



**State-Tribal Relations Committee**  
**62nd Montana Legislature**

**SENATE MEMBERS**

SHANNON AUGARE  
TAYLOR BROWN  
CARMINE MOWBRAY  
SHARON STEWART-PEREGOY

**HOUSE MEMBERS**

GORDON HENDRICK  
CAROLYN PEASE-LOPEZ  
JOE READ  
FRANK SMITH

**COMMITTEE STAFF**

CASEY BARRS, Lead Staff  
DANIEL WHYTE, Staff Attorney  
CJ JOHNSON, Secretary

# MINUTES DRAFT

September 7, 2012  
Rm 137

Capitol Bldg  
Helena, MT

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

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

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

**COMMITTEE MEMBERS PRESENT**

SEN. SHANNON AUGARE  
SEN. TAYLOR BROWN  
SEN. CARMINE MOWBRAY  
SEN. SHARON STEWART-PEREGOY  
REP. GORDON HENDRICK  
REP. CAROLYN PEASE-LOPEZ  
REP. JOE READ  
REP. FRANK SMITH

**COMMITTEE MEMBER EXCUSED**

SEN. SHARON STEWART-PEREGOY

**STAFF PRESENT**

CASEY BARRS, Lead Staff  
DANIEL WHYTE, Staff Attorney  
CJ JOHNSON, Secretary

**Visitors**

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

### **COMMITTEE ACTION**

The State-Tribal Relations Interim Committee approved:

- the July 20, 2012 minutes.
- writing a letter to the Bureau of Indian Affairs (BIA) regarding telecommunication situations of emergencies.
- writing a letter to Montana's three congressional members regarding VTS. (Veterans Transport Service), and a copy to the Montana Veterans Administration.
- and amended LC6543 - a committee bill that will require a state agency to document that it has considered statutory guiding principles when formulating or implementing policies or administrative rules that have direct tribal implications.

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

00:01:00 Sen. Mowbray called the committee to order at 9:04 a.m. The secretary called roll. [Attachment #3](#) Sen. Sharon Stewart-Peregoy is excused and submitted a proxy. [Attachment #4](#) Sen. Shannon Augare is excused and submitted a proxy. [Attachment #5](#)

### **AGENDA**

#### **Approve STR Committee minutes**

##### **Motion**

00:02:41 Rep. Hendrick made a motion to approve the July 20, 2012 minutes.

##### **Discussion**

00:03:03 Sen. Mowbray had a change on page 5 of the July 20, 2012 minutes. Changed private lands to state lands. The secretary noted the change.

##### **Vote**

00:03:51 The motion **passed** unanimously.

#### **Disaster response: Recent fires in tribal areas**

- **Mr. Ed Joiner, Northern Cheyenne Tribal Coordinator, Disaster & Emergency Services (by phone)**
- **Mr. Raymond Hart, Fire Management Officer, Bureau of Indian Affairs, Northern Cheyenne Agency, Forestry/Fire Management (by phone)**
- **Mr. Ed Tinsley, Division Administrator, Disaster & Emergency Services (DES)**

00:06:59 Mr. Barrs gave an update of DES; its fire response, telecommunications, and the status of the fires in Eastern Montana.

00:09:06 Sen. Mowbray introduced Mr. Hart and Mr. Joiner who is joining the committee

via telephone.

00:10:26 Mr. Joiner gave an overview of the fires in Eastern Montana, and a summary of the difficulty due to the telecommunication system service that was not available in the fire areas. A handout was distributed that explained the disaster in detail. [Exhibit 1](#)

#### **Committee comments and questions**

The committee asked questions of Mr. Joiner about:

- using facebook as an effective way to communicate on the fires.
- satellite phones used on the fires.
- no cell phone service due to lack of towers in the area.
- use of backup and supplying of generators.
- BIA setting up towers next year (2013).
- concerns of livestock roaming due to burned fences and lack of feed.

00:16:47 Sen. Mowbray

00:21:26 Sen. Augare

00:25:46 Rep. Hendrick

00:29:39 Mr. Hart, BIA Fire Manager Officer, gave a summary of his experience and the situation of the fires off and on the reservation.

00:34:23 Mr. Tinsley talked about the state-wide flooding; HB 279, a bill that provides disaster and emergency services to tribal governments and being implemented; and, how the DES has state-wide disaster step-by step guidelines.

00:38:57 Steve Knecht, DES administrator, Chief Operations and responsibility of state's Emergency and Coordination Center, commented that the coordination between the tribes and DES was phenomenal. He gave examples of support provided by the community such as bringing in hay for the livestock.

00:41:35 Tim Thennis, Bureau Chief of the Montana Disaster Emergency Services, distributed and discussed a handout showing the FEMA recovery funds that have been distributed to the counties affected by the disasters such as floods and fires. [Exhibit 2](#)

00:46:20 Angie Mullikin, DES, said she manages the Homeland Security grants. She talked about finding ways to assist with planning and how to make repeaters work in areas that do not have cell service. She said that the Northern Cheyenne and the Blackfeet among other tribes have taken advantage of the grants especially for computers and generators.

#### **Committee comments and questions**

The committee asked questions of Mr. Joiner and Mr. Hart regarding resources such as district plans and equipment supplied by agencies before emergencies get out of hand. There was discussion about sending a letter to the proper authorities that address the communication system and other services. The tribes are trying to get a system going for resources that will be operated as a business by the tribes.

00:51:24 Rep. Read  
00:53:39 Rep. Hendrick  
  
01:01:38 Mr. Tinsley thanked the committee especially Rep. Hendrick and Rep. Read for their expertise of the situations that happened with the fires and floods on the reservations.

#### **Motion**

01:02:29 Rep. Hendrick made a motion to have staff write a letter to the Bureau of Indian Affairs (BIA) regarding telecommunication. The motion **passed** by voice vote.

#### **Break**

01:17:18 Sen. Mowbray called the committee back to order.

#### **FES -- TANF contract award issue**

- **Ms. Del Bock, Program Manager, Temporary Assistance for Needy Families (TANF), Department of Public Health and Human Services (DPHHS)**
- **Ms. Jamie Palagi, Administrator, Human & Community Services Division (HCSD), DPHHS**
- **Mr. Bum Stiffarm, Chief Administrative Officer, Fort Belknap Indian Community**

01:17:59 Mr. Barrs gave an overview of the FES and TANF issues.

- TANF- Family Economic Security (FES) services; A handout explaining the FES program. **Exhibit 3**
- An FES contract. **Exhibit 4**
- A letter sent to Mr. Barrs from Barbara Stiffarm, Executive Director of Opportunity Link, a non-profit corporation committee who find systemic ways to reduce poverty and help communities of North Central Montana achieve independence, prosperity and a better way of life. **Exhibit 5**, and,
- A letter from Loren "Bum" Stiffarm, CAO, Fort Belknap Indian Community is in regards to an RFP (Request for Proposal) for Family Economic Security (FES) from the Montana Department of Human Health and Services (DPHHS). **Exhibit 6**

#### **Committee comments and questions**

01:29:17 Sen. Mowbray and the committee discussed language regarding terms of the FES and TANF contracts.

01:22:44 Del Bock, TANF program manager for Human and Community Services Division, DPHHS, gave an overview of Mr. Stiffarm's letter and the services that TANF provides and the services offered by FES. (see Exhibit 6)

#### **Committee comments and questions**

The committee talked about making sure that funds appropriated by the legislature are implemented to the appropriate programs. The members talked about various ways to make sure that DPHHS is following the correct steps when issuing an RFP.

01:37:35 Rep. Hendrick

01:32:06 Sen. Augare  
01:39:59 Rep. Hendrick  
01:41:25 Ms. Brock  
01:42:20 Sen. Mowbray  
01:44:22 Rep. Pease-Lopez  
01:53:59 Rep. Read  
01:57:04 Rep. Smith  
01:58:31 Rep. Hendrick  
02:00:57 Rep. Pease-Lopez  
02:02:16 Ms. Brock  
02:03:06 Sen. Mowbray  
01:58:31 Rep. Hendrick

#### **Public Comment - None**

#### **Cultural and historic preservation**

02:03:54 Mr. Barrs explained LC 5544, a bill draft requiring that the tribal office designate consultation protocol and be consulted during the periodic review of heritage property. He cross-referenced data with the state of Washington that will require each tribe to set up consultation protocols. [Exhibit 7](#)

#### **Committee questions and comments**

The committee discussed the language of LC5544; using the word "consultation" and its meaning.

02:09:27 Mr. Barrs  
02:15:00 Sen. Mowbray  
02:18:55 Rep. Read  
02:22:55 Rep. Hendrick

02:25:23 **Break for lunch.**

02:25:52 Sen. Mowbray called the committee back to order.

#### **Indian veteran's transportation**

- **Mr. Barrs - letter to Montana's congressional delegation**
- **Mr. Mike Clouse, Department Legislative Chairman, Department of Montana Disable American Veterans.**

03:47:13 Mr. Barrs gave an overview of veterans transportation and a letter the committee has assigned him to write to the Montana's congressional delegation to expedite the Veterans Transportation Service (VTS). [Exhibit 8](#)

03:50:29 Mr. Clouse gave an overview of the definition of VTS compared to the Department of Veterans Affairs (DAV).

04:08:16 Sen. Mowbray informed Mr. Clouse that the committee will write and send a letter to the Montana congressional delegation.

#### **Committee comments and questions**

The committee talked about how to expand the VTS service; using trust funds to

purchase new vans; and, a letter from the committee that was expanded to include maintenance and scheduling. The committee talked about how the veterans have paid with their lives and need these services.

04:09:49 Rep. Hendrick  
04:15:48 Mr. Barrs  
04:18:17 Mr. Clouse  
04:20:57 Sen. Brown  
04:22:26 Mr. Clouse  
04:26:08 Sen. Brown  
04:26:38 Rep. Frank  
04:29:25 Mr. Clouse  
04:30:43 Rep. Hendrick  
04:31:35 Rep. Smith

### **Motion**

04:35:00 Sen. Brown made a motion to send letters regarding the VTS to all three congressional delegates.

### **Discussion**

04:36:10 Rep. Read added that the letter also be sent to the Montana Veterans Administration.

### **Vote**

04:37:22 Sen. Brown agreed to include in the motion to finalize the draft letter with amendment to send letters to all three congressional delegation and include a copy to the Montana Veterans Administration. The motion **passed** unanimously.

### **Full faith and credit for tribal court judgments (LC-7001)**

- **Casey Barrs, LSD staff**
- **Ms. Joan Eliel, Investigator/Program Specialist, Office of the Attorney General**
- **Mr. Joel Rossette, assistant Attorney General of the Chippewa Cree Tribe**
- **Ms. Maylinn Smith, Director, Indian Law Clinic (by phone)**
- **Judge Richland Jackson, Fort Peck, and**
- **Mr. Rene' Martell, et esq and advisor for the Fort Peck Tribal court.**

04:42:48 Mr. Barrs distributed a letter [Exhibit 9](#) he had written to the committee explaining why Dan Whyte, Legal Staff, was tasked in drafting LC7001- a bill giving full faith and credit to tribal court judgements. [Exhibit 10](#)

04:44:56 Judge Jackson commented via telephone that "we need to approach the courts by having more consultation."

04:46:01 Ms. Eliel talked about a grant to study why court orders are not acknowledged.

04:48:42 Mr. Rosette gave an overview how the tribal courts system works.

04:53:24 Mr. Martell said that Montana has procedural proceedings with parameters and recognition of custody proceedings. The forms are available on-line.

04:58:19 Judge Jackson talked about the cost of the forms on-line, and a consortium he attended in New Mexico on how their court process works.

05:03:50 Mr. Rossette talked about courts traveling from tribe to tribe.

05:04:50 Sen. Augare talked about full faith and credit.

05:10:09 Rep. Smith suggested that every travel court from each tribe get together to inform and outline what other tribes do.

05:11:26 Mr. Rossette, Rockey's Boy reservation, talked about DUIs and sharing police records. He talked about cooperative agreements and willing to work with other tribes. He said that Rockey's Boy reservation is open to any cooperative agreements.

05:14:03 Rep. Smith stated that most judges serving in tribal courts have taken federal training.

05:19:10 Sen. Augare commented that the Blackfeet code is part Montana law and part federal law. He said that the Blackfeet tribal code holds the tribe to a higher standard than state law.

05:20:24 Sen. Mowbray and the committee talked about what objections would be met if they go forward with LC-7001.

05:23:00 Rep. Hendrick said there are numerous particulars that have been left out of LC 7001, such as no trial lawyers from the state are present to testify. He said it should be equal law for law.

05:25:04 Ms. Eliel and Sen. Mowbray talked about access for civil cases, which include communication and consultation.

05:28:08 Rep. Hendrick and the committee discussed presenting LC 7001 before the 2013 Legislature.

05:30:37 Mr. Martell and Sen. Mowbray talked about how forms are available on-line, and working with the attorney general's office.

05:37:16 The committee discussed drafting a letter to the Attorney General.  
Rep. Pease-Lopez

05:38:23 Mr. Martell

05:38:59 Rep. Smith

05:39:57 Sen. Mowbray

05:40:15 Sen. Augare

05:41:33 Ms. Eliel

05:42:12 Rep. Smith

05:42:42 Break

06:05:34 Sen. Mowbray called the committee to order.

### **Guiding principles in work that impacts tribes LC6543**

06:06:51 Mr. Barrs gave an update of LC6543 - a bill which requires a state agency to document that it has considered statutory guiding principles. [Exhibit 11](#)

06:09:56 Sen. Mowbray explained LC6543.

### **Committee comments and questions**

The committee discussed LC6543; using the word "shall" instead of "should", all state agencies need to be involved, is the money well spent, and are the people well served.

06:10:23 Rep. Hendrick

06:12:54 Sen. Mowbray

06:14:29 Rep. Pease-Lopez

### **Discussion**

06:17:00 Sen. Mowbray offered an amendment to LC6543 that the Secretary of State offer consultation to all Montana tribes.

### **Motion**

06:19:03 Rep. Smith made a motion to accept and amend LC6543 as a committee bill. The motion **passed** unanimously.

06:20:18 Sen. Mowbray assigned Rep. Pease Lopez to carry LC6543 as a committee bill in the 2013 Legislature.

### **Motion**

06:20:47 Rep. Hendrick made a motion to adjourn the last STR committee meeting of the 2011-2012 interim. The motion **passed** by voice vote.

### **Adjournment**

06:21:32 Sen. Mowbray adjourned the STR interim committee at 3:30 p.m.

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