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State-Tribal Relations Committee

61st Montana Legislature

SENATE MEMBERS

SHARON STEWART-PEREGOY--Vice Chair
JOHN BRUEGGEMAN
RICK LAIBLE
JONATHAN WINDY BOY

HOUSE MEMBERS

SCOTT REICHNER--Chair
FROSTY BOSS RIBS
KEN PETERSON
J. DAVID ROUNDSTONE

COMMITTEE STAFF

CASEY BARRS, Research Analyst
JEREMY GERSOVITZ, Staff Attorney
CLAUDIA (CJ) JOHNSON, Secretary

MINUTES

April 8, 2010
Rm 137

Capitol Bldg
Helena, MT

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

REP. SCOTT REICHNER, Chair
SEN. SHARON STEWART-PEREGOY, Vice Chair
SEN. RICK LAIBLE
SEN. JOHN BRUEGGEMAN - via Poly Com phone
REP. FROSTY BOSS RIBS - via Poly Com phone

COMMITTEE MEMBER EXCUSED

REP. J. DAVID ROUNDSTONE
SEN. JONATHAN WINDY BOY
REP. KEN PETERSON

STAFF PRESENT

CASEY BARRS, Research Analyst
JEREMY GERSOVITZ, Staff Attorney
CLAUDIA (CJ) JOHNSON, Secretary

Visitors/Agenda

Visitors' list, Attachment #1.
Agenda, Attachment #2.

COMMITTEE ACTION

None.

CALL TO ORDER AND ROLL CALL

00:01:35 Chair Reichner called the State-Tribal Relations Committee to order at 10:05 a.m. The committee members introduced themselves. Sen. Brueggeman and Rep. Frosty Boss Ribs were present by telephone. Attachment #3.

AGENDA

Update on Indian affairs

- **Ms. Jennifer Perez-Cole, State Director, Governor's Office of Indian Affairs**

00:05:30 Ms. Perez Cole gave an update of the Governor's Tribal Leaders meeting that took place on February 9, 2010. She talked about a StateTribal data base that will track approximately 700 current agreements, projects and contracts. She said there are other relationships between state agencies and the tribes that take place on and off the reservations. She talked about:

- the accomplishments that have taken place between state government and the Tribes.
- the State-Tribal report that was finalized in September 2009,
- the State-Tribal relations training that had taken place in Helena in December of 2009, and
- the infrastructure of the Energy Efficiency Reinvestment Program. **(Exhibit 1)**

Cultural and historical preservation

- **Mr. Casey Barrs, Research Analyst**

00:10:30 Mr. Barrs gave an update of the workgroup's two meetings. He distributed a handout showing new language for a grey bill that will replace Sen. Windy Boy's bill (SB 488) that failed during the 2009 Legislature. **(Exhibit 2)**

STR comments and questions

00:20:08 Sen. Stewart-Peregoy commented on the work that Sen. Windy Boy is doing on cultural preservation, and talked about a road on the Crow Agency that will have an impact on an archaeological site that has been discovered on the reservation.

00:26:20 Chair Reichner asked if the Montana Department of Transportation (MDT) has responded to the Crow Agency's request on the preservation of the archaeological site. Sen. Stewart-Peregoy said that MDT is working with the Tribe and the archaeologist to preserve the dig. Chair Reichner asked that an update be reported to the STR committee at the July meeting.

Responding to federal Indian health initiatives

- **Ms. Anna Whiting Sorrell, Director, Department of Public Health and Human Services (DPHHS)**
- **Ms. Lois Steinbeck, Fiscal Analyst, Legislative Fiscal Division**

- 00:31:50 Ms. Whiting Sorrell gave an update on the department's work of Indian health programs. She distributed three handouts that address Indian Health Care Reform and reported that it will take time before the effect of federal health care will be realized.
- Indian Health Care Improvement Act. **(Exhibit 3)**
 - Indian Health Care Improvement Reauthorization and Extension Act - HR 3590 - information from Director Reoubideaux, IHS/HQ. **(Exhibit 4)**
 - National Congress of American Indians (NCAI). **(Exhibit 5)**
- 00:36:32 Sen. Laible asked about access to medical care and the 133 percent of the federal poverty level wage increase that will affect the Tribes. Ms. Whiting Sorrell replied that the number of adults/families eligible for Medicaid will shift the delivery of services from IHS to the general delivery of health care in Montana and open up Medicaid to the Tribes. Sen. Laible stated that this will be a significant impact on the state budget. Ms. Whiting Sorrell said she doesn't know what the financial impact will be. She talked about a shift that will involve every citizen in Montana up to 133 percent of poverty so the state will have to make sure that access to health care will be available and then look at what the costs will be when that additional entitlement is incurred. Sen. Laible commented about the shortage of medical providers within the confines of IHS and the Tribal members going to non-tribal facilities.
- 00:42:45 Sen. Laible talked about health care at Fort Belknap and that 72% of Native Americans over the age of 65 are on disability, and he wanted to know why this number is higher for Native Americans. Ms. Whiting Sorrell responded that the social economic status of Indian people and the impact it has on health care is troubling e.g., violence, suicide rates, substance abuse and others all contribute to employment and job opportunities and translates into a lower health status.
- 00:46:42 Chair Reichner asked if there is a law that protects IHS, and wanted to know what the effect will be when the shift of the new health reform takes place. Ms. Whiting Sorrell noted that having preauthorization in the bill for IHS is protection in itself. She said that the new health care bill authorizes IHS to exist, but she doesn't know what the impact will be on funding. She said that the federal government is looking at a delivery system that will ensure that IHS will take care of its Tribal members.
- 00:50:58 Ms. Steinbeck talked about the Medicaid/Medicare package for IHS. She distributed a handout called "Trends in Indian Health". **(Exhibit 6)** She explained the collections of Medicare/Medicaid eligibility, and said that the new health care system will pay up to 100% of the federal poverty level and it will also free up more funds for IHS. Ms. Steinbeck explained reimbursement rates of Medicaid eligibility when it starts in 2014. She distributed a chart that shows the federal Medicaid reimbursement to IHS. **(Exhibit 7)** She said that in 2005 the

Legislative joint appropriations subcommittee on its own initiative funded an FTE for the DPHHS to assist the Tribes by maximizing Medicaid Pass Through Funding for all allowable costs. The position is currently vacant. She reiterated that this position was to assist the Tribes to navigate the Medicaid system. She informed the committee that Native Americans are exempt from the individual insurance mandate that takes effect in January 2014. She said if a Native American is 300% below poverty level and they purchase insurance through the exchange they will be exempt from cost shares and co-payments. She talked about an article in relation to the Indian Health Care Improvement Act, which directs the Secretary of the Department of Health and Human Services to determine the feasibility of treating the Navajo Nation as its own state for purposes of Title XIX (Medicaid). She explained if this happens they will be able to "draw down" more administrative matching funds or more indirect costs. She will be tracking this issue and will keep the committee informed. Ms. Steinbeck said one of the complexities of the new health care that will be a factor is the computer and IT infrastructure that will be needed. But, she didn't know how it will affect Tribal government. She talked about the health care insurance exchanges that will take place and compared them to "shopping for airfares, i.e., Travelocity, Expedia, etc." , which will allow people to compare insurance packages. The insurance exchange will also have to determine if a person is eligible for a tax subsidy, Medicaid, etc. She said that the health care system will have to find a way to verify income through the federal system such as unemployment insurance benefits (UI), employment or tax data.

STR comments and questions

01:05:45 Sen. Laible asked about the chart in Exhibit 6, page 23, and wanted to know if the Medicare/Medicaid collections are state funds. Ms. Steinbeck responded that it is both state and federal monies.

American Recovery and Reinvestment Act (ARRA) on reservations

- **Mr. Matthew Stayner, Fiscal Analyst, Legislative Fiscal Division**

01:07:24 Mr. Stayner gave an update of ARRA funded projects of the Tribal Development Programs. His handout shows the projects that the Tribes have made application for relative to the development of businesses, training, and various building renovations. **(Exhibit 8)** He also talked about awards that have been granted under the Indian Equity Fund. Mr. Stayner reported that 52 applications were received for 17 available grants.

STR comments and questions

01:17:15 Sen. Stewart-Peregoy commented about the Native American Development Corporation's proposal that came about as a result of a rejection by Bresnan Communications that had been submitted earlier in the year. She said that the Tribes in an effort to not lose out on the infrastructure for telecommunications on the reservations had formed a consortium to work with the Native American Development Corporation and VisionNet - a parent company that has telephone cooperatives in Montana, and who will also provide the needed telecommunication infrastructure for the Tribes. The committee discussed the proposal that was rejected by Bresnan Communications. Mr. Stayner discussed

that application with the committee and shared information as to why he felt the proposal was rejected. Chair Reichner talked about Century Link, a telecommunications company like Bresnan, who has complained that they are currently providing the services at their own costs. Mr. Stayner talked about the stakeholders and discussed the territorial market share and how the process for telecommunications function.

Update: Fort Belknap / Blaine County road maintenance & tax issue

- **Mr. Andrew Huff, GAIN attorney, Office of Budget and Program Planning**

01:22:23 Mr. Huff gave an update of the road taxes and maintenance of certain roads by Blaine County and Fort Belknap. He said there was a conference call between himself, Montana Association of Counties (MACo), and Blaine County in February. The Tribal attorney had other obligations and was not able to attend. Mr. Huff talked about a proposed agreement which is currently being discussed between the Tribal attorney and the Blaine County Attorney. He said at this time there is no solution, but there is ongoing discussion.

01:24:49 Chair Reichner asked about the road/maintenance liability issue. Mr. Huff said that the Blaine County Attorney and the Tribal attorney are talking about it, e.g., if the Tribe maintains the road, will Blaine County reimburse them.

Public Comment

01:28:52 None.

STR comments and questions

01:29:31 Sen. Laible asked Ms. Steinbeck to talk about the impact of the new health care plan to the Tribes, and the costs to the state. Ms. Steinbeck responded that the cost isn't known at this time, but the impact will be felt more in the next biennium. Sen. Laible asked about additional costs of computer hardware and software for the new health care bill, and he wanted to know if these additional costs will help or hinder the state. Ms. Steinbeck said that some of the new health care bill will take effect immediately i.e., children will be able to stay on their parent's insurance until 26 years of age, and children with pre-existing conditions cannot be denied insurance.

01:44:30 Sen. Stewart Peregoy commented on Director Whiting Sorrell's handout from Ms. Roubideaux, Director of IHS (Exhibit 4) regarding third party billing and eligibility expansion in the new health care bill and what it will provide to Indians. She said it will provide a better quality of life, and that IHS is going on 10 years of only 50% to 58% funding for Indian health services.

Tribes and taxes

- **Ms. Tara Veazy, Executive Director, Montana Budget & Policy Center (MBPC)**

01:48:51 Ms. Veazy explained what MBPC is and what they do. She distributed and discussed several handouts and explained each one:

- a PowerPoint about MBPC. **(Exhibit 9)**
- federal stimulus funding available to Montana Tribes. **(Exhibit 10)**
- a guide to the Montana budget. **(Exhibit 11)**
- a report on State-Tribal budget and Tax Research, and the 2011 Biennium budget executive summary. **(Exhibit 12)**

01:56:16 Ms. Veazy asked the committee if they would like a research analysis to determine the fiscal relationship between the state and the Tribes. Sen. Stewart Peregoy responded that because of term limits it would be phenomenal to have this kind of information. She said the report will help the Tribes in Montana.

Indian student participation in pre-workforce degree programs

- **Tylor Trevor, Associate Commissioner of the Deputy Commissioner for Two-Year Education, Office of the Commissioner of Higher Education (OCHE)**

02:04:20 Mr. Trevor discussed a spreadsheet that is included in the committee's packet. **(Exhibit 13)** It is a chart showing a variety of degrees taken by Indians who are attending or have graduated from college in workforce oriented programs.

02:08:32 The committee discussed higher education programs for Indians and asked questions of Mr. Trevor regarding Native American education and if everything is being done to provide services and information for Indians to attend college. Mr. Trevor responded that MUS questions that same thing for Montana and the rest of the nation. He said in comparison to other educated nations that the percentage of students with an associate degree or higher in the United States has fallen from #1 to #10 in the world. He said until they change people's perception of the higher education system and ensuring the system is affordable and relates to current demands in the workforce that remains a problem. He said other than that Montana is doing a good job. He said there are 15 two-year educational institutions in Montana that includes the Tribal colleges and those in the MUS system.

02:12:50 Sen. Laible and the committee asked further questions of Mr. Trevor regarding shared leadership and incorporating shared policy goals of K-12. Mr. Trevor said that OCHE is working with OPI and the K-12 communities through available data such as connecting course work that students do in high school to their success in college.

02:17:37 Sen. Stewart Peregoy referenced Mr. Trevor's handout (Exhibit 13), and asked for a report on retention and dropout rates at the next meeting.

02:18:40 Sen. Laible asked Mr. Trevor if MUS works with the Department of Corrections for life training job skills for the inmates. Mr. Trevor said that the MUS campuses are involved, especially MSU Billings, that started an educational program involving the Women's Prison and Passages- a halfway house, and has assisted more than 40 women.

02:20:10 Chair Reichner asked why there are deteriorating numbers of Indians in the

higher education column listed in (Exhibit 13) from 1998 to 2009. Mr. Trevor said that it is probably attributed to the declining enrollments in the Tribal colleges. He said between 2004 and 2008 the enrollment had gone down approximately 10%. Mr. Trevor reported that the figures for enrollment in the MUS system are up for 2008, but he didn't have the data yet from the 2009 enrollments and thought that the Tribal colleges were also up, but he said that is federal data.

02:22:58 Kristina Davis, Director of the Montana Children's Defense Fund, said she attended this committee meeting to hear about women and children's health care issues, the Native American communities, and education changes. She advocates for pregnant women, children, and family issues. Ms. Davis encouraged the committee to stay in contact with Sen. Baucus' staff and keep informed.

Adjournment

02:25:12 There being no further discussion, Chair Reichner adjourned the committee at 12:35 p.m.

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