

A Government-to-
Government

Relationship

*Final Report of the
State-Tribal Relations Committee*



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Chapter One

Origin and Responsibilities of the Committee

The State-Tribal Relations Committee (Committee) was created in 1977 as the Committee on Indian Legal Jurisdiction. The purpose for creating the Indian Legal Jurisdiction Committee was to meet with various Indian tribes in Montana to identify common bonds between Indians and non-Indians and to propose legislation for the mutual benefit of both groups. The Indian Legal Jurisdiction Committee's major recommendation to the 1979 Legislature was the creation of a select committee on Indian affairs. The Indian Legal Jurisdiction Committee further recommended that the 1981 Legislature create a permanent Indian affairs committee if the select committee proved valuable in improving Indian/non-Indian relations.

The 1979 Legislature accepted the recommendation and created the Select Committee on Indian Affairs. However, although subsequent Legislatures recognized the importance of the Indian Affairs Committee in acting as a liaison between Indian people and the Legislature by reauthorizing the committee every legislative session, there was a reluctance to create a permanent Indian affairs committee. Finally, in 1989, the Committee on Indian Affairs was established as a permanent, statutory committee.

The purpose for creating the Committee was to meet with various Indian tribes in Montana to identify common bonds between Indians and non-Indians and to propose legislation for the mutual benefit of both groups.



In 1999, the Legislature passed Senate Bill No. 11 (SB 11) that reorganized the interim committee structure by consolidating committees and establishing permanent interim committees with membership drawn from specific session standing

committees. SB 11 eliminated the Committee on Indian Affairs and folded its responsibilities into the newly created Law, Justice, and Indian Affairs Committee (LJIAC). The LJIAC was selected to serve as the forum for state-tribal relations because many of the issues affecting state-tribal relations would most likely be addressed by the House and Senate Judiciary Committees. The membership of the LJIAC was drawn from these committees. At the same time, the Coordinator of Indian Affairs was circulating a proposal to create a Commission on Indian Affairs that would be attached to the Executive Branch. This proposal eventually became a study resolution assigned to the LJIAC. It seemed appropriate, then, for the LJIAC to assume state-tribal liaison responsibilities in light of the possibility that a commission would be created.

At the end of the 1999-2000 interim, after months of study, the LJIAC recommended that because of a lack of general support for the idea, the proposal for a Commission on Indian Affairs be tabled. In its place, the LJIAC recommended to the Legislative Council and the 57th Legislature that a separate State-Tribal Relations Committee be created that would assume the LJIAC's state-tribal liaison responsibilities.

During the 2001 legislative session, the Montana Legislature passed Senate Bill No. 10 that made significant changes to the legislative interim committee structure. One of the changes was the creation of a State-Tribal Relations Committee with the following responsibilities:

- ▶ to act as a liaison with tribal governments;
- ▶ to encourage state-tribal and local government-tribal cooperation; and
- ▶ to conduct interim studies as assigned.

Committee Membership

The Committee is composed of eight members: four senators and four representatives appointed on a bipartisan basis. The Committee is appointed by the

end of each legislative session and serves until the next Committee is appointed.
The 2003-2004 members were:

Senator John Bohlinger
Senator Ed Butcher
Senator Ken Hansen
Senator Carolyn Squires

Representative Carol Juneau
Representative Bruce Malcom
Representative Rick Ripley
Representative Jonathan Windy Boy

Committee Administration

At the first meeting, on August 27, 2003, Senator John Bohlinger was elected Presiding Officer and Representative Carol Juneau was elected Vice Presiding Officer. The Committee was staffed by Connie Erickson, research analyst; Eddy McClure, attorney; and Dawn Field, secretary.

Committee Activities

The Committee met seven times between July 2003 and September 2004. Four of the meetings were devoted to the Committee's responsibility to encourage state-tribal cooperation. In furtherance of its responsibility to act as a liaison with Indian tribes, the Committee traveled to two Indian reservations during the interim: the Fort Belknap Reservation in September of 2003 and the Northern Cheyenne Reservation in June of 2004. The seventh meeting was devoted to formulating Committee recommendations.

The Committee was directed by the Legislative Council to conduct the study requested in House Joint Resolution No. 8 (HJR 8). The Committee held three public hearings in conjunction with the study at Fort Belknap in September of 2003, in Missoula in April of 2004, and in Lame Deer in June of 2004. For a more detailed discussion about HJR 8, please read Chapter Four of this report.

Committee Recommendations

On September 8, 2004, the Committee held its final meeting of the 2003-2004 interim and formulated its final recommendations. The Committee voted to sponsor legislation that:

- ▶ increases the per-student funding for nonbeneficiary students attending tribal colleges from \$1,500 per student to \$3,024 per student. The funding may be used only for courses that are transferrable into a unit of the Montana University System or a Montana community college.
- ▶ establishes a dropout prevention program within the Office of Public Instruction (OPI). The program will provide information, resources, and technical assistance to school districts that request OPI's help in developing local programs to keep students in school until they receive a high school diploma or its equivalent. The program is to be integrated with the Indian Education for All Initiative.
- ▶ extends the life of the State-Tribal Economic Development Commission to June 30, 2007. The commission is scheduled to sunset on June 30, 2005. The bill draft also appropriates \$200,000 for the operation of the Commission.

In addition to sponsoring legislation, the Committee asked that letters be written to:

- ▶ the Department of Labor encouraging the Department to continue publishing and distributing tribal labor market information from the tribes and from the Bureau of Indian Affairs, especially tribal unemployment statistics; and
- ▶ the Rules Committees in the Senate and in the House of Representatives requesting a provision in the Rules that will allow tribal chairmen to sit on the floor of the House and Senate when attending a legislative session. Under current policies, tribal chairmen must sit in the galleries with other visitors. The Committee felt this was a good way to acknowledge the government-to-government relationship that exists between the state of Montana and the tribal nations.

Copies of the committee-sponsored legislation can be found in Appendix A of this report.

Chapter Two

Liaison With Tribal Governments

One of the most important responsibilities of the Committee is to act as a liaison between the state and the eight tribal governments of Montana. This responsibility has been part and parcel of the work of the Committee since its inception in the 1970s. In order to fulfill this responsibility, the Committee visits two Indian reservations each interim. This past interim, the Committee was privileged to visit the Fort Belknap Reservation and the Northern Cheyenne Reservation.

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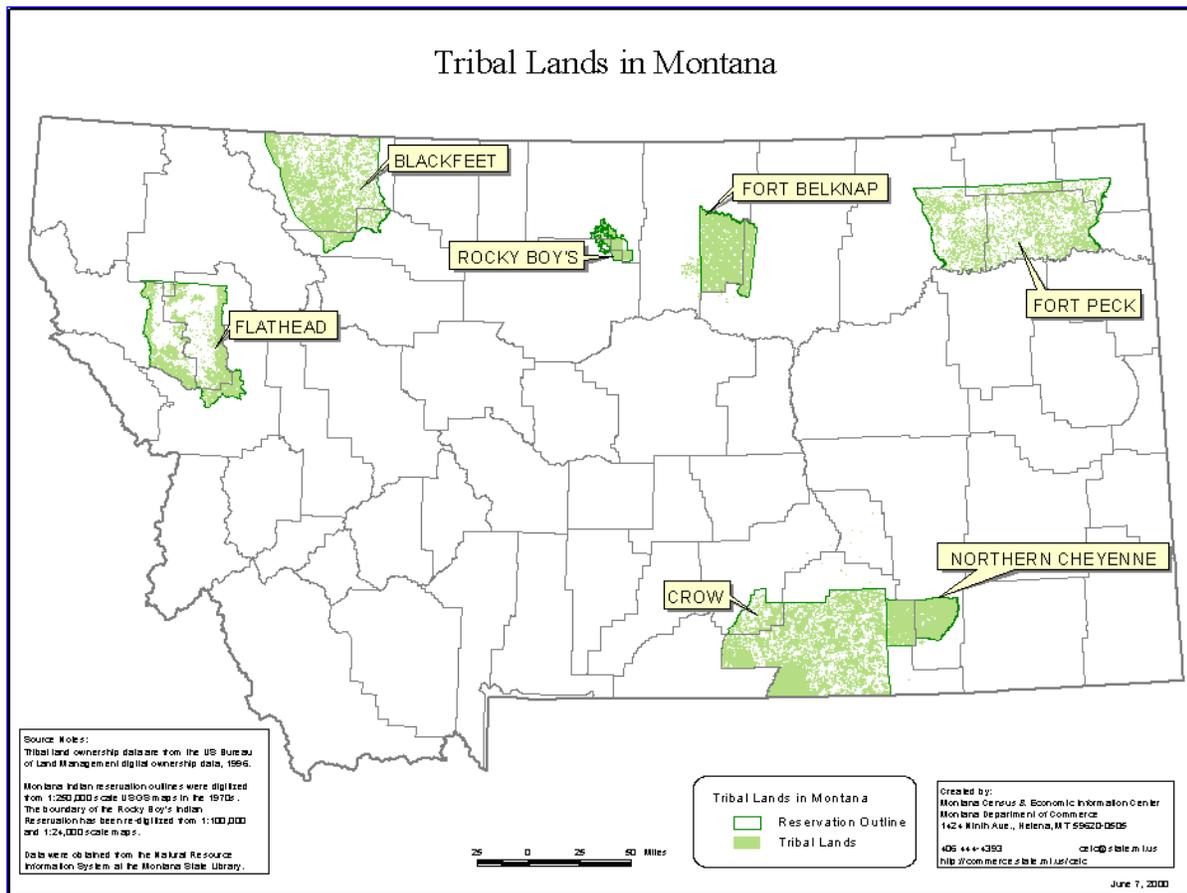
Fort Belknap Indian Reservation



Background

The Fort Belknap Indian Reservation is located in north-central Montana, between the Milk River and the Little Rocky Mountains, in Phillips and Blaine Counties. (See Figure 1.) Created in 1888 out of the Blackfeet Hunting Territory, the Reservation is home to the Gros Ventre and Assiniboine Tribes. The Reservation is rectangular in shape and is approximately 28 miles wide and 35 miles long, encompassing over 675,000 acres. Over 90% of the Reservation land is held in trust for the tribes or for individual Indians. The northern portion of the Reservation is in the Milk River Basin, which supports an estimated 16,000 acres of irrigable land. The southern portion is flanked by the Little Rocky Mountains. In between is prairie land used mostly for cattle grazing and dry land farming.

Figure 1. Location of Montana Tribal Lands



The Gros Ventre call themselves the White Clay People, while the Assiniboine refer to themselves as the Nakota or the "generous ones". There are approximately 5,400 enrolled tribal members, about 5,000 of which live on or near the Reservation. The Fort Belknap Indian Community was organized in 1935 under the Indian Reorganization Act of 1934. The tribal governing body is the Fort Belknap Community Council, consisting of four representatives of the Gros Ventre Tribe and four representatives of the Assiniboine Tribe elected for 2-year terms. The president and the vice president run as a team and are elected for a 4-year term. One member of the team must be a Gros Ventre and the other must be an Assiniboine. A secretary-treasurer is appointed by the president and vice president and serves for 4 years. Council offices are located at the Fort Belknap Agency 1 mile east of Harlem just off U.S. Highway 2. A tribal office is also maintained at Hays in the southern end

of the Reservation. Darrell Martin is the current president, and Julia Doney is the current vice president. Members of the Community Council are Doreen Bell, Craig Chandler, Raymond Chandler, Selena Ditmar, Velva Doore, Tracy King, Ken Lewis, and Harold Main. (At the time of the Committee's visit, the president was Benjamin Speakthunder.) The secretary-treasurer is Julie King-Kulbeck.

The main industry on the Reservation is agriculture, consisting of small cattle ranches, raising alfalfa hay for feed, and dry land farms. The Tribes operate a convenience store and gas station on U. S. Highway 2 and recently opened a meat-packing plant in Malta. The Tribes are also pursuing the development of an ethanol plant. The major employers on the Reservation are the Bureau of Indian Affairs and the Fort Belknap Tribes. The Fort Belknap Reservation suffers one of the highest unemployment rates among Montana's seven reservations. Unemployment fluctuates between 40% and 75%, depending on the season of the year.

Gros Ventre and Assiniboine students attend public schools in Harlem, Hays-Lodge Pole, and Dodson. There is also a Catholic elementary school in Hays. The Tribal Education Department administers two federal programs, Upward Bound and Talent Search, with the purpose of helping youth from disadvantaged backgrounds complete their high school education and go on to college. The Department also provides financial assistance to Gros Ventre and Assiniboine students pursuing an associate or a bachelor's degree or a vocational-technical certificate. A Head Start Program has been in operation on the Reservation since 1965 with centers at Fort Belknap, Hays, and Lodge Pole.

Fort Belknap College first opened in 1980 as a Resident Center of the College (now University) of Great Falls. From 1982 to 1984, it was a satellite campus of Chief Dull Knife College on the Northern Cheyenne Reservation; in 1984 it became a branch of Salish Kootenai College in Pablo. Under the tutelage of Salish Kootenai College, Fort Belknap College became a fully accredited institution in 1987. The college is a 2-year institution offering associate degrees in business, education, human services, liberal arts, microcomputer operations, Native American studies, natural resources, and

allied health. A certificate in computer applications is also offered. Over 200 students are currently enrolled, many of whom will eventually transfer to 4-year institutions.



*Fort Belknap College Multi-Purpose Building
Photo Courtesy of Fort Belknap Tribe - Harold Heppner Photo*

The college is also helping to retain the cultural identity of both the Gros Ventre and Assiniboine by teaching the traditional languages. A cultural center is being built that will house tribal archives as well as a museum. In 1996, the College was granted a license to operate a radio station, and KGVA "The Voice of the Nakoda and the White Clay Nations" was born. The station serves the educational, informational, and cultural needs of Indians and non-Indians both on the Reservation and in the neighboring communities. In addition to local programming, KGVA also brings National Public Radio to north-central Montana.

Health care is primarily provided by the Indian Health Service, which operates a hospital at Fort Belknap and a clinic at Hays. Built in 1998, the hospital is a critical access hospital with six beds, two emergency room bays, and two observation beds. Other services offered at the hospital include mammography, physical therapy, dentistry, dental hygiene, and x-ray. The hospital usually has between five and six permanent health care providers, including medical doctors, physician assistants, dentists, dental hygienists, and physical therapists. These providers rotate through the hospital from other IHS facilities. Veterans are transported to the Veterans' Administration Hospital in Helena, and dialysis patients are treated in Havre. The hospital also offers a smoking cessation program and a diabetes treatment program

that includes extensive screening and community awareness activities. The Tribal Health Department offers such services as chemical dependency treatment, family planning, and health education and provides community health representatives who go into the community to help the elderly and the disabled with their health needs.

One of the major issues facing the Fort Belknap Reservation for the last two decades is the reclamation of the Zortman and Landusky mines in the Little Rocky Mountains. The location of these mines was originally part of the Reservation, but when gold was discovered in 1895, the Tribes were forced to cede that portion of the Reservation to the federal government.¹ Among the largest open-pit cyanide heap-leach gold mining sites in the world, these mines leached cyanide into the



Landusky Water Treatment Plant, 2004. U.S. Bureau of Land Management Photo.

¹Charles J. Kappler, ed., *Acts of Fifty-fourth Congress-First Session, 1896*," Vol. I, Laws, "Agreement with Fort Belknap Indians" 29 Stat., 350 (Washington, D.C.: Government Printing Office, 1904).

water supplies of the surrounding communities for 20 years. Although the mines are no longer in operation, tribal water resources continue to be threatened by acid mine drainage that occurs when sulfide rocks uncovered by the mining process produce sulfuric acid after exposure to rain and snow. The mine sites contain vast quantities of sulfide rock. Reclamation of the mine sites is being performed by the Montana Department of Environmental Quality. The Fort Belknap Indian community believes that the reclamation efforts are insufficient and underfunded and that the water discharge from the mine sites will require treatment far into the future if not in perpetuity. During the 2003 legislative session, Representative Jonathan Windy Boy introduced House Bill No. 367 that would have authorized the sale of hard-rock mining reclamation bonds to finance long-term water treatment at the mine sites. The bill failed passage, but a study resolution was adopted (House Joint Resolution No. 43) that requested a study of the surface water and ground water impacts of the abandoned mine sites in the Milk and Missouri River watersheds and the effectiveness of the state reclamation efforts at protecting the watersheds.²

Meeting with Community Council

On September 29 and 30, 2003, the Committee and its staff visited the Fort Belknap Indian Reservation at the invitation of the Fort Belknap Community Council. The visit began on Monday morning, September 29, with a joint meeting of the Committee and the Council in the Council Chambers. Senator Bohlinger expressed the Committee's appreciation for the opportunity to visit the Fort Belknap Reservation. He then presented President Speakthunder with a Montana State Flag and a CD-ROM containing the Montana Code Annotated. President Speakthunder asked Representative Juneau to offer an opening prayer. He then welcomed the Committee to Fort Belknap and thanked it for the gifts.

²A staff paper on House Joint Resolution No. 43 was presented to the Environmental Quality Council in October 2004. A copy of the report entitled *Zortman and Landusky Mines: Water Quality Impacts* is available at www.leg.mt.gov/css/lepo/2003_2004 or by contacting the Legislative Environmental Policy Office.

There is a tremendous need for economic development on the Reservation to combat the poverty that many tribal members experience.



President Speakthunder spoke about a number of issues that the Community Council wanted to discuss with the Committee. There is a tremendous need for economic development on the Reservation to combat the poverty that many tribal members experience. The Reservation unemployment rate is typically between 65% and 70%. President Speakthunder would like to see BIA unemployment statistics reflected in Montana Department of Labor reports. President Speakthunder stressed the importance of a quality education and expressed concern over the high dropout rate of Indian students. The Community Council supports the

Committee's efforts in studying the dropout issue under HJR 8. He also stressed the importance of Fort Belknap College in improving the lives of tribal members. Students who attend the College learn vocational skills or go on to 4-year institutions. He reminded the Committee that the College also serves many non-Indian students from the surrounding communities. He expressed concern with the slow and frustrating process of negotiating a gaming compact with the State of Montana. Gaming is not the only answer, but it will provide some needed economic activity on the Reservation. Detention facilities along the Hi-Line are inadequate and unsafe, and there is a need for a regional detention facility in the area, preferably at Fort Belknap. There is also a need for increased funding for road construction and maintenance. Good roads are vital to agriculture and tourism. President Speakthunder closed his presentation by thanking the Committee for its willingness to listen and learn about the many problems facing the Fort Belknap Reservation.

Dean Stiffarm, Environmental Protection Program, presented the Committee with a packet of information on the Zortman and Landusky mines. The information covered the history of mining in the area, the loss of the land through the Grinnell Treaty, the cyanide heap-leach extraction method, water quality issues, ongoing litigation, and funding for continued water treatment. Mr. Stiffarm stated that the severe acidity of the water will require water treatment in perpetuity. However, there is currently only

enough funding for water treatment until the year 2028. The Fort Belknap Tribes are extremely concerned about this. The Tribes estimate that it will take \$46.7 million to continue protecting tribal resources, especially water. Mr. Stiffarm was especially pleased that the Committee would be touring the mine sites during its visit to Fort Belknap as the tour would illustrate the many concerns that the Tribes have about the reclamation efforts.

Carla King, Human Services Program, provided information to the Committee on the Fort Belknap Employment and Training Program, a federally funded program that provides tribal members with job training opportunities. Unfortunately, the lack of jobs on the Reservation makes job placement problematic upon completion of the program. Ms. King also administers the Temporary Aid to Needy Families (TANF) Program. Fort Belknap contracts directly with the federal government for the operation of TANF on the Reservation. The caseload in September 2003 was 165; the average caseload is 185. The program has served as many 210 cases. The caseload is made up of single-parent families, two-parent families, and dependent children without parents and residing with relatives. State budget cuts in TANF have resulted in increased caseloads on the Reservation. Job opportunities on the Reservation are few, and Ms. King said TANF participants are encouraged to relocate to locations where jobs are available and are given support and assistance. Unfortunately, there is still a lot of prejudice and discrimination off the Reservation that makes it difficult for families to adjust. Also, it is difficult for tribal members to live away from their families because of the strong familial bonds in the Indian culture.

Ramona Horn, Tribal Education Specialist, spoke to the Committee about three programs: Higher Education/Adult Vocational Training Programs, Talent Search, and Upward Bound. Through these programs, students are provided with assistance in choosing and preparing for a career, preparing for college, filling out applications, seeking financial resources, etc.

Clarena Brockie, Dean of Student Affairs, distributed information on Fort Belknap College. She said that the College is growing both in the number of students and

facilities. There were 200 students enrolled in September 2003, up from 185 in 2002. About 30 students graduate each year and many would like to go on to a 4-year institution but lack the financial resources to do so. Ms. Brockie had three issues she wanted to discuss with the Committee. The first was funding for GED instruction. The College offers this instruction to any student, tribal member or not, preparing to take the GED examination. The College currently supports the program with money from its general fund, which takes away from the College's academic programs. Ms. Brockie would like to see some state funding for this instructional program. The second issue was state funding for nonbeneficiary students. Fort Belknap College has an "open door" admissions policy and accepts non-Indian students but does not receive any federal funding for these students. This has placed a growing financial burden on the College. The College does not want to turn away these students because many of them cannot afford to go elsewhere. They pay tuition, but tuition does not cover all of the costs. State funding for nonbeneficiary students is critical to the stability and future of all tribal colleges. The third issue pertained to the Board of Regents. The College would like to see a tribal college representative on the Board. Ms. Brockie said this would improve cooperation and communication between the two systems.

Julia Doney, Head Start Director, provided Committee members with a packet of information on the Head Start Program on the Reservation. There are eight Head Start classes on the Fort Belknap Reservation: five at Fort Belknap, two at Hays, and one at Lodge Pole. There is also a home-based program. Head Start serves about 160 preschool children and employs about 50 people. St. Vincent's Healthcare in Billings provides funding for nine foster grandparents for the program. A new facility is being built for the program at Fort Belknap and should be ready by November 2003.

The Committee agreed to review and investigate each of the issues presented by the Fort Belknap Tribes and to make a written report to the Tribes on the Committee's findings. The Committee's response may be found in Appendix B of this report.

Public Comment

Following the meeting with the Community Council, members of the public were invited to address the Committee.

Dolores Plumage, Blaine County Commissioner, welcomed the Committee to Blaine County and invited the members to visit the Courthouse and the other Commissioners in Chinook. She is the first Indian Commissioner in Blaine County. The County recently was ordered by the U.S. Department of Justice to elect Commissioners from districts within the county because the previous method of electing Commissioners countywide was determined to be discriminatory in that it made it very difficult for an Indian to be elected to the Commission. Ms. Plumage said that she has experienced some prejudice from other county officials at meetings she has attended. To combat this, the Montana Association of Counties will offer a cultural sensitivity session at its upcoming winter meeting. Ms. Plumage then went on to discuss a number of issues, including:

- ▶ securing homeland security funds for the Reservation;
- ▶ appointing more Indians to county boards and commissions;
- ▶ working with Fort Belknap College on West Nile Virus research;
- ▶ working with the Community Council to provide enhanced 9-1-1 services on the Reservation;
- ▶ supporting the proposed U.S. Highway 2 improvements; and
- ▶ finding ways to solve the water and sanitation problems on the Reservation.

Reuben Horseman, private citizen, said that while small, non-Indian communities are losing their young people, Indian communities are not. There are untapped personnel resources on reservations. Mr. Horseman runs a private bus company that contracts its services. During fire season, he has contracts with the Forest Service. He

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would like the Committee to urge the federal government to hire Montanans first to fight forest fires on federal land in Montana before bringing in out-of-state firefighters.

John Allen, Community Council member, voiced concerns about the poor 9-1-1 and telephone service on the Reservation, the lack of progress on the gaming compact negotiations with the state, and the unsafe driving conditions on Montana Highway 66 that runs north and south through the Reservation. Mr. Allen expressed his concern about state government using Indian population figures to secure federal funding for programs, while Indians are unable to use the services provided through those programs. He also spoke of the positive economic impact that the Reservation has on surrounding non-Indian communities.

Raymond Chandler, Community Council member, stated that he would like to see more Indians appointed to state boards and commissions. He specifically mentioned the Fish, Wildlife, and Parks Commission and the Human Resource Development Councils.

Tour of the Reservation

Following lunch, the Committee toured the Head Start Program at Fort Belknap, then visited the Harlem Public Schools. Nancy Stiffarm, Title VII Director, led the tour of Harlem Junior and Senior High School. She provided the Committee with information about the school's Advisement Program. This is a program designed to bridge the gap between the community and the school and to increase communication between students, parents, and teachers. Through this program, the Harlem Public Schools hope to improve relations with Indian parents so that they feel a part of the school community and to reduce the dropout rate among Indian students.

Following the tour of the Harlem Public Schools, the Committee visited the new Indian Health Service (IHS) Hospital at Fort Belknap. Darryl Brockie, Director of the IHS Service Unit at Fort Belknap led the tour. The major health issues on the Reservation are cardiac problems, diabetes, accidents and injuries among the elderly, and orthopedic injuries. The hospital is attempting to contract for the services

of a cardiologist and an orthopedic surgeon to visit the Reservation on a regular basis. One of the major problems that the hospital has is the lack of a backup water supply system. The water supply system on the Reservation is old and unreliable and shuts down fairly frequently. Whenever that happens, patients have to be transported to Havre. The old hospital had a backup system, but the IHS did not authorize one when the new hospital was built. Ms. Brockie said that the hospital would like to offer on-reservation dialysis services, but the IHS is reluctant to fund such services, and the water problems on the Fort Belknap Reservation preclude the operation of a dialysis center.

On Tuesday, September 30, the Committee traveled to the southern end of the Fort Belknap Reservation. The Committee visited the St. Paul's Mission Grade School, the Eagle Child Health Center, the Hays-Lodge Pole Public Schools, and the Lodge Pole Senior Center. The visit to the Fort Belknap Reservation ended with a tour of the Landusky Mine site led by Wayne Jepson of the Montana Department of Environmental Quality.

Northern Cheyenne Indian Reservation

Background

The Northern Cheyenne Indian Reservation is located in southeastern Montana, between the Crow Reservation and the Tongue River, within Rosebud and Big Horn Counties. (See Figure 1.) The Reservation contains 445,000 acres, making it one of the smallest reservations in Montana. The terrain varies from low, grass-covered hills to high, steep outcroppings and narrow valleys covered with ponderosa pine. In recent years, the Northern Cheyenne Tribe has successfully pursued a program to consolidate allotted holdings, purchase non-Indian holdings, and transfer non-Indian-held leases to tribal members. As a result, the Tribe controls approximately 97% of the land on the Reservation.

The Northern Cheyenne Reservation was established by a presidential executive order in November 1884. The original boundaries encompassed about 271,000

acres. In 1900, President William McKinley moved the eastern boundary of the Reservation to the Tongue River, expanding the Reservation to its current size.

The Northern Cheyenne Indians call themselves the "Morning Star People" in honor of Chief Dull Knife, who was also known as Morning Star. There are approximately 7,400 enrolled tribal members of which 4,200 live on the Reservation. The Tribe was organized in 1936 under the Indian Reorganization Act. The governing body is a tribal council headed by a president and a vice president who are elected at-large for a 4-year term. The Tribal Council is composed of 10 members elected from the five districts on the Reservation, in accordance with the percentage of the tribal membership in each district, for 4-year staggered terms. A sergeant-at-arms is elected by the Tribal Council from within its own ranks. A secretary and a treasurer are appointed by the Tribal Council from outside its membership. At the time of the Committee's visit, the president was Geri Small and the vice president was Johnny Joe Woodenlegs. Tribal Council members were Robert Bailey, Joe Fox, Jr., Francis Harris, Eugene Littlecoyote, Hilda Moss, Florence Running Wolf, George Standing Elk, Joe Walksalong, Sr., William Walksalong, and Rick Wolfname. Tribal treasurer was Floyd Bearing, Jr., and tribal secretary was Serena Brady.

The Northern Cheyenne Reservation is rich in natural resources, especially coal and timber. The Reservation is home to one of the largest coal reserves in Indian Country. In 1976, a U.S. Supreme Court decision gave control of all the minerals underlying the Reservation to the Northern Cheyenne Tribe. The presence of coal bed methane both on and adjacent to the Reservation has caused considerable controversy in recent times. The Tribe has yet to develop its coal reserves and will probably not do so until it can ensure that tribal rights are protected and other social and environmental concerns are addressed. Timber, mainly ponderosa pine, covers about 147,000 acres on the reservation, most of which has commercial value. At this time, however, there are no logging operations on the Reservation. The Northern Cheyenne look at the long-term perspective with regard to economic development,

and resource development is subject to a boom-and-bust cycle. The Tribe wants long-term, sustainable development.

The major employers on the Reservation are the federal government, tribal government, St. Labre Indian School, Western Energy Company, PP&L Montana, and public schools. During the fire season, the BIA Forestry Division employs many tribal members. Unemployment varies from 60% to 75%.

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As with all Indian tribes in Montana, education is very important to the Northern Cheyenne Tribe. The Reservation is served by both private and public schools. St. Labre Indian School is a private, Catholic institution located in Ashland. The Northern Cheyenne Tribal School at Busby is operated by the Tribe under a contract with the BIA. There are four public school districts that serve Northern Cheyenne children: Lame Deer, Ashland, Colstrip, and Hardin. Until 1994, there was no public high school on the Northern Cheyenne Reservation. High school students were bussed off the Reservation to schools in neighboring communities. After much persistence and determination on the part of the Northern Cheyenne people and much opposition from the affected public school districts, Lame Deer High School opened in the fall of 1994.



Chief Dull Knife College is a 2-year community college that opened in 1975. Its original purpose was to train students for jobs in the developing mining enterprises in communities near the Reservation. Eventually, tribal leaders recognized the need to provide additional vocational programs as well as an academic program. The college consequently grew from a limited vocational training program to a broader vocational and postsecondary educational institution. Chief Dull Knife now offers an associate



Chief Dull Knife College - Travel Montana Photo

educational opportunities to the Reservation as well as to surrounding communities.

of arts degree in general studies and associate of applied science degrees in alcohol and drug studies, in office management, and in business. In addition, vocational certificates are offered in office skills and entrepreneurship. Chief Dull Knife is an open-admission, community-based institution that offers quality

In May of 1996, a fire completely destroyed the Indian Health Service (IHS) clinic in Lame Deer. This proved a devastating blow to the Northern Cheyenne people who relied on the clinic for their basic health care needs. The IHS decided to rebuild a larger clinic with more extensive facilities than the old one. The new clinic opened in 1999 and is strictly an outpatient facility. Tribal members who require inpatient treatment are sent to the IHS hospital at Crow Agency. The Northern Cheyenne clinic offers medical, dental, optometry, mental health, and emergency room services. There is also a laboratory, a pharmacy, and a radiology department. The clinic boasts having the only American Indian female dentist in the United States, who just happens to be Northern Cheyenne. There is also a dentist who specializes in the care of children. The emergency room is open 24 hours a day, 7 days a week. The Montana Department of Transportation has agreed to post signs on the highways leading into Lame Deer announcing the availability of the emergency room services.

A lack of housing on the Reservation has been a major problem for the Northern Cheyenne Tribe. In recent years, the Tribe has received numerous block grants from the U.S. Department of Housing and Urban Development that have enabled the tribal housing authority to build over 800 homes on the Reservation. The Tribe also operates a 35-unit senior citizens' apartment complex that serves the elderly and the disabled.

Tour of the Reservation

On June 3 and 4, 2004, the Committee traveled to Lame Deer to visit the Northern Cheyenne Reservation. The visit began on Thursday morning, June 3, at the Littlewolf Capitol Building in Lame Deer. Linwood Tallbull, Director of the Northern Cheyenne Elderly Program, welcomed the Committee to the Northern Cheyenne Indian Reservation. The Teton Drum Group sang a flag song and an honor song for the Committee. Mr. Tallbull introduced Geri Small, President of the Northern Cheyenne Tribe, who then welcomed the Committee and introduced members of her staff. President Small stated how important it was for people from state government to visit reservations and how pleased she was that the Committee chose to visit Northern Cheyenne. Senator Bohlinger responded with some remarks about the role of the Committee and the purpose of the visit. He introduced the members of the Committee and the Committee's staff and then presented President Small with a Montana flag and a CD-ROM containing the Montana Code Annotated.

Following the meeting with President Small, the Committee began its tour of the Reservation guided by Carrie Braine, Tribal Employment Rights Office (TERO) Director. The Committee visited the Boys and Girls Club; the Food Distribution Program; the Youth Services Center, a BIA-operated detention facility for Northern Cheyenne youth ages 12 to 18; the Charging Horse Casino; Chief Dull Knife College; the Lame Deer Public Schools; and the Indian Health Service Clinic. The Committee ended its visit by attending a groundbreaking ceremony for a new recreation area outside of Lame Deer.

Meeting with Tribal Officials

Every visit to a reservation includes an opportunity for tribal officials to visit with the Committee about issues of concern and with requests for assistance.

Isadore White Water, Workforce Investment Act Program, said that the program provides training and employment for tribal members. The program also runs a child care program and is involved in monitoring FAIM clients. His biggest concern was

funding. Will there be any additional state funding or will there be cuts to programs? The Committee replied that state funding is unknown at this time because budgets are just being developed. The Legislature will face large deficits as well as school funding issues next session.

Glen Little Bird provided information about the Food Distribution Program. Funding comes from the USDA through the state with the Tribe providing a one-third match. There are six full-time and two part-time positions. The program serves about 600-800 eligible tribal members every month. The program also delivers food to the elderly and disabled who are unable to pick up the food themselves. In addition to canned and packaged foodstuffs, the program also provides fresh fruit and vegetables and meat. Some of the program's needs are a larger warehouse, an additional large freezer, training and travel funds for employees, computers and printers, and two more full-time employees. Little Bird also questioned the need for elderly and disabled recipients to be recertified each year. He thought this was a state requirement in the Food and Nutrition Services Manual 501. Staff agreed to look into the recertification issue (See Appendix C).

Linwood Tallbull said that the Elderly Program serves about 265 tribal elders. Because of the baby boom, the projection is that there will be 500 elders in the next few years. The program has become very creative because of a lack of funding. They need a tribal member to be trained and certified as a meat inspector so buffalo and venison can be USDA-approved for use in schools and the Head Start Program on the Reservation. Staff suggested that Mr. Tallbull contact the Little Rockies Meat Packing Company in Malta that is owned and operated by the Fort Belknap Tribes. The Elderly Program runs a senior housing complex with 35 apartments; it is an independent living center. The center serves 118 meals a day to residents and nonresidents alike. There is also a program that assists caregivers throughout the Reservation with respite care, house cleaning, and transportation, among other services.

Kirk Denny is the Reservation's extension agent and an enrolled tribal member. Cattle production on the Reservation accounts for about \$5 million annually in sales and fees. Of that amount, \$750,000 comes to the Tribe in leasing and grazing fees. The program is federally funded. Denny would like to see if the state could partner with reservation extension programs to provide some funding for travel to meetings and conferences outside of the reservations. Denny also spoke of a disease (trich disease) that causes early term abortions in cattle. The infection resides in bulls and is endemic in Montana. Because it is a nonreportable disease, money needs to be made available to increase awareness about the disease and testing of bulls. The Reservation has a successful program, but the issue needs to be discussed all over the state.

Maxine Sharette, Women, Infants, and Children's Program, said the program was piloted on the Reservation in 1975 and currently serves 550 tribal members. The state provides \$76,000 annually to the program. There is a problem with making the tribes pay the indirect costs. This results in less funding for the program. She would like to see the state pay the indirect costs. The Tribe needs a registered dietician to address the obesity and diabetes problems among tribal members. The Tribe would also like to see a single application form that could be used for all of the various health and social services programs.

Carrie Braine, TERO, said the Tribe has received a 3-year grant to develop a transit system within the Reservation and out to the surrounding communities. The BIA and the state are working on a memorandum of understanding (MOU) to place the tribal share of the Community Transportation Enhancement Program funds with the BIA for use by the tribes. MOUs are also needed in other areas. In road construction, MOUs are needed to address tribal employment rights on projects on or near a reservation. Currently, the MDT is ignoring the "near" provision.

Norma Bixby,³ Tribal Education Director, said that Montana needs to put money into Indian education. The Office of Public Instruction is asking for \$500,000 this coming biennium for implementation of Indian Education for All. In addition, she would like to see state funding for tribal colleges to allow those colleges to assist school districts in implementing Indian Education for All. The Commission on Civil Rights' report on Indian education in Montana contains several relevant recommendations, especially for addressing the dropout problem among Indian students.

Richard Little Bear, President of Chief Dull Knife College, talked about the importance of state funding for nonbeneficiary students. Chief Dull Knife has an open-admission policy and serves an average of 27 nonbeneficiary students every year. The College receives no federal funding for these students; they must pay their own way.

Gary Hopkins, Director of Federal Programs for Lame Deer Public Schools, spoke to the Committee of the difficulty imposed by the passage of Senate Bill No. 424 (2003) that requires school districts to pay the retirement benefits for federally paid employees out of the federal source instead of the district retirement fund. For poor school districts that greatly depend on federal money to operate, this is a real hardship because it takes money away from the classroom. He also asked the Committee to support full funding for the Indian Education for All Initiative.

Meeting with Tribal Natural Resource and Environmental Officials

The presence of coal bed methane (CBM) both on and off the Northern Cheyenne Reservation has become a source of controversy for both the Tribe and the developers. Tribal environmental officials requested a meeting with the Committee to discuss the Tribe's concerns with the proposed development of this natural resource

³Ms. Bixby represented House District 5 in the 57th and 58th Montana Legislatures.

and its impacts on the water and air quality on the reservation. In attendance were Dave Milligan, Dion Killsback, Joe Walksalong, Jr., and Jay Littlewolf of the Tribal Environmental Office, Jason Whiteman of the Tribal Natural Resources Office, and Joe Fox, Jr. and Francis Harris, tribal council members.

One of the biggest concerns is water. Millions of tons of water are required for CBM development, and this water then becomes high in sodium. The clay soil on the Reservation cannot absorb high-sodium water. Sodium also adversely impacts vegetation, especially culturally sensitive vegetation along waterways. Reservation communities are dependent on ground water, and CBM development will deplete ground water supplies. Under the federal Clean Water Act, an Indian tribe can receive TAS (treatment as a state) status. This allows the tribe to regulate all of the water within its borders. The Confederated Salish and Kootenai Tribes have received TAS status, and both Northern Cheyenne and Fort Peck have applied for TAS status. The Northern Cheyenne Tribe has proposed water standards similar to the state's except for some slight numerical differences. However, the state is not recognizing the tribal standards. The state originally supported TAS for the Tribe, but now the state is challenging the TAS application. Additionally, the Tribe is currently discussing with the state whether CBM water is excess water under the reserved water rights agreement. The Tribe says it is excess water so they have a right to the water. The state says it is not excess water, so it is included in the original appropriation.

The Tribe is concerned about the impacts on the Reservation once CBM development (construction, pipelines, etc.) begins. An influx of workers and their families could impact areas such as infrastructure, law enforcement, and education. The Tribe wants to mitigate the impacts of off-reservation development and would

The presence of coal bed methane both on and off the Northern Cheyenne Reservation has become a source of controversy for both the Tribe and the developers.



like improved or increased access to state money for the infrastructure needed because of this development.

On a related topic, the Northern Cheyenne Reservation is a Class I airshed. The Tribe is concerned that dust from the off-reservation compressor plants, as well as sulfur dioxide and suspended particulates generated by other off-reservation development, will violate the Class I designation, as well as impede the Tribe's ability to develop its own natural resources.

The Committee asked what message it could take to the Legislature on behalf of the Tribe. The tribal officials replied that legislators and state agencies need to be educated on how the state and the tribes can form partnerships or negotiate agreements to address some of the challenges rather than resort to confrontation and litigation. The Tribe would also like the state to honor the constitutional provisions regarding our natural environment and to give credence to the Montana Environmental Protection Act (MEPA). MEPA needs more "teeth"; that would alleviate many tribal concerns.

Chapter Three

Encourage State-Tribal Cooperation

The second major responsibility of the Committee is to encourage cooperation between the state and the eight tribal governments in Montana. This interim, the Committee fulfilled this responsibility by visiting with some state agencies and learning about individual programs in an attempt to address issues of mutual concern to both state and tribal governments and to identify problems and seek solutions when possible.

The second major responsibility of the Committee is to encourage cooperation between the state and the eight tribal governments in Montana.

Jobs for Montana Graduates

Nancy Elliott and Lorelee Robinson of the Jobs for Montana Graduates (JMG) Program provided the Committee with information on the program. JMG is a school-to-work program that assists Montana high school students in staying in school, graduating, and successfully moving from school to work. The program is in 41 public schools, the Yellowstone Youth Academy, and the Youth Challenge Program. JMG is offered in 11 high schools that are on or near Indian reservations. JMG is open to any student, regardless of family income, who is undecided on a career, who is likely to be unemployed after graduation, or who faces significant barriers to completing high school. JMG is supported by the state general fund and private grants. The cost per student is about \$800.

In 2002-2003, JMG Indian participants had a 94% graduation rate, a 79% positive outcome rate, and a 97% nonsenior return-to-school rate. A positive outcome rate is



defined as "a graduate who finds employment, enlists in the military, or enrolls in a postsecondary institution".

JMG works with students in grades 9 through 12 and with dropouts who are 16 to 18 years old. Because research shows that students at risk of dropping out require intervention before high school, JMG applied for a grant from the Board of Crime Control to establish a middle school program. The request was unsuccessful, but the Harlem School District established a middle school program using the JMG model as a guide. The Harlem school administration was extremely pleased with the results. Students learned how to make the connection between the classes they take in school and their career goals. The program also expanded their career interests and positively impacted their attitudes and behaviors in school. JMG is still interested in developing a middle school program and will continue to seek other resources.

Department of Fish, Wildlife, and Parks

Larry Peterman, Chief of Operations for the Department of Fish, Wildlife, and Parks, spoke to the Committee about state and federal funding that is available to tribes for tribal fish and wildlife programs. The Pittman-Roberston and Dingell-Johnson programs are federal programs that provide funding for fish and wildlife restoration and management activities in Montana. Both programs have strict requirements for the administration and allocation of funds. Money is available through a grant process, and there are severe consequences for the misuse of funds. One of the requirements that impedes tribal grants is that projects funded from federal resources must allow for public access.

The Department has set aside funds from the State Wildlife Grants Program to fund tribal projects. Two such projects are in place with the Blackfeet Tribe (bear-proof garbage dumpsters) and the Fort Belknap Tribes (fish and wildlife management plan). The Department is negotiating with the Crow Tribe to survey sage grouse and prairie dog populations on the Crow Reservation. Each of these projects requires a

local match; in-kind services may be used for the local match. Tribes also have access to direct federal funding for fish and wildlife projects, such as the Tribal Landowner Grant Program.

Board of Pardons and Parole

Craig Thomas, Executive Director of the Montana Board of Pardons and Parole (MBPP), presented a report to the Committee on the requirements imposed on the MBPP by House Bill No. 211 (Chapter No. 559, Laws of 2003). This legislation required the MBPP to report to the Law and Justice Interim Committee on the disposition of parole applications made by American Indians, including the reasons for approval or denial of parole, for the period of January 1, 1999, through March 31, 2004. The report was to be made before July 1, 2004. Mr. Thomas provided the Committee with copies of the various forms that the MBPP uses to track inmates who appear before the Board, as well as examples of the types of reports issued by the MBPP. Two of the problems that the MBPP has encountered in compiling the required data are a lack of a definition of American Indian and no information on the reasons for approval or denial of parole for the period from January 1999 through June 2003. All of the MBPP's information is based on self-reporting by the inmates. If an American Indian inmate does not self-identify as an American Indian, the Board has no way of determining the inmate's ethnicity. Reasons for approval or denial of parole were not entered into an automated system until June 2003. Prior to that, a record of whether the request was approved or denied was the only record kept. The new database, however, will provide very detailed information on inmates such as:

- ▶ ethnicity and gender;
- ▶ number of appearance before MBPP;
- ▶ medical parole requests, parole revocations, recisions hearings, and executive clemency; and
- ▶ exact reason for approval or denial of each parole request.

The Committee received a copy of the report required by House Bill No. 211 at its final meeting, in September of 2004 (See Appendix D).

Department of Labor and Industry

The 2003 Legislature directed the Department of Labor and Industry (DOLI), in House Bill No. 2, to provide access to Montana tribal labor market information either by including the information on DOLI's website or publishing the information in other public documents. Ingrid Childress, Administrator of the Workforce Services Division of DOLI, provided the Committee with a copy of the information that DOLI was making available on its website and then demonstrated how to access the material. The information comes from a Bureau of Indian Affairs (BIA) report entitled "2001 Local Estimate of Indian Service Population and Labor Market Information". The BIA calculates this information every 2 years, and the latest data was made available in July of 2004. At that time, DOLI updated the website.

The reason for making the BIA data available is that tribes believe that the BIA statistics better reflect the unemployment situation on reservations than do the statistics compiled by the U.S. Bureau of Labor Statistics, which is the official source for unemployment data for the federal government. Unemployment data is often used to set the level of federal resources a state will receive for programs such as job training, workforce development, and public assistance. Tribes believe that if BIA statistics were used it could result in additional resources for Montana. The question is how to integrate the BIA unemployment data with the data compiled by the Bureau of Labor Statistics. At this time, there is no way to integrate the BIA unemployment data with the data compiled by the Bureau of Labor Statistics because different methods are used to calculate the unemployment rate. Integration will require congressional action. However, integration could result in Montana receiving additional resources for job training, workforce development, public assistance, etc.

Office of Public Instruction

Indian education has always been an important issue for the State-Tribal Relations Committee. The Indian Education for All Initiative was the direct result of a study conducted by the Committee in 1995-1996. Lynn Hinch, Special and Discretionary Programs Unit Director at the Office of Public Instruction, updated the Committee on the work of the Indian Education for All Committee, which is composed of two members from the Board of Regents and two members from the Board of Public Education. Its focus is on how best to implement the initiative throughout the public school system, from kindergarten through college. Areas in which that committee is working include awareness of the initiative, institutional accountability, curriculum development, and professional development. A barrier to full implementation is a lack of funding. The Office of Public Instruction is requesting \$500,000 next biennium for implementation.

Montana University System

In 1991, the Committee successfully sponsored legislation to create the position of American Indian/Minority Achievement Director within the Office of the Commissioner of Higher Education. The position has four main functions:

- ① to analyze educational data relating to American Indians and other minorities within the University System;
- ② to provide cultural diversity training to faculty and staff at the various units;
- ③ to ensure that diversity is addressed at the units; and
- ④ to report on the status of American Indians and minorities within the system to the Board of Regents.

The position also serves as a liaison between the University System and the tribal colleges and other minority groups and organizations within the state.

Ellen Swaney, who has held the position since its creation, provided the Committee with a wealth of information relating to her work within the University System. Despite all of her efforts and the efforts of the University System, American Indian student enrollment has remained at about 3% of the total enrollment, even though American Indians account for 6% to 7% of the total Montana population and 10% of the K-12 public school population. In addition, less than 2% of all employees within the University System are American Indian. Ms. Swaney stated that these issues need to be examined in depth to discover the roadblocks that prevent American Indians from enrolling or working in the University System.

Gambling Control Division

Gene Huntington, Administrator of the Gambling Control Division of the Montana Department of Justice, presented a legislative proposal to the Committee that would clarify the procedure for negotiating and executing gaming compacts with Indian tribes. The Gaming Advisory Council developed the proposal following many meetings with Indian tribal representatives.

The main contention between the tribes and the state is the delegation of authority to negotiate compacts. The tribes believe that the Executive Branch has not negotiated in a way that recognizes the sovereignty of each tribe and the goals of the Indian Gaming Regulatory Act. The Executive Branch does not believe that the Legislature has given it authority to negotiate compacts that are unrestricted by state law. This legislative proposal would expressly authorize the Governor to negotiate and execute gaming compacts. It allows the Governor to negotiate conditions of play (hours or periods of operation, numbers of gaming devices, and limitation on wagers and prizes) that will help to provide for the economic self-sufficiency of Indian tribes. Prior to the execution of a compact, the Governor would provide written notice to legislative leadership of the proposed compact. This would allow the Legislature the opportunity to comment on the compact. If a tribe negotiates for types of gaming that are not permitted by Montana law or if a compact would result in a reduction of state

revenue or require a state appropriation, the compact would have to be submitted to the Legislature for approval.

The Committee requested that the proposal be drafted on behalf of the Department of Justice. A copy of the legislation can be found in Appendix E of this report.

Chapter Four

Conduct Interim Studies

The third major responsibility of the Committee is to conduct interim studies as assigned by the Legislature. This interim, the Committee conducted one interim study: House Joint Resolution No. 8 (HJR 8) on dropout prevention for American Indian students. The study was conducted in cooperation with the Office of Public Instruction.

House Joint Resolution No. 8

Background

In October 2000, the National Center for Education Statistics (NCES) reported that approximately 11% of young people between 16 and 24 years of age were not enrolled in high school and had not completed high school. Despite attempts over the last decade at both the federal and state level to improve the quality of public education in America, the dropout rate has remained fairly constant.

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As the need for a more highly-educated labor force increases in order for America to compete in a global economy, those who drop out of high school before receiving a diploma will have fewer and fewer chances for success later in life. Employment opportunities will be more limited because today's economy requires workers who are literate, educated, have advanced technological skills, and are willing to continue learning. According to the U.S. Bureau of the Census, in July 2002, the average annual income for a high school dropout was \$18,900. At the same time, the average annual income for a high school graduate was \$25,900.



Dropouts are more likely than those with a high school education to become dependent on public assistance, have health problems, and engage in criminal activity. Dropouts are also more likely to engage in high-risk behaviors such as premature sexual activity, alcohol and drug abuse, delinquency, violence, and crime. The costs to society of a large number of dropouts include an underskilled labor force, lower productivity, lost taxes, and increased public assistance and crime.

What about Montana? What is the dropout picture in our state? The dropout rate in Montana for all students over the last 5 years is about 4% (Montana Statewide Dropout Report 2002-2003, Office of Public Instruction). According to the Bureau of Labor Statistics, in 2002, the median annual income as related to level of education in Montana was:

	<u>Female</u>	<u>Male</u>
less than high school	\$16,469	\$22,589
high school graduate	\$23,061	\$33,184

But it is the alarmingly high dropout rate for American Indian students that is of major concern to Montanans. The dropout rate for American Indian students in Montana over the last 5 years is a little over 10% (OPI Dropout Report). In addition, American Indian students drop out of high school at a rate three times greater than non-Indians. What is most distressing, however, is that American Indian students are beginning to drop out of school at a much younger age. American Indian students drop out of grades seven and eight at a rate 12 times greater than non-Indians (OPI Report). In addition, graduation data for the last 6 years shows that only 56% of American Indian students who enroll as high school freshmen graduate in 4 years, compared to 82% of their non-Indian peers (OPI Fall Reports). For more detail on the American Indian dropout situation, please refer to Appendix F.

These disturbing statistics were the genesis of House Joint Resolution No. 8 (HJR 8). In November of 2002, the Montana-Wyoming Indian Education Association and the Montana Advisory Council on Indian Education held a public hearing in Helena on American Indian high school dropouts. Over 125 people from all walks of life and

from Indian and non-Indian communities across Montana participated in the hearing. As a result of this hearing, Representative Carol Juneau introduced HJR 8 in the 2003 legislative session.

HJR 8 requested that an appropriate interim committee gather information relating to dropout rates, graduation rates, and at-risk factors for American Indian students in Montana's public schools. The resolution went on to request that a strategic state plan be developed to reduce the dropout rate among all students. As a result of the legislative poll conducted immediately following the adjournment of the 2003 session, the Legislative Council assigned HJR 8 to the State-Tribal Relations Committee.

Why Do Students Drop Out of School?

Students who drop out of school are influenced by a variety of factors related to the student, school, family, and community. Many of these factors can also serve as predictors of dropping out. These factors can be categorized as student-related, school-related, family-related, and community-related. Student-related factors are generally personal problems that are independent of the student's social or family background. These include excessive truancy, substance abuse, pregnancy, and run-ins with law enforcement. School-related factors are poor academic performance and grade retention. Schools can contribute to high school dropout rates by the kind of educational environment they create and the types of policies and practices they adopt. Family-related factors include poverty, parental and sibling educational levels, domestic violence, and ethnic or racial background. The community in which a student lives also has an impact on that student's decision to remain in or drop out of school. Poor communities often have poor schools and few resources to support at-risk students.

Why do American Indian students drop out of school? They drop out for many of the same reasons as their non-Indian peers. However, there is another set of factors that impacts only Indian students, and those factors are related to language and culture--lack of Indian culture and language in the schools, lack of Indian teachers and

administrators, lack of knowledge of Indian culture and learning styles by non-Indian teachers, and perpetuation of the stereotype of the Indian student as a low achiever.

What Can Be Done?

With the adoption of "No Child Left Behind" and its premise that every child from every background in every part of America must be given every opportunity to succeed in school, a new light is shining on those students who continue to fail and to drop out of school. If America truly wants to see that no child is left behind, special attention must be given to those students who, for any of the reasons listed above, leave our high schools every year in ever-growing numbers.

How, then, do we keep these students in school? We keep them in school by designing intervention strategies that focus on why they drop out in the first place. First of all, because dropping out is influenced by both individual and institutional factors, intervention strategies can focus on individual values, attitudes, and behaviors associated with dropping out or on the environment within families, schools, and communities. Second, effective prevention strategies must address both the academic and the social problems that students experience. Third, because dropout attitudes and behaviors begin as early as elementary school, dropout prevention strategies should begin early in a child's educational career.

It can be a fairly daunting task for a state education agency or a local school district to identify successful dropout prevention programs, given the vast array of programs that exist across the nation. How do we know what works? The National Dropout Prevention Center/Network (NDPC/N) is a membership-based organization with the

There is another set of factors that affect the drop out rates of Indian students--lack of Indian culture and language in the schools, lack of Indian teachers and administrators, lack of knowledge of Indian culture and learning styles by non-Indian teachers, and perpetuation of the stereotype of the Indian student as a low achiever.



mission of helping policymakers and practitioners meet the needs of at-risk students so that these students can remain in school, succeed academically, and graduate. The NDPC/N serves as a clearinghouse on issues related to dropout prevention. Through its research projects, publications, professional development activities, and program assessment and reviews, the NDPC/N has identified 15 strategies that can have a positive impact on the dropout rate. These 15 strategies are:

- (1) systemic renewal that focuses on school policies, practices, and organizational structures;
- (2) school-community collaboration that sustains a caring supportive atmosphere for students;
- (3) safe learning environments that make schools a positive experience for students;
- (4) family engagement that gives children the support they need outside of school;
- (5) early childhood education that provides children with a solid beginning to their school experience;
- (6) early literacy development that gives children the necessary foundation for effective learning in all other subjects;
- (7) mentoring/tutoring that addresses specific academic needs;
- (8) service-learning that connects school with the outside world;
- (9) alternative schooling that provides at-risk students with a variety of options that can lead to graduation;
- (10) after-school opportunities that enhance learning and eliminate information loss
- (11) professional development that assists teachers who work with at-risk students;
- (12) active learning that involves students in the learning process;
- (13) educational technology that delivers instruction in creative and innovative ways;
- (14) individualized instruction that allows teachers to consider individual differences in deciding teaching methods and motivational strategies; and

- (15) career and technical education that prepares students for the workplace.⁴

Any one of the above strategies will help schools keep their at-risk students from leaving before graduation. However, before a strategy is selected, school districts must analyze their own dropout data and develop programs that best fit their needs.

Committee Activities

HJR 8 requested the Committee to hold public hearings across the state to seek recommendations for addressing the dropout rate and the at-risk factors that lead students to drop out of school. The Committee held three public hearings at Fort Belknap College, at the Montana Indian Education Association Conference in Missoula, and at the Lame Deer Alternative High School.

While each public hearing had its own look, there were common threads that wove themselves throughout all three. One of the biggest concerns was a lack of cultural content in the school curriculum. Everything is taught from the Western European perspective, and the inclusion of American Indians occurs only in history. Indian parents and students want to see Indian culture included in all subjects--art, math, government, etc. Schools should reflect their community; parents, students, and tribal leaders should have a hand in designing school programs. Indians would like to see more tribal languages taught in the schools.

A second major issue centered on school personnel. There simply are not enough Indian teachers and administrators in our schools. Indian students looking for role models most often see Indians only in classified positions, such as food service or maintenance workers, bus drivers, aides, etc. While these are important jobs that a school district must have to operate, Indian students need to see that they can also be teachers and principals. An Indian employment preference law for schools with a substantial Indian enrollment would help.

⁴National Dropout Prevention Center/Network accessed at www.dropoutprevention.org.

Non-Indian teachers need more training in Indian learning styles and the Indian culture in their teacher preparation program. School districts should hold a cultural orientation for new teachers before they enter the classroom. Many Indian parents complained that non-Indian teachers have no ties to the Indian community in which they teach. They don't live in the community. They don't send their children to the Indian schools in which they teach. They do not participate in any community or tribal activities or events. Teachers should be part of the community in which they teach to better understand their students' backgrounds. Indian parents and educators are also concerned that non-Indian school personnel have low expectations for Indian students and, therefore, do not push them to excel academically. Rather, teachers often steer Indian students into vocational areas or, worse yet, do not steer them into anything.

School districts came under fire for adopting attendance policies that are so strict that Indian students are unable to meet them. These policies do not recognize an Indian student's need to participate in cultural events nor do they recognize the strong familial bonds that exist outside of the Indian student's immediate family. Parents want flexible school policies that reflect the community's culture. School schedules also need to be more flexible and reflect community needs.

Non-Indian teachers need more training in Indian learning styles and the Indian culture in their teacher preparation program.



Many Indian parents are intimidated by the public school setting. They feel inferior to the non-Indian teachers and administrators because of the parents' lack of education. They are distrustful because of the boarding school experience that many parents and grandparents still painfully remember. Parents want schools to be a welcoming place for them and their children. They want to feel comfortable talking to teachers. They want to know how to help their children academically and how to advocate for them when they are in trouble.

Indian parents and educators want more graduation options for students struggling to stay in school, such as allowing high schools to offer a general education development program or have more flexible graduation requirements. Schools should be able to offer credit for participation in cultural activities, such as physical education credit for powwow dancing.

Parents also saw a role for tribes in public education. They would like to see tribal education departments adopt tribal education standards, based on Montana's accreditation standards, and incorporate them into local standards. Parents would also like more tribal support when they encounter difficulties with their children's schools.

Indian parents have the same hopes and dreams for their children as non-Indian parents do. They want their children to succeed in school. They do not want to see their children belittled or discriminated against. Parents sometimes feel helpless against a school bureaucracy. They want someone to help them become advocates for their children, and they want schools to listen to their concerns.

The public hearings provided a wealth of information for the Committee to digest before making its recommendations. For a complete listing of recommendations from the public hearings, please refer to Appendix G of this report.

What Can Montana Do?

Because of the vast array of successful approaches to dropout prevention that exist all across the nation, it is impossible to select certain programs and recommend them as the answer to the dropout problem in Montana. That being said, there are things that Montana, namely, the Legislature, Board of Public Education, Office of Public Instruction, and school districts, can do.

- ① Adopt a formal policy acknowledging that every child has the right to succeed in school. Our Constitution states that "It is the goal of the people to establish a system of education which will develop the full educational potential of each

person." That goal could be translated into a formal policy adopted in statute that commits Montana to providing every child with the opportunity to succeed. Even a simple statement by the Legislature that acknowledge's the Legislature's concern for at-risk children and states its commitment to providing them with every opportunity to succeed may be a good first step.

- ② Establish a program within the Office of Public Instruction dedicated solely to dropout prevention. Dropout prevention efforts have to take place at the school district level. However, school districts need to have access to information, resources, and technical assistance in order to successfully address their needs. Because there are so many dropout prevention strategies out there, school districts also need assistance in evaluating dropout prevention programs. A program within OPI could provide that help. If more students are kept from dropping out of school, the long-term financial and economic benefits will far outweigh the initial costs.
- ③ Require every school district to develop a plan for addressing the needs of at-risk children. Schools should take a serious look at those students who are struggling academically and those who are exhibiting other predictors of dropping out of school. Schools may need to review their policies, especially attendance and grade retention. They could identify the weaknesses in their programs that allow students to slip through the cracks. Schools could find out why their students are leaving school and where they are going. Local schools could work with parents, tribal educators, and community resources in gathering this information. Armed with this information, schools could begin to develop programs and adopt policies aimed at helping every student succeed.
- ④ Implement a student accounting system that will track students as they withdraw from school. This would allow the state to get a good accounting of students who are dropping out of school, why they are dropping out, and where they are going. In Oregon, the Oregon Department of Education is required to establish and maintain a tracking system that accounts for

students who withdraw from school, gathers data on why students leave, identifies patterns and assesses the factors that impact student withdrawal to help design prevention programs, and provides schools with tools for assessing who is likely to drop out and for what reasons. Part of the tracking system is a statutory definition of "dropout" and "graduate". The uniform tracking system must be used by all school districts. Oregon has credited this new system with helping to reduce the dropout rate because schools are devoting more resources to tracking down students to find out whether they dropped out or transferred to another school.

- ⑤ Establish a system for identifying at-risk students as early as possible and design an intervention procedure. Educators acknowledge that students who drop out of high school most often have disengaged from the education process as early as elementary school. Waiting to intervene when a student is 15 or 16 years of age may be too late. Intervention needs to occur as soon as possible. Schools could develop individual student alternative education plans, similar to the individual education plans developed for special needs children, for at risk-students. This means that school districts need the resources to develop additional educational services and alternative education programs. Studies show that the transition from eighth grade to ninth grade can be a harrowing experience for many students. To ease that transition, Virginia school districts have implemented a variety of transition programs, from a "one-shot" orientation to a year-long program.

- ⑥ Provide diploma options to high school students who are at-risk of withdrawing from school. While early intervention is the best dropout prevention program, Montana cannot ignore those students who have barely made it to high school and are on the verge of withdrawing due to various circumstances. An alternative path to a high school diploma may be worth exploring. One path might be to allow a student who passes the GED examination to receive a regular high school diploma. Another option would be to require school districts that require more than 20 credits for graduation to offer a "Montana"

high school diploma to students who complete the state-required 20 credits for graduation. The Bill & Melinda Gates Foundation, in cooperation with the Carnegie Foundation, the Ford Foundation, and the W. K. Kellogg Foundation, is sponsoring the Early College High School Initiative that will allow students to earn 2 years of college credit while earning a high school diploma. The initiative is aimed at students who are underrepresented in postsecondary education: students of color, English language learners, students without access to college preparation courses, and students unable to meet the ever-increasing costs of higher education. Early college high schools are created through formal agreements between secondary and postsecondary institutions. Portland Community College is part of the initiative and has created Gateway to College, which serves at-risk youth, 16 to 20 years of age, who have dropped out of high school. The Gates Foundation is so impressed with Gateway to College that the foundation is spending almost \$5 million over the next 5 years to replicate the program at eight different sites across the country. An ideal partnership for Montana might be public schools on or near Indian reservations with tribal colleges.

- ⑦ In predominantly Indian schools, establish a cultural congruency between the school and the Indian community. In most Montana public schools, curriculums, textbooks, and classroom practices reflect the domination of western principles. This is true even in predominantly American Indian schools and results in subtle, as well as overt, assimilation messages and practices. For Indian students attempting to retain their cultural identity, resistance to this dominance becomes resistance to school and leads many students to drop out. Indian schools could explore new ways of engaging their students that does not require them to leave their world, but rather reflects their world. To achieve this new paradigm will require curricular materials that reflect indigenous beliefs, integration of local cultural standards with the accreditation standards, educational opportunities for teachers (both new and experienced) to learn how to better serve the unique needs of Indian students, tribal language instruction, and collaboration between public schools and tribal

colleges. In 1989, the Montana Supreme Court held that Article X, section 1(2) of the Montana Constitution:

"establishes a special burden in Montana for the education of American Indian Children which must be addressed as a part of the school funding issues." Helena Elementary School District No. 1 v. State, 236 Mont. 44, 769 P.2d 684 (1989).

Committee Recommendations

Before making any recommendations to the 59th Legislature regarding dropout prevention, the Committee discussed two important issues. In 1992, Judge Jeffrey Sherlock issued a decision regarding the interaction between the Legislature and the Board of Public Education. The case involved the issue of whether a school district was required to have a gifted and talented program. The statute said such a program was optional, but the Board of Public Education, by administrative rule, made the program mandatory. In ruling in favor of the Board of Public Education, Judge Sherlock stated in his decision:

"The Board of Public Education, pursuant to Article X, Section 9(3), of the Montana Constitution, is vested with constitutional rule-making authority. This provision is self-executing and independent of any power that is delegated to the Board by the legislature." Montana Board of Public Education v. State, Cause No. BDV-91-1072, 1st Judicial District (1992).

What the ruling means is that the Legislature is precluded from mandating that schools do certain things that are related to accreditation standards or to other rules adopted by the Board of Public Education. So any recommendations to school districts must be in the form of "suggestions". Another option is to use a conditional appropriation, similar to what the Legislature does with the Board of Regents, in which the Legislature attaches conditions to the acceptance of money. If the Board accepts the appropriation, the conditions are binding.

The second issue was the unfunded mandate laws. The Legislature cannot require a school district to perform an activity or provide a service or a facility that requires the direct expenditure of additional funds without providing a specific means of financing, other than the existing property tax mill levy (1-2-113, MCA). A bill may not be introduced in the Legislature that requires a school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means of financing (1-2-114, MCA).

With these two issues in mind and after much discussion, the Committee voted to establish a dropout prevention program within the Office of Public Instruction (OPI). This program will provide, upon request, information, resources, and technical assistance to school districts, especially districts with a high dropout rate for American Indian students, in developing local programs designed to keep at-risk students in school until they graduate. The program is to be integrated with Indian Education for All. OPI would also be required to make a dropout prevention progress report to the Board of Public Education, the Committee, and the 60th Legislature.

Chapter Five

Available Materials

The following materials relevant to the State-Tribal Relations Committee are available from the Legislative Services Division (LSD) or on the LSD website at www.leg.mt.gov. Follow the "Committees" link or the "Interims" link to the State-Tribal Relations Committee.

Minutes of Meetings (including exhibits)

August 27, 2003	March 5, 2004
September 29-30, 2003	June 2-3, 2004
December 5, 2003	August 17, 2004
September 8, 2004	

Minutes of Public Hearings on HJR 8

September 29, 2003
April 2, 2004
June 2, 2004

Staff Reports and Memoranda

Legislation Considered by the 2003 Montana Legislature Affecting American Indians, June 2003, Connie Erickson, Legislative Services Division

State-Tribal Relations Committee Proposed Work Plan for the 2003-04 Interim, July 2003, Connie Erickson, Legislative Services Division

Proposed Study Plan for House Joint Resolution No. 8: Addressing the High Dropout Rate for American Indian Students, August 2003, Connie Erickson, Legislative Services Division

The Story of Joey: Why America Can No Longer Afford to Ignore Its At-Risk Students, February 2004, Connie Erickson, Legislative Services Division

What Montana Can Do to Save Its At-Risk Children, August 2004, Connie Erickson, Legislative Services Division