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State-Tribal Relations Committee

64th Montana Legislature

SENATE MEMBERS

JONATHAN WINDY BOY--Chair
JILL COHENOUR
JENNIFER FIELDER
KRISTIN HANSEN

HOUSE MEMBERS

ALAN DOANE--Vice Chair
EDWARD GREEF
GEORGE KIPP III
ZAC PERRY

COMMITTEE STAFF

HOPE STOCKWELL, Lead Staff
LAURA SANKEY, Staff Attorney
KRISTINA LIMING, Secretary

MINUTES LOG

October 21-22, 2015
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

OCTOBER 21, 2015

COMMITTEE MEMBERS PRESENT

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

SEN. JILL COHENOUR
SEN. JENNIFER FIELDER
SEN. KRISTIN HANSEN

REP. EDWARD GREEF
REP. GEORGE KIPP III
REP. ZAC PERRY

STAFF PRESENT

HOPE STOCKWELL, Lead Staff
LAURA SANKEY, Staff Attorney
KRISTINA LIMING, Secretary

VISITORS' LIST(Attachment 1)

AGENDA(Attachment 2)

COMMITTEE ACTIONS

- The committee adopted its final work plan.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Windy Boy called the meeting to order. The secretary took the roll.
(Attachment 3)
00:00:51 Opening prayer - Rep. Kipp

ADMINISTRATIVE MATTERS

00:01:53 Ms. Stockwell reviewed the agenda and provided an overview of the budget.

PANEL PRESENTATION: STUDY OF STATE-TRIBAL TAX AGREEMENTS

Eli Clarkson, Attorney, Montana Department of Transportation
Lee Baerlocher, Administrator, Business & Income Taxes Division, Department of
Revenue
Ryan Rusche, Attorney, Confederated Salish and Kootenai Tribes
Harry Barnes, Chairman, Blackfeet Tribal Business Council

00:05:16 Ms. Stockwell (**Exhibit 1**), (**Exhibit 2**), (**Exhibit 3**).
00:09:03 Mr. Clarkson

Committee Questions of Mr. Clarkson

00:11:06 Sen. Hansen asked about the distribution of gas tax funds to tribes.
00:16:58 Sen. Fielder asked for clarification on which gas tax was being discussed .
00:17:24 Sen. Windy Boy stated his understanding of gasoline tax funding and distribution.
00:17:58 Rep. Kipp asked about the incentive behind tax agreements and preventing
double taxation.
00:19:32 Sen. Hansen asked about tribal enrollment calculations and residency on and off
the reservation.
00:20:55 Rep. Doane asked about local government tax distribution.
00:21:43 Mr. Baerlocher (**Exhibit 4**)
00:26:46 Mr. Rusche

Committee Questions of Mr. Rusche

00:36:43 Sen. Hansen asked about authority to charge tax on gasoline purchased on
reservations.
00:37:21 Mr. Rusche continued his presentation.

00:48:07 Sen. Windy Boy requested that Mr. Rusche work with staff in the continuing efforts of the study.

00:48:38 Mr. Barnes

Committee Questions

00:57:07 Sen. Cohenour asked Mr. Barnes about the negotiation process.

00:58:54 Rep. Greef asked Mr. Barnes for clarification about use of revenue.

01:03:13 Sen. Fielder asked Mr. Baerlocher about tobacco tax formulas.

01:07:20 Sen. Fielder asked Mr. Barnes about objections and negotiations to the formula related to the gas tax.

01:07:54 Sen. Fielder asked about federal gas tax and how it is handled. Mr. Clarkson responded.

01:08:32 Rep. Doane asked Mr. Barnes to elaborate on the overlap of cross jurisdictional issues.

01:11:22 Rep. Kipp commented about the services being provided and distribution mechanisms on the Blackfeet reservation and cross jurisdictional issues. Mr. Barnes responded to the comments made by Rep. Kipp.

01:16:49 Sen. Windy Boy recessed the meeting for the state Shake Out earthquake drill.

Committee Questions

01:41:47 Sen. Hansen asked Mr. Rusche about tax agreements specific to each tribe.

01:44:02 Sen. Hansen asked Mr. Baerlocher if the taxes are in effect regardless of the status of agreements.

01:44:57 Rep. Kipp asked Mr. Baerlocher about state production taxes.

01:46:38 Sen. Fielder asked Mr. Rusche about dry reservations. Sen. Windy Boy provided further clarification in regard to his tribe.

01:49:50 Sen. Hansen asked about a document in committee materials. Ms. Stockwell provided background information on federal transportation funding. (**Exhibit 5**)

01:53:12 Sen. Hansen asked Mr. Rusche about appropriations of tax allocations from the state to the tribes. Mr. Barnes provided further information on the matter.

01:59:28 Sen. Hansen asked Mr. Clarkson about highway jurisdiction.

Public Comment

02:00:46 Anna Belle Taylor, Bozeman, asked about federal highways.

Committee Questions

02:02:14 Mr. Clarkson provided information on Rep. Doane's earlier questions about gas tax distribution to local governments.

02:02:29 Sen. Fielder asked about tribal authority information. Mr. Barnes also provided information on the topic.

NATURAL RESOURCE TAX AGREEMENTS

Lee Baerlocher, Administrator, Business & Income Taxes Division, Department of Revenue

Bill Watt, Attorney, Crow Nation

Alvin (AJ) Not Afraid, Secretary of the Crow Tribe

02:05:41 Ms. Stockwell
02:07:23 Mr. Baerlocher (**Exhibit 6**)

Committee Questions

02:09:52 Rep. Kipp asked Mr. Baerlocher about the time line and rates taxable under the agreement.
02:12:22 Sen. Fielder asked Mr. Baerlocher about definitions found within the Fort Peck Tribe agreement. She also asked about any third party audits that have been completed. Mr. Baerlocher and Mr. Watt responded.
02:19:19 Mr. Watt
02:36:42 Mr. Not Afraid

Committee Questions

02:42:14 Rep. Kipp asked Mr. Watt about the Montana coal trust fund revenue from the Crow Tribe. He also commended the innovation of the Crow agreement and how it ties into the tribes water compact.
02:45:40 Rep. Doane asked Mr. Watt about funds placed into the coal trust fund and it's availability to be returned to the tribes.

Public Comment

None.

02:49:16 Ms. Stockwell provided the committee with financial information related to state and federal oil and gas lease revenues. (**Exhibit 7**)

LUNCH (reconvened at 1:01 p.m.)

PANEL PRESENTATION: STUDY OF THE INDIAN CHILD WELFARE ACT (ICWA) AND CHILD PROTECTIVE SERVICES

Louise Reyes, Indian Services Officer, Bureau of Indian Affairs
Hope Stockwell, Research Analyst, Legislative Services Division
Sarah Corbally, Administrator, Economic Security Services Branch, Child and Family Services Division, Department of Public Health and Human Services
Scott Pederson, Attorney, Department of Justice
Lana Page, ICWA Attorney, Confederated Salish and Kootenai Tribes
Edie Adams, ICWA Qualified Expert Witness

03:56:57 Ms. Stockwell
03:58:23 Ms. Reyes (**Exhibit 8**)

Committee Questions

04:20:14 Sen. Windy Boy asked Ms. Reyes about outreach training.

04:24:16 Ms. Stockwell (**Exhibit 9**) (**Exhibit 10**)

Committee Questions

04:26:56 Sen. Windy Boy asked Ms. Reyes about information in the ICWA glossary

04:31:21 provided to the committee. (**Exhibit 11**)
Sen. Hansen asked Ms. Reyes about the enforceability of the BIA guidelines. Mr. Pederson responded as well.

04:38:24 Ms. Corbally

Committee Questions

04:55:53 Sen. Windy Boy asked Ms. Corbally about DPHHS being up to date on the ICWA regulations.

04:56:45 Mr. Pederson

05:04:16 Ms. Page

05:25:42 Ms. Adams

Committee Questions and Comments:

05:39:48 Rep. Kipp commented on cultural aspects involved with the ICWA.

05:50:34 Rep. Doane asked Ms. Corbally about federal funding that family services receives.

05:57:01 Sen. Fielder asked Ms. Corbally about state and federal funds allocated to tribes. Cynthia Holliman, Legislative Fiscal Division, responded as well. Sen. Fielder asked staff to compile further information on federal funds granted to tribes for child protective services.

06:00:50 Sen. Hansen asked Ms. Corbally about laws related to child placements in comparison to the what action is being taken by the state.

06:09:47 Rep. Kipp asked Ms. Reyes about tribal grants and other program grants.

06:12:39 Rep. Doane asked Mr. Pederson about options available for public assistance in regards to legal counsel.

06:14:00 Mr. Pederson spoke about problems with expert witness pay rates.

Public Comment

06:15:01 Rep. Peppers, HD 41

06:20:02 Shelly Hendrickson, CSKT

06:26:47 Thomas Lozeau Jr, CSKT

06:37:58 Ken Engelhardt, Great Falls

06:49:25 Georgia Miller (**Exhibit 12**) (**Exhibit 13**)

06:56:17 Shane Hendrickson, CSKT

06:59:52 Ms. Page

BREAK (reconvened at 4:13 p.m.)

GOVERNOR'S OFFICE OF INDIAN AFFAIRS UPDATE: JASON SMITH, DIRECTOR

07:11:45 Mr. Smith

Committee Questions of Mr. Smith:

07:19:57 Rep. Kipp asked for details about the Department of Labor's effort to establish apprenticeships through a pilot project with tribal colleges.

NATIVE AMERICAN COLLATERAL SUPPORT PROGRAM UPDATE

07:21:19 Mr. Smith provided a brief background on the program.

07:21:54 Casey Lozar, Executive Director, State Tribal Economic Development Commission, provided a more detailed update on the program. (**Exhibit 14**)

Committee Questions of Mr. Lozar:

07:36:51 Sen. Cohenour asked about credit worthiness evaluations and lender participation.

07:38:19 Rep. Greef asked about how the fund was set up in House Bill 2. Ms. Stockwell assisted in providing information within HB 2.

07:41:17 Rep. Kipp asked about the data needed to ensure the success of the program. He also asked about whether there is a plan to implement specific programs in specific tribal communities.

07:48:19 Rep. Greef asked about a maximum amount for loans.

07:49:28 Rep. Doane requested documentation about the program's guidelines. He also asked about the requirements for application to the program and the tools used.

07:54:45 Sen. Cohenour asked about limiting the liability of the state, and asked about profits.

07:56:03 Sen. Hansen requested data about interest rates and more detailed financial numbers pertaining to the program.

Public Comment

None.

RESERVATION LABOR STATISTICS

07:57:42 Barbara Wagner, Economist, Department of Labor and Industry, gave a presentation on labor statistics on reservations. (**Exhibit 15**)

Committee Questions

08:26:18 Rep. Kipp asked about Blackfeet and other employment data that was presented.

08:30:25 Ms. Stockwell requested a copy of the PowerPoint presentation given.

PUBLIC COMMENT

None.

FINALIZATION OF INTERIM WORK PLAN

08:31:52 Ms. Stockwell reviewed the Final Work Plan. (**Exhibit 16**)

08:35:20 The committee discussed the work plan.

Motion/Vote

08:58:40 Sen. Hansen moved to approve the work plan and adjust as needed. The motion passed unanimously by voice vote.

Committee Questions

08:59:39 Rep. Doane asked about appointing liaisons for each tribe. Sen. Windy Boy and Rep. Kipp responded.

09:02:18 Sen. Windy Boy recessed the meeting until 8:00 a.m. tomorrow.

OCTOBER 22, 2015

COMMITTEE MEMBERS PRESENT

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

SEN. JILL COHENOUR
SEN. JENNIFER FIELDER
SEN. KRISTIN HANSEN

REP. EDWARD GREEF
REP. GEORGE KIPP III
REP. ZAC PERRY

STAFF PRESENT

HOPE STOCKWELL, Lead Staff
LAURA SANKEY, Staff Attorney
KRISTINA LIMING, Secretary

VISITORS' LIST([Attachment 4](#))

COMMITTEE ACTIONS

- The committee voted to hold a conference call to discuss proposed letters of support for federal legislation on language immersion programs.

CALL TO ORDER AND ROLL CALL

00:00:06 Sen. Windy Boy called the meeting to order at 8:04 a.m. The secretary took the roll. ([Attachment 5](#))

STUDY OF CULTURAL PATRIMONY AND SACRED OBJECTS AND SITES

00:01:23 Hope Stockwell, Research Analyst, Legislative Services Division, provided an overview of the state, federal, and tribal procedures, laws, and acts related to sacred objects and sites in Montana. ([Exhibit 17](#)), ([Exhibit 18](#)), ([Exhibit 19](#)), ([Exhibit 20](#))

00:12:53 Laura Sankey, Staff Attorney, provided an overview of copyright law. ([Exhibit 21](#))

Committee Questions and Comments

00:28:34 Rep. Kipp commented about the need to provide protection for items and ceremonial practices used by Indians. He asked Ms. Sankey about how U.S. copyright laws would interact with Canadian laws.

00:42:17 Sen. Cohenour asked about the time line for copyright registry and descendant right transfers.

00:49:53 The committee spoke about the creation of a new law and exploring current law.

00:50:45 Sen. Fielder asked Rep. Kipp about cultural resource protections outlined in

Exhibit 20. She stated that she would like to see some specifics in regards to cultural resources that tribes would like to be protected.

The following individuals spoke about their responsibilities related to cultural preservation and their experience with the work:

00:56:11 Michael Black Wolf, Tribal Historic Preservation Officer, Fort Belknap

01:01:37 Stan Wilmoth, State Archaeologist

01:05:20 Sen. Windy Boy recognized individuals in the audience.

Public Comment

01:06:20 George Horse Capture Jr, Fort Belknap

AMERICAN INDIAN YOUTH SUICIDE PROGRAM

01:15:02 Karl Rosston, Suicide Prevention Coordinator, DPHHS, presented information on the data collected and recommendations made by the Montana Suicide Review Team. ([Exhibit 22](#))

Committee Questions of Mr. Rosston

01:33:51 Rep. Greef asked about single parent families. He also commented about the rapid change in society and the effect that might have on suicide rates.

01:38:45 Sen. Cohenour asked about resources for different age groups.

01:40:14 Rep. Greef asked about seasonal changes in suicide rates.

01:40:36 Jay Eagleman, Chippewa Cree Suicide Prevention Task Force, presented information on a prevention program being implemented on his reservation. ([Exhibit 23](#)) ([Exhibit 24](#)) ([Exhibit 25](#))

Committee Questions

02:13:02 Rep. Kipp asked about funding.

02:17:37 Sen. Hansen commented about the spiritual aspects related to suicide.

02:21:32 Sen. Windy Boy commented on the committee's travels to reservations.

02:22:43 Lesa Evers, Tribal Relations Manager, DPHHS, provided a background and updates on the work her department is doing to implement Indian youth suicide prevention funding and consult with tribes.

Committee Questions and Comments

02:31:43 Sen. Windy Boy commented about the topics included in the work plan and his experience with them.

02:34:16 Sen. Hansen asked Ms. Evers about funding and plan implementation specifics.

02:37:55 Rep. Greef suggested using Mr. Eagleman's model throughout the state.

02:39:29 Sen. Cohenour commented about the individual needs of each tribe.

02:40:48 Sen. Windy Boy spoke about collaborative efforts.

Public Comment

02:42:06 Mike Geboe, Chippewa Cree Suicide Prevention Task Force

BREAK (reconvened at 11:00 a.m.)

INDIAN LANGUAGE IMMERSION PROGRAM UPDATE (SB272): Mandy Smoker-Broaddus, Indian Education Director, OPI & Madalyn Quinlan, OPI

02:56:17 Sen. Windy Boy provided a brief background on SB 272.

02:56:45 Ms. Smoker-Broaddus (**Exhibit 26**)

Committee Questions and Comments

03:11:01 Sen. Windy Boy commented about eliminating the option for language immersion and making it mandatory.

03:12:03 Ms. Quinlan

Committee Questions and Comments

03:14:20 Sen. Cohenour asked about a hesitance to implement language immersion programs.

03:14:49 Rep. Kipp commented about the time line for implementation and asked Ms. Smoker-Broaddus about funding for the programs.

03:18:01 Sen. Windy Boy asked Ms. Smoker-Broaddus about local certification. He also made note of some draft support letters for federal legislation on language immersion that staff compiled. (**Exhibit 27**)

Motion/Vote

03:21:55 Sen. Cohenour moved to approve the draft letters and send them to the Montana Congressional Delegation.

03:22:42 The committee discussed the motion.

Substitute Motion/Vote

03:26:01 Rep. Doane made a substitute motion to table the letters until the next meeting.

03:26:31 The committee discussed the motion.

03:29:39 The substitute motion failed 2-4 by roll call vote. Rep. Doane and Sen. Hansen voting yes; Rep. Kipp, Rep. Perry, Sen. Cohenour, and Sen. Windy Boy voting no. (**Attachment 6**)

Substitute Motion/Vote

03:32:04 Sen. Cohenour made a substitute motion to allow 1 week's review of the draft letters language and that the committee hold a conference call to discuss whether or not to support the letters.

03:33:24 The committee discussed the motion.

03:36:40 The substitute motion passed unanimously by voice vote.

03:37:00 The committee discussed a time to meet for the decided upon conference call.

PANEL PRESENTATION: MONTANA BIE TRIBAL GRANT SCHOOLS & SUPPLEMENTAL FUNDING

Loerty Erickson, Native American Education Consultant

Shelly Fyant, Two Eagle River School Board

Lester McCormick, Northern Cheyenne Tribal School Superintendent

Rodney Bird, Two Eagle River School Superintendent

03:40:30 Ms. Erickson
04:11:03 Ms. Fyant
04:17:03 Mr. McCormick
04:21:49 Mr. Bird

Committee Questions and Comments

04:26:15 Sen. Windy Boy commented about grant schools and future efforts.
04:29:30 Sen Cohenour asked about charter schools within the public school realm by association and cooperative agreements.
04:31:42 Rep. Kipp commented about resources, adjustment and other special needs associated within Indian communities and schools.

Public Comment

None.

PUBLIC COMMENT ON ANY ITEM UNDER THE COMMITTEES JURISDICTION

04:38:43 Alvin "Jim" Kennedy, Councilman, Fort Belknap
04:43:02 George Horse Capture Jr., Councilman, Fort Belknap
04:44:43 Rachel Carroll Rivas, Human Rights Coalition (**Exhibit 28**)
04:48:06 The committee discussed the issue presented in public comment about potential conflicts of interest for committee members.
04:51:48 Ms. Stockwell provided copies of additional public comment received electronically. (**Exhibit 29**) (**Exhibit 30**) (**Exhibit 31**) (**Exhibit 32**)

OTHER BUSINESS

04:52:15 The committee discussed appointing legislative liaisons to each tribe in Montana.
05:00:44 The committee discussed future meeting dates.

ADJOURN

05:02:04 Sen. Windy Boy adjourned the meeting at 1:06 p.m.

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