



## State-Tribal Relations Committee

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### 63rd Montana Legislature

#### SENATE MEMBERS

JONATHAN WINDY BOY--Chair  
SHANNON AUGARE  
JIM PETERSON  
BRUCE TUTVEDT

#### HOUSE MEMBERS

ALAN DOANE--Vice Chair  
CLARENA BROCKIE  
FORRESTINA ( FROSTY ) CALF BOSS RIBS  
NICHOLAS SCHWADERER

#### COMMITTEE STAFF

CASEY BARRS, Lead Staff  
LAURA SANKEY, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES LOG

Fort Belknap Indian Community Council Center  
Tribal Council Chambers, 656 Agency Main Street, Fort Belknap Agency  
October 3, 2013 - Day 1

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

#### **COMMITTEE MEMBERS PRESENT**

SEN. JONATHAN WINDY BOY, Chair  
REP. ALAN DOANE, Vice Chair

SEN. JIM PETERSON  
SEN. BRUCE TUTVEDT

REP. CLARENA BROCKIE  
REP. NICHOLAS SCHWADERER

#### **COMMITTEE MEMBERS EXCUSED/ABSENT**

SEN. SHANNON AUGARE  
REP. FORRESTINA ( FROSTY ) CALF BOSS RIBS

#### **STAFF PRESENT**

CASEY BARRS, Lead Staff  
LAURA SANKEY, Staff Attorney  
DAWN FIELD, Secretary

#### **AGENDA & VISITORS' LIST**

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

## **COMMITTEE ACTION**

The State-Tribal Relations Committee took no official action at this meeting.

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

- 00:00:01 **Mr. Loren "Bum" Stiff Arm, Chief Operating Officer, Fort Belknap Indian Community Council**, welcomed the State-Tribal Relations Committee to the Fort Belknap Reservation. The Secretary took roll, Rep. Calf Boss Ribs and Sen. Augare were excused, Sen. Windy Boy en route ([Attachment 3](#)).
- 00:04:48 The State-Tribal Relations Committee (STR) members and staff introduced themselves.
- 00:08:28 Fort Belknap Community Council Chair Tracy King and Council Member Mike Fox arrived at the meeting. Mr. Ed "Buster" Moore gave an opening blessing.

## **LANGUAGE PRESERVATION PILOT PROGRAM**

- 00:12:24 **Mr. Casey Barrs, Legislative Researcher, Legislative Services Division (LSD)**, gave an update on the Montana Indian Language Preservation Pilot Project (MILP<sup>3</sup>) ([EXHIBIT 1](#)), created by SB 342 (Windy Boy, 2013). *SEN. WINDY BOY arrived at the meeting.*

## **CONFEDERATED SALISH & KOOTENAI TRIBES WATER COMPACT UPDATE**

- 00:18:07 Mr. Barrs updated the STR and the Council on the status of the Confederated Salish and Kootenai Tribe (CSKT) water compact ([EXHIBIT 2](#)).

## **No Questions or Comments.**

- 00:23:47 There were no committee questions.
- 00:24:23 Councilman King discussed his support for the Montana Indian Language Pilot Preservation Program.
- 00:27:47 Mr. Moore thanked SEN. WINDY BOY for his efforts regarding the language preservation project. He asked how the project funding was being distributed. SEN. WINDY BOY explained how funding will be distributed to tribes, based on enrollment. Mr. Barrs added that funding just became available and would soon be distributed, and that Ms. Heather Sobrepena in the Governor's Office would be the best contact for specific funding questions.
- 00:31:14 SEN. TUTVEDT asked how the tribes were selecting languages for the pilot project, considering that several reservations are multi-language. Mr. Moore explained how the Council worked with teachers and community members to craft their proposal. He discussed the ongoing programs and goals of the Fort Belknap Reservation intended to ensure preservation of the Gros Ventre and Assiniboine languages.
- 00:38:31 Mr. Moore discussed the question of being able to pay expenses of elders who participate in the pilot project. SEN. WINDY BOY said it was the intent of SB 342 to allow each tribe the flexibility to decide how the pilot project would work on the individual reservations.

## **BISON MANAGEMENT**

- 00:43:35 Mr. Barrs reviewed the STR's interest in the bison management issue. He explained that the Department of Environmental Quality (DEQ) and the Environmental Quality Council (EQC) have statutory oversight of bison but that the STR can coordinate with the EQC to keep abreast of issues. Mr. Barrs noted that STR members received a number of documents relating to the bison management issue in their meeting packets and announced that Council Chair King has offered to take STR members on a tour of the bison facility.
- 00:50:15 Mr. Stiff Arm presented two videos showing the highlights of the return of bison to the Fort Belknap and Fort Peck Reservations through the Yellowstone National Park Bison Relocation Project. Mr. Stiff Arm also provided copies of PowerPoint slides relating to the Relocation Project ([EXHIBIT 3](#)).
- 00:56:51 **Mr. Mike Fox, Councilman, Fort Belknap Indian Community Council**, reviewed the bison issue from a tribal perspective, saying that the tribes want to be part of a solution, not a stumbling block. He noted that elk are also carriers of brucellosis and asked what the status is of the buffalo owned by Ted Turner.
- 00:59:38 **Mr. Ken MacDonald, Wildlife Bureau Chief, Department of Fish, Wildlife, and Parks (FWP)**, reviewed details of the brucellosis quarantine feasibility research project. (A Department of Fish, Wildlife, and Parks document was provided in the meeting materials: *Background Information on Issues of Concern for Montana: Plains Bison Ecology, Management, and Conservation* ([EXHIBIT 4](#)).
- 01:02:38 REP. BROCKIE asked Mr. MacDonald to clarify that the buffalo in his research program are genetically pure. Mr. MacDonald said that the bison are disease free and genetically pure.
- 01:03:21 SEN. TUTVEDT asked if a management plan is needed in order to move the buffalo. Mr. MacDonald said yes but noted that a recent Supreme Court ruling ([EXHIBIT 5](#)) exempted tribes from that requirement.
- 01:05:15 SEN. PETERSON said that SB 212 (2013) ([EXHIBIT 6](#)) directed FWP to develop a statewide bison management plan. He discussed a meeting held last week in Lewistown to begin that process, saying that discussion topics included fundamental issues related to a bison management plan and creation of a stakeholder group to advise the FWP on this issue.
- 01:08:44 Mr. Fox discussed concerns regarding the Ted Turner buffalo herd, why buffalo herds on the Fort Belknap Reservation are separated, and announced that 32 black-footed ferrets are to be released in the buffalo pastures in the afternoon. He invited the STR Committee to attend the release.
- 01:11:31 Mr. MacDonald explained that creating a state bison management plan will be a multi-step process. His discussion topics included the genetic purity of the YNP bison, concerns regarding brucellosis and disease management responsibilities, and the existing Interagency Bison Management Plan (IBMP) as established in 2000, including the management "zones" set up around Yellowstone National Park.

- 01:15:13 Mr. MacDonald discussed statutory provisions for bison management, which include disease management and population objectives, including how excess populations are handled through public and tribal hunts. Mr. MacDonald also discussed the environmental impact assessment (EIA) to study expansion of the bison range outside of the Park and said that over 100,000 comments have been received.
- 01:17:50 Mr. MacDonald discussed IBMP recommendations for using quarantine and testing of YNP bison calves as a mechanism for bison restoration elsewhere. He said that testing results from the Turner, Fort Peck, and Fort Belknap bison herds will also be a consideration in the study.
- 01:20:15 **Mr. Donovan Archambault, Fort Belknap Indian Community Council Member**, asked about elk infecting cattle with brucellosis. Mr. MacDonald confirmed that elk carry brucellosis. He discussed issues related to the intermingling of elk, bison, and cattle, saying that it is a disease issue, not just a bison issue; and affects many states besides Montana.
- 01:25:39 Councilman Archambault asked how many cases of bison infecting cattle with brucellosis have been recorded in the YNP area. Mr. MacDonald said he could not say with certainty. He said that research is being done on the elk/brucellosis issue in conjunction with the Department of Livestock. He also noted that it is possible for cattle to infect bison with brucellosis as well.
- 01:28:32 SEN. PETERSON addressed Councilman Archambault's question, saying that it has been asked many times. He discussed the difficulty of documenting sources of brucellosis infection and said that the issue isn't so much what species infects what species, but the disease itself. SEN. PETERSON said that the Center for Disease Control has expressed interest in brucellosis because of its potential as terrorist tool and said that YNP has contracted with MSU to research a brucellosis vaccine for bison.
- 01:31:55 REP. BROCKIE commented that at some point, the issue of brucellosis infection by elk will have to be addressed.
- 01:32:37 SEN. TUTVEDT said that the livestock industry can not be put at risk and that his main concern is finding a way for everyone to co-exist respectfully with one another. He suggested that all interested parties should work together as a team on a solution. Councilman Archambault expressed his doubts about resolving the bison transfer issue and predicted it would likely end up in court.
- 01:35:40 REP. SCHWADERER referred to the Supreme Court ruling on the bison transfer issue (EXHIBIT 5) and asked what the status of the Memorandums of Understanding (MOUs) is among the tribes. Mr. Barrs responded that the MOUs have been signed and that they describe the responsibilities of the Montana FWP and the Fort Belknap and Fort Peck Tribes, and also address the questions of indemnification and brucellosis.
- 01:37:21 REP. SCHWADERER asked if there has been discussion of potential legislation to clarify legislative intent of SB 212 in the next session. Mr. MacDonald said he was not aware of any proposed legislation at this time.

- 01:38:14 **Mr. Mark Azure, Director, Fort Belknap Department of Fish and Wildlife,** responded to SEN. TUTVEDT comments, saying that tribal participation was limited at the Lewistown meeting and that he would like all of the tribes invited to future meetings. He also commented on the Montana Farm Bureau's position on the bison transfer issue.
- 01:40:01 Mr. Azure responded to the discussion of a vaccine for bison to prevent brucellosis transfer, saying that such vaccines are already available in other countries but that the United States Department of Agriculture (USDA) won't recognize them. He said that he supports the work done so far but suggested that Montana's State Veterinarian be included in the discussion.
- 01:41:53 SEN. WINDY BOY asked Mr. Barrs to research the vaccine question.
- 01:42:04 SEN. PETERSON thought that the tribes had been invited to the Lewistown meeting but agreed that better representation of the tribes is needed at future meetings. He said the meeting was very productive and provided details, saying that discussion was divided into three main topics: Yellowstone National Park, state, and tribal issues.
- 01:44:39 SEN. PETERSON discussed several of the agreements made at the Lewistown meeting: to cease discussion of "free roaming buffalo" because of strong objection by landowners, the need to create a containment plan, to establish a timeline, guiding principles from which to proceed, and others.
- 01:48:57 Mr. MacDonald said that questions such as what to do with bison and whether there is a place for them on the Montana landscape must be answered in the planning process and that scoping meetings are being held. Mr. MacDonald said that bison are a very divisive and polarizing topic and that it is important to get all of the different interests talking to one another.
- 01:53:47 Mr. MacDonald discussed the term "management" in relation to bison, how to pay for bison management, and his interpretation of SB 212. He then discussed the work done by the Fort Peck and Fort Belknap tribes and their efforts to restore buffalo. He thought the MOUs ([EXHIBIT 7](#), [EXHIBIT 8](#), and [EXHIBIT 9](#)) should provide reassurance that the tribes and the state are committed to keeping the buffalo where they belong and to being good neighbors to adjoining land owners.
- 01:59:32 REP. DOANE asked, in the scoping sessions, if there was support for free roaming buffalo. Mr. MacDonald said the purpose of the sessions was to listen to concerns and get the people's perspective but added that comments were received that opposed bison reintroduction.
- 02:00:35 REP. DOANE asked why the question of allowing free roaming buffalo is still on the table if citizens oppose it. Mr. MacDonald said that the process is just in the exploratory phase and that no decisions have been made.
- 02:02:30 SEN. PETERSON said there was unanimous agreement at the Lewistown meeting that the question of free roaming bison must be taken off the table. He said there was also strong agreement that a containment plan must be created. SEN. PETERSON discussed private bison herds operating in Montana.

- 02:04:51 Mr. Azure said that the idea of free roaming bison did not come from the tribes. He discussed the Sturgeon River Stewards in Canada as a model for bison management and suggested that Montana look at that program.
- 02:08:32 Council Chair King discussed a meeting he attended in Billings at which similar issues and concerns were discussed between non Indians and Indians. He compared the bison issue to freedom of religion and the education that Indians had to fight for in order practice their religion. He discussed the need for respect for one another's culture and how the issues of race and discrimination have factored in to certain discussions.
- 02:13:25 SEN. WINDY BOY reviewed LC0847 ([EXHIBIT 10](#)) and said that tribes have always been left out of the rulemaking process. He asked that the FWP keep the STR advised of all administrative rulemaking involving the tribes and said that alone would reduce a great deal of the contention.
- 02:15:38 Mr. Moore suggested holding scoping meetings on one or more of the reservations in order to more fully involve the tribes.
- 02:20:02 Mr. Barrs read a letter into the record from the Montana Farm Bureau Federation opposing the establishment of free roaming bison in Montana ([EXHIBIT 11](#)).
- 02:26:45 **Mr. Leon LaSalle, Board Member, Montana Stock Growers Association (MSGA)**, submitted into the record a MSGA statement outlining its mission, a synopsis of Montana's cattle industry, MSGA local affiliates, and its website ([EXHIBIT 12](#)) and a copy of MSGA's bison policy ([EXHIBIT 13](#)). He said that the MSGA would support designating bison as domestic livestock in Montana.

#### **Committee Questions and Discussion**

- 02:32:52 REP. BROCKIE commented that people need to know that Fort Belknap has an insurance policy in place to compensate people for damages caused by trespassing bison.
- 02:34:45 SEN. WINDY BOY and SEN. PETERSON discussed failed efforts in the 2013 Legislature to define "wild" bison. SEN. PETERSON discussed why the Lewistown meeting was by invitation only, saying it has been a challenge to get people to work together in a positive and respectful way. He emphasized that there has been no effort to exclude the tribes.
- 02:39:18 SEN. WINDY BOY said that everyone needs to have a say on the issue and that STR is trying to move things in a positive direction. Mr. Moore asked Mr. LaSalle if he is aware of any producers who are raising both cattle and bison. Mr. LaSalle said there are. SEN. PETERSON said there are over 82 bison herds in Montana. He said that the American Prairie Association could provide more information on that question.

#### **InterTribal Buffalo Council**

- 02:43:59 **Mr. Jim Stone, Executive Director, Intertribal Buffalo Council**, provided background information on the creation of the ITBC and its role as a member of various boards and councils relating to bison management. Mr. Stone provided two

documents as part of his discussion: a September 3, 2013 memorandum regarding information on the brucellosis vaccination and testing requirements imposed by other states ([EXHIBIT 14](#)) and a bison transfer agreement between the United States Department of the Interior, Yellowstone National Park, and the InterTribal Buffalo Council ([EXHIBIT 15](#)). Mr. Stone's discussion points included the following:

- a basic lack of knowledge and understanding within Montana regarding the importance of bison to Native American peoples;
- the need for bison management and his opinion that a number of fundamental changes to the Interagency Bison Management Plan are needed;
- the science of brucellosis transmission and his concern that elk are not being included in the discussion;
- his difficulty in working with the Department of Livestock and the State Veterinarian on bison issues within Montana;
- the lack of a tribal voice at the Lewistown meeting;
- tribal sovereignty issues and how much jurisdiction states should have; and
- the need to more clearly define management lines for tribal, private, and public interests.

#### **Questions from the STR and the Council**

03:11:29 SEN. PETERSON asked Mr. Stone why he didn't offer comment at the Lewistown meeting. Mr. Stone said he felt that meeting was exclusive and wasn't certain his comments were welcome. He discussed further his concerns that the process has not been inclusive to all stakeholders.

03:18:20 SEN. PETERSON said that he appreciated Mr. Stone's comments and thought that there was a genuine feeling at the Lewistown meeting that there should be greater tribal representation. SEN. WINDY BOY said the STR would follow up on this issue.

03:19:29 SEN. TUTVEDT commented that the STR wishes to resolve the bison issue in good faith and that it is the best interest of the tribes and the state to keep the ranching industry disease-free. He asked if the State is impeding the tribes in getting brucellosis-free buffalo at this time. Mr. Stone said that the lawsuits and regulations are impeding the transfer of animals and access to buffalo. He said that while the tribes understand the concerns, the buffalo should not be perceived as a threat.

03:00:29 SEN. TUTVEDT reiterated the STR's interest in finding a solution that works for everyone. Mr. Stone said that the tribes don't want brucellosis either but that overly strict state regulations are an impediment. SEN. WINDY BOY commented that the Environmental Quality Council (EQC) is also looking at the bison issue.

SEN. WINDY BOY recessed the meeting for lunch.

#### **LUNCH BREAK**

03:25:15 SEN. WINDY BOY called the meeting of the Fort Belknap Indian Community Council and the State-Tribal Relations Committee back to order.

#### **Bison Management, continued**

03:26:16 **Mr. Sean Gerrity, President, American Prairie Reserve (APR)**, introduced himself and said he would first provide an overview of the APR and then answer questions.



- 03:26:53 **Charlie Colbek and Frank DePriest, Blaine County Commissioners**, introduced themselves.
- 03:27:12 Mr. Gerrity gave an overview of the American Prairie Reserve ([EXHIBIT 16 - American Prairie Reserve: Building a Legacy of Conservation](#)), ([EXHIBIT 17 - APR 2013 Bison Report](#)), and ([EXHIBIT 18 - APR Destination Map Guide](#)) which included the following discussion points:
- APR is a Montana-based, nonprofit entity which employs approximately 25 people;
  - APR uses a collaborative approach in its work with other groups and private landowners to achieve its goals and objectives;
  - APR's work to create a wildlife complex for many different species of animals, not just bison;
  - APR's long term goals and objectives and where it is in meeting those goals; and
  - specific details regarding APR's buffalo herd, including herd growth, genetic and disease testing, population control measures, and a five-point containment plan.

### **Questions and Discussion**

- 03:39:41 **Ms. Patty Quisno** asked how often the bison get out of their enclosure. Mr. Gerrity said that there are one or two escapes a year, which is typical of any operation.
- 03:41:25 SEN. PETERSON and Mr. Gerrity discussed land parcels already acquired by APR and plans for future land acquisitions ([EXHIBIT 18 - APR Map](#)). SEN. PETERSON was interested in acreage numbers, the types of lands desired by the APR, the involvement of federal and state lands, and grazing lease issues.
- 03:47:01 REP. SCHWADERER asked how APR acquires property. Mr. Gerrity explained that land is acquired mainly through purchases from private landowners but that the APR is also interested in trading or swapping land. He explained further.
- 03:49:04 REP. SCHWADERER asked about APR's tax structure and if conservation easements are used. Mr. Gerrity said that easements are not used right now but will be in the future to ensure preservation of APR. He said that APR pays the same taxes as a for-profit entity pays.
- 03:50:35 REP. BROCKIE asked about fundraising and where the bulk of the money comes from. Mr. Gerrity said that much of it comes from private individuals, with donations coming in from all over the world.
- 03:51:49 REP. BROCKIE asked how the foundation's name was chosen. Mr. Gerrity explained, saying that the founders wanted to have the connotation of a place in the name. He also discussed two other companies associated with APR: Friends of the American Serengeti and Wild Sky Beef. He explained how those businesses are involved with APR.
- 03:54:27 REP. DOANE asked how or if animals are identified if they test positive for a disease. Mr. Gerrity said that individual animals are not tracked and that a health problem would implicate the entire herd. REP. DOANE asked if the facilities are



large enough to capture the entire herd. Mr. Gerrity said no and explained how the herd could be liquidated quickly, should it be necessary.

03:55:45 REP. DOANE asked for clarification on Mr. Gerrity's previous statement that there would be no drilling allowed on APR lands and how Montana's split estate laws would be addressed under that position. Mr. Gerrity said that the plan is to purchase as much land as possible with as many mineral rights as possible and to gain as much public support as possible in order to discourage drilling on APR land. He acknowledged that there may not be a way to stop drilling completely but said that APR would make doing so a very difficult process.

03:58:56 SEN. PETERSON asked if APR has worked with the Charles M. Russell National Wildlife Reserve on common goals. Mr. Gerrity said it has, on many issues, including noxious weeds, streambed restoration, natural fire, other wildlife populations, and more. He said he would look into prairie dogs, as requested by SEN. WINDY BOY. He discussed his desire to have good working relationships with area ranchers and his belief that both sides can work together and prosper.

04:02:22 Mr. Stiff Arm thanked everyone who participated and said the meeting would now turn to Fort Belknap Indian Community Council issues.

04:03:32 SEN. WINDY BOY asked if there was any public comment.

#### **PUBLIC COMMENT**

04:03:55 There was no public comment.

#### **FORT BELKNAP INDIAN COMMUNITY COUNCIL (FBICC) PORTION OF AGENDA**

04:04:02 Mr. Moore asked if the issue of the Keystone XL Pipeline would be discussed by the STR and if the STR supports or opposes the pipeline. SEN. WINDY BOY said that the STR has not discussed the issue and that legislators opinions on the pipeline would differ. Mr. Barrs said that he would check with other interim committees to see if they have discussed the pipeline. *(As of February 2014 they had not.)*

#### **Blaine County Road User Tax**

04:06:22 **John Healy Sr. Director, Fort Belknap Transportation Department**, discussed the issue of the road user tax as a long-time problem between Fort Belknap and Blaine County, dating back to the 1990s. Mr. Healy reviewed a timeline of the issue and the efforts of the FBICC to work with the Blaine County Commissioners to come to an agreement regarding the mileage calculations and an equitable distribution of the tax revenue between the FBICC and Blaine County. He displayed a map showing the roads in question and also referred to a 1995 memorandum from Timothy Reardon, Montana Department of Transportation, as part of his explanation of the position of the FBICC and its attempts to resolve the problem. He also noted that former Senator Kim Hanson had drafted a bill in 2003 to resolve this issue but that it was never introduced in the Legislature. Mr. Healy said that many of the Blaine County Commissioners were present at the meeting and that he hoped that a solution could be worked out during the meeting.

04:15:01 **Mr. Wes Cochran, Planner, Fort Belknap Transportation Department**, also reviewed the issue and further discussed a county map illustrating county roads that cross county and reservation lines.

### **Questions and Discussion**

04:19:15 REP. BROCKIE asked about roads in the Hayes area. Mr. Cochran said that some of the roads are fee, most are trust, so no county roads there. Mr. Cochran noted that Bureau of Indian Affairs (BIA) roads remain in the state road inventory and that while the tribes are maintaining the roads, Blaine County is collecting the fuel tax revenue.

04:21:58 In response to a question from REP. BROCK, Mr. Healy explained how federal funding is funneled through the State and Mr. Reardon's 1995 opinion that an agreement could be entered into that would divide the fuel tax monies more equitably. Mr. Healy invited Delores Plumage, Blaine County Commissioner, to respond.

04:24:13 Delores Plumage stated that she was attending the meeting as an observer only because the Commissioners were not given notice or time to prepare for the meeting.

04:25:20 Mr. Moore said this issue has been around for 17 years and that he found it unacceptable for the County Commissioners to say they are not prepared to respond.

04:26:56 Mr. Stiff Arm said that he suggested the topic to Mr. Barrs as an agenda item only because he wanted the STR to be aware of the issue. He said he did not mean for the County Commissioners to feel misled because the issue was to be for discussion only.

04:28:44 SEN. WINDY BOY said that it concerns him that the FBICC is not getting paid as it should be for the road maintenance it is doing. He said the STR would follow up at a future meeting in January and that he is willing to carry a bill to address the issue, if necessary. Mr. Healy asked if the bill would be retroactive. SEN. WINDY BOY said he couldn't say at this time.

04:30:24 Mr. Moore relayed that he had discussed this issue with former Governor Schweitzer as part of a conversation about increased traffic on county roads from trucks belonging to oil companies.

04:32:49 **Delores Plumage, Blaine County Commissioner**, said that the County Commissioners supported Sen. Hansen's bill. She also recalled that the Commissioners were prepared to sign an agreement with FBICC but that it fell apart due to accounting issues. Commissioner Plumage said that while she could not make any promises, the County Commissioners would work with the FBICC on a solution and she thanked the FBICC for inviting the Commissioners to the meeting. She added that tribal administrations have changed over the years also, which may have contributed to the situation.

04:38:28 REP. BROCKIE asked Laura Sankey, STR Staff Attorney, to look into the issue. She said that a bill may be necessary and in the mean time, she would like to look

into how the FBICC can be compensated. Mr. Barrs said STR staff is willing to help facilitate a solution also. He suggested that both sides be invited to the STR's January meeting in Crow Agency for additional discussion. SEN. WINDY BOY said that STR staff would keep all involved parties informed.

### **Ammunition Tax**

04:42:10 **Mike Fox** discussed concerns regarding the federal excise tax on ammunition and the FBICC's desire to use the tax money to manage wildlife on the Reservation. He asked STR staff to look into the issue on behalf of the FBICC. SEN. WINDY BOY said the issue would be investigated.

### **Fort Belknap Water Compact**

04:44:49 **Randy Perez, Director, Fort Belknap Water Resources Department**, presented a detailed discussion of the terms of the Fort Belknap Water Compact ([EXHIBIT 19](#)), including a his involvement as the Director, a historical review of the compact process, tribal water rights, economic development impacts, the Fort Belknap Indian Community Settlement Fund, Milk River water user issues, and other miscellaneous issues.

05:07:52 Mr. Perez reviewed a land exchange agreement (pages 4-6, [EXHIBIT 19](#)) in the Fort Belknap Water Compact. He referred to color map showing the approximate 58,000 acres of public lands to be put into trust for the FBICC ([EXHIBIT 20](#)).

### **Questions and Discussion**

05:09:46 SEN. PETERSON asked for clarification that the Water Compact was approved by the Montana Legislature and the Fort Belknap, and is waiting for congressional approval. Mr. Perez said that is correct. SEN. PETERSON and Mr. Perez discussed the tribe's proposal for exchange and transfer of public lands into tribal trust lands.

05:22:49 REP. BROCKIE discussed the tribe's efforts to get these lands back into tribal possession.

### **Temporary Assistance for Needy Families Payments**

05:26:13 **Kay Bell, Director, Temporary Assistance For Needy Families (TANF)**, discussed the increasing TANF case load, saying that it currently averages about 250 cases a month. She reviewed the state MOE funding and discussed concerns regarding the Combined Healthcare Information and Montana Eligibility System - Enterprise Architecture (CHIMES EA), a tribal portal that would help eliminate duplication of services and fraud, and difficulties in tracking the 60-month limit for TANF services. Regarding the tribal portal, Ms. Bell said that the last letter she received concerning the portal was in September of 2012 and that she is still waiting to hear when the portal will be available.

05:29:11 Ms. Bell discussed the need for the STR's assistance in helping her re-establish contact with someone in Helena who could help her with some of her concerns. She noted that a number of clients are getting close to meeting the deadline at which time they will lose benefits if problems are not addressed.

### Questions and Discussion

05:38:35 REP. SCHWADERER said that the STR could facilitate contacting the DPHHS to assist Ms. Bell with her concerns. SEN. WINDY BOY said that DPHHS Director Richard Opper would be contacted regarding the issue.

### Right of Way on Reservation Highways

05:40:39 Mr. Fox discussed a unique situation involving a landowner who denied the tribe access to one of the tribe's buffalo pastures on Route 66. He said he would like clarification of the right-of-way.

05:42:10 Mr. Azure said that the State of Montana owns the right-of-way but would not put it in writing. He said that the FBICC has also spoken with the BIA about this issue. He said that while he has a verbal agreement for access with the landowner, he would prefer a long term and permanent solution in writing from the State clarifying the tribe's access using the state right-of-way. Mr. Azure said that he would provide the necessary documents to STR staff. SEN. WINDY BOY asked Mr. Azure to keep in touch with Mr. Barrs on the issue.

### Title IV-E Funding - Indian Child Welfare Issues

05:46:18 Mr. Stiff Arm said that overall, the working relationship of the State with the Fort Belknap Social Services staff is very good, with the exception of the IV-E funding issue.

05:48:28 **Miss Natalie Crazy and Mr. Basil Doney** discussed the Title IV-E funding program and funding for foster care children.

### Questions and Discussion

05:51:24 SEN. WINDY BOY asked if Fort Belknap has any concerns regarding Indian child welfare issues. Mr. Doney said that the question of enrollment may become an issue with the BIA.

05:52:51 SEN. WINDY BOY asked if there has been friction between the states, Indian Child Welfare Act (ICWA), or other jurisdictions regarding Indian children who move out of state. He referenced a specific case heard by Judge McKeon. Mr. Doney discussed a Cascade County case that involved termination of parental rights.

The meeting was recessed at 3:30 p.m. for a short break.

### BREAK

06:29:53 The meeting was called back to order at 4:05 p.m.

### Jason Smith, Acting Director, Governor's Office of Indian Affairs

06:30:53 Mr. Jason Smith, Acting Director, Governor's Office of Indian Affairs, discussed a *Governor's Office of Indian Affairs Report (EXHIBIT 21)*. Mr. Smith began his presentation with a discussion of the importance of childhood hunger as a statewide issue.

06:38:21 Mr. Smith discussed Department of Corrections issues, including Native American inmates' access to sweat lodge and his hope to establish spiritual or tribal leader visits to the prisons in order to maintain cultural ties for Native inmates.

Mr. Smith discussed the Montana Advisory Council on Indian Education (MACIE) meeting and his report to the MACIE.

06:45:06 Mr. Smith discussed the recently-held Indian Child Welfare Act conference in Great Falls.

06:46:01 Mr. Smith discussed the activities of the State Tribal Economic Development Commission (STED).

06:53:26 Mr. Smith discussed recent appointments to Boards and Commissions.

06:53:37 Mr. Smith discussed the 2013 Governor's Tribal Relations Report, saying that it is in the final stages of review and would be available soon.

06:54:18 Mr. Smith said that Mr. Barrs had provided an informational update on the language preservation pilot project (MILP<sup>3</sup>).

06:54:37 Mr. Smith discussed the Montana Association of Counties (MACo) annual Reservation Counties meeting he attended.

#### **Questions and Discussion**

06:56:29 SEN. WINDY BOY said that the Indian Caucus is interested in hearing about any potential legislation that the Governor may wish to draft for the 2015 Legislative Session. Mr. Smith said that at this time, the Governor has no specific legislation in mind.

06:58:16 SEN. WINDY BOY said that he questions the effectiveness of the DOC's WATCH program and thought they would be more successful if the offender had the treatment programs and support in their own communities. Mr. Smith said that Indian caucus leaders and tribal leaders have both been invited to tour and observe DOC facilities and programs. He discussed the sustainability issues related to operating treatment programs locally, due to the expense of operating such programs.

07:00:25 Mr. Stiff Arm encouraged DOC WATCH staff to work closely with the reservation chemical dependency programs in order to increase the success of the treatment programs.

07:01:44 SEN. WINDY BOY said that he was disappointed in the MACIE report and reviewed his efforts in past legislative sessions to strengthen the education system in Montana and to improve Indian graduation rates. He discussed his work on charter school bills that failed in the 2013 Legislature as an example and his plans to make recommendations at a future STR meeting regarding education issues. He said there is something missing in the current structure and that his goal is a fair system in which there is equal access for every student.

07:05:14 Mr. Smith agreed that education is a very important topic. He related his own work as a mentor for younger students and the difference that type of connection makes to young students. Mr. Smith said that Governor Bullock and others are discussing education and working on strategies and plans to improve Montana schools.

- 07:07:26 Mr. Moore discussed how private funding has been used to fund sweat lodge ceremonies in the prisons but said that the DOC background checks for the spiritual leaders who volunteered to lead the ceremonies are so stringent that the leaders are reluctant to go through that process. He said that Christian, Mormon, and Catholic clergy are not required to have the background checks. Mr. Moore agreed with SEN. WINDY BOY's statements regarding the ineffectiveness of treatment programs in the prisons, saying that when the inmate is returned the reservation there is no support or programs available to help maintain their sobriety. He said that much could be done with joined efforts.
- 07:13:39 SEN. TUTVEDT asked, regarding MACIE and education issues relating to Indian students specifically, if Governor Bullock is considering any "out of the box" ideas. Mr. Smith said that he could not speak for the Governor but that he would relay SEN. TUTVEDT's concerns. SEN. WINDY BOY said that the Governor would be invited to discuss these concerns with the STR.
- 07:15:36 SEN. TUTVEDT said that if the Governor doesn't think that past legislative proposals were the answer, he would appreciate if the Governor would offer a solution of his own. SEN. WINDY BOY discussed his concern about what happens to students who are expelled or drop out. He said he is termed out after the 2015 legislative session and that he would like to see these concerns addressed before then. Mr. Smith said that there are services available that address some of SEN. WINDY BOY's concerns; but said that he would relay the concerns to the Governor.
- 07:19:35 REP. BROCKIE asked if the alternative school in Browning is a BIA-funded school. Mr. Smith did not know with certainty but thought it was.
- 07:20:34 REP. BROCKIE asked if the childhood hunger conference revealed any solutions or suggestions on how to address that issue. Mr. Smith said that one goal is to determine how to collaborate and use available resources more effectively. He said that Lisa Lee, Department of Public Health and Human Services (DPHHS) directed the conference and that he would ask her.
- 07:22:03 REP. BROCKIE said that services and programs differ in the DOC facilities and asked what it would entail to provide alternative treatment programs in communities, such as culturally-based treatment programs.
- 07:23:51 REP. BROCKIE asked if tribes will be included in the Main Street Montana strategic planning. Mr. Smith said that anyone can participate in the online survey.
- 07:26:25 REP. SCHWADERER said that there are unique business opportunities available to sovereign nations. He asked if any Montana tribes have looked at creative ways to use their sovereignty as leverage in marketing goods and services. Mr. Smith said that he couldn't speak for any specific tribe but that tribes have worked to partner with private sector businesses on a variety of business ventures. He said that using a tax incentive may be a good tool.
- 07:28:49 SEN. WINDY BOY noted that several tribes have signed universal commercial codes, ensuring that their assets are protected.

- 07:29:30 Mr. Moore referred to the MACIE meeting held in Billings and the discussion there regarding the effect of the reductions in Impact Aid funds in reservation schools. He also discussed graduation rates in reservations schools, school lunch concerns, and childhood hunger issues in reservation schools.
- 07:36:09 REP. DOANE said there appears to be unique educational needs on reservation schools and noted that Montana has adopted national curriculum standards. He asked if the issue of the Common Core curriculum standards came up at the MACIE meeting. Mr. Smith did not recall that it did.
- 07:37:10 REP. DOANE asked Mr. Smith about natural resource development on reservations. Mr. Smith said that natural resource development was included in the Main Street Montana Project survey and ranked high in responses but that he did not include the information in his summary. Mr. Smith discussed the difference between STED and the Montana Main Street Project, and he announced an upcoming meeting for STED.
- 07:39:26 Mr. Moore commented that the FBICC recently received royalty payments from 14 gas wells which totaled less than \$10, and that natural resource development is not a reliable source of income.
- 07:40:30 SEN. TUTVEDT thought that ideas and suggestions on how to work on some of the issues have to come from within the tribal communities and schools. He said that legislators would be willing to listen but emphasized that the ideas must come from the tribal communities. He agreed that tribal schools must become more involved in addressing education issues.
- 07:41:39 Charlie Colbeck, Blaine County Commissioner said that as a member of the Harlem school board, one of the toughest decisions he ever had to make was to expel a student from school because that decision changed that student's future. He also discussed the influence of a child's home life and suggested providing "wraparound" services, which would identify families at risk and provide services to the entire family to help alleviate problems. He said that maintaining communication between the home and school, as well as with state agencies would help identify those families in need, keep kids in school, and increase graduation rates.
- 07:44:49 **Ms. Jessie James Hawley** discussed her problems in dealing with her local school board on behavioral issues with her grandson.
- 07:47:09 Mr. Moore discussed his interest in having a state office on the reservation that would assist with administering state services, such as the weatherization programs, food stamps, and other public assistance programs. He said that currently, residents have to travel to Chinook to do this and that having that type of outreach would be very beneficial to the residents.
- 07:50:55 **Laura John, State-Tribal Policy Analyst, Montana Budget and Policy Center**, explained the need for policy analysis and economic impact of Montana's Indian Country. She discussed a Montana Budget and Policy Center report on 2013 State-Tribal legislative impacts ([EXHIBIT 22](#)). Ms. Johns provided handouts on other relevant topics of interest:
- a Medicaid expansion report ([EXHIBIT 23](#));



- a Medicaid expansion fact sheet ([EXHIBIT 24](#));
- a brief on Indian Country economic development funding ([EXHIBIT 25](#)); and
- a brief on SB 342: preserving Montana's Tribal Language ([EXHIBIT 26](#)).

07:57:01

Ms. Johns referred to a number of topics as discussed by STR and the FBICC and commented on:

- the question of innovative ways in which tribal communities can use their sovereignty status when engaging in economic development;
- the question of providing cultural or religious connections to inmates or patients in state institutions;
- a racial and social justice initiative in Seattle that studied policies and procedures that contribute to social and economic inequality;
- a Native American mental health program created for Native men coming out of prison to help re-connect them with their families and communities; and
- options on how to improve access to religious services for inmates.

### Questions and Discussion

08:03:50

SEN. PETERSON asked Ms. Johns if she could also attend the STR's next meeting. SEN. WINDY BOY asked if she had information on alternative education options. Ms. John said that the Blackfoot Learning Academy is an example to look at, as is a native alternative school in Portland, Oregon. She said that evidence-based programs provide the best solutions and that being open-minded and innovative is important also.

08:11:41

Mr. Barrs suggested that the STR read the meeting material on the immersion school in preparation for the next day's meeting. He said he would also like suggestions for the January meeting agenda. SEN. WINDY BOY suggested, regarding the bison issue, that stakeholders be invited to meet a day ahead of the STR meeting to try to work out a solution; and that the group could report to the STR at the meeting. He said that in the meantime, STR staff could stay in touch with EQC staff and let them know of the STR's work.

08:14:18

SEN. PETERSON thought that the meeting in Lewistown had accomplished much of what SEN. WINDY BOY was suggesting, saying that nine guiding principals were agreed upon, six constraints were identified, and fifteen issues of concern were listed. He thought that the FWP should be allowed to take the lead, with input from the STR. He suggested that tribal governments get together and decide how the tribes want to manage bison, formulate recommendations, and then bring those recommendations forward to the FWP and other stakeholders. He said the focus of the tribal governments should be on how it will organize its efforts and work with state and federal governments to manage the bison and that now is the perfect opportunity to do that.

08:18:22

REP. SCHWADERER said his follow-up notes include the TANF issues discussed by Ms. Bell and a MILP<sup>3</sup> update. He said he planned to do personal research on how creative tribes in other states have been in leveraging their status in economic development. Regarding the bison issue, REP. SCHWADERER said he would like to investigate how the issue of brucellosis affects the perceptions and actions of out-of-state cattle buyers, and how to overcome those, for the sake of Montana's cattle industry.

08:21:11 SEN. WINDY BOY said he would like to see the STR remain as an active participant in the bison issue. He said it is in the best interest of all stakeholders to ensure fair treatment of the tribes and that the STR could at least coordinate the effort for tribal governments. Mr. Barrs said he would discuss with SEN. WINDY BOY on how to proceed with that. SEN. WINDY BOY asked what the EQC is doing on the bison issue. SEN. PETERSON said that the EQC is waiting to see what the State and tribal governments are going to do. He thought the best opportunity for the STR would be to work with tribal governments on finding common ground on how to work with excess bison that are disease-free. He said there is a mounting interest in developing new vaccines and that it would behoove the tribes to put together a receiving plan of their own, rather than just taking a seat at the table. SEN. PETERSON said that clarity and purpose on the bison issue is needed, in order to avoid dealing with more bad bills.

08:27:50 Mr. Barrs asked SEN. WINDY BOY to identify best contacts in each tribe and said that they would be invited to the next STR meeting. SEN. PETERSON said, regarding tribal ability to use its sovereign status to leverage economic development, that he couldn't think of a better avenue with which to do that than the bison issue. He said that this is an opportunity for tribes to assess and prioritize their resources in order to help them tackle deal with issues like education and economic development.

Chairman King discussed his perspective on a number of the issues and subjects discussed at the meeting, including bison, the corrections system and the high percentage of Native prisoners, and alternative schools and the difficulty students can face in public schools. He said he has never seen a child fail but has seen the system fail a child. Chairman King said that the Native people know what is best for themselves and that he hopes the STR will continue to work government-to-government and people-to- people to find solutions.

**RECESS**

08:44:18 SEN. WINDY BOY thanked the Fort Belknap Community Council for its hospitality. SEN. WINDY BOY recessed the meeting at 6:10 p.m. The State-Tribal Relations Committee will meet at 9:00 a.m. at the Aaniiih Nakoda Tribal College Cultural Center.

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