

# Montana State- Tribal Relations Committee

July 13

# 2017

The STRC typically tackles a broad array of topics over an interim. Meeting the statutory deadline for this work is rooted in the thoughtful consideration members give to planning the interim workload. This draft work plan is integral to meeting STRC goals.

**Draft Work  
Plan for the  
2017-2018  
Interim**



## History of the State-Tribal Relations Committee

5-5-229, MCA, establishes the STRC and tasks it with the following responsibilities:

- (1) acting as a liaison with tribal governments;
- (2) encouraging state-tribal and local government-tribal cooperation;
- (3) conducting interim studies as assigned; and
- (4) reporting its activities, findings, recommendations, and any proposed legislation to the legislature.

Perhaps the most important responsibility of the STRC is to act as a liaison between the state and the eight tribal governments in Montana. This responsibility has been part and parcel of the work of the Committee since its inception in 1977 as the Committee on Indian Legal Jurisdiction. That Committee was charged with meeting with the various Indian tribes to identify common bonds between Indians and non-Indians and to propose legislation for the mutual benefit of both groups.

The Committee's major recommendation to the 1979 Legislature was the creation of a select committee on Indian affairs to be followed by a permanent committee if the 1981 Legislature felt 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 Committee's work, there was a reluctance to create a permanent committee.

Finally, in 1989, the Committee on Indian Affairs was established as a permanent, statutory committee. 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 Interim 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 (a position created by the Legislature in 1951 and appointed by the governor) 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.

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.

The STRC, as we know it today, was established during the 2001 legislative session with the passage of Senate Bill No. 10.

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## Introduction

This is the draft work plan for the State-Tribal Relations Committee (STRC or Committee) for the 2017-2018 interim. In this document you will find:

- An explanation of how this draft work plan will be used
- Instructions for using the draft work plan to make decisions about the final work plan
- A description of potential work plan topics and options for addressing those topics
- A list of potential meeting agenda items
- A draft timeline

## How this draft work plan will be used

This draft work plan will assist STRC members in setting priorities and allotting the Committee's budget for staff time and money in order to complete the Committee's work prior to the September 15, 2018, deadline.

During the legislative interim, STRC may focus on one or more study topics, while also visiting two to four Indian reservations to learn about tribal issues of concern.

Based on the decisions made at the July 13 STRC meeting, staff will develop detailed work plans for each study topic and timetables for completing each major task.

A draft timeline illustrating the overall schedule that these work plans will fit into is presented at the end of this document.

## Instructions

- 1) Review the potential study and research topics presented in this draft work plan.
- 2) Prioritize which topics you want the STRC to focus on this interim.
- 3) Select the FTE you wish to allocate to each of the topics in which you're interested. The proposed FTE and the corresponding level of study may be adjusted by the STRC. **The total FTE allocation available is .25 FTE.** The options you choose should add up to .25 FTE. Use the draft decision matrix to assist you with this process.
- 4) Prioritize the potential meeting agenda items you would like to have the STRC learn more about. The STRC will decide which agenda items to devote more or less meeting time to.

## The Draft Decision Matrix

The attached draft STRC Work Plan Decision Matrix is a way to look at topic options side by side and allocate staff time according to member priorities. It can be used in conjunction with the draft work plan.

# Potential Work Plan Topics

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## Study Assigned by Legislative Council

### SJ 3 – Study of tribal resources for tribal members involved in the criminal justice system

**Background:** SJ 3 was a study resolution proposed by the Legislature’s 2015-2016 Commission on Sentencing, which conducted a year-long study of Montana’s criminal justice system including racial and ethnic disparities.

While American Indians/Alaska Natives comprise 7% of the total population in Montana, the Commission found American Indians constitute 17% of the state’s total adult correctional facility population and account for 27% of all arrests related to failure to appear for court or for violations of conditions related to community supervision. The Commission recommended that an interim committee explore methods to increase access to tribal resources for tribal members who are in the state criminal justice system to decrease recidivism and improve outcomes for those offenders.

#### Possibly study actions:

No study

#### Base study (.085 FTE)

- Determine the status quo: do any agreements currently exist between the Department of Corrections and tribes for:
  - community supervision of state offenders by tribes; or
  - for the extradition from reservations of offenders who violate their conditions of release
- Determine what tribal resources currently exist for community supervision and treatment programs
- Identify any challenges or barriers that exist for access to and utilization of tribal resources
- Review best practices for community supervision and recidivism reduction
- Track outcomes of related Commission bills (SB 63, SB 64, and SB 65)

#### Add-on (.035 FTE)

- Review what other states are doing to facilitate community supervision by tribes
- Additional data analysis of the incidence of recidivism and violations of conditions of release in areas of Indian Country where tribal resources for community supervision and treatment exist versus areas where they don’t exist

## Member Issues Proposed for STRC Study

### 1) Improving Indian student achievement

**Background:** According to the Fall 2016 Montana American Indian Student Achievement Data Report produced by the Office of Public Instruction, 14% of the students enrolled in Montana's K-12 public schools in the 2015-2016 school year were Indian. Among those students, the special education rate was 15.1% compared to 9.7% for White students. On statewide assessments for English language arts, math, and science that school year, Indian students' proficiency rates were 28.5% to 34% lower than those of White students. While dropout rates declined slightly overall in 2014-2015, the dropout rate for Indian students remained significantly higher at 9.5% in grades 9-12 when compared to 2.6% for White students.

Last interim, the STRC studied the impact of public charter schools' on reservations and reviewed data on the existing public and private educational systems for Indian students in Montana on and off the reservations. The STRC also reviewed data on student attendance, performance, and other educational outcomes. In addition, the STRC looked at charter schools serving Indian students in other states and the available research on the resulting educational outcomes.

This interim, the STRC could conduct a broader study of improving Indian student success, including the intersections between school, community, and home life, how nutrition and health issues impact Indian students in Montana, and how tribal colleges are or could be involved in improving student outcomes.

#### **Possible study actions:**

No study

Base study (.04 FTE)

- Revisit the information STRC received last interim on language immersion charter schools
- Receive updated data on student attendance, performance, and additional outcomes
- Review the Schools of Promise program and the Systems of Care Tribal Wraparound Project administered by the OPI
- Learn about other wraparound and wellness programs serving Indian students in Montana

Add on (.04 FTE)

- Collect data on the impact of language immersion programs in Montana on student outcomes, including attendance, homework completion, graduation, and dropout rates
- Review diversity and tolerance education in schools, including state and federal requirements, curriculum for students, training for teachers, and available tool kits for school districts

## 2) Economic development in Indian Country

**Background:** Unemployment on Montana's reservations is often far higher than elsewhere in the state. SJR 20 (Sen. Small), a study of factors affecting and potential solutions for unemployment in high-poverty areas of Montana, is assigned to the Economic Affairs Interim Committee. In addition to tracking that study, STRC members expressed interest in looking at other economic development related issues this interim, including:

- Workforce development in Indian Country, including the use of mobile job search facilities on reservations and increasing the number of job applicants who can successfully pass a drug test;
- Implementation of SB 309 (Sen. Whitford), which revises the membership of the Tourism Advisory Council to include a tribal member from the private sector and dedicates .5% of the lodging tax for activities in Indian tourism regions;
- Treasure State Endowment Program (TSEP) infrastructure planning grants awarded in Indian Country;
- Availability of apprenticeship programs;
- Learn about the Absaalooke Development Fund, a Community Development Financial Institution, and the Model Tribal Secured Transaction Act in place on the Crow Reservation

### **Possible study actions:**

No study

Ala carte study (.01 - .04 FTE per item)

- The STRC could select specific items on the above list to dedicate time to at subsequent committee meetings. Each item would require a minimum of .01 FTE. Workforce development could require .02 to .04 FTE, depending on how far the committee wanted to delve into the topic.

### 3) Indian health care

**Background:** The 2017 Legislature passed HR 3 and SR 57, urging the United States Congress to retain permanent reauthorization of the Indian Health Care Improvement Act when making changes to or repealing the Patient Protection and Affordable Care Act (ACA).

According to the Montana Department of Public Health and Human Services, 11,228 or 15% of the Montanans who became insured under the ACA's expansion of Medicaid are American Indian or Alaska Native.

#### **Possible study actions:**

No study

Base study (.01 FTE)

- Summarize the components of the ACA affecting Indian health care services
- Coordinate periodic updates on Congressional action related to Indian health care and federal legislation with the National Conference of State Legislatures

Add on (.02 FTE)

- Examine disparities in Indian health and access to health care
- Examine how language and culture interact with the health of the person

### 4) Drug use in Indian Country

**Background:** In 2014, the U.S. Department of Health and Human Services stated at a tribal consultation on prescription drug abuse in Indian Country that 64.8% of American Indian and Alaskan Native populations abused prescription drugs within their lifetime and 27.1% within the last year. In the same presentation, the department said that 12.7% of American Indians and Alaskan Natives age 12 or older were current users of illicit drugs of any kind compared to 9.2% of Whites.

#### **Possible study actions:**

No study

Base study (.02 - .04 FTE)

- Determine the rate of drug use by Indians in Montana
- Review what state and tribal treatment programs are available, their funding sources, and their success rates
- Review how the classification of tribal treatment and health programs affect federal reimbursement rates



## 5) A study of cultural patrimony

**Background:** The STRC proposed HB 114 at its final meeting of the 2015-2016 interim. The bill, which was not enacted, sought to prohibit the sale or other commercial transaction of cultural patrimony and sacred objects.

“Cultural patrimony” was defined as an object that has ongoing historical, traditional, or cultural importance central to an Indian tribe, group, or culture itself, rather than property owned by an individual, and for which the duties as a caretaker are transferred through a ceremonial transfer.

“Sacred object” was defined as a specific ceremonial object that is necessary to traditional Native American ceremonial leaders for the practice of traditional Native American ceremonies by their present-day adherents and that requires a ceremonial transfer to be transferred from one person to another.

### **Possible study actions:**

No study

Base study (.015 FTE)

- Revisit the background provided last interim about:
  - current state, federal, and tribal laws and regulations regarding cultural patrimony and sacred objects
  - other states’ laws and regulations
- Summarize current state requirements for consultation of State Historic Preservation Officers and Tribal Preservation Officers during project development
- Stakeholder panel discussion

## Publications

In 1995, the Legislature's predecessor to the STRC, the Committee on Indian Affairs, published "The Tribal Nations of Montana: A Handbook for Legislators". The committee said the purpose of the handbook was primarily educational and intended to contribute to the "harmonious relations between the Indian minority and the non-Indian majority of Montana citizens."

The Legislative Services Division and the University of Montana Margery Hunter Brown Indian Law Clinic jointly published the first update to the publication in 2016, titled "Tribal Nations in Montana: A Handbook for Legislators". Copies will be available at the July 13 meeting.

Staff expects .02 FTE is needed to maintain and update the publication.

## Potential Meeting Agenda Items

Meeting agenda items require minimal staff time to facilitate and do not count toward the FTE available to the STRC's study topics for the interim. The STRC may choose to receive overviews and updates on any or all of the below options, keeping in mind that some options may be allocated more or less meeting time than others depending on members' interest, available meeting time, complexity of the issue, and any emerging issues that the STRC chooses to respond to during the interim.

For planning purposes, it's recommended that the STRC prioritize which of these items it would like to include in future meeting agendas.

## Ongoing initiatives that STRC tracked in 2015-2016

### 1) Suicide Prevention

HB 118 revises the state suicide prevention program to include providing grants to tribes, tribal and urban health organizations, local governments, schools, health care providers, professional associations, and other nonprofit and community organizations for development or expansion of evidence-based suicide prevention programs.

The bill appropriates \$500,000 for this biennium from the tobacco settlement to the DPHHS for suicide prevention grants.

The bill also appropriates \$250,000 from the health and Medicaid initiatives account to DPHHS to assist state and tribal efforts to implement the action steps in the Montana native youth suicide reduction plan published in January 2017 and another \$250,000 for DPHHS to provide grants for school-based suicide prevention activities.

The bill requires DPHHS to report regularly to the appropriate interim committees on the use of the appropriations.

### 2) Indian Language Preservation Program Implementation

HB 37 revises the Montana Indian Language Preservation Program, extending the program's sunset to June 30, 2019, preserving sung language, revising submission requirements for tangible goods, allowing funding to be used as matching funds for federal or private funding sources, and appropriating \$1 million to the program for the biennium.

### 3) Indian Country Economic Development Program Grant Awards

HB 2 appropriates \$1.6 million in state special revenue this biennium to the Indian Country Economic Development Program (ICED), which awards grants to tribal governments to support business enterprises that produce positive economic benefits for the tribe(s). A positive economic benefit is defined as the near-term creation or retention of job opportunities for tribal members. Examples include:

- business development projects
- workforce training projects
- entrepreneurial training
- feasibility study
- other business development projects

#### **4) Native American Gap Financing Revolving Loan Program**

In 2017, the Legislature appropriated \$500,000 for the biennium from the Big Sky Economic Development Trust Fund to the Native American Gap Financing Revolving Loan Program, which was designed to address the lack of capital for Native American-owned businesses.

The Legislature first appropriated funds to the program in 2015. Of the \$500,000 appropriate at that time, \$165,000 was awarded as collateral to two businesses.

#### **Member Suggested Items**

- 1) U.S. Postal Service operations on reservations and difficulties for mail ballot elections
- 2) Available municipal infrastructure funding programs and eligibility requirements
- 3) Regulation of gaming machines on and off reservations

## State-Tribal Relations Interim Committee Draft Meeting Schedule

[*Note: This draft meeting schedule is provided to give you an idea of the timeline that each study topic will need to fit into in order to complete the work on time. It is subject to final approval of the STRC. The timeline shows the last date for completion of certain items.*]

July 13, 2017	Meet in Helena: Organize the committee and prioritize the interim work plan.
3-4 days, Sept. or Oct. 2017*	Proposed visit to Crow and Northern Cheyenne Reservations: Meet in joint sessions with the tribal governments and adopt final work plan.
3-4 days, March or April 2018*	Proposed visit to Fort Belknap Reservation and a meeting with the Little Shell in Great Falls: Meet in joint sessions with the tribal governments and continue through steps of the work plan. The contents of the <i>draft</i> SJ 3 study report should be determined by this date.
May 30-31, 2018	Meet in Helena: Continue through steps of the work plan. The contents of the <i>draft</i> SJ 3 study report should be determined by this date.
July 17-18, 2018	Meet in Helena: Decisions on recommendations, any proposed legislation, and final report contents should be made. Last date to suggest revisions to a <i>draft</i> document if a 30-day public comment period is desired. Comments received from the public will be compiled by staff and distributed to the STRC 1-2 weeks before the September 2018 meeting.
September 5, 2018	Meet in Helena: Final approval of recommendations, reports, and any proposed legislation. Select bill sponsors.

### **Committee interim work must be completed September 15, 2018.**

**\*Reservation visits:** Historically, the STRC has visited two to four reservations per interim in fulfilling its duties as a liaison with tribal governments. This interim, the STRC's reservation visit history (see attached) indicates the STRC should visit the Northern Cheyenne Reservation. Pairing that trip with a visit to the Crow Reservation is a logical choice.

If the STRC would like to move toward a schedule where it meets with half of the tribal governments each interim, staff recommends the STRC pair a Spring 2018 visit to Fort Belknap with a stop in Great Falls to meet with the Little Shell Chippewa Tribe. Then in 2019-2020, the committee could combine visits to the Fort Peck and Rocky Boy's Reservations and the Blackfeet and Flathead Reservations.

The decisions about which reservations to visit and when are up to the committee's discretion and subject to coordination with the respective tribal government.