



# Law, Justice, and Indian Affairs Interim Committee

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## 56th Montana Legislature

### SENATE MEMBERS

LORENTS GROSFIELD, PRESIDING OFFICER  
SUE BARTLETT  
JOHN BOHLINGER  
DUANE GRIMES  
MIKE HALLIGAN  
LINDA J. NELSON

### HOUSE MEMBERS

CAROL C. JUNEAU, VICE PRESIDING OFFICER  
GAIL GUTSCHE  
GARY MATTHEWS  
DANIEL W. "DAN" MCGEE  
JIM SHOCKLEY  
JAY STOVALL

### COMMITTEE STAFF

LEANNE KURTZ, RESEARCH ANALYST  
VALENCIA LANE, STAFF ATTORNEY  
JOHN MACMASTER, STAFF ATTORNEY  
LOIS O'CONNOR, SECRETARY

## MINUTES

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 documents.**

Fifth Meeting of Interim  
School District Administration Bldg. and Blackfeet Tribal Council Chambers  
Browning MT  
Inmate Visitation Room, Crossroads Correctional Center  
Shelby MT  
April 13 and 14, 2000

### COMMITTEE MEMBERS PRESENT

Sen. Lorents Grosfield, Presiding Officer  
Rep. Carol C. Juneau, Vice Presiding Officer  
Sen. Sue Bartlett  
Sen. Mike Halligan  
Rep. Gail Gutsche  
Rep. Gary Matthews  
Rep. Daniel W. "Dan" McGee  
Rep. Jim Shockley

### COMMITTEE MEMBERS EXCUSED

Sen. John Bohlinger  
Sen. Linda Nelson  
Rep. Jay Stovall

### STAFF PRESENT

Leanne Kurtz, Research Analyst  
Connie Erickson, Research Analyst  
Valencia Lane, Attorney

Lois O'Connor, Secretary

## **VISITORS**

Visitors' list (ATTACHMENT #1 and ATTACHMENT #3)

## **COMMITTEE ACTION**

- Approved the minutes from the February 13, and 14, 2000, meeting
- Approved that Committee staff request additional funding from the Legislative Council for the purpose of completing the Committee's interim work

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

The meeting was called to order by Sen. Grosfield, Chair, at 8:30 a.m. Roll call was noted; Senators Bohlinger and Nelson and Representative Stovall were excused. (ATTACHMENT #2)

Rep. McGee **moved** that the minutes from the February 13, and 14, 2000, meeting be approved. Motion carried unanimously.

## **TOUR BLACKFEET RESERVATION FACILITIES AND BROWNING COMMUNITY**

Rep. Juneau welcomed the Committee to the Blackfeet Reservation. She also introduced **Mary Johnson, Assistant to the Superintendent of School District #9, Browning**, who provided the following information regarding School District #9:

- School District #9 receives Title IV and Drug and Alcohol Competitive Program funds that help curb violence within the schools.
- There are approximately 2,000 students within the K-12 district and it has the largest Indian-student population within the state.
- There is one K-6 rural school that has approximately 40 students and two Hutterite attendance centers with approximately 30 students.
- Browning has a K-1 school, a 2-3 school, a 4-5 school, a middle (6-7- and 8) school, and one high school.
- School District #9 is a low-achievement district and it is currently establishing school improvement plans.
- The District has recently started night school for credit-deficient students. There are 80 students in attendance and they are held to the same standards, curricula, and hours as other students.
- It has an evening home work center for K-12 students that provides access to computers which most students do not have.
- It has an accelerated reading program, a family literacy program, and Even Start program, and it participates in the Reading is Fundamental (RIF) program.
- School District #9 random-tests its 350 athletes for drugs or alcohol and it conducts annual school searches.
- It also has a Blackfeet Native American Studies Department which is integrating the Blackfeet culture into the schools.

**George Heavy Runner, Secretary, Blackfeet Tribal Business Council**, provided a tour of the Blackfeet Reservation which included the following:

- The Kiowa Camp Road. Currently, the state is conducting a corridor study to determine whether the land bordering the Kiowa Camp Road is environmentally feasible for reconstruction. The state has also requested, without tribal consent, that an environmental impact statement (EIS) for oil and gas exploration be conducted along the Rocky Mountain Front within the boundaries of the reservation. Problems arise between the state and tribe when decisions concerning the Blackfeet Nation are made by state officials without tribal knowledge. Secretary Heavy Runner said that the Blackfeet Tribe needs to be consulted and it needs to be formally collaborating with the state on such projects. The Blackfeet Reservation belongs to the Blackfeet people and decisions made by the Blackfeet Tribal Business Council are in the best interests of its people.
- The Star School community. At one time, the Star School community had its own school, but for many reasons, the school was closed and the children from the community are bused to Browning.
- The housing projects. The majority of citizens in Browning live in housing projects outside of the boundary lines of the city of Browning which creates another political subdivision and much confusion. There are five jurisdictions of government in Browning: city, county, state, tribal, and federal. More dialog is needed regarding state and tribal regulatory issues. Secretary Heavy Runner suggested the exploration of a possible Tribal/State summit to discuss regulatory and jurisdictional issues.
- The Blackfeet Community College.
- The Buffalo Home Juvenile Center.

## **HJR 12 -- COMMISSION ON INDIAN AFFAIRS OPTIONS/DECISIONS**

**Connie Erickson, Research Analyst, Legislative Services Division**, provided an overview of the report Should the Montana Legislature Create a Commission on Indian Affairs?. (EXHIBIT #1) Ms. Erickson cautioned the Committee in moving forward with proposed legislation to create the Commission on Indian Affairs without tribal support and input.

Sen. Grosfield asked which entities did not respond to the survey questionnaire. Ms. Erickson said that of the eight tribal governments in Montana, only one, the Blackfeet Nation, responded to the questionnaire and 13 of the 17 state agencies that received the questionnaire responded. The agencies or division of an agency that did not respond were the Department of Corrections, the Reserved Water Rights Compact Commission, the Board of Public Education, and the Department of Natural Resources and Conservation.

Rep. Gutsche asked if there was any followup with the tribes. Ms. Erickson said that the tribes are sovereign governments and she was hesitant to continue pestering them about a response to the questionnaire. However, she contacted Gordon Belcourt, Chairman, MT-WY Tribal Leaders Council, to request his help in asking the tribes to respond and she suggested that staff request agenda time at the next Tribal Leaders Council meeting to engage in dialogue of the options.

Rep. Juneau agreed with Ms. Erickson in that if the proposed commission lacked tribal input, it would not be successful. She also agreed with the options offered within the report because the current Office of the Coordinator of Indian Affairs, with only two staff people, is not responsive to the many issues facing Montana's tribal nations. She offered her assistance in acquiring better feedback from the tribes. However, she also believed that the Committee needed to pursue the options whether it be "beefing up" the current Coordinator of Indian Affairs Office by making the position a Cabinet-level position or recommending additional staff for the current office. Rep. Juneau added that the Commission on Indian Affairs was proposed, supported, and promoted by the former Coordinator of Indian Affairs, Wyman McDonald, who had great difficulty getting things done at the state level. However, the current Coordinator of Indian Affairs, Louis Clayborn, is expressing his concerns about the proposed Commission to Tribes and advising them to be careful.

Rep. McGee said that the LJAC deals with sovereign nations and the best that it or the state could do is create an ambassador that travels to the sovereign nations to engage in dialogue. He also felt that since the LJAC has only been in existence for a year, it had a golden opportunity to visit the tribal nations and attempt to clear up or resolve some of the misunderstandings and interacting issues between sovereign governments (government to government interaction). He said that the Committee members are sitting legislators. If there is legislative action taken to create law, Committee members are the people who are going to vote to create that law.

Sen. Grosfield suggested that Committee staff, Rep. Juneau, and he approach the MT-WY Tribal Leaders Council to solicit tribal input on the proposed Commission on Indian Affairs. Committee members agreed.

Sen. Bartlett requested that, through the MY-WY Tribal Leaders Council, the Committee attempt to pare down what would be an effective use of the available resources. It was her opinion that in contemplating the charge of the Committee, Indian affairs was too broad an issue for a single committee with other responsibilities to handle because Indian issues run the gamut of concerns and interests. She suggested breaking off the Indian affairs portion of the Committee creating a broader committee that focuses solely on state-tribal relations because Indian issues merit that type of focus.

**Tom Black Eagle, Member, Blackfeet Tribe**, suggested that the Committee, in conjunction with the MT-WY Tribal Leaders Council, hire an Indian liaison to work with the Tribes because tribal people are more likely to respond to a person of their own race.

**James St. Goddard, Member, Blackfoot Tribe**, said that better relations are needed between the state and the tribes. The Committee has a better chance than ever before to establish those relationships and it has the chance to change all the negatives of the past.

### **BLACKFEET WELFARE REFORM**

**Patti Laplant, Glacier County Public Assistance Office**, provided a packet of information that included the following:

- Tribal TANF options (EXHIBIT #2)
  - The federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) gave tribes across the nation the opportunity to assume responsibility of their share of the TANF block grant which is capped at the 1994 levels of assistance;
  - PRWORA exempts all Indian Country areas from the 5-year time clock limit if they can statistically demonstrate that they have an unemployment rate over 51%; and
  - PRWORA allows states to decide whether they wanted to include hourly participation-rates reporting on their federal reports. The Department of Public Health and Human Services chose not to include reservation participation-rates reporting in its federal reports.
- Beginning in fiscal year 1999, Glacier County public assistance was assumed by the state.
- Glacier County was spending up to 12 mills annually for its 50% share of public assistance.
- Because public assistance was becoming so costly based on the amount of people who were on cash assistance in Glacier County, it virtually had no funds for administration.
- Two Models of Reservation Economic Development and Their Results (EXHIBIT #3)
  - The per capita income of the Blackfoot Reservation stands at one-third of the per capita income of the state and one-half of the per capita income of the nation.
  - The percentage of unemployment on the Blackfoot Reservation is 69%, it is limited to tribal members, and it is based on a specific group of people.
  - Economic development is critical for welfare reform on the Blackfoot Reservation.
- Facts and Figures of Welfare Recipients' Employment and Training Needs (EXHIBIT #4)
- Glacier County Office of Public Assistance: FAIM and Food Stamp Statistics and Number of Households Receiving Food Stamps and Value of Food Stamps Issued by the 56 Counties (EXHIBITS #5 and #6 respectively)
  - The Blackfoot and Fort Peck Reservations represent one-third of the entire statewide FAIM caseload.
  - Forty percent of the total population of Glacier County needs some type of food or income supplement to feed their families.

Ms. Laplant also provided an overview of the Blackfoot Tribal Business Council's position paper on welfare reform on the Blackfoot Reservation as presented to the DPHHS. (EXHIBIT #7) She added that Jon Meredith, Public Assistance Bureau, is the Department's tribal liaison and he is actively involved

with the tribes to help them with welfare reform. She said that she attended a Welfare Reform in Indian Country forum in Denver and throughout the 3-day meeting, she heard that it was commonly accepted among all the states and tribes that Montana does not have a conducive relationship for welfare agreements between the tribes and the state.

Sen. Bartlett asked if it has been Ms. Laplant's experience that there have not been good working relationships between the state and the tribes regarding welfare reform. Ms. Laplant said that there are two areas within the welfare reform relationship between the state and the Blackfeet Tribe that represent a jurisdictional iron curtain that representatives from either side are not willing to circumvent--child support enforcement and child care. As a result, families are being short changed by not having support in either area. In three years, neither the state nor the tribe has initiated meetings to discuss the two problem areas, and she felt that jurisdiction was being used as a smoke screen.

Sen. Halligan asked for clarification on why Ms. Laplant supported the block grant cap at the 1994 level. Ms. Laplant said that in 1994, the responsibility for participating hours and the required supportive services were negligible. The position paper indicates the resources that are needed to achieve welfare reform on the Blackfeet Reservation, namely child care, transportation, education and training, child support enforcement and legal advocacy, remote area services, and cultural considerations.

Sen. Bartlett asked if legal services were available to the Blackfeet Reservation. Ms. Laplant said that the Montana Legal Services provided consistent services by one attorney to the reservation up to about 2 1/2 years ago when the attorney position became vacant. She understood that MT Legal Services does not intend to reopen an office on the reservation and any referrals must sent to Great Falls. Although Sen. Bartlett was unsure whether the idea would work for Glacier County, she commented that Lewis and Clark County is a state-assumed county. There had been 12 mills levied before state assumption to fund welfare programs. Under state assumption, 9 of the 12 mills went to the state. Lewis and Clark County, through advocacy groups and the county commissioners, devoted the remaining 3 mills to a variety of programs, one of which was an arrangement with legal services that part of the 3 mills would be used to reimburse legal services when someone becomes eligible for SSI, etc. Sen. Bartlett encouraged Ms. Laplant to find out what Glacier County is doing with the its 3 mills. She said that the 3 mills have gone for social services in the past and there is no reason, under state assumption, that the mills cannot continue to go toward social services.

Rep. Juneau commented that over the Committee's series of meetings, it has heard about the many issues relating to Indian country and, it has heard from DPHHS and the Legislature that everything regarding welfare reform is going very well and that they are doing their jobs in Montana. However, they are not doing their jobs in reservation communities and welfare reform is not working on the Blackfeet Reservation. Because there are so many issues regarding welfare reform, Indian communities have difficulty deciding which issue comes first--Should it be jobs or child care or transportation? She added that Browning High School has a 40% young parent rate. As a result, the Blackfeet Reservation will contribute a never-ending supply of clients for welfare because there are no jobs for children who have children. Economic development on the reservation is essential to reduce barriers and to improve the community.

Ms. Laplant added that in 1999, the statewide FAIM caseload has been over 50% Native American compared to the 7% Native American population across the state.

**Donna Hoyt, Director, Adult Education Programs, Blackfeet Community College**, said that several years ago, Montana Tribes had no problems with funding and providing adequate services for adult education programs on the reservations. However, the federal government no longer provides the funds and tribal programs have had to rely on state funding. She provided statistics showing statewide programs that receive funding and how much, a copy of a proposed amendment to the federal fiscal year 2001 appropriations bill for the Department of Education to increase funding for tribal education programs, and a statewide map of divisions for collaboration on the impending adult basic education grant for next year. (EXHIBITS #8, #9, and #10 respectively) Ms. Hoyt also provided a memorandum from Becky Bird, Office of Public Instruction, regarding the information needed before grant requests for Adult Education and Family Literacy Act funds will be accepted. (EXHIBIT #11) Based on the memo, tribal programs that are currently unfunded will be unable to meet the requested criteria (collaboration agreements and needs assessments).

Sen. Grosfield asked if the legislation authorizing the grants included criteria that directed the funds to areas of greatest need. Ms. Hoyt said no, even though the Blackfeet and Fort Peck Reservations requested that the funds be distributed based on the number of clients served. However, most communities opposed the request because if it had passed, most of the funding would have gone to the reservations.

Rep. Juneau asked for clarification on the breakdown of the funds. (See Exhibit #8) Ms. Hoyt said that there are two funding allocations, state and federal. However, tribes can only apply for the federal

portion of the funds. The state allocation is \$250,000 annually and tribal colleges cannot apply for the money match from the state.

Sen. Halligan asked if other states responded to the federal cutback. Ms. Hoyt said no, however, the Flathead Reservation has a memorandum of understanding (MOA) with all of its county public assistance offices and school districts for support dollars to continue its adult basic education program.

Sen. Grosfield suggested that the Blackfeet Reservation review the possibility of opting out of county boundary #8 to county boundary #2 (Flathead County) and Rep. Juneau requested information from Becky Bird on how many students were being served by each project.

### **HB 528 AND HB 670 UPDATES**

#### **HB 528**

Rep. Juneau provided HB 528 - Board of Education Report and Recommendations that was approved by the Board to implement the provisions of HB 528 (support of Article X section 1(2) of the Montana Constitution). (EXHIBIT #12)

Rep. McGee asked how HB 528 would be implemented in the Laurel Middle School, for example. Rep. Juneau said that the Board is encouraging K-12 public schools to implement goals to teach students about the seven Montana tribes. Language will be incorporated within the standards so that teachers will have a guide to develop or add to their curricula. Another example would be traditional tribal music incorporated into school music programs. The Office of Public Instruction has been asked to develop model guidelines for schools to use. It was her hope that HB 528 would help prevent misunderstandings about Indians and increase student and teacher awareness about cultural diversity.

#### **HB 670**

Rep. Juneau said that the timeline regarding the implementation of HB 670 (Indian Economic Development Act) remains her major concern. The Economic Development Committee has met for over a year and the study and the staffing within the Coordinator of Indian Affairs Office remain incomplete. HB 670 sunsets in 2001 and she requested that the Legislature consider extending HB 670 in the 2001 Session.

**Leanne Kurtz, Research Analyst, Legislative Services Division**, added that receiving a position description approval through the Department of Administration is a very time consuming endeavor.

Rep. Shockley suggested that staff write a letter on behalf of the Committee stating that a law has been passed and the Legislature expects the Department to implement it. Sen. Grosfield was not against writing a letter to the Department but had concerns that the letter may not be what the Coordinator of Indian Affairs would want since the job description was going through Mr. Clayborn's office. However, the Committee could keep in contact with the Coordinator's office and if Mr. Clayborn thought it at all helpful, the Committee could then write the letter.

Sen. Grosfield asked about the funding for HB 670. Ms. Kurtz said that the fiscal note for HB 670 contains \$100,000 for fiscal year 2000 and \$100,000 for fiscal year 2001. If the funds are not used, they will revert to the general fund. Rep. Juneau suggested visiting with Jonathon Windy Boy, Chair, of the Economic Development Committee, to find out if he had any suggestions about the funding.

### **OTHER BUSINESS**

Because the Committee's next meeting fell between the dates of the special session, holidays, the Republican and Democratic Party conventions, the primary election, and the legislative staff move back into the Capitol, Ms. Kurtz provided proposed changes to the meeting calendar and a Committee issues and options paper regarding the Committee's completion of the 1999-2000 interim (EXHIBIT #13 and #14) Ms. Kurtz added that the Committee was also under a budget constraint and had enough funding for one more meeting. However, the Committee can approach the Legislative Council to request more funding. The biggest problem is the time factor.

Following a brief discussion, the Committee decided that the Chair, Vice Chair, and staff would meet during the special session to decide those issues that could be acted upon and that a short meeting be held during that time to do so. Working groups of four members each could then meet between the special session and the scheduled August meeting to finalize some of the remaining issues.

**Tom Black Eagle, Member, Blackfeet Tribe; and Gerald Conaty, Senior Curator of Ethnology, Calgary, Canada,** briefly spoke to the Committee about the proposed changes to the geographical names of the Sweet Grass Hills to the Sweet Pine Hills and the Marias River to the Bear River.

### **PUBLIC COMMENT**

**George Heavy Runner and Hugh Monroe, Blackfeet Tribal Business Council Members,** provided an overview of their following concerns:

- The Indian affairs portion of the Law, Justice, and Indian Affairs Committee should be a stand-alone committee.

- If the Committee supported the proposed Commission on Indian Affairs, it should also support a 5-year funding stream for the Commission.
- The Coordinator of Indian Affairs should be elevated to a Governor's Cabinet position.
- There must be MT-WY Tribal Leaders Council input on the proposed Commission.
- Changes in the Tribal Court system.
  - Problems with off-reservation warrants;
  - Police department building has been condemned and the Blackfeet Reservation has no place to put offenders; and
  - Lack of tribal police.
- Health, Education, and Social Services
  - Garbage and sanitation issues-- the reservation's landfill has been closed. It must choose between building a new landfill or shipping refuse to Conrad;
  - The reservation's water supply problems and how to address them;
  - The lack of sufficient housing (housing is needed for 800 people); and
  - The lack of sufficient jobs and income.
- Funding Issues
  - The Blackfeet Reservation is divided between Glacier and Pondera Counties. The question becomes which County provides and pays for services.
  - The percentage of unemployment (80%), particularly in the winter time.

Other Blackfeet Tribal Business Council concerns include:

- The inability to regulate the influx of satellite dishes and fiber optics on the reservation.
- The development of consumer protection laws on the reservation (i.e. a tribal member's purchase of a trailer for \$45,000 and, because of the lack of consumer protection laws, the trailer ends up costing \$100,000. The Blackfeet people are being courted by entities in the business of selling trailers and they are not fulfilling their contracts (i.e. not skirting the trailers properly, etc.). The businesses get into trouble, file bankruptcy, move elsewhere under a new name, and resume business again.
- The inability to provide long-term medical care because of the lack of income and transportation. Long-term patients must be transferred to Great Falls and families are unable to visit them.
- Possible solutions that the Tribal Business Council is considering
  - Provide electrical co-operatives with a waiver if they pay tax for the satellite dishes.
  - Blackball the trailer businesses that engage in selling trailers without fulfilling their contract.
  - The possibility of selling clean reservation river water out of state to subsidize the funding problems on the Blackfeet Reservation.
  - Charging tourists for Indian-made curios and to enter Glacier Park via the reservation as is done on the Flathead Reservation.
  - Gaming.

Rep. McGee asked if Glacier and Pondera Counties or the City of Browning had their own planning ordinances. Secretary Heavy Runner said not to the degree that is needed, and as a result, the Blackfeet people are being taken advantage of when all they want is to own their own home.

Secretary Heavy Runner said that the federal Gaming Regulatory Act was created precisely for tribes to use the revenue to provide governmental services and infrastructure. The Blackfeet Reservation does not currently have a gaming compact with the state because of language regarding the state's regulation of nonIndian gaming within the boundaries of the reservation. The state's gaming compact with the Fort Peck Reservation has become the boilerplate compact for all other compacts without taking into consideration each reservation's needs. It is not a one-size-fits-all issue and the Legislature needs to consider and discuss the issue of expanded gaming on the reservations only.

Sen. Halligan asked if the Blackfeet Tribe has attempted to create employment through fiber optics and Internet access. Secretary Heavy Runner said yes, and the tribe has been remiss in not doing more. In addition, the fiber optics run through the entire reservation. However, the means for the reservation to plug into the super highway was not developed when the fiber optics were being laid. The Tribal Business Council needs to discuss the issue.

**James St. Goddard, Blackfeet Tribal Member**, said that the Blackfeet Nation lives in a society where its people are constantly looking over their shoulders to see what is going to be taken from them next. As a result, it never has a chance to develop its resources. The Blackfeet Tribe needs to move ahead as an Indian nation; and he was not asking it of the Legislature; he was demanding it, from one human being to another. He said that the American people have seen men set foot on the moon, and yet, there are people living on the Blackfeet Reservation who are starving. The Committee has the chance to change the course of history and to set a precedent regarding state and tribal relationships. Mr. St. Goddard requested that the Committee propose legislation that would preserve Indian land under state law as it is preserved under federal law. He said that he did not want to meet the state or legislative members in court and he believed that Montana could be a better place if the proposed legislation is passed.

Sen. Grosfield asked what the difference was between Indian allotted land and fee land. Secretary Heavy Runner said that tribal trust land is owned by the tribe and corporate members of the tribe have jurisdiction over the land. Tribal trust land is Indian owned, it is administered by the Bureau of Indian Affairs, and it is not subject county tax. However, the Blackfeet Tribe is the largest taxpayer in Glacier and Pondera Counties. Fee land is both Indian and nonIndian owned and represents approximately one-third of the Blackfeet Reservation. The Blackfeet Tribe is moving toward buying back land that was

owned by nonIndians. Secretary Heavy Runner will provide a breakdown of the information to the Committee.

Secretary Heavy Runner added that the tribe also has conflicts with the reservation border towns, such as Cut Bank. He said that a predominant number of people living in Glacier County are on welfare. They receive food stamps and cash assistance and go to Cut Bank to shop and the small Browning grocery store cannot compete. He said that the language contained in the Enabling Act states that Montana should not have anything to do with Indian country without the permission of the federal government. He requested that the Committee review the Enabling Act to find out what the language means and to see if the state is violating its own constitution. He also requested that the Committee talk to their party leaders about the possibility of an orientation on Indian law. Secretary Heavy Runner said that the Blackfeet people were not looking for the Legislature's sympathy only that it work with the tribal government to address some of the state and tribal conflicts.

#### **Blackfeet Fire Fighter Employment Opportunities**

Ms. Kurtz said that Rep. Juneau was concerned about the rumor that the Department of Corrections was going to be using inmates as firefighters causing a potential displacement of Blackfeet firefighters. Ms. Kurtz called the Department and was told they had no plans do use inmates as firefighters primarily because it does not have enough inmates of the classification security level that is required.

There being no further business, the meeting recessed at 6:10 p.m.

### **INMATE VISITATION ROOM CROSSROADS CORRECTIONAL CENTER, SHELBY FRIDAY, APRIL 14, 2000**

#### **VISITORS' LIST**

See (ATTACHMENT #3)

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

The meeting reconvened at 9:10 a.m. Roll call was noted ; Senators Bohlinger, Grimes, and Nelson and Representative Stovall were excused. (ATTACHMENT #4)

Following a brief discussion about the next meeting date, the Committee chose to meet possibly two times during the special session to hear testimony on the Fort Belknap Water Compact and to make a decision on the intermediate appellate court.

Rep. McGee **moved** that Committee staff request additional funding from the Legislative Council for the purpose of completing the Committee's interim work. Motion carried unanimously.

Sen. Halligan requested that the letter to the Legislative Council state exactly why the Committee needs the additional funding and that the Committee has not finished its work of all of the issues within its purview. Sen. Bartlett also suggested that the request state that travel is necessary in order for the Committee to fulfill its charge.

### **TOUR OF THE CROSSROADS CORRECTIONAL FACILITY (CCF) AND COMMITTEE QUESTIONS AND ANSWERS**

**Jim McDonald, Warden, Crossroads Correctional Facility (CCF)**, provided two brochures: The Story and Lifeline: A Therapeutic Community Substance Abuse Treatment Program. (EXHIBITS #15 and #16 respectively) He also provided the report Facts About Private Prisons and Corrections Corporation of America and he provided an overview of the Crossroads Correctional Facility's profile (EXHIBITS #17 and #18 respectively)

Referring to a newspaper article in the Great Falls Tribune about the Corrections Corporation of America's (CCA) financial difficulties, Warden McDonald said that CCA has had some financial problems. However, he assured the Committee that CCA had obtained a significant investor (Pacific Life) to enter into a partnership with and that CCA's creditor (Lehman Brothers) is satisfied with the partnership and has committed to continue forward.

Sen. Bartlett asked if the on-site medical facility was equipped for mental health purposes. Warden McDonald said that the CCF's contract requirement calls for a part time psychiatrist and psychologist who have just recently been hired.

Rep. Gutsche asked how long CCF expected to house the women offenders and what types of programs are available to them. Warden McDonald said that the contract is for 30 months and it began in December 1999. Available programming for the women offenders include a chemical dependency program, a ministerial program, and a wellness program. CCF is also in the process of establishing a parenting program and a support group for battered women.

Following Warden McDonald's welcome message and Facility overview, the Committee toured the CCF which included the close, medium, and minimum security units; the kitchen; the control room; the full, on-site medical facility; the recreation facility; the education facilities; and the female inmate unit.

**Larry Bonderud, Mayor of Shelby and Allan Underdal, Toole County Commissioner**, welcomed the Committee to Shelby. They spoke about the partnership between the Department of Corrections, the CCA, and the City of Shelby and how pleased they were that the CCF was built in their community.

Sen. Halligan asked for an overview of the contract with CCF. Warden McDonald said that the contract is a 512-bed contract for five years and it is renewable for 20 years. There is no guarantee of inmates. The cost is \$49.34 per inmate per day for the first year for the male inmates and \$64.00 per inmate per day for the female inmates. The difference in the cost between male and female inmates is the cost of medical services. Both costs are included in the price for the capital structure of the facility which will return to the state in 20 years.

Rep. Juneau asked about the number of Native American employees. Mayor Bonderud said that four Native Americans from Browning were hired and they have moved to Shelby.

Sen. Bartlett asked if there was any truth to the rumor that there was an upper age limit on women that would be accepted by the CCF. Warden McDonald said no, adding that the main criteria for accepting women inmates is the medical points system. CCF is at the lower end of the system (35 points) and CCF would not be an appropriate placement for those inmates who score above the 35 points for medical care. CCF has also had women inmates who were in their mid-60s. Sen. Bartlett asked if CCF had a grievance procedure for inmates. Warden McDonald said yes.

### **OFFENDER STUDY**

**Mary Lafond, Governor's Office of Budget and Program Planning**, provided an overview of her study A View from the Inside Out. (EXHIBIT #19) Ms. Lafond followed 17 juvenile and 28 adult offenders through the corrections system for two years and she recommended that the study continue.

Sen. Halligan said that according to a study from Oregon, the prison population could be cut in half in 20 years if the front end of the system (services for children) was loaded. He asked if Ms. Lafond would be reviewing potential future studies on how the Legislature could work with the Child Protective Services Division, the schools, and apply family assessments to identify disruptive children. Ms. Lafond said that reviewing the Oregon study more thoroughly could be a part of her future study to see what interventions could help Montana curb its corrections population. She said that all states want to begin with prevention, but all of the money cannot be taken from one place and put into prevention because the problem is going to exist for a while longer.

Rep. Gutsche asked for information on the percentage of juveniles, both male and female, who may have had dysfunctional family backgrounds, mental health problems, education problems, and chemical dependency issues. Ms. Lafond will provide the information to the Committee.

Sen. Grosfield asked about the costs for adult and juvenile offenders. Ms. Lafond said that the cost per adult inmate was very difficult to extract from the system because the movement of the adult system is much quicker. The juvenile costs were extracted from the CAPS system and from the probation and parole officers and the costs were fairly accurate.

Rep. Shockley said that frontloading the system by simply giving more funding to DPHHS and OPI would not sell with the Legislature. He asked if these agencies could demonstrate that the extra funding would cut down on corrections services. Ms. Lafond said that DPHHS and OPI are discussing the possibility of incorporating on-site mental health counselors in the schools so that children are being treated while at school.

#### **DEPARTMENT OF CORRECTIONS EPP PROPOSALS**

**Rick Day, Director, Department of Corrections**, provided an overview of the Department's Executive Planning Process (EPP) proposals for the 2003 biennium which total an additional \$41,025,126. (EXHIBIT #20)

Rep. McGee asked about the difference between correctional officer pay (EPP #1) and Montana State Prison (MSP) personnel (EPP #3). Mr. Day said that correctional officer pay applies to the proposed pay plan system for all correctional facilities throughout the state while MSP personnel applies to the 31-modified, on-site FTE at MSP. Rep. McGee asked Mr. Day to speculate as to why there was an increase in the actual population counts for both male and female inmate populations. Mr. Day said that there were more admissions into the MSP in the areas of new crimes and parole revocations and there has not been any one particular crime that stands out to be the cause of the increase. The large percentage increase in the female institutional population is because it is a small population and any increase, although small in number, interprets to be a large percentage increase. Rep. McGee requested information regarding the actual versus projected inmate populations for each 6-month period beginning in 1995. Mr. Day will provide the information.

Rep. Gutsche asked if EPP proposal #9 (Administrative Services Division Personnel) would provide a centralized information format that could be easily accessed to provide complete data. Mr. Day said that the Department is in the final stages of uploading its new ProFile System which will be online in July of

2000. The ProFile System will greatly improve the Department's ability to reproduce information. Rep. Gutsche asked if the ProFile System could track inmate crimes and time served. Mr. Day said that the Projections Advisory Committee will be doing most of the criminal tracking because it will base its future projections on individual movements of inmates through the system.

Sen. Grosfield asked about the overtime budget. Mr. Day said that every correctional facility will have a significant overtime budget because posts cannot be abandoned. If a correctional officer calls in sick, for example, there must be a person to fill the post which may result in overtime. In addition, MSP has had trouble recruiting and retaining employees; and until it can become fully staffed, overtime is needed.

Sen. Bartlett appreciated the fact that the Department's EPP included additional funding for contract monitoring because it is the most significant function across all state agencies and because the Legislative Auditor's performance audits frequently cite deficiencies in state contracted services.

Rep. Juneau asked if the private prisons fell under the same data collection process as the MSP and MWP. Mr. Day said yes and that data collection is a requirement of the contract.

Sen. Grosfield asked for comments about Warden McDonald's testimony regarding the newspaper article in the Great Falls Tribune. Mr. Day said that the Department is satisfied that CCA is keeping the Department abreast of its financial situation and he sees nothing in the immediate future that indicates CCA's nonexistence. However, he will not say that the Department is not concerned and it is preparing alternatives in case something should happen. He added that the administration and conduct of the CCF has been exemplary and the Department is very satisfied because of the structure of the contract (i.e., no out-of-state inmates, it is a strict contract, and the Department has the ability to monitor). He did not believe that the partnership would be as successful if that was not the case. He added that although he believed that private corrections could have an effective role in the system, the state is ultimately responsible for its offenders and must have control. Sen. Grosfield asked if the Legislature should be thinking about the costs for private corrections expansion in the future. Mr. Day said that there are advantages and disadvantages to privatization. As the Department moves forward, it will be conducting a cost comparison if the number of offenders continues to increase and if it must recommend additional expansion, whether it be on the private side or expansion at MSP. Mr. Day said that the cost per day per inmate for CCF is \$41.34 for the first year with an increase to approximately \$51.00 after the first year. The cost includes general overhead. The cost per day per inmate at MSP is \$56.00 including agency overhead. Without administration and medical, the cost would be approximately \$50.00 per day per inmate. The regional prison costs are void of all capital costs.

**OTHER BUSINESS**

Sen. Grosfield said that the Committee's general consensus was to meet at least twice during the special session and have a 2-day meeting in August. A possible 2-day meeting in June will be decided at a later time. He asked that Committee members think about what they would like their working group focus to be.

In lieu of a presentation by Susan Fox, Legislative Research Analyst, who was unable to attend, Ms. Kurtz provided a copy of Senate Joint Resolution No. 14 - Sentencing Study Update. (EXHIBIT #21)

There being no further business, the meeting adjourned at 3:32 p.m.

CI2255 0126loxa.