later, the provisions for Indian education made at that Convention are finally being implemented. She said she doesn't want the next generation to have to wonder why those Constitutional provisions have not yet been implemented.

REP. JAYNE said that she is excited about this but as a legislator, she has not received any information or updates on this from OPI or other executive branch agencies. She said that the Legislative Branch and the State-Tribal Relations Interim Committee needs to get more information on what is happening because both could help facilitate the process and could help make the connection between communities and governments stronger.

Ms. Sorrell said this has been an evolving process and will continue to evolve. She said it became clear early in the Governor's administration that there was not a single place in state government to see how the tribes and the State interact and that is the main reason for the Governor's insistence that government-to-government relations be established. It must be understood that that relationship isn't between organizations or agencies but between the Tribal Councils and the State of Montana. Ms. Sorrell said she would be happy to discuss with the Committee how it would like to be involved.

REP. WINDY BOY said as a tribal leader, he wants to talk government-to-government and not to a department head. Ms. Sorrell asked if she could contact LSD staff to get information to the State-Tribal Relations Committee. REP. WINDY BOY said yes.

**Ellen Swaney, Office of the State Commissioner of Higher Education (OCHE)**, said that the Montana University System (MUS) did not receive funding for Indian Education for All but decided to work without funding because of its importance and because of the significant educational role the MUS has. Ms. Swaney updated the Committee on MUS activities and projects:

- Several challenges have been faced in trying to define what each graduate of the MUS should know about tribes and tribal people, such as:
  - ▶ how educators are being prepared to work with students;

- ▶ how Native American Studies programs on the campuses will interface with education programs; and
  - ▶ how to determine what type of education is necessary for the each different type of career.
- Nominations from the MUS campuses were made to form an Indian Education for All workgroup. A meeting date will be set soon.
  - The OCHE/MUS website has a copy of the plan developed by the Governor's Indian Education for All planning committee, and part of the task of the newly-formed workgroup is to update that and develop strategies and tasks.
  - Budgetary challenges will be the greatest obstacle to this work.
  - The Governor has allocated \$2 million to the tribal colleges to develop their histories and make them available to the education communities. The funding was divided equally between each tribe and the first payments have been mailed out.
  - Each campus has undertaken different activities regarding Indian education. Ms. Swaney said there is much information available and that she would like to create an online resource master list for educators to use.
  - Ms. Swaney said she maintains a list of current research projects in the MUS.
  - The MUS website has a great deal of information and is updated regularly on Indian education in Montana and what is going on on each campus. A diversity report is also available on the website.

REP. HENDRICK asked for the MUS American Indian/Minority Achievement website address. Ms. Swaney said it is [www.montana.edu/ai](http://www.montana.edu/ai).

REP. WINDY BOY asked, regarding the \$7 million funding appropriated for Indian Education for All, why the MUS didn't receive a portion of the funding. He said the MUS is responsible for educating teachers and that if money is available, some should be allocated to the colleges. Ms. Swaney said that OCHE has a wish list for programs it would like to have funding for, such as creating a program through which curriculum developed by OPI could also be shared with the teacher education programs in the MUS, development and maintenance of a website, establishing work groups and advisory councils with interested persons and tribal councils, additional staff to assist with Indian Education for All implementation in the MUS, research programs, and creating a symposium for sharing the research findings with Montana educators, both K-12 and post secondary. Ms. Swaney said OCHE will consider asking for funding again in the 2007 legislative session.

REP. WINDY BOY asked how OCHE works with OPI. Ms. Swaney said she has a very good working relationship with OPI. REP. WINDY BOY asked how the tribal colleges interact with the MUS. Ms. Swaney said that there have been difficulties over the years but that she invites tribal colleges to all Regents' meetings and to the various happenings in an effort to keep them involved.

REP. JAYNE asked for discussion on the merit of requiring an Indian history course for a bachelor's degree through the MUS. Ms. Swaney said that currently, there is a Native American studies course, which is listed as a cultural diversity component. She said that the obstacle to making it a required course is that many more faculty with a specific expertise would be required. She said another difficulty would be developing a course that would be multi disciplinary so that it would be applicable to all schools within a college or university. She said

she could get percentages of the students currently taking the Native American studies class under the cultural diversity component.

REP. JAYNE asked what steps would have to be taken to make it a required class. Ms. Swaney said that several things would have to be considered, such as accreditation issues. Ms. Swaney said that she wasn't sure that all curriculums would necessarily benefit from a general history course and that the issue could be discussed by the work group when it meets.

REP. WINDY BOY said REP. JAYNE's question amplifies his concerns about teacher education, and said it seems to him that the cart is being put before the horse. He said that educators must be prepared before moving on to the next step. Ms. Swaney said that one struggle is how to deliver the education to the teachers, such as through summer school or long-distance education. She said that additional funding may be required in order to make it feasible for all teachers to take part in Indian Education for All. REP. WINDY BOY said he would like to have quarterly updates from Ms. Swaney on this issue and that the Committee is willing to assist in any efforts to promote Indian education.

**Sheila Stearns, Commissioner of Higher Education**, said she must give credit to the Joint Appropriations Subcommittee during 2005 Legislature for the hard work it did on this issue. She said that the Subcommittee spent a lot of time on a proposal to provide funding and some guidance to secondary education for its role in Indian education. Commissioner Stearns said the Subcommittee suggested that Indian education be infused into classes throughout the curriculums, rather than developing one specific course. She said this is already happening in several curriculums in the MUS. Commissioner Stearns said that the Subcommittee's good work done in 2005 may be a good starting place for a bill for the 2007 Legislature.

#### **AMERICAN INDIAN ACHIEVEMENT, CHRIS LOHSE AND SUSAN OCKERT, & DENISE JUNEAU**

**Chris Lohse, Research Analyst, Legislative Services Division (LSD)**, presented *The Achievement Gap in Montana: Features and Policy Prescriptions* (EXHIBIT #8). Mr. Lohse's report highlighted the troubling behavioral aspects of American Indian students in Montana schools. Mr. Lohse discussed the following topics:

- the need for this issue to be examined;
- the cyclical relationship between economic vitality and educational success;
- achievement gap definitions and discrepancies;
- Montana's performances on National Assessment of Educational Progress (NAEP);
- 2004 MontCAS percentages;
- study questions, design, and methodology;
- specific results of the achievement gap study; and
- using the report's results for guidance in crafting policy.

REP. JAYNE asked, regarding the fourth grade reading scores (page 3 - slide 1, EXHIBIT #8), if data was taken on if the students spoke their native language. Mr. Lohse said that it was not considered in this part of the study but that the effect of language was looked at in other parts of the study.

REP. ANDERSEN asked for an explanation of why there was a large increase in the fourth grade reading scores between 1994 and 1998. Mr. Lohse said he had not investigated the potential causes for the spike but that he would find out.

REP. JAYNE asked why there is such a high drop out rate for American Indian students. She said that American Indian students who have dropped out of school in her district have told her that they felt targeted. Mr. Lohse said that he obtained his expulsion and suspension data from the Office of Civil Rights, so it could indicate that much of the discrepancy was the result of racial animosity.

SEN. O'NEIL asked if there is a relationship between the amount of money spent per student and academic performance. Mr. Lohse said there is not and that he would discuss that further later in his presentation.

REP. JAYNE asked how "poorly" is defined, for purposes of academic performance. Mr. Lohse explained that if a student is a white, middle class student attending a good school, a certain performance level will be achieved. If that same white middle class student is attending a school with poor resources or is in a community that is experiencing challenges, that student's performance will suffer but still not as much as a minority student's performance will suffer. If a minority student attends the good school, then attends the school with less resources or the community facing challenges, the level of performance will drop significantly. REP. JAYNE asked why that is. Mr. Lohse conjectured that one possibility is that in poorer communities, there is frequently less support at home, making the time spent at school critical to the student's success. When there is no backup - no safety net at home or in the community - the school becomes the most important factor in the student's success.

REP. JAYNE asked about the students that are the exceptions. Mr. Lohse said he drew his conclusions from the general population base and agreed that there are always individuals who will beat the odds and overcome obstacles. He said that important factors in determining how or if a student succeeds are the parent's education level, particularly the mother's education level, home ownership, migration, per capita income, household income, persons per household, poverty, and population of American Indians in the school.

REP. JAYNE asked where the data for household income and population was obtained. Mr. Lohse said he took his data from the 2000 census data. Ms. Ockert said that there are differences in how a household is defined, which also may influence data.

REP. WINDY BOY asked about the total population data for the Rocky Boy Reservation. Ms. Ockert said it is important to remember that the census data is self-reported. REP. WINDY BOY said there are over 6,200 enrolled members in the Tribe. Mr. Lohse said the data from the census only includes those who are living on the reservation and not tribal members living off the reservation.

SEN. O'NEIL asked about the home ownership data, specifically if homes on reservations were owned by the individual or by the tribe. Ms. Ockert said it was self-reported and she could not make that distinction.

SEN. O'NEIL asked for a copy of the achievement gap tables with legible names of schools (EXHIBIT #8 - pages 6 and 7). Mr. Lohse said he would provide that information. Ms. Ockert

said the schools used in the comparison were schools with a significant number of American Indian students.

REP. ANDERSEN asked what can be done to help parents overcome their hesitation to communicate with teachers. Mr. Lohse recommended the book, "*The Essential Conversation: What Parents and Teachers Can Learn from Each Another*" by Sara Lawrence-Lightfoot. He said the book is a very useful resource in assisting teacher-parent communication. REP. ANDERSEN suggested that schools provide both parents and teachers with communication tips, perhaps in the form of a small booklet that could be distributed.

REP. JAYNE suggested asking Indian parents for their input and asked Mr. Lohse if that is part of the plan. Mr. Lohse said that is part of the plan. REP. JAYNE related a personal example of how difficult it was for her parents to go to school for conferences.

REP. JAYNE pointed out that the *Missoulian* newspaper recently printed an article on Mr. Lohse's report.

Denise Juneau, Director of Indian Education, OPI, presented American Indian Education Data ([EXHIBIT #9](#)). Ms. Juneau discussed:

- demographics and Indian population data in Montana schools;
- the annual yearly progress on 2005 standardized test scores;
- free and reduced breakfast and lunch program data;
- a pie chart comparing the 2004-2005 CRT reading test scores of Montana 4th and 10th grade students between American Indian and white students;
- a pie chart comparing the 2004-2005 CRT math test scores of Montana 4th and 10th grade students between American Indian and white students;
- drop out rates for grades 9-12 in Montana high schools;
- comparison data from American Indian Dropout Grant schools from 2001-02 to 2003-04;
- a comparison of grant and nongrant schools dropout rate for the same years; and
- National Assessment of Educational Progress (NAEP) test data and related statistics.

REP. JAYNE asked if the scores discussed by Ms. Juneau included American Indian students that are on the free and reduced meal program. Ms. Juneau said some would be included but not all because not all children on the free and reduced meal program were American Indian and not all American Indian children are enrolled in the free and reduced meal program.

Ms. Juneau said an additional relevant factor is that only 2% of teachers are American Indian, making teacher education even more important.

## **NATIVE AMERICAN ENERGY (NAEG)**

**Joseph D'Arrigo, President, CEO, Native American Energy Group (NAEG)**, said that NAEG specializes in locating and revitalizing abandoned oil fields on and off tribal lands ([EXHIBIT #10](#)). Mr. D'Arrigo discussed the following:

- the history of NAEG;
- the mission of NAEG;

- the use of alternative energy by NAEG and that a by-product of that use is increased employment and opportunities for tribal communities;
- the importance of renewable energy in America;
- data on oil and natural gas resources on tribal lands;
- Bureau of Indian Affairs (BIA) data on tribal energy resource potential;
- United States Department of Energy reports on oil and gas reserves on tribal lands;
- energy problems facing the United States;
- how NAEG assists communities in reviving their economies; and
- how NAEG creates and values strong relationships with the tribes.

**Dennis Lambert, Senior Vice President, NAEG**, emphasized that all reservations have significant energy development opportunities. He related several examples of wells that had been abandoned by major oil companies that were revitalized by NAEG, to the economic benefit of the tribe that owned the well. He said it is a tenet of NAEG to work with American Indian tribes and that the finest experts in the industry have been sought out by NAEG.

**Tony Johnson, Director of Operations, NAEG**, thanked the Committee for the opportunity to present to the State-Tribal Relations Committee and said there are great opportunities available to all of the tribes. He said that searching, developing, and maintaining oil and gas properties is a risky business but if risk analysis is integrated into the process, higher profits are achieved. This is a strong point of NAEG because it wants the same results as the tribe. NAEG is focused on finding oil and gas investment properties that offer solid returns with the lowest amount of risk. NAEG experts' research revealed two types of properties that fit this criteria: shut-in production - leases that are not producing due to economics or the lack of technology; and plugged and abandoned - wells that have demonstrated very little or no sign of oil or gas. In both cases, there is a small percentage of wells that are approved for a re-work project. NAEG also recognizes the amount of capital required for re-work operations and therefore, purchased its own servicing equipment and hired experienced operators. This also allows time to consider critical well decisions. Many mistakes were made because of concerns about hourly costs, and NAEG is able to avoid this type of pressure because it is a self-contained company and does not contract out for rigs and other equipment.

Mr. Johnson said that Native Americans hold approximately 20% of all domestic oil and gas reserves in the nation today. NAEG feels this group of Americans are being neglected and hold the greatest potential for oil and gas production. NAEG applied through the Department of the Interior and was approved for a nation-wide bond, which allows it to work on any reservation in the nation. NAEG is currently working with the Fort Peck Tribe to acquire oil and gas properties and foresees a long and prosperous relationship with it. NAEG is committed to hire and train Native Americans for jobs to promote economic development. Mr. Johnson said that NAEG is able to offer state-of-the-art technology and explained several of the new technologies being used by NAEG, specifically the problems associated with the build up of paraffin in wells and the solution identified by NAEG. NAEG is able to tackle any situation and has located at least 40 good wells that had been termed "dry wells" by other companies.

SEN. O'NEIL said that currently, Montana charges a 13% oil severance tax and the tribes charge a 7% severance tax. He asked if a bill to reduce the tax would make a difference to NAEG. **Raj Nanvaan, Chief Financial Officer (CFO)**, said such a bill would definitely make a difference for NAEG.

Mr. Nanvaan provided his personal business credentials and a background of his involvement with NAEG. He said that Indian country provides a unique investment opportunity and that Native Americans are the largest mineral owners in the country. Mr. Nanvaan said he has spent the last five years studying Montana's tribes, cultures, organizational structures, and protocols. NAEG established its presence on the Fort Peck Reservation in 2005. Since that time, NAEG has invested over \$1 million in infrastructure in Fort Peck. The million dollars is a fraction of the financial strength of NAEG and NAEG has a strategy to invest much more in Native American oil and gas development. Mr. Nanvaan said the goals are achievable only with the cooperation of the tribal governments and that NAEG is open to exploring any community. Mr. Nanvaan said that NAEG is very happy to have had the opportunity to present to the committee

Mr. D'Arrigo thanked REP. HENDRICK for initiating NAEG's presentation to the Committee. He said that members of the Fort Peck tribe were hired and trained for the project and that without the cooperation of the Fort Peck Tribe, NAEG would not have achieved the same level of success. He also explained certain aspects of the injection process, saying that it is a proprietary process and only a handful of companies have the technology to do this process. He said that he is very proud that NAEG works with integrity and honesty, that NAEG must be profitable but also wishes to give back to communities. He said that NAEG wants to do business in Montana and is willing to travel to the reservations and work with the tribes.

REP. HENDRICK said that environmental issues are of great importance to Montanans and asked how NAEG handles environmental issues, such as reclamation. Mr. Johnson said NAEG meets all and exceeds many of the reclamation requirements. He said NAEG plans to correct several areas that have been environmentally neglected on the Fort Peck Reservation. He said he is an avid outdoorsman and that that protecting the environment is important to him.

REP. HENDRICK asked how many full time employees (FTE) have been hired on the Fort Peck project and how many are American Indian. Mr. Nanvaan said that there are currently six Native American FTE and that NAEG plans to expand that to as many as 20 per field, but that it is premature to say exactly what will happen.

REP. HENDRICK asked if NAEG is utilizing the Fort Peck Tribal College in its training. Mr. Lambert said that NAEG is utilizing the Tribal College and that he is developing a syllabus to use in the training. He gave an example of a revolutionary pump being developed by NAEG, which will create about 200 jobs when it reaches the manufacturing stage. He said NEAG already has orders for 300 pumps. As far as oil and gas production is concerned, Mr. Lambert said it is difficult to predict the number of workers that will be needed until more is known about the production opportunities on the Reservation. He said NAEG is sensitive to hiring tribal members but that the main criteria for hiring workers is that they are qualified.

REP. WINDY BOY referred to the report ([EXHIBIT #10](#)) and asked for a more detailed explanation of the \$50,000 bond approved by the Board of Oil and Gas Conservation. Mr. Lambert explained NAEG has a nationwide bond that allows it to acquire an unlimited amount of wells on all 562 federally recognized reservations and a state bond called a Montana Bond. This is the \$50,000 bond referred to by REP. WINDY BOY and allows NAEG to acquire and develop an unlimited amount of wells off the reservation. REP. WINDY BOY asked if the bond covers reclamation costs. Mr. Lambert said that it does.

SEN. O'NEIL asked if geothermal energy, wind energy, and hydro energy are alternative energy sources used by NAEG. Mr. Lambert said all of those and solar energy also. Mr. Nanvaan explained geothermal powerball technology and said a reservation would be a perfect place to introduce this new type of alternative energy to the nation. Mr. D'Arrigo also discussed other alternative energy forms. He said there are many opportunities available and it is just a matter of tapping into them.

SEN. PEASE asked if NAEG has met with the Crow or Cheyenne Tribes. Mr. Lambert said it has not with those tribes yet. SEN. PEASE said he represents both the Crow and Cheyenne people. Mr. Lambert said he would like to meet with both Tribes.

REP. JAYNE said that her legislative district covers the Flathead and Blackfeet tribes. She asked what the Committee could do to assist NAEG in connecting with the different tribes. Mr. Lambert said that extensive seismic exploration has been done in that area and that there is a lot of natural gas. He said NAEG would gladly come and look. REP. JAYNE said she couldn't speak for the different tribes but as a representative of the Committee, she said she would like to assist in getting NAEG connected with those Tribes. She asked if NAEG has contacted Governor Schweitzer. Mr. Nanvaan said that NAEG will be meeting with the Governor's energy staff at 3:00 p.m. today. REP. JAYNE said she would also connect NAEG with the Salish-Kootenai Tribe as well. Mr. Nanvaan said on behalf of NAEG, he would appreciate that.

### **GAMING IN INDIAN COUNTRY**

**Kermit Horn, Fort Belknap Reservation**, asked Committee to consider sponsoring a bill that would allow Class 3 gaming on reservations. Mr. Horn said that:

- the Fort Belknap Reservation, like all reservations, is quite economically depressed and that a Class 3 gaming compact agreement would significantly benefit the Tribe and other tribes as well;
- the tribes in Montana recently formed the Montana Indian Gaming Association to help tribes use gaming as an economic development tool;
- Class 3 gaming could help ease the problems of poverty, unemployment, and lack of housing and services on reservations;
- funding is needed to get families into a normal life style of working and earning an income; and
- the tribe is still investigating and researching but is confident it has the traffic to support a casino.

REP. WINDY BOY said that in the 2005 legislative session, a gaming bill (HB 132) was introduced but not approved. At REP. WINDY BOY's request, Mr. Lohse provided copies of HB 132 to the Committee members for review ([EXHIBIT #11](#)). REP. WINDY BOY agreed that Class 3 Gaming would benefit the tribes and said the Committee would support efforts to approve Class 3 gaming in Montana. Mr. Horn said that gaming is a last resort for economic development for his people and that the Tribe would appreciate the support of the Committee.

REP. ANDERSEN asked if the tribe has data on the number of people that would have access to Class 3 gaming if it became available. Mr. Horn said the Tribe is still developing data and trying to get information on what the market would be. For example, the tribe is studying the number of cars passing through the Reservation. He said he would provide the information to REP. ANDERSON. REP. ANDERSEN said that would be good information for the Committee

to have. REP. WINDY BOY asked Mr. Horn to inform the Montana Indian Gaming Association of his presentation to the Committee and that additional information on this issue could be presented by the Association at the next Committee meeting.

## **STAFF REVIEW OF ONGOING STUDIES OF ECONOMIC DEVELOPMENT**

**Susan Ockert, Senior Economist, Census and Economic Information Center, Department of Commerce**, presented power point presentation: *Analyzing Montana's Indian Reservations' Economies* (EXHIBIT #12). Ms. Ockert presented a detailed discussion on:

- the economic base of reservations;
- business locations and a population gauge of purchasing power;
- diversity of an economy;
- growth potential;
- employment factors;
- agriculture on the reservation;
- productivity as a measure of efficiency;
- worker compensation;
- needed statistics, such as population, labor force, income, wages and salaries, ownership and output per worker; and
- a summary of findings.

REP. ANDERSEN asked, if a population center experiences growth, do existing businesses get bigger rather than new competitive businesses coming in? Ms. Ockert said that does happen, but her study indicated that, when a population center experienced growth, certain types of stores came in to serve an area that had not previously been served.

Ms. Ockert announced a Montana Indian Business Conference scheduled for February 1-3, 2006, in Great Falls (EXHIBIT #13).

Mr. Lohse said that good data is critical to this process, especially for potential businesses researching expansion opportunities. Mr. Lohse said it is difficult to accurately determine what is happening on a reservation because of the different boundaries that exist on a reservation, such as the reservation boundary, zip code boundaries, and county line boundaries. He said school district information is updated annually and suggested aligning school district boundaries with reservation boundaries in order to more accurately construct reliable information about a reservation. He said the Committee may wish to take a look at ways to see if boundaries can be made more coincident, such as through redistricting.

REP. HENDRICK commented that this information would be very useful to reservations and asked Mr. Lohse if it was going to be available to the tribes. Ms. Ockert said that the data and statistics will be discussed at the Montana Indian Business Conference in February. The Federal Reserve branch from Helena will be offering data also. She said she is aware that some data is being reported incorrectly, so it is important to get all information to the same people so that everyone can work from the same information.

REP. ANDERSEN said that the Committee toured the facility handling the Medicare debugging contract when it visited the Fort Peck Reservation and that one problem being experienced was a lack of qualified workers. She asked if there was a way to use tribal colleges as a source of information to identify the skills of trained workers in a community. Ms. Ockert said that the U.S.

Census does have occupation data available. The Department of Commerce does Community Development Block Grants and work force training is a component of that. There are only patchy areas of information available and would be a good area to strengthen. Tribal Colleges could provide information on graduation statistics on the different curriculums studied, how many graduates stayed in the area, and how many left. Ms. Ockert agreed that that data is needed and that there is not a lot of it available right now.

## **DEPARTMENT OF CORRECTIONS REPORT TO THE COMMITTEE**

**Bill Slaughter, Director, Department of Corrections**, updated the Committee regarding adult probation and parole issues on the reservations. He said the lack of uniform agreements between the reservations and the State greatly hinder the ability of the DOC to effectively monitor Native American offenders. He discussed some of the problems experienced by parole and probation officers when working with parolees living on reservations, such as not being able to go on the reservation to monitor the parolee or retrieve an offender who has violated the terms of his parole.

Director Slaughter distributed a proposed agreement with the Crow Tribe ([EXHIBIT #14](#)) and discussed specific details of the agreement. He explained the process that occurs when a Native American is convicted of a felony under Montana law and how the agreement would affect the ability of the State to monitor and oversee the offender. He said that consistency is critical to the success of a parolee and that it is imperative that the DOC have the ability to monitor and sanction an offender.

REP. JAYNE asked what procedures currently exist for offenders who are following their parole requirements. Director Slaughter said the offenders are monitored by their parole officers, that home and work checks are made, and if the offender is adhering to the parole requirements, the offender may be rewarded by having some of the supervision requirements relaxed.

REP. JAYNE asked for clarification that the DOC is not allowed to go on a reservation to monitor a compliant offender or to retrieve an absconder. Director Slaughter said that is the case. He said access to the reservation depends on what tribe is being dealt with and if an informal agreement with a tribe exists, such as with the Blackfeet. Some tribes are more willing to allow state parole officers in than others. He said an important point to be aware of is that Indian families are being hurt because of the lack of cooperation from tribal police. If the DOC isn't certain that it can monitor and have control over of an offender, it may place the offender in a facility that is not as close to home as a family would like. A formal agreement with the tribes would alleviate many of the problems occurring now.

REP. JAYNE said there must be a uniform manner for which the State can do its job and that the question of jurisdiction seems to be the issue. She also questioned how District Courts use alternative sentencing and said that, in her opinion, District Court judges are not using the alternative sentence options as it often as it could. She said there may be a need for a law to clarify that alternative sentences must be used. Director Slaughter said the proposed agreement is just one part of the solution and won't solve all of the problems. He said one solution would be to have Tribal Court representatives work with the District Courts to help the offenders navigate the system and to make sure what their options are.

REP. JAYNE agreed that additional and more intense supervision is needed but questioned how it could be funded. She said tribes are already struggling financially and doubted there would be money available to provide this. Director Slaughter said that a person becomes a ward of the State when convicted of a crime and that as such, the State has the responsibility to pay for all services deemed necessary for that offender. He said that with the availability of in-house treatment programs, such as chemical dependency counseling, it is his hope that many offenders will be able to avoid going to prison.

SEN. O'NEIL recalled a United States Supreme Court decision which ruled that state authorities could go on a reservation to arrest people who violated fish and game violations. He said it seemed to him that if a person breaks probation, it is logical that the law would apply to that as well. Director Slaughter said that it probably would be legal for the DOC to do that, but that the DOC wants to be respectful in its dealing with all tribes. He said that formalizing agreements with tribes is a diplomatic way to rectify the problems and to help both sides understand the advantages of working together.

REP. JAYNE asked for the citation information on the United States Supreme Court case that SEN. O'NEIL referred to. She said she was not familiar with that particular case but that she does know the doctrine of sovereign immunity establishing that state law enforcement officers or DOC personnel have absolutely no jurisdiction to go on tribal lands to arrest someone. She said she would like to read the Supreme Court case cited by SEN. O'NEIL. Director Slaughter said that even if the Supreme Court case is the law, that is not the direction that the DOC wants to follow. If this is approached correctly, both sides can have its needs met.

**Anna Whiting Sorrell, Liaison, Governor's Office and Department of Corrections (DOC),** has formed a Native American Corrections Advisory Board to advise the DOC. The Advisory Board will study why the prison population is so disproportionately Native American. She said that tribal leaders will be involved in the discussion and that Governor Schweitzer has mandated that four basic principals be considered in all decisions:

- that Native American offenders be kept instate and not sent to out-of-state facilities;
- that every effort be made to keep offenders in their communities and not incarcerated;
- that offenders not be simply warehoused, but rehabilitated; and
- that the system be public and not private.

REP. JAYNE asked how the Advisory Council members will be selected and if past offenders who have successfully completed their sentences would be considered for membership. Ms. Sorrell said that the Governor wished to reach out to a wide variety of people. She said the meetings will be public and that participation from the inmate population will be welcomed.

REP. JAYNE said that she has received emails regarding allegations of abuse taking place at the Shelby prison, specifically that Native American inmates are being denied access to a spiritual sweat lodge. She asked for a status report on inmate access to sweat lodges. Director Slaughter said the DOC has a full time liaison and one of the first official duties of the liaison was to put in place a policy allowing for the practice of Native American spiritual events, such as use of a sweat lodge. He said tribal leaders were contacted for assistance and the DOC crafted its policy from that input. He said sweat lodges are available at every state correctional facility, including juvenile facilities. He asked Jim Mason for further comment.

**Jim Mason, Native American Liaison, DOC,** discussed how the sweat lodge ceremonies are conducted at the various state facilities and emphasized that protocol is carefully followed by the correctional staff when a staff inspection of the spiritual objects is necessary. If it becomes necessary to confiscate an item, there is protocol for doing that in a respectful manner also. The only facility that does not have a sweat lodge at this time is the Dawson County facility and that is because of structural limitations that could not be overcome.

Mr. Mason said other efforts have been made to improve the status of Native American inmates, such as face-to-face meetings between inmates and associate wardens and staff training on Native American culture.

Mr. Mason said that there are safety and security issues at the Shelby facility and as a result, there have been recent restrictions on the outdoor sweat lodge. Also, the welfare of inmates and staff is the top priority and the DOC will not allow sweat ceremonies in temperatures of zero degrees or colder.

Mr. Mason said he is very satisfied with cooperation from the different facilities and that efforts have been made to be respectful, but that certain circumstances do prevent ceremonies from being held occasionally. Sweats have never been stopped arbitrarily, only if required by law, such as in a lock down situation. Attempts are being made to involve more Native American inmates with corrections staff and parole officers on how to be more sensitive to the needs of Native Americans. Mr. Mason concluded his remarks by saying that he has received strong support from the staff and the Director in his attempts to improve the status of Native American inmates.

REP. JAYNE asked for information regarding recent disturbances at the Shelby prison. She said there was not a lock down, that prisoners of other religions were allowed to meet, and that only the sweat lodge was closed down. Mr. Mason said he was not familiar with that complaint. Director Slaughter said that situation did occur but that correctional staff has since been educated on the importance of this ritual to the Native American inmates. He agreed that it has been a struggle but said he is confident that the staff's understanding is much improved.

### **STATE-TRIBAL TAX AGREEMENTS**

Anna Sorrell updated the Committee on the status of revenue sharing agreements between the tribes and the State of Montana. Negotiations are ongoing under the guidance of GAIN, as instructed by Governor Schweitzer. Agreements have been successfully negotiated with the Blackfeet (motor fuels, tobacco, and alcohol), Fort Belknap (tobacco), Fort Peck (tobacco and alcohol), and Northern Cheyenne/Crow (tobacco).

Ms. Sorrell said the Rocky Boy tribe has transitioned from a tobacco quota agreement to a tobacco revenue sharing agreement and negotiations have begun with Salish - Kootenai.

### **STATUS REPORT ON SENATOR O'NEIL'S REQUEST**

Mr. Lohse said that at the Fort Peck Reservation Committee meeting in November, SEN. O'NEIL requested that the Committee be advised on the status of SJR 24 (2003 - feasibility study on eliminating state pass-through federal dollars). Mr. Lohse said the request was reported to the Secretary of State and that no information has been received back to date. He

asked if the Committee wished to continue pursuing the matter. He said that former Secretary of State, Bob Brown, did send it to the Congressional delegation but it appears that no action was taken at the federal level.

SEN. O'NEIL asked if a rough draft of bill draft request was available. Mr. Lohse said he didn't prepare a bill draft because as he investigated the matter more thoroughly, he found that there are existing efforts underway through the GAIN Council to develop government-to-government compacts and revenue sharing agreements. Because of this activity, Mr. Lohse thought it premature to draft a bill at this point in time.

### **COOPERATIVE RESEARCH AGREEMENTS WITH TRIBAL COLLEGES**

REP. WINDY BOY asked to postpone this agenda item until the March meeting.

### **LETTER TO FORT PECK TRIBAL EXECUTIVE BOARD**

Mr. Lohse said that the letter of thanks to Fort Peck Tribal Council has been signed by all Committee members and would be sent to the Tribal Council, along with a state flag and a CD-ROM copy of Montana Code Annotated.

REP. HENDRICK asked that all of the members be provided with copy of the letter.

### **STAFF OUTLINE OF WORK PLAN**

Mr. Lohse reported that he recently accepted a position at OPI. He said that Ms. Erickson will be Committee staff until her retirement in the spring. Mr. Lohse said that plans for the March 13, 2006, meeting date should be finalized. REP. HENDRICK said the Blackfoot Tribe must be asked for suitable times for the Committee to visit. Ms. Erickson will consult with REP. WINDY BOY about visiting the Blackfoot Reservation and possible meeting dates. REP. HENDRICK asked to be included in the planning.

Mr. Lohse said some of the Committee's work has been completed but was not quite sure of what the time line is for hiring a new staff person. He said the Legislative Council would have to be consulted before the decision is made.

Mr. Lohse said it had been a pleasure working with the State-Tribal Relations Interim Committee.

Ms. McClure noted that March can be a difficult time to travel. Ms. Erickson suggested that a visit in May might be a more suitable time for travel. She suggested having a regular Committee meeting in March and schedule a reservation visit for May.

### **ADJOURNMENT**

With no further business before the State-Tribal Relations Committee, REP. HENDRICK adjourned the meeting at 5:01 p.m. The next meeting is scheduled for Monday, March 13, 2006, in Helena.

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