



## State-Tribal Relations Committee

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### 60th Montana Legislature

#### SENATE MEMBERS

FRANK SMITH--Chair  
DONALD STEINBEISSER--Vice Chair  
RICK LAIBLE  
JOSEPH TROPILA

#### HOUSE MEMBERS

GORDON HENDRICK  
JOEY JAYNE  
KEN PETERSON  
JONATHAN WINDY BOY

#### COMMITTEE STAFF

PAT MURDO, Lead Staff  
EDDYE MCCLURE, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

January 16 & 17, 2008

Room 102, State Capitol  
Helena, Montana

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

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

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#### **COMMITTEE MEMBERS PRESENT**

SEN. FRANK SMITH, Chair  
SEN. DONALD STEINBEISSER, Vice Chair  
SEN. JOSEPH TROPILA  
REP. GORDON HENDRICK  
REP. JOEY JAYNE  
REP. KEN REP. PETERSON  
REP. JONATHAN WINDY BOY

#### **COMMITTEE MEMBERS EXCUSED**

REP. RICK LAIBLE  
REP. JONATHAN WINDY BOY (Friday)

#### **STAFF PRESENT**

PAT MURDO, Lead Staff  
DAWN FIELD, Secretary

#### **AGENDA & VISITORS' LIST**

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

## **COMMITTEE ACTION**

The State-Tribal Relations Committee:

- approved the October 16, 2007, meeting minutes, as written;
- approved a draft letter to Congress supporting approval of all water compacts in Montana;
- approved sending a letter supporting Congressional legislation that provides foster care funding directly to tribes for Indian children and allows tribes jurisdiction to determine foster care child's residency;
- approved drafting a letter addressing "truth in advertising" issues for Native American artifacts;

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

SEN. SMITH called the meeting to order at 9:30 a.m. The secretary took roll, SEN. LAIBLE was excused. Thomas Christian, Fort Peck Tribal Council, led the Committee members and meeting attendees in prayer.

00:00:01 SEN. STEINBEISSER moved to approve the October 16, 2007, minutes. The motion passed on a unanimous voice vote.

## **INTRODUCTION OF NEW INDIAN COORDINATOR**

00:01:34 **Jennifer Perez Cole, Coordinator of Indian Affairs, Governor's Office,** introduced herself as the new Coordinator of Indian Affairs and said her job duties include maintaining state and tribal relations with the Indian nations of Montana. She said she looks forward to working with the Committee. Ms. Perez Cole introduced staff members Billie Rusek and Heather Sobrepena-George.

00:02:53 **Jerry Lamb, Governor's Office of Economic Development,** said he deals with economic development issues specific to Indian country. He welcomed the many tribal leaders in attendance to Helena and extended condolences to SEN. SMITH and his family for their recent loss.

## **STATE-TRIBAL WATER COMPACTS UPDATE**

00:04:23 **Susan Cottingham, Staff Director, State Reserved Water Rights Commission,** reviewed the makeup and purpose of the Compact Commission, noting that all Indian water rights compacts have to be approved by the Montana Legislature, the United States Congress, the tribe, and the Montana Water Court, in that order. Ms. Cottingham said that the Compact Commission is scheduled to sunset July 1, 2009, and said it was at the Commission's request that the sunset not be extended. The Commission believes this course of action will best achieve the Commission's goals of completing the remaining compacts as soon as possible. A number of Commission staff will transition to the Department of Natural Resources and Conservation (DNRC) and will continue implementation of the various water projects contained in the compacts through that department.

Ms. Cottingham reviewed compacts approved by the Montana legislature and accepted by Congress: the Fort Peck Tribe compact, the Northern Cheyenne Tribe compact, and the Rocky Boy's Tribe compact.

Ms. Cottingham discussed the Crow Tribe compact and the Fort Belknap Tribe compact, saying that they have been approved by the Montana Legislature but have not yet received the approval of the U.S. Congress. She said the Commission remains optimistic that agreements will be submitted to Congress later this year.

Ms. Cottingham said the Blackfeet and the Confederated Salish & Kootenai Tribes are the two remaining Montana tribes that do not have compacts at this time but the Commission is hoping that agreements will be finalized in time to get an agreement approved in the 2009 Legislature. She noted that in December of 2007, the Blackfeet Tribe approved a first round draft of compact language. She said work with the federal delegation will begin this year in the hopes that the process will keep progressing smoothly.

Ms. Cottingham said productive negotiations are underway with the Confederated Salish & Kootenai Tribes. Monthly meetings are being held, with a working group trying to resolve contentious issues between meetings. A wide range of issues have to be dealt with but the parties are hopeful that they can complete their work in time for the 2009 legislative session. If the work is not completed, Ms. Cottingham said she will request that the Commission be extended.

00:34:02

**Clayton Matt, Confederated Salish & Kootenai Tribes, Tribal Natural Resources Department Head**, discussed water rights issues on the Flathead Reservation. Mr. Matt said the Confederated Salish & Kootenai Tribe (CSKT) wants to avoid litigation and to settle the compact issue through the negotiation process, but that any agreement must benefit all citizens of the Reservation. Mr. Matt provided a brief background on the history of the Flathead Reservation from its creation in 1855 through the current day, including the tribe's belief that it reserved all water and rights necessary for the purposes of the Reservation.

Mr. Matt said the CSKT has been engaged in trying to resolve water rights issues with the State since 1979. He said all of the other tribes have had time to negotiate their water compacts, but that the CKST has been told that it is out of time because of the sunset date for the Commission. He said it doesn't make sense to disband something that has proven to be successful and to deprive the CKST of its time to negotiate. Mr. Matt discussed several of the obstacles that have prevented agreement on a compact and asked that the Commission be extended, in order to give the CSKT the same opportunity as other tribes have had to work out a compact agreement. He said that working to find solutions to the tribe's water issues is complicated and affects thousands of people, Indian and non Indian. Mr. Matt said the CSKT will work very hard toward a resolution, but needs more time.

00:56:04

**Cedric Black Eagle, Vice Chair, Crow Tribe**, discussed the history and current status of the compact between the State and the Crow Tribe. He said the Tribe has given up much over the years to the State and federal governments, and that with the years of continuing drought, the issue of water becomes more critical each year. He said one of the remaining issues to be resolved is the revenue-

sharing agreement regarding the Big Horn River, as agreed by then- Governor Marc Racicot. He said the final draft is being prepared for Congress and he anticipates that it will be presented to Congress in February of 2008. Mr. Black Eagle said a draft copy would be provided to the Commission as soon as it is ready. He said the federal government has taken the position that there is no money to settle land and Indian water rights; however, there are several bill proposals to fund Indian water rights but they are not expected to pass Congress. In light of that, the Tribe is seeking land in lieu of monetary contributions from the federal government. The amount being sought is \$526 million, with an additional \$2 billion in existing water rights claims that have been prepared for litigation. He said Montana tribes believe they were the first citizens of the State and that every opportunity should be given to tribes to complete negotiations and not be forced into litigation.

01:05:41 **Kermit Horn, Fort Belknap Tribal Council**, asked for continued support of the compacting process and said his Tribe is in the final stages of negotiations. He said a small number of people from the Zortman-Landusky area have been allowed to throw a roadblock in the negotiation process by bringing access issues regarding the Grinnell Notch land into question. Mr. Horn said he did not agree that access would be denied and said the issue shouldn't be allowed to hold up the process. He reminded the Committee that the land involved in the disagreement was once a part of the Reservation and the Tribe feels it has the right to take it back as reservation land. Mr. Horn asked the Committee for its continued support.

01:07:19 **Richard Kirn, Fort Peck Tribe, Tribal Executive Board**, said the Fort Peck compact has been in place for many years, Overall, the compact is satisfactory to the Tribe, but the Tribe is nearing a time when it would like to develop its water to promote economic development on the reservation but it does not have the financial resources to do so. The Tribe may request financial and technical assistance from the State to develop a system to transfer water out of the Missouri River.

Mr. Kirn said the Fort Peck Tribe understands the importance of water and offered the Tribe's assistance and support to the other tribes in Montana in getting their water compacts finalized. He clarified that the Fort Peck Tribe is not a part of the Dry Prairie water project, but that the Dry Prairie project is a part of the Fort Peck water project.

Mr. Kirn said one concern is that the Fort Peck Tribe did not receive monetary compensation as a part of its compact, as other Tribes have. Ms. Cottingham responded that the Fort Peck Tribe did not ask for monetary compensation as a part of the compact agreement.

01:12:09 REP. PETERSON asked Ms. Cottingham if all of the treaties in Montana involve water. Ms. Cottingham said no, but that all of the reserved water rights are governed by the Winters Doctrine of 1908. As such, the State recognizes tribal water rights and that the compacting process deals with how to quantify and

allocate the water. Each treaty is different and the Compact Commission has tried to be respectful of what the tribes have asked for in each compact.

- 01:14:24 REP. PETERSON said that approach is inconsistent with general water rights law, which is to appropriate water and put it to beneficial use; and if that isn't done, the right to the water is lost. He said it appears to him that Fort Peck has not put its water to use and asked Ms. Cottingham to speak to that. Ms. Cottingham said the reserved water rights doctrine is very different from state-appropriation doctrine and has been confirmed by the Supreme Court.
- 01:15:51 REP. PETERSON asked what the State receives in return for the monetary settlements and land transfers to tribes, as part of the compact process. Ms. Cottingham said the State benefits greatly through access to water and by avoiding court battles over water. Provisions in the compact protect the existing state-base water users before the tribes' water rights were quantified. If the Tribes were to go to court, they would likely be declared the senior water rights holder and the junior right holders would be left with little or no water in certain areas. Additionally, the money paid to tribes goes for very practical projects that benefit both tribal and non tribal water users, as well as for conservation measures that benefit everyone in a particular watershed.
- 01:18:12 Regarding the Blackfeet compact, REP. PETERSON recalled that Ms. Cottingham had stated that 80,000 acres are irrigated by Birch Creek. He asked if the Swift Dam is still in place. Ms. Cottingham said the dam is still in place and that the Birch Creek water system is under very tight control between the Pondera Canal Association and the Blackfeet Tribe. She said existing water rights holders are very concerned that they will lose water in the compact negotiations because the Blackfeet Tribe has asked for additional water. She said the ultimate goal is to expand the water capacity of Birch Creek through repair and reclamation of other water sources in order to allow the Tribe to increase its water allocation without affecting existing users. REP. PETERSON asked if any of the 80,000 acres is on the Blackfeet Reservation. Ms. Cottingham said no.
- 01:19:51 REP. PETERSON asked Mr. Matt if the 4,000 water rights claimants on the Confederated Salish & Kootenai Reservation are all of Indian descent, or if they are also of non Indian descent. Mr. Matt said the vast majority are non tribal members. REP. PETERSON asked about the amount of fee land on the Flathead Reservation and if negotiation efforts include protection of the fee lands' owners' water rights. Mr. Matt said yes, that protection of those rights has been a central feature of the proposal and that additional steps have been taken to specifically address protection of existing water rights in an administrative plan.
- 01:22:15 REP. PETERSON asked Ms. Cottingham to discuss why there is not a statute of limitations on the compacting process, either with respect to the users or to the people claiming water rights now. He provided an example of an Indian relative who could not pass an allotment along due to a statute of limitations. He asked why this doesn't also apply to water rights. Ms. Cottingham said there is no statute of limitations on the compacting process and that every effort is being

made to get the compacts completed. She said the issue has been percolating for many years but that it wasn't until recent years that serious efforts have been taken to resolve them. Mr. Matt responded that from a tribal perspective, the rights already exist, and it is only a question of how much should be allocated.

- 01:27:20 REP. WINDY BOY said he sponsored HB 512 in the 2007 session to fund authorized water systems (Rocky Boy and Dry Prairie) but that a federal requirement for matching funds from the Tribe derailed his efforts. He said it frustrates him to try to come up with a solution when there are so many roadblocks. He said language in the treaties specifically address water needs of tribes and that he may request a Committee bill to reduce the roadblocks to tribes. Ms. Cottingham said REP. WINDY BOY's point is valid and that she would pass his concerns along to DNRC. She agreed there is a huge need for infrastructure on reservations, which has not been funded. SEN. SMITH said this issue would be followed up on a future meeting agenda.
- 01:33:50 SEN. TROPILA asked Ms. Cottingham if she plans to ask for an extension of the Compact Commission. Ms. Cottingham said not at this time, but a final decision will not be made until later. She said there is still time to complete the two remaining compacts and is confident that the State and tribes will be able to complete the compacts.
- 01:35:42 REP. WINDY BOY asked Ms. Murdo to discuss the draft letters to the Montana Congressional delegation regarding pending water compacts. Ms. Murdo explained that the Committee voted at its October meeting to send a letter to Congress in support of the Crow water compact. She said she also drafted another more general letter that would support all water compacts before Congress and said the Committee could choose which version it wished to send on to Congress. REP. WINDY BOY **moved** to approve the letter with the more general language in support of all water compacts. He said if the Crow Tribe would like a specific letter of support, he would be in favor of that also.
- 01:40:23 REP. WINDY BOY said water projects in the compacts are so underfunded that even if approved, they can't be built. He asked to add language to the draft letter that would recommend that funding be appropriated at levels that would ensure the projects be completed. Ms. Murdo said she had planned to address this issue at the next day's meeting and that the letters could be finalized at that time. REP. WINDY BOY withdrew his motion until that time.
- 01:42:26 REP. PETERSON said he strongly supports adding language to adequately fund the projects.
- Arlynn Headress, Fort Peck Tribal Council**, agreed with REP. WINDY BOY's comments. He said projects are authorized but are either not funded at all or are under funded. He said that water projects on the Fort Peck Reservation for instance, have been funded at under half the level anticipated. He said Fort Peck supports all tribes' efforts to get their water rights finalized and said water is "liquid gold".

- 01:45:33 Mr. Kirn said the initial focus of the Fort Peck Tribe, when it first signed it compact, was using its water just for the basics of life. He said the Tribe is just now interested in using its water for economic development purposes. He cautioned all tribes to use their settlement money wisely to develop its water resources and said the Fort Peck Tribe plans to ask the State for economic development assistance in developing its water.
- 01:46:55 Mr. Black Eagle said he reviewed the draft letters and also likes the letter that supports all tribes' water compacts.
- 01:47:20 **Carl Venne, Chairman, Crow Tribe**, said State support is very important to the tribes, particularly when working with the federal government. He said he is very happy that a letter of support will be sent on behalf of all the tribes.
- 01:49:03 Mr. Matt said funding will be a huge issue and that the CSKT has been tracking the negotiations processes throughout the western region. He said settlements mean little unless they are funded and that large amounts of money will be needed for settlements already put in place and for those that are yet to come. He said just rehabilitation of existing infrastructure will be very expensive but that all improvements are badly needed and would benefit all users, as well as local economies.
- 01:50:53 REP. WINDY BOY requested that the draft letters include language to request adequate funding and also include projects that have already been approved, such as the Rocky Boy and Dry Prairie projects.

## **BREAK**

### **MEDICAID ELIGIBILITY ISSUES**

- 02:05:53 REP. WINDY BOY and **Lena Belcourt, Policy Analyst, Chair, Rocky Boy Health Board**, discussed a PowerPoint presentation, *Montana Tribal Medicaid Solutions: An Update on Creating Health Solutions for Montana Tribes* (EXHIBIT #1).
- 02:27:29 **Kevin Howlett, Department Head, Tribal and Health & Human Services, CSKT**, discussed three barriers to Native American participation in Medicaid and offered suggestions on how to increase participation (EXHIBIT #2).
- 02:36:37 **Kathe Quittenton, Medicaid Policy Advisor, Department of Public Health and Human Services (DPHHS)**, stated that she is available to answer questions and that the Department is very excited about the Medicaid agreement with the Chippewa Cree.
- 02:37:36 REP. PETERSON said Chippewa Cree and Flathead have self-determination for health care and asked if all tribes can enter into similar agreements. Mr. Howlett said it is an option for all tribes but that the issues of a Medicaid administrative match and determination of eligibility through TANF (temporary assistance to needy families) program have to be dealt with. Ms. Belcourt said a precursor is that the tribe must have a tribal TANF program.

- 02:40:52 Mr. Howlett said that requiring a statement of individual Indian Money Account be provided, as a part of the Medicaid eligibility process, is unnecessary and asked DPHHS to consider removing it. He said another barrier is that people have to apply on an annual basis. He said that participants are notified of the need to re-apply, but in many tribal situations, it is the advocates in the Tribal Health Department who do much of the actual filing; and they do not receive the notice to re-apply. He asked that the Tribal Health Departments also be notified, in order that the applications can be properly submitted. Mr. Howlett said participation would increase if these two simple administrative barriers, in addition to the barriers he discussed earlier (EXHIBIT #2), were implemented. *[In a followup conversation related to the IIM accounts, Ms. Quittenton said the department needs to verify the source of money being deposited into the IIM account because the first \$2,000 of funds received per individual per calendar year that are derived from leases or other uses of individually owned trust or restricted lands are excluded. But once the \$2,000 is reached, money is countable in the month received.]*
- 02:43:25 Ms. Belcourt provided an example of an individual who did not understand what was being asked of her and, as a result, was denied Medicaid. Ms. Quittenton said this was the first she has heard about the per capita issue and would follow up. Regarding the annual application process, she said the Department may be able to notify health departments or others, so long as they are noted in the individual's record as an authorized representative.
- 02:45:41 Mr. Howlett asked that it be on the record that, over past several years, the relationship between DPHHS and the tribes has improved dramatically.

#### **PUBLIC COMMENT**

No public comment was given.

#### **NONBENEFICIARY STUDENTS UPDATE**

- 02:54:01 **Joe McDonald, President, Salish & Kootenai College**, read a statement regarding nonbeneficiary students (EXHIBIT #3). He also discussed beginning salaries for Indian and non-beneficiary nursing student graduates of the Salish & Kootenai College from 1999-2006 (EXHIBIT #4). He asked for continued support of funding for nonbeneficiary students, saying that as the cost of college continues to rise, there will likely be a request to increase the level of funding for these students.
- 02:58:19 REP. PETERSON asked if members of other tribes are considered non - beneficiary students. Mr. McDonald said no, that if a student is an enrolled member of a federally recognized tribe, the college is reimbursed for that student. REP. PETERSON asked how tribal enrollment is verified. Mr. McDonald said the Bureau of Indian Affairs (BIA) performs periodic audits and that the college requests that enrollment verification be provided by the student's tribe. REP. PETERSON asked how long it takes to receive verification. Mr. McDonald said it can take a long time, particularly when it is a small or out-of-state tribe.
- 03:00:18 REP. PETERSON asked, if the State pays \$3000 for a nonbeneficiary student, where does the rest of the money comes from. Mr. McDonald said the student is



responsible for the difference, and that the college tries to help through competitive grants and other ways.

- 03:01:18 SEN. TROPILA asked for specific information on how many nonbeneficiary students remain in the State work force. Mr. McDonald said he would provide that information.
- 03:02:14 **Alan Peura, Fiscal Analyst, Legislative Fiscal Division (LFD)**, discussed the budget background of nonbeneficiary students and reviewed the provisions of 20-25-428, MCA, financial assistance for resident nonbeneficiary students. Mr. Peura also reviewed past and current funding levels and noted that of the current funding level, \$507,000 is one-time only funding and will not be available in the next biennium. He said that in order to maintain the current level of funding, HB 2 would have to be amended to reflect the requirements of the statute. Mr. Peura also discussed the number of nonbeneficiary students, the amount of funding received by each tribal college, and the budgets of the 2007 biennium for a Tribal College Assistance Program on Tribal History and Equipment (EXHIBIT #5).
- 03:13:20 REP. PETERSON said if nonbeneficiary student funding is only for resident students. Mr. Peura said yes.
- 03:14:27 SEN. SMITH asked Jim Smith to update the STRC regarding HB 781. **Jim Smith, Helena**, said that HB 781 requires law enforcement agencies to adopt a policy prohibiting racial profiling; to collect data that documents the race or ethnicity of the people stopped for traffic violations; and for agency administrators to periodically review the data with agency officers. He said the Montana Department of Transportation (MDT) obtained funding to conduct the study and asked the Montana Sheriff's and Peace Officer's Association to create a community liaison to assist. Mr. Smith said that he has been appointed as the community liaison. Mr. Smith said he will be working with law enforcement agencies to make sure they comply with the requirements of HB 781. He also will work with the Tribes to keep them informed of the work being done. He said the timeline for completing the project, including creation of policy, is three years.

## **BREAK**

### **METH TREATMENT PROGRAMS ON OR NEAR RESERVATIONS**

- 03:46:15 Kevin Howlett, Department Head, Tribal Health and Human Services, Confederated Salish & Kootenai Tribes, discussed the seriousness of the methamphetamine addictions on Montana Indian Reservations (EXHIBIT #6). Mr. Howlett's discussion points included statistics from the Northwest Drug Task Force (NDTF) for 2005 through 2007, and emphasized that the problem of methamphetamine addiction affects an entire community and will take a broad and comprehensive approach to change.
- 03:58:28 **Joan Cassidy, DPHHS, Chief, Chemical Dependency Bureau**, agreed with Mr. Howlett's testimony. She reported that the 2007 Legislature allocated \$4 million to fund seven methamphetamine treatment facilities and that two facilities, both near reservations, are in the early stages of implementation. A request for proposals (RFP) was issued in August and proposals were reviewed in October.

Contracts were awarded to Boyd Andrew Community Services in Helena, Montana, to operate a facility in Great Falls (for Native American males only), and a facility on Rocky Boy Reservation (for Native American females only). Ms. Cassidy said that Native Americans may be admitted to any of the seven facilities, but she wanted the Committee to be aware that there are facilities set up specifically for Native Americans.

- 04:01:58 Ms. Cassidy said the treatment facilities will be set up as a residential treatment expansion consortium (RTEC) to provide treatment, and that Boyd Andrew will be the lead, and will be responsible for making sure that all facilities meet objectives. Ms. Cassidy said that:
- facilities will be gender specific, secure, and will provide a safe environment;
  - treatment programs are evidence based, using only the best treatment strategies, and are client-centered;
  - training for all facilities will occur in February of 2008, and staff for all facilities will be trained under the same model;
  - it is anticipated that the average length of treatment will be for six to ninth months, and that the cost will range from \$70 per day to \$208 per day, depending on the level of care and medications needed;
  - clients will be charged \$12 per day for lodging and \$6 per day for food; and fee schedules will be used to collect from clients; and
  - patients requiring a higher level of care average about 45 days at the higher level before transitioning to a lower and less expensive level of treatment.
- 04:12:21 REP. HENDRICK asked Mr. Howlett if methamphetamine use on reservations has declined. Mr. Howlett said there are fewer labs on the reservation, but there is evidence that labs in Mexico are producing large amounts of meth that is making its way to Montana. The Mexican meth is even stronger and more pure, he said.
- 04:13:56 REP. HENDRICK asked if Montana's meth campaign has been effective. Mr. Howlett said he couldn't speak for the rest of the state, but didn't feel that there has been a significant decline in methamphetamine use on the Salish & - Kootenai Reservation.
- 04:16:01 REP. HENDRICK asked Ms. Cassidy if the treatment facilities and corrections facilities use the same type of treatment programs. Ms. Cassidy said that Boyd Andrew Community Services also operates the pre-release center in Helena and the meth treatment center in Boulder, and said she would assume that the programs are similar. She said she was not familiar with the treatment programs offered at the Montana State Prison (MSP) or the Women's Prison.
- 04:17:14 REP. HENDRICK asked how follow-up treatment is addressed and what the cost is for follow-up. Ms. Cassidy said that under the supportive living concept, the cost is minimal. The publically funded treatment system is based on a sliding fee schedule, so most of the individuals pay an average of \$5 to \$10 per session. Medicaid is also a source of payment.

- 04:18:53 SEN. STEINBEISSER asked what the recidivism rate is. Ms. Cassidy said there is a high rate of relapse for methamphetamine addicts, and that only one of about 33 make it through their first round of treatment without relapse. It takes an average of about five attempts to make it through successfully.
- 04:20:34 REP. WINDY BOY asked if DPHHS tracks admissions to corrections programs. Ms. Cassidy said yes, and that data is available as far back as 1985.
- 04:21:32 REP. WINDY BOY said the Women's Prison in Billings has an extraordinarily high rate of Native American females with methamphetamine addiction. He asked if the Women's Prison provides any specialized care for these women after they are released. Ms. Cassidy said her programs do see referrals from the prisons but could not comment on what the process is for referrals.
- 04:26:53 Mr. Howlett said that brain capacity is significantly impaired by meth addiction and agreed that it is more difficult and expensive to treat. He said there is also a need for a cultural component in treatment plans for Native Americans. He asked Ms. Cassidy how the treatment facilities will address the unique needs of Native American meth addicts. Ms. Cassidy said the Native American facilities will provide access to spiritual resources and that the staff has been trained to meet Native Americans' cultural and spiritual needs. She said that if necessary, subcontractors can be hired to provide for specific needs of an individual.

#### **Public Comment**

- 04:31:28 **Rick Kirn, Fort Peck Tribal Council, and member of the Montana Board of Crime Control (MBCC), Prevention and Treatment Task Force Chair, Anti Drug Task Force**, said the MBCC grants to the task forces were recently cut by 70% and that the MBCC will be requesting funding from the Governor and the legislature. Regarding the Montana Meth Project, Mr. Kirn said results have been good so far but that he has heard concerns that it may plateau or lose its effectiveness over time. He referenced an alternative program that emphasizes responsibility of the individual. He reported that the Fort Peck Tribe recently picked up a methamphetamine treatment program for its Spotted Bull Treatment Center and said that he would report back to the Committee when it is in operation.
- 04:36:22 SEN. TROPILA asked Ms. Cassidy to provide the number of employees per facility that will be staffing the facilities.
- 04:36:57 REP. PETERSON said it appears to him that Native American meth addicts are being segregated. Ms. Cassidy said not necessarily, and that the two facilities for Native Americans only were intended to address the unique cultural needs of Native Americans.
- 04:37:39 REP. PETERSON asked what criteria will be used to determine if an addict is Native American, and if proof is required. Ms. Cassidy said it is self-reported and can be verified when completing eligibility requirements. REP. PETERSON said that Native Americans are the same as other people and that treatment should be the same for everyone.

- 04:39:54 **Arlene Templer, Confederated Salish & Kootenai Tribe**, asked to make three points:
- Seventeen children have been removed from their homes in the past three months because of domestic violence and substance abuse; and there are no more foster homes available.
  - Regarding the RFP for the methamphetamine facilities issued by DPHHS, the Salish & Kootenai Tribe did not have adequate time to prepare a grant proposal, and it would be difficult for any tribe to find the resources to bid on or operate facilities.
  - Regarding the Montana Meth Campaign, there are those who are so poor that they do not have televisions or radios, and are not seeing or hearing the meth ads.
- 04:41:56 **Scott Russell, Secretary, Crow Tribe**, said the reality of drug addiction is that skin color doesn't make a difference. He said that education and prevention are the keys to deal with this issue, and that he would prefer the emphasis be placed there, rather than on after-the-fact treatment centers. He said there is a Crow treatment center designed around the Crow culture, but that it has been difficult to license and fund the center and suggested that a certain amount of funding sources be set aside for culturally specific programs.
- 04:44:51 **Tracy King, Tribal Council Member, Fort Belknap**, asked to respond to REP. PETERSON comments about treatment being the same for all, saying that people who are victims of the system are more difficult to treat because they cannot relate to many of the aspects of the treatment programs. He said racism is still an issue in Montana and that being Indian is difficult. He said from his perspective, being Indian has been one of the most difficult things he has had to deal with. He said the system fails Native Americans and provided several examples in which inmates have been denied sweets because of cultural misunderstandings. He said it is important that treatment programs be culturally appropriate for each tribe and that it will result in bettering the lives of the Indian people.
- Mr. King also commented on the water compacting process, saying that the federal government left his Tribe little choice regarding the Grinnell agreement and used starvation tactics to force the Indian people to cede the property back to the federal government.
- Mr. King discussed other issues of concern, including how his daughter has been refused treatment for post traumatic stress disorder by veterans programs.
- 04:53:08 REP. WINDY BOY talked about cultural differences in treatment and that mainstream treatment deals with the mental, emotional, and physical aspects of addiction, but native treatment includes a spiritual element. He referenced an Indian Country Meth Initiative. He also criticized a University of Montana effort by grant writers to be specific about the spiritual elements in grant applications, which steps over a cultural line,

04:59:53 **Tom Christian, Fort Peck Tribal Council Executive Board**, commented on the issue of meth addictions, and quoted a philosopher of war who said if one doesn't know himself or his enemy, he will always experience defeat. He said he was glad to hear all of the discussion but said the State needs to approach this issue from a more holistic point of view. He agreed it is difficult to be Indian but said he was taught by his elders to love his Indian ways, and to use that love and knowledge to guide young people. He proposed that instead of blaming, everyone should take responsibility for what needs to be done and to work in a collaborative approach to solve the problems. He said the Crow Tribe is a good example of taking the initiative to solve its problems. He agreed that there are differences between the Indian and Christian peoples, but said the important point is to respect one another's culture and beliefs. He said Native American spiritual beliefs may require a different treatment approach than other cultures.

### **SCHOOL-TO-WORK OPPORTUNITIES FOR INDIAN STUDENTS**

05:10:45 **Cathy Yetter, Department of Labor and Industry (DLI), Jobs for Montana Graduates (JMG)**, discussed a detailed report on Native American student outcomes of the Jobs for Montana Graduates program (EXHIBIT #7). Topics discussed included in-school programs, out-of-school programs, performance outcomes broken down by category, and budget and cost per student.

05:32:21 **Dr. Lanny Real Bird, Little Big Horn Tribal College, Crow Reservation**, discussed the many challenges he faces in preparing students to be successful members of society with the severely limited resources available at the college. He said his goal as a college level instructor is to help students attain a college degree or, for students who wish to remain in the community, teach them employable skills to enable them to stay. The main focus of Little Big Horn College is to build the community and local economy, for Indians and non Indians alike, but the lack of resources makes it very difficult to provide students with the tools they need to accomplish their goals. Dr. Little Bird described his job as "being in the trenches", saying that he is currently researching assessment tools to create an assessment program for the college, instructing business classes, preparing for accreditation, advising an American Indian Business Leaders club, assisting with curriculum development for the Crow language and culture, and teaching Crow language classes. Resources that are available are maximized to the greatest extent possible. Complimentary programs that have specific focus on tribal economic needs, such as JMG, would be valuable to the tribal college and also benefit the community and state because increasing economic literacy will result in stronger and more stable communities.

Dr. Little Bird said it is imperative that entities like the State-Tribal Relations Committee encourage the Board of Regents and others to take into consideration that this is not about the importance of being mainstream, but the importance of who Native Americans are. He also urged support for increasing the level of resources and tools available on reservations.

Dr. Little Bird said he would like to see a four-year economic development program created within the Montana University System geared to those who wish to stay in the state. He said many degrees currently offered in the Montana

University System are geared toward out-of-state corporate jobs, which are not appealing to many Montanans, particularly Native American students. There are many economic development opportunities on and close to Indian reservations, where many capable people are interested in becoming entrepreneurs. He said it is the responsibility of leaders, such as the State-Tribal Relations Committee to encourage and support programs that build communities. He suggested that school systems begin teaching and preparing students to deal with predatory lenders, how to establish a good credit rating, basic knowledge of stocks and bonds, investment skills, basic accounting skills, and other skills necessary to function successfully in life. Dr. Little Bird thanked the Committee for the time and attention it is dedicating to this issue and that given the opportunity, tribal colleges and tribal governments could build their economies by investing in their families and communities.

05:52:27 REP. HENDRICK said he was very impressed with the classes and programs offered at the Little Big Horn Tribal College when the Committee toured Crow Agency in October. He asked Ms. Yetter if the JMG program works with the Upward Bound program. Ms. Yetter said she did not have any knowledge of a relationship between the two programs, but said the programs contain many similar elements.

05:56:29 REP. HENDRICK said he has found in his experience in working with at-risk youth, that parental involvement is an essential element for success. Ms. Yetter said the JMG program has some elements that involve parents and explained some of the ways in which they are involved.

#### **IDENTIFICATION ASSISTANCE FOR PRISONERS ON RELEASE**

06:02:56 **Gayle Lambert, Administrator, Montana Correctional Enterprises, Department of Corrections (DOC)**, said her program oversees all of the work and training programs through DOC, which includes assisting inmates in obtaining a Montana State Identification card and driver's license. Currently male inmates are provided with an exit identification card that can be used at driver certification stations to obtain a Montana identification card or a driver's license. She said some issues, such as proof of address, are problematic for inmates and that work is being done to resolve that problem.

Ms. Lambert said her program also assists with restitution and paying of fines to clear the blocks on drivers licenses and that MSP has a driver's license coordinator and an independent testing site to help male inmates obtain a driver's license prior to release. Work is being done to establish a similar program at the Women's Prison in Billings. She noted that many of the female inmates have never had a driver's license and that driver training will be provided.

Ms. Lambert said that 61-12-504, MCA, requires that an individual discharged from any correctional facility must be provided a free identification card upon release, discharge, or parole. The DOJ and DOC has been working to make this practice a reality. There will no longer be a need to take the prison identification card to a driver's licensing station. Assistance is also provided to inmates in

obtaining copies of birth certificates and social security cards and other pertinent documentation.

### **PROBATION AND PAROLE JURISDICTION ISSUES AND INTRODUCTION OF NEW DOC INDIAN AFFAIRS LIAISON**

- 06:08:02 **Steve Barry, Human Resource Administrator, DOC**, reported that the newly-hired Indian Affairs Coordinator, Myrna Kuka, was unable to attend the meeting due to an injury. Mr. Barry said Ms. Kuka is very qualified to fulfill the duties of the Indian Affairs Coordinator and briefly related her professional experience, which included experience as a Native Cultural Officer for DOC. SEN. SMITH said Ms. Kuka would be invited to the next meeting.
- 06:09:48 **Diana Koch, Chief Legal Counsel, DOC**, discussed the jurisdictional issues with reservations when dealing with probation and parole. Ms. Koch said since tribes are sovereign nations, it is very difficult for probation and parole officers to access the reservation and said they have no authority to perform a search or to arrest an individual on a reservation. Ms. Koch noted that the Confederated Salish & Kootenai Tribes have the only exception to this because of a Public Law 284 [90-284] agreement for self-governing tribes. Ms. Koch discussed several specific instances in which probation and probation officers were prevented from carrying out their duties because of the jurisdictional issues.
- 06:17:43 **Ron Alsbury, Bureau Chief, Probation and Parole, DOC**, agreed with Ms. Koch's assessment of the dilemma, and said it is a problem on six of the seven reservations in the state. He said he was pessimistic when approached six months ago about creating an agreement with the tribes to address jurisdiction issues. He said he recently attended the Governor's Conference on Cultural Diversity and now feels the goal was attainable and that he will work to see that cooperative agreements are a reality.

### **Public Comment**

- 06:22:33 Tracy King said he personally believes racial profiling continues to occur in the State and said the disproportionate number of American Indians in the corrections system is proof. He said he would like for the inmates to have the opportunity to share their concerns and experiences in which they feel they have been discriminated against.
- 06:25:23 REP. PETERSON asked to respond to Mr. King's comments, and said that he served as chair of the Montana Parole Board for several years and said that during his time there, he could personally guarantee that American Indians were not discriminated against and that he feels the Parole Board treats everyone who appears before the Board fairly.

### **RECIDIVISM RATES FOR NATIVE AMERICANS**

- 06:27:34 **Gary Hamel, Administrator, Health Planning and Information Services, DOC**, asked to clarify numbers of American Indians in the prison setting. Mr. Hamel reported that at the end of fiscal year 2006, 26.6% of the female prison inmate population were Native American, 18% of the male prison inmate population was Native American, for a combined total of 14.7% of the entire

prison population. He said that Native American females account for 17.7% of the entire DOC female population and that Native American males make up 14% of the entire male DOC population.

Mr. Hamel then discussed the percentage of offenders returned to correctional institutions with three years, by race, from 2002-04; and the percentage distribution of offenders returning to prison or other correctional facilities within three years, by race, from 2002-04 (EXHIBIT #8).

- 06:38:39 REP. PETERSON said it is his understanding that prisoners self-report themselves as Native American. Mr. Hamel said that is correct, and said the information is verified when the pre-sentence investigation report is received by the prison. REP. PETERSON asked if proof of enrollment is provided to DOC. Mr. Hamel asked to have Warden Mahoney respond to the question.
- 06:39:55 REP. PETERSON said he would like to know if verification of tribal enrollment is required by the prison. He said having such a requirement may change the statistics.
- 06:40:38 **Mike Mahoney, Warden, MSP**, said that pre-sentence investigations do not routinely validate tribal enrollment.
- 06:41:42 **Mike Ferriter, Director, DOC**, said he is available for questions and that it is important that the statistics are clearly understood. He said a University of Montana study on pre-release centers also included recidivism rates and said the report is available on the DOC website. Director Ferriter said the recidivism rates for Native American offenders reported in that study were alarming to DOC staff. He said it must be understood that Native Americans offenders in pre-release are just as successful as any other race, but the question is what happens after pre-release is complete. He said more information is needed to determine what happens to trigger an incident that results in recidivism. Director Ferriter said the DOC is constantly working on Native American offender issues and has offered specific training for the probation and parole officers on cultural diversity. He said the goal of DOC is to manage 80% of offenders in the community and the goal has been met, and is across the board, regardless of gender or race. He said he signs over 50 releases per week and he pays little attention to names or affiliations of race, but rather focuses on what the offender has done while incarcerated to improve himself.
- 06:47:38 SEN. SMITH asked if there are any pre-release centers on any reservations at this time. Director Ferriter said no, that there are six pre-release centers across the state. He said a pre-release center is planned for the Flathead Reservation.

## **BREAK**

### **INDIAN EDUCATION FOR ALL UPDATE**

- 07:03:16 **Linda McCulloch, State Superintendent of Public Instruction, Office of Public Instruction (OPI)**, briefly addressed the Committee and thanked the Committee for its past support to fund Indian Education for All and for funding to close the achievement gap for American Indian students.



- 07:04:16 **Denise Juneau, Division Administrator, Indian Education For All,OPI,** reiterated Superintendent McCulloch's thanks for the funding and said great things are happening in classrooms all across the state as a result. (Information packets were provided to the Committee -blue folders - and documents from the packet were used in discussion.) Ms. Juneau provided a detailed update on Indian Education for All and specifically discussed Indian Education for All ongoing initiatives and curriculum resources (EXHIBIT #9) and a funding spectrum guide for Indian Education for All, which include accountability measures (EXHIBIT #10).
- 07:18:15 **Joyce Silverthorne, Director, Tribal Education Department, CSKT,** reported that there have been tremendous improvements made and agreed that funding definitely makes the difference. She discussed a professional development program, the Western Montana Partnership for Education Resources, which includes Indian Education for All resources among other resources. Ms. Silverthorne encouraged the Committee to consider the broad scope of Indian Education for All and the effort that it will take to change the system. She said, on a national basis, the perception remains that the Bureau of Indian Affairs (BIA) is still responsible for the education of Indian children, which is not the case. Montana is leading the way that will transform an education system that has been unresponsive to Indian students in the past. Ms. Silverthorne discussed a document outlining points for consideration by the Committee (EXHIBIT #11), which included the need for continued support and funding, the important role of a government-to-government relationship in the implementation of Indian Education for All, and concerns regarding tribal informal custody agreements, the role of tribal advocates in schools, and out-of-district school placement.
- 07:31:41 Superintendent McCulloch reported on efforts underway to collect information regarding the achievement gap for American Indians, saying that not much information has been available in the past, but that thanks to legislatively funded research, information is finally becoming available. She said state funding is critical because of the lack of federal funding.

### **INDIAN DROPOUT RATES**

- 07:34:20 **Mandy Smoker Broaddus, OPI,** discussed a PowerPoint presentation, *AMERICAN INDIAN DROPOUT DATA AND PREVENTION STRATEGIES*, (EXHIBIT #12).
- 07:49:28 REP. JAYNE said she is concerned about the low math and reading scores reported in the presentation. She asked why this is happening and what can be done. She also asked if this is specific to Montana Indian students. Ms. Broaddus said it is a national trend and that OPI is looking into practices to increase the success rate for American Indian students. She said OPI has found several programs that have reported significant success with American Indian students. Such programs may be piloted in several schools.

### **DISASTER DECLARATIONS AND COOPERATIVE AGREEMENTS**

- 07:58:32 **Steve Knecht, Deputy Administrator, Disaster and Emergency Services (DES), Department of Military Affairs,** said DES has several roles within local

governments and tribes. One main DES focus is to plan and prepare for disasters, in the hope that the impact can be lessened through proper planning. Mutual aid agreements between entities are an integral part of the planning process. Mr. Knecht said that, currently, work is being done to finalize a Tribal Nations Disaster and Emergency Mutual Aid Agreement between the seven tribal nations in the state. He said the Agreement has been reviewed by the United States Attorney and may be approved soon. He said the 2005 Legislature authorized the creation of an intrastate mutual aid system that would include participation from Indian nations. He said Montana was the first state in the nation to craft such an agreement and Montana's model was used by other states in crafting similar agreements.

- 08:04:53 **Tim Tennis, Branch Director, (DES)**, discussed several of the disaster situations in which he has provided assistance, saying that when disasters occur, the DES makes every effort to get the information to the right people as quickly as possible, mainly through the use of local coordinators. Internal procedures are then started to activate services to the needed level. Mr. Tennis explained that because the tribes are sovereign nations, they must formally request assistance through the Federal Emergency Management Agency (FEMA). He said state agencies do all that they can to assist, particularly when a life-safety issue is occurring. Mr. Tennis reviewed the different types of assistance programs available through DES.
- 08:09:26 Mr. Tennis distributed a table listing Montana counties and the threshold amount of damaged that is required in each county that must be met to be eligible for FEMA assistance (EXHIBIT #13). He noted that the tribes are listed at the bottom of the table.
- 08:11:55 Mr. Tennis said state funds cannot be used to assist Indian nations because of their sovereign nation status, which is why the disaster threshold number is important. Once the threshold number has been met, FEMA funding can begin. He said the State works around this requirement as much as it can, such as through involving tribes in training programs, but that it can be a complicated and frustrating issue.
- 08:14:19 Mr. Knecht said it is important that the Committee understand that rules have to be followed both under Title 10 in Montana Code and the federal Stafford Act, which governs FEMA. He said that once personal safety has been addressed in a disaster situation, DES feels its hands are essentially tied. He said he is aware that tribal councils get upset when DES does not respond to requests but that the agency is operating within the rules that have been set for it.
- 08:17:47 REP. HENDRICK asked if most of the reservations have an emergency operation plan (EOP). Mr. Knecht said that once a reservation agrees to join an Emergency Management Performance Grant (EMPG) program, it must meet certain requirements. He said additionally, the EOP has to be reviewed and revised from time to time, as well as meet certain training requirements. He said FEMA has mandated that federal funding can only be obtained if a plan is compliant with the National Incident Management System (NIMS)

- 08:20:10 REP. HENDRICK asked if there are emergency coordinators on all of the reservations. Mr. Knecht said there are points of contact on each reservation and that some reservations have opted to join the EMPG program. REP. HENDRICK asked for a list of the tribes that are EMPG members. Mr. Knecht said he would provide that information.
- 08:22:51 Mr. Knecht said another hurdle is that FEMA often looks at reservations as a local jurisdiction and the State does not. He said he has had numerous discussions with the federal government and Montana's Congressional delegation regarding this but little has been changed to date. SEN. SMITH said the tribes would support changes.
- 08:27:55 REP. WINDY BOY said there have been complaints that Havre businesses are refusing to accept tribal identification cards as valid identification. He asked whose responsibility it is to do public education regarding a law that has been passed, such as the tribal identification law. Ms. Murdo said it would depend on the issue. She said the Attorney General's office has a consumer complaint division but that she would consult with Greg Petesch, Code Commissioner, and report back to the Committee at the next day's meeting.

SEN. SMITH recessed the Committee at 6:08 p.m. and said it would reconvene the next morning at 8:00 a.m., January 17, 2008.

#### **JANUARY 17, 2008 -- DAY TWO**

- 00:00:02 SEN. SMITH called the meeting back to order at 8:04 a.m. The secretary noted the roll. SEN. LAIBLE and REP. WINDY BOY were excused.

#### **CHILDREN'S HEALTH INSURANCE SIGNUPS FOR INDIAN CHILDREN**

- 00:00:44 **Jackie Forba, Bureau Chief, Children's Health Insurance Plan (CHIP), Department of Health and Human Services (DPHHS)**, updated the Committee on the CHIP community outreach activities for 2007-08 (EXHIBIT #14).
- 00:03:04 SEN. TROPILA asked how many Indian children are enrolled. Ms. Forba said that as of January, 2008, there are 1,331 Indian children enrolled, comprising 8.4% of the total CHIP enrollment.
- 00:03:44 **Kevin Howlett, Department Head, Tribal and Health & Human Services, CSKT**, provided a summary of CHIP as it currently is operating on the Flathead Reservation. He reported that a total of 222 children are enrolled and that there is an aggressive campaign underway to get more children enrolled (EXHIBIT #15).
- 00:04:59 SEN. TROPILA asked how many children are still eligible statewide for CHIP. Ms. Forba estimated that there are approximately 3,000 children still eligible and that outreach efforts are continuing.

00:06:25 REP. PETERSON said in the past there was talk that there are more openings in CHIP than needed, and asked if that is the case. Ms. Forba said the current budget is for 16,000 children and that currently, 15,800 children are enrolled in CHIP.

00:07:03 REP. JAYNE asked for the projection or the next fiscal year, particularly if there will be a request for additional funding. Ms. Forba said a report for the Legislature will be prepared but at this point, there are no firm numbers available.

### **TANF UPDATE ON RESERVATIONS**

00:09:06 **Hank Hudson, Administrator, Temporary Assistance for Needy Families (TANF) Program, DPHHS**, said tribes can choose to administer their own TANF programs independently from the State and that several tribes have done so with success. Mr. Hudson reviewed the history of the TANF program and noted that the federal funding level for Montana has not changed since 1994, saying that the level of funding will not work much longer. He said that the tribes receive approximately \$36 million in federal funding and \$13 million in state funding. He also discussed the requirements that must be met for individuals to enroll in the program and noted that TANF payments are not enough to live on and were not intended to be.

00:14:56 Mr. Hudson said four Montana tribes are operating their own programs and that the Northern Cheyenne, Crow, and Fort Peck Tribes remain in the state program.

00:19:11 Mr Hudson discussed several of the challenges and issues in administering the TANF program:

- Offices have been established on reservations in order to accommodate Indian families, so that families can get TANF benefits, food stamps, and Medicaid in one location.
- People who live off reservation are limited to TANF benefits for 60 months for their entire life, but the rule doesn't apply on the reservation. This has resulted in people moving back to the reservation, which has created a greater demand.
- There have been difficulties in establishing what qualifies as a "work activity". The State wanted to include education and time spent in family treatment programs but federal language is very restrictive and prevents this.

00:24:55 **Arlene Templer, CSKT Human Resources Development Department Head**, said the CSKT has been operating its own TANF programs since 1998. The Tribal Council had the foresight to create one department for services to low-income people and is very convenient for tribal members. In 2004, social services joined that department. The goal is to provide necessary services, deal with barriers, and to teach self-sufficiency and work skills.

Ms. Templer said to date, there have been 941 unduplicated TANF cases at CSKT, involving 2,866 people. Today, there are 153 active cases, of which 54% are child only, 7% are two parent, and 39% are single parent. She said the high rate of child only cases is attributable to the fact that many grandparents and

relatives are raising children whose parents are struggling with addiction problems, particularly methamphetamine. Ms. Templer said that despite that, the one-stop, wrap around services and job training offered by CSKT has resulted in a drop in the unemployment rate. CSKT programs develop criteria designed to help people become successful and are carefully structured to ensure success. She said several people have chosen not to meet the requirements and in these cases, addiction is usually the reason.

Ms. Templer reported that the tribal TANF program works with 22 other service programs and that all programs are working hard to increase self-sufficiency but many people remain on waiting lists for job training. She said many of these people are lacking in skills and that most do not have a high school education, so there is much left to be done in order to prepare them for jobs. Economic development is badly needed to provide jobs when these people are ready to join the work force.

00:32:23 REP. JAYNE asked what can be done to decrease the high number of unskilled TANF cases and asked how education could interface with the TANF program. Ms. Templer said the CSKT Tribal Council created a committee to specifically look at this issue, with the Job Corps being a main focus. She said information is being gathered and that the committee is working with the local high schools to create pathways for kids. Additionally, the tribe is requiring that the individuals complete a GED.

00:34:30 REP. JAYNE asked Mr. Hudson what the State can do to assist with the types of issues discussed by Ms. Templer. Mr. Hudson said the issue of poverty is the biggest obstacle and that a vehicle is needed to help people receive education and training for jobs with benefits and wages that will sustain a family. Quality childcare and health care are important pieces that would also have to be in place, in order to allow the parent to clearly focus on getting the education and training necessary to get out of poverty.

#### **FOSTER CARE IV-E AGREEMENTS, PROCESS, AND IMPLEMENTATION**

00:38:01 **Andy Huff, Attorney, Governors Staff**, reported that new foster care agreements with all tribal governments have been reached and that the agreements pass through the IV-E Social Security distribution from the State to the tribes, so the tribes can operate their own foster care programs on reservations. He said the negotiations were long and at times, difficult, but worth the effort, and that the agreements are a good model for state-tribal relations. He said the last of the agreements would be signed by the Governor and tribal leaders later in the day.

00:40:47 **Shirley Brown, Division Administrator, Child and Family Services, DPHHS**, said the IV-E program provides federal funding for foster care services and is an entitlement program. Eligibility is determined by a two-prong test of financial need and program eligibility, as determined by certain judicial findings. Ms. Brown said tribes cannot directly access Title IV-E funds through the federal government, so an agreement with the State is necessary. The Fort Peck Tribe was the first to create an agreement (1987) and by 1996, agreements with all

seven reservations had been reached. Ms. Brown emphasized that the process was a collaborative effort between the State and the tribes, and that the goal was to ensure that children in both jurisdictions were accessing the same services.

Ms. Brown said at the same time this was going on, a parallel process was going on in Child and Family Services to work on the implementation details. An administrative budget had to be developed, including extensive staff training, because of the complicated nature of this funding. It was recognized that tribes needed access to funding for all services and supplemental support services funding was added to the new contracts, as well as additional administrative funding. Under the new agreements, new funding is available for staff and services, expansion of decision making ability to tribes, new funding for supplemental services, new funding for finger printing, expansion and clarification of technical assistance available to tribes, expansion of consultation between state and tribal staff, and expansion of tribal access to training.

00:48:35 Ms. Brown said certain eligibility issues remain a concern because of laws governing jurisdiction. Residency is based on the parent's residency, so out-of-state children placed in foster care in Montana or on reservations can lose their IV-E eligibility. Discussions regarding this matter have been held at the federal level and the State was told that legislation was the only way to resolve the residency issue. Ms. Brown said that Sen. Baucus introduced S1956 to address this issue but that no action has been taken on the bill at this time. She reported that a companion bill (HR 4688) was introduced in the House in December and that no action has been taken on that bill either.

00:51:50 REP. JAYNE asked what the length of the contracts with the tribes are. Ms. Brown said the new contracts are three-year contracts. REP. JAYNE asked who reviews the finger printing results. Ms. Brown said the results are provided to licensing agencies for foster care providers. She said that certain felony offenses can prevent an individual from being licensed as a provider.

01:00:38 Ms. Templer discussed the negotiation process and said it was quite difficult at times, with assistance being requested from the Governor's Office. As negotiations went on, it became evident that tribes were receiving different levels of funding and services. This caused anger and a lack of trust, but resulted in a tribal alliance and goal of providing the same level of care and services for children, regardless of whether the child is in the state care system or tribal care system.

Ms. Templer said that many of the changes would not have occurred without the support from the Governor's Office and that she is concerned what will happen when the Governor's staff steps back. The Indian Child Welfare Act (ICWA) is of great concern as are the residency policy and issues of tribal court jurisdiction. She said the tribes will continue to fight for changes. Ms. Templer discussed several other concerns regarding this issue and said Indian children are still residents of the State of Montana and that all children should receive equal services, regardless of where they live.

- 01:04:29 **Patricia McGeshick, Fort Peck Tribe**, agreed that the negotiating process was long and difficult. She said that the Fort Peck Tribe was anxious to have its agreement signed later in the day. She discussed her Tribe's decision to enter into an agreement with the State of Montana regarding the administration of Title IV-E, rather than signing a contract as other reservations did. (EXHIBIT #16).
- 01:10:39 SEN. TROPILA asked Ms. Templer to clarify her concerns funding. Ms. Templer said she is concerned that the state funding match may be pulled when the federal funding begins to be allocated directly to tribes. She said the state match amounts to approximately \$100,000.
- 01:11:46 REP. PETERSON asked Ms. Templer to provide more details about some of the problems experienced in the negotiations process. Ms. Templer said the residency requirement and jurisdiction issues are of great concern to the Indian people. She said the tribes were told, at the federal level, that changes could be made at the state level, and the State said the changes had to come from the federal level. Additionally, she said government-to-government negotiations were new to this process and adjustments had to be made
- 01:13:30 REP. PETERSON asked if the jurisdiction issues are about children who come from different states, or if the issue lies between tribal and state court systems. He asked if there are concerns about non Indian foster parents caring for Indian children. Ms. Templer said the reality is that there are not enough Indian foster care providers to take care of all of the Indian children in need of foster care placements and that Indian children do have to be placed in off reservation foster care homes. She said, ideally, Indian children living on a reservation would be able to be placed in a foster home on that reservation, and that work will continue to that end.

#### **Public Comment**

- 01:15:26 **Tracy King, Fort Peck Tribal Council**, discussed a historical perspective of Indian children being removed from their families and from their reservations through out the 1960s. He said he has been a foster parent for many years and that he ignores the "foster" and treats all of the children in his home as his own. He said the foundation of belonging to a family is a critical element in a child's upbringing and supported the use of a family group decision model. Mr. King also discussed the failings of the foster care system and said that many foster children become numb from being moved from home to home. He said the system needs to be more proactive in protecting the child and doing what is best for the child.
- 01:21:34 Mr. Howlett commented that it is an indisputable fact that a high percentage of the Indian people who struggle with addiction problems and that many in the corrections systems are products of the foster care system. He said the detrimental influence of decades of BIA and federal intervention in the lives of Indian children is very evident and that the residency issue must be resolved. He said he is confident the State can resolve this issue and pointed out that many of Montana's neighboring states have addressed this issue in satisfactory ways. He discussed the similarities between many of Montana's Indian Tribes and tribes in

neighboring states, and provided examples of tuition waivers between states for Indian students as an example of how residency issues can be handled.

Mr. Howlett said it is clear that resources to care for foster children are in short supply but said the bigger issue is why these children are in need in the first place. He said there are many parents who don't know how to parent and are not ready to be parents. He said while he is not a proponent of orphanages, he is a proponent of children being raised in a structured and safe environment, where people provide daily interaction and provide the guidance and support children need. He said it may be time to consider this as a viable option to deal with the foster care shortage.

- 01:29:06 Ms. Templer asked to elaborate on Mr. Howlett's comments about an orphanage and said that a new generation of foster children have arrived, that of methamphetamine babies born addicted. She said these children require a very high level of care and that foster families and schools are not equipped to provide for this type of child. She said the first meth baby just started school in her area. She said an orphanage may be the best placement for this type of child because of the violent behaviors exhibited and need for constant care.
- 01:30:52 Mr. Huff asked to clarify that the formal signing of the Fort Peck agreement was set for today, but that the ceremonial signing is to be held at a later date on the Fort Peck Reservation.
- 01:36:28 Mr. Christian thanked those who have worked to raise the quality of life for Indian children. He said that he supports the efforts made regarding the IV-E process but that he does have some concerns. Mr. Christian said that there are many families on reservations that would be happy to provide foster care but that economic realities prevent them from doing so. He said the IV-E program does not recognize the importance of kinship agreements and said that the lack of identity creates many problems for Indian children not raised in Indian homes. He said many Indian families have very strong values and take pride in living in a good way and that he would like to see a program that would make it easier for Indian families to provide foster care.
- 01:44:15 Ms. Brown reminded the Committee that the Title IV-E program is a federal program with very restrictive requirements, and that kinship placements are severely restricted. She said she has tried to figure out where there may be some flexibility and has found there is very little.
- 01:46:21 REP. JAYNE asked Ms. Templer if there was anything the Committee could do to assist her. Ms. Templer said Committee support for Sen. Baucus's federal legislation would be very helpful.
- 01:49:52 Mr. Huff agreed that Committee support for the federal legislation would help. SEN. TROPILA **moved** to send a STR Committee letter of support to Sen. Baucus. The **motion passed** on a unanimous voice vote. SEN. STEINBEISSER voted aye with SEN. LAIBLE's proxy and SEN. SMITH voted aye with REP. HENDRICK's proxy.



## **BREAK**

### **GAMBLING COMPACTS AND STATE GAMING ISSUES**

- 02:08:00 **Andy Huff, Class III Gaming Negotiator for Gaming Compact**, provided a status update on compact negotiations in Montana:
- The Confederated Salish & Kootenai and Blackfoot Tribes have exclusively Class II gaming, which doesn't require a compact;
  - a Class III compact with the Fort Belknap Tribe was signed last year and it was approved by the Department of Interior in December;
  - a new Class III compact was reached with the Chippewa Cree Tribe and changes have been requested by the Tribe;
  - negotiations are ongoing with the Crow Tribe;
  - the Northern Cheyenne Tribe has an updated Class III compact but recently requested amendments to the number of machines allowed and amount of pay outs; and
  - the Fort Peck Tribe has a Class III compact that needs to be updated.
- 02:10:43 SEN. TROPILA asked, as a member of the Gaming Advisory Council, if the Fort Peck Tribe has asked to upgrade its Class III compact. Mr. Huff said no request has been received yet, but that he expects to hear from the Tribe soon. In response to a question from SEN. SMITH, Mr. Huff said that, because the tribal administration changed recently, a letter of request for the negotiation process to begin is required.
- 02:13:08 **A.T. Stafne, Tribal Chair, Fort Peck Tribe**, said he was honored to sit before the Committee and introduced other tribal council members: Arlen Headress, Tom Christian, Rick Kern, and Bill Whitehead.
- 02:14:12 **Rick Kirn, Fort Peck Tribal Council**, said the Tribe has had a gaming compact with the State that dates back to 1992, as well as other compacts. He said it has become necessary for the Tribe to take a firm stand in regards to the gaming issue and said the Tribe feels stymied by the current compact. Mr. Kirn said that gaming could prove to be an important economic development tool for his reservation, which is in a very economically depressed area. He said the Fort Peck Tribe has proven it can handle the business of gaming and that it is of the opinion that it has the right to game the way it chooses. He said Montana has missed the boat when it comes to allowing certain types of gaming and that North Dakota and Canada have benefitted from Montana's mistake. Mr. Kern said the Tribe is not going to jump into a situation without great consideration, but that it wants to be able to decide for itself what kinds of gaming will be allowed on the reservation. He suggested that the Tribe be allowed to have open gaming on a trial basis, to see how it works.
- 02:18:06 **Tom Christian, Fort Peck Tribal Council**, agreed with Mr. Kirn's remarks, saying that the quality of life is very different on the Fort Peck Reservation because of the severe economic conditions. He said, for example, that tribal members have to travel over 300 miles for quality health care. He said that gaming could provide the opportunity to improve the economy and allow the Tribe to address many social issues in need of attention. He said he does not understand what the fear is regarding the gaming issue and that the State could

partner with the Tribe in raising the quality of life if open gaming were allowed. Mr. Christian discussed gaming in North Dakota and said that Highway 2 traffic would be more likely to stop in Montana, if additional gaming were available. He said this should be viewed more as a state issue, rather than a tribal issue, and that Montana is missing out on a great deal of revenue by not allowing expanded gaming.

02:25:55 **Arlen Headress, Fort Peck Tribal Council**, said the Tribe has attempted negotiations with the State on numerous occasions. He asked that the State take seriously the Tribe's request. He said that Montana governors have opposed gambling, but that the Tribe's sovereignty should allow the Tribe to decide for itself. Mr. Headress said he does not envision large scale gaming operations and that he is realistic about the level of support from Montana citizens, but that the Tribe is just asking for a fair chance to discuss the issue.

02:29:11 **Bill Whitehead, Fort Peck Tribal Council**, said that as Montana citizens and tribal members, Indians are dual citizens. He said the Fort Peck Tribe at one time had the reputation as being the most progressive. He said it is time to regain that reputation. He discussed the current disastrous economic state of the Reservation, and said that should be a major factor for allowing gaming. He said he appreciated the bipartisanship of the Committee and asked for continued support for Indian Education For All funding.

02:37:54 **Dr. Lanny Real Bird, Crow Tribe, Member of Little Big Horn Casino Board**, agreed with the comments made by the Fort Peck Tribal members regarding the poor economic conditions on Montana reservations. He said that economic development and stability go hand in hand and that the potential of gaming to generate revenue could take reservations to a new level of stability. He said the State would benefit from the Tribe's economic success as well, through revenue sharing agreements that could be used to fund scholarships, social programs, healthcare services, and more.

Mr. Little Bird said wise use of such revenue would require carefully thought out protocols for investment and that tribal leaders should be allowed the opportunity to build their communities. He encouraged Governor Schweitzer to act in good faith and to prioritize gaming, saying that economic difficulties are hurting families and driving people from the reservations.

02:49:27 Mr. King stated that he did not think the recently approved compact for the Fort Belknap Tribe was in the best interest of his Tribe. He said as a tribal leader, he would like the tribes to be able to become more economically self-sufficient but that roadblocks, such as the one to gaming, prevent this from happening.

02:55:39 **Jami Hamel, Senior Policy Analyst, CSKT**, said she was not speaking on behalf of the CSKT. She discussed the history of the compact negotiations, saying that all of the negotiations were with the GAIN Council, and that the Governor did not participate in any part of the negotiation process. She said at the final hour, he traveled to Polson, but met only with non Indian business owners on the Reservation. The Governor asked the CSKT to extend the

contract, but the Tribe declined to do so. Ms. Hamel discussed disparity issues between gaming machines and pay out limits on reservations. Ms. Hamel said the Indian Gaming Regulatory Act (IGRA) expressly says that tribes are to benefit from gaming but said in her opinion, that is not happening. She said the 2007 legislation to allow expanded gaming for tribes failed but suggested that the tribes work together to revamp it for reintroduction.

- 03:02:21 **Arlen Headress, Fort Peck Tribal Council**, emphasized that gaming is not viewed as a "get rich quick" scheme, but as a life line for tribes. He said Poplar was once a vibrant town but today it resembles a ghost town because of the severe economic conditions. He said gaming could be used as an empowering tool to build businesses and bring life back to the reservation. He said the tribes feel they are entitled to gaming and asked that the Governor enter negotiations.
- 03:06:14 SEN. TROPILA asked Mr. Huff to respond. Mr. Huff said IGRA requires that states and tribes enter into the compacting process and that each side has to have proper authority to compact. The issue is that the Governor doesn't have legal authority to negotiate open gaming because the Montana Constitution clearly limits the scope of gaming allowed in Montana.
- 03:15:50 REP. PETERSON asked Mr. Huff to respond to comments made by Ms. Hamel regarding the private business (Town Pump) that is allowed to have an unlimited number of machines, while tribes are allowed a considerably smaller number of machines. Mr. Huff said this issue has been raised several times in his tenure and that he doesn't fully understand the explanation given him.
- 03:17:45 Mr. Kirn expressed his opinion that, as a sovereign nation, a Tribe should not be affected by Montana law regarding gaming. He said the legal opinions of tribal attorneys differ from that of the Governor's Office regarding the Governor's authority to approve or disapprove gaming compacts. Mr. Kirn said the State of Montana should allow the Fort Peck Tribe to conduct a Class III gaming pilot program and asked Mr. Huff to cite the legislation that prohibits Class III gaming. Mr. Huff said he would provide the information to Mr. Kirn and said it is not a matter of state control over the reservations, but rather what the Governor can legally agree to.
- 03:20:52 REP. JAYNE said if the legislature and the governor both are in support of this type of endeavor, it can be made a reality; but that she does not see this happening. She said there is a tremendous amount of support for gaming from the tribes and little support from the legislative or executive branch. She said the tribes have made an honorable request, and said the state should honor the request with assistance. She asked how the Committee can assist.
- 03:26:31 Mr. Whitehead said only when people are hurt in their pocketbook will they change. He said his own tribe needs to open up many issues for reexamination and reconsideration and that his government may need to renegotiate agreements in order for the Tribe to get a more fair share. Regarding the Town Pump situation, Mr. Whitehead said that matter is in the hands of the Montana legislature and the constituents of the State.

03:32:04 Ms. Hamel said there is a feeling among the tribes that the State is not negotiating in good faith. She said the State of Wyoming was able to waive its state rights in order to allow Wyoming Tribes to work directly with the federal government on gaming issues. She asked how to make that same type of situation happen in Montana. Mr. Huff said he was new to the office and was not aware of that situation. He said he would have to consult with the Department of Justice.

#### **RACIAL PROFILING AND HIGHWAY PATROL QUOTAS**

03:36:32 **Ali Bovingdon, Assistant Attorney General**, said she would provide an overview of the collection of racial profiling data and Highway Patrol performance measures, as required by HB 781. Ms. Bovingdon said in order to implement the data collection requirement, the Attorney General's Office developed a uniform citation form for statewide use by law enforcement officers. Ms. Bovingdon explained that the citation form used by law enforcement officers will have check boxes to indicate the race of the person being ticketed (EXHIBIT #17) and the copy given to the person will have a black bar blocking out the racial information (EXHIBIT #18). She said the majority of law enforcement agencies will be using this form, or a similar one, to gather the racial profiling data. The Department of Justice will have funding available through the Motor Vehicle Division to assist with printing costs of the citation.

Regarding implementation by the Highway Patrol, Ms. Bovingdon said most officers will be using an electronic version through laptop computers in Patrol vehicles. Compiled data will be available on a website. She said there are plans for Global Positioning System (GPS) tracking also, so that an officer's location will be known at all times. Ms. Bovingdon said the target implementation date is May 2008.

03:41:15 Ms. Bovingdon said the Patrol officers attended a seminar last summer that focused on performance measures using quota-free productivity analysis to evaluate officers' performance. Montana is considering implementing the program and will likely begin with a pilot project in a small area before statewide implementation.

03:42:47 REP. PETERSON said he is less concerned with profiling than he is with the treatment after apprehension. He asked if the new measures will address that issue. Ms. Bovingdon said troopers are electronically monitored through video cameras mounted in patrol cars and required to attend cultural sensitivity training. She said this issue has the attention of the Attorney General and that numerous measures have been taken over the years to address it.

03:45:37 REP. JAYNE asked if data is available yet. Ms. Bovingdon said no. REP. JAYNE asked if this affects only the Highway Patrol. Ms. Bovingdon said it is a requirement for all law enforcement agencies to collect the data.

#### **UPDATE ON ADAM WALSH ACT IMPLEMENTATION**

03:54:41 Ms. Bovingdon reviewed the status of implementation of the Adam Walsh Act, which requires sex offenders to be registered (EXHIBIT #19).

- 04:00:28 REP. PETERSON asked, if a tribe fails to adequately implement the Act, if Congress has waived the reservation's sovereign immunity so the State could step in. Ms. Bovingdon said that essentially, that is what has been done and that is assumed that if a tribe fails to enforce the Act, tribal authority will be delegated to the State. REP. PETERSON said it appears that sovereign immunity is waived by implication. Ms. Bovingdon said she has not analyzed the Act in terms of sovereignty but only the intent of the law.
- 04:02:12 REP. JAYNE said she is concerned about how tribes will pay for the cooperative agreements and may require an appropriation from the Legislature. Ms. Bovingdon said who pays would have to be determined in the agreement process. She said there is some grant money available but does realize that funding could be an issue. REP. JAYNE said she is also interested in a discussion on whether sovereign immunity can be waived by inference.
- 04:04:46 REP. PETERSON said the State could not waive immunity by implication, but that Congress has the power to do it. He agreed that the cost of implementing the Act could be problematic
- 04:06:44 Joyce Silverthorne said the safety and well-being of children is of the utmost importance and appreciates all efforts to protect them. She said she was concerned to hear the discussion involving sovereignty, saying it is very difficult to teach a true understanding of the concept and most do not truly understand it. She said it will take true government-to government discussion to implement the Act because jurisdictional issues within reservations are very complex and difficult to work with. She asked that, when considering children, to please move with careful deliberation and caution.

#### **LUNCH BREAK**

#### **REVIEW OF "TRUTH-IN-ADVERTISING" FOR INDIAN-MADE ARTS AND CRAFTS**

- 05:27:47 **Greg Petesch, Legal Director, LSD**, discussed the issue of the sale of imitation Indian articles. He said copies of Montana statute (30-14-602, MCA - EXHIBIT #21) were provided in the meeting materials. Mr. Petesch said the purpose of the legislation, enacted in 1967, was to protect the Indian craft industry and the public from unknowingly buying imitation Indian articles. In 1973, language was added requiring physical segregation for display purposes. In 1991, additional language was again added regarding the placarding of imitation Indian articles. He said the intent was not to limit artificial products, but to identify them, and to protect the Indian craft industry and the buying public. A violation of the statute is a misdemeanor, and Mr. Petesch said it may be difficult to prosecute. Most businesses would likely comply, providing they were aware of the statute. Mr. Petesch said the primary problem is that the imitation articles are not being segregated or appropriately signed as being imitation and suggested some form of education would likely alleviate the problem.
- 05:32:42 SEN. TROPILA asked if the best approach would be through retailers or through law enforcement agencies and city and county attorneys. Mr. Petesch said he was not sure, but suspected it would be a low priority enforcement issue. He said contacting the Montana Retailers Association would be a good first step.

- 05:34:25 In response to a question from REP. PETERSON, Mr. Petesch said an individual must be a lineal descendent of an enrolled member of a tribe before being able to claim his or her art is a genuine Indian article.
- 05:37:53 Ms. Murdo explained how federal law differs from state law and that under federal law the person has to be either an enrolled member or a person recognized by the tribe as an Indian artisan. SEN. SMITH said he asked for clarification of the law because of a situation on his reservation.
- 05:42:47 **Dyani Bingham, Indian Art Market Development Manager, Montana Arts Council**, said there is a strong need to support American Indian artists and to define their contributions and to protect truth in advertising. She distributed and discussed a document listing several recommendations (EXHIBIT #22). Ms. Bingham explained how the State of Alaska addressed the same issue through a proactive labeling program.
- 05:51:11 REP. PETERSON said he preferred the labeling approach, rather than a prosecution approach. He suggested that a bill be initiated for the 2009 legislative session. REP. HENDRICK agreed, saying the labeling approach puts the issue in the hands of the artist. He said he would prefer that it be left to tribal councils to regulate and monitor the issue.
- 05:52:10 REP. JAYNE said the lineal descent issue leaves the door open to anyone to call themselves an Indian artist. She recommended that a cut-off date regarding descent be added to the statute.

#### **Public Comment**

- 05:58:28 Mr. Petesch said one of the issues could easily be resolved by adding a one-word amendment to current statute. He suggested inserting the word "currently" before the word "enrolled", which would create a generational restriction. SEN. SMITH asked that tribes be consulted before doing anything.
- 06:00:49 Mr. King commented that some tribal constitutions address enrollment requirements and blood lines. He said it is hard to say what makes a person more or less of an Indian, and that it is more what is in the heart.

#### **STATE TRAINING ON INDIAN ISSUES - UPDATE**

- 06:04:04 **Jennifer Perez Cole, Office of Indian Affairs**, updated the Committee on cultural diversity training, as mandated by HB 608 (2003) and efforts taken to date to implement the law (EXHIBIT #23).

#### **ECONOMIC DEVELOPMENT ON RESERVATIONS**

- 06:24:57 **Jerry Lamb, Governor's Office of Economic Development**, said he has an MBA from the University of Montana and mentions this frequently because of his strong belief in the value of education. Mr. Lamb discussed economic development in Indian country, saying much remains to be done. He said it is important to support tribal governments in their business endeavors, to nurture talented individual Indians to become successful business people, and that tribal governments need to provide a level of predictability and stability in order to

attract businesses to reservations. Other issues, such as access to financing, geographical location, and education, must also be considered.

- 06:33:19 Mr. Lamb reported that progress is being made on the Fort Peck oil and gas agreement. He said as these revenue sharing agreements are developed, a conducive business environment is being created. The Governor is interested in conducting summits on reservations as these agreements are reached to spread the word that the reservations are eager to do business with the world.
- 06:34:56 Mr. Lamb reported that the State Tribal Economic Development Commission is an important factor in strong economic development because it has a strong voice and funding. He said the Commission partners with the Department of Commerce to conduct entrepreneurial courses on the reservations and is an important tool in building business opportunities on reservations. He said his personal view of economic development is that it means opportunity and hope to Indian people.
- 06:40:15 **Eleanor Yellow Robe, Bureau of Business and Economic Research, University of Montana**, discussed *Monetary Contributions of Reservations to the State of Montana* (EXHIBIT #24), a report commissioned by the State Tribal Economic Development Commission and the Montana Department of Commerce.
- 06:50:01 **Andy Poole, Deputy Director, Department of Commerce**, said he works closely with the Commission and agreed with Mr. Lamb's points about the need for and value of improving the economy of Montana's Indian Country. He provided copies of *The Schweitzer Administration's Accomplishments through Montana Department of Commerce Programs in Indian Country* (EXHIBIT #25). He said the report is organized by reservation and that project information is available for each reservation.
- 07:02:51 **Tony Priete, Director, Department of Commerce**, thanked the Committee for taking the time and interest in Indian economic development and said the Legislature has provided the Department with needed tools to assist reservations with economic development projects.
- 07:05:11 REP. PETERSON asked if tribes are willing to waive sovereign immunity in order to attract businesses to reservations. Mr. Lamb said he could not speak for reservations on that topic. REP. PETERSON said he has been told the Crow Reservation is prepared to do this.
- 07:06:53 Mr. King responded to REP. PETERSON's comment regarding waiving sovereign immunity and said that Indian businesses follow state law off the reservation and thought that it is not unreasonable to expect businesses to follow Indian law when conducting business on reservations. He thanked Mr. Lamb and Ms. Yellow Robe for the reports and said, as a tribal leader, he has identified two types of investments necessary to success. He said "capitol" investment from legislators and the Governor is critical to Indian businesses, as is "capital" investment of money sources.

## **PUBLIC COMMENT**

- 07:12:13 Mr. King asked that the Committee consider the issue of veteran services as a future agenda item. He said Indian veterans are falling through the cracks and that his daughter is one of them.
- 07:19:21 **Geoff Feiss, General Manager, Montana Telecommunications Association**, said that the telecommunications industry in Montana invests million of dollars in infrastructure every year and additional millions paid in salaries and benefits. Mr. Feiss said his industry, in conjunction with federal programs, provide low cost or free services like LIFELINE or LINK UP that provide hook ups to telephone service for next to nothing and reduce monthly bills to \$1 per month. He said there are other examples of programs that support economic development in communities, such as collateralized low interest loans and construction of community service programs.
- 07:21:49 SEN. TROPILA said for the public record, he represents the Little Shell Chippewa Tribe. He said Montana officially recognized the Tribe in 2001, which was sent on to the federal government. To date, no response has been received. SEN. TROPILA said legislation was passed in 2007 to provide the Tribe with a small building and that efforts will continue to gain federal recognition of the Tribe.

## **DIRECTIONS TO STAFF**

- 07:24:50 Regarding a letter for Montana's Congressional delegation Ms. Murdo read a draft copy of a letter to Montana's Congressional delegation regarding support for water compacts (EXHIBIT #26). REP. JAYNE **moved** to accept the language. The **motion passed** on a unanimous voice vote, with SEN. STEINBEISSER voting SEN. LAIBLE"s proxy vote.
- 07:26:58 Regarding a letter addressing the issue of truth in advertising and Indian artifacts, Ms. Murdo said she would write a draft letter and create a list of possible recipients. She said the Committee can decide at the next meeting where it should be sent.
- 07:28:02 Ms. Murdo said Mr. Huff, at the previous day's meeting, had suggested that a letter would be very helpful regarding support for Sen. Baucus' proposed legislation on the residency requirement for foster care. Ms. Murdo said she will draft a letter for Committee review. REP. JAYNE **moved** to have Ms. Murdo draft letter of support to the Congressional delegation regarding the great need for foster care and the impact of residency requirements in IV-E programs. The **motion passed** on a unanimous voice vote. SEN. LAIBLE voted aye by proxy.
- 07:31:55 The Committee discussed its next meeting date. SEN. SMITH asked that the Little Shell Tribe be contacted to ask for possible meeting dates.
- 07:33:55 Ms. Murdo said Ellen Swaney has asked to address the Committee regarding American Indian and minority achievement.



- 07:35:18 SEN. TROPILA said the Board of Regents should be more active in promoting the \$25,000 Washington scholarship for Native American students. Ms. Swaney said she would report his concern to the Board of Regents.
- 07:35:51 REP. PETERSON said that he had spoken with Mike Halligan of Washington Corp. during a break and learned that Mr. Halligan recently authorized \$10,000 scholarships to Montana State University and to the University of Montana for Indian students pursuing advanced degrees. He asked Ms. Swaney if that was correct. Ms. Swaney said she would check on this. *[After the meeting Ms. Swaney provided the following information: Please assure the Committee that scholarship information is sent to various American Indian email lists as well as to contacts on campus, to the tribal education departments, and to American Indian education groups. They are sent on a regular basis. The Dennis & Phyllis Washington Foundation Native American Graduate Fellowship provides to a graduate student that is a member of a Montana tribe a \$10,000 stipend and designation as a research or teaching assistant along with eligibility for a Montana Native American fee waiver. One fellowship is available annually at the University of Montana and one at Montana State University, with each school able to decide whether to renew the fellowship (a maximum of 2 years for a master's program and 3 years for a doctoral program). See: [http://www.dpwfoundation.org/scholarship\\_native\\_american.shtml](http://www.dpwfoundation.org/scholarship_native_american.shtml)]*
- 07:36:48 Ms. Murdo said additional agenda items would include: a continued study of meth addictions, a DOC presentation on its meth programs, recognition of Myrna Kuka, DOC's Native American Liaison, Mr. King's issue regarding Indian veterans, and a Little Shell site visit. SEN. TROPILA said he would make arrangements for the Little Shell site visit. He said he also serves on the Montana Board of Veteran Affairs and will bring Mr. King's concerns before the Board.
- 07:38:41 REP. JAYNE asked to have Patty McGeshick from the Fort Peck Tribe, present her information on violence against women and family violence.

#### **ADJOURNMENT**

- 07:48:36 With no further business before the Committee, SEN. SMITH adjourned the meeting. The next meeting date will be announced.

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