

Montana
State-
Tribal
Relations
Interim
Committee

October 21

2015

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

Final Work
Plan for the
2015-2016
Interim



History of the State-Tribal Relations Interim Committee

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

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

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

The Committee's major recommendation to the 1979 Legislature was the creation of a select committee on Indian affairs to be followed by a permanent committee if the 1981 Legislature felt the select committee proved valuable in improving Indian/non-Indian relations.

The 1979 Legislature accepted the recommendation and created the Select Committee on Indian Affairs. However, although subsequent Legislatures recognized the importance of the Committee's work, there was a reluctance to create a permanent committee.

Finally, in 1989, the Committee on Indian Affairs was established as a permanent, statutory committee. In 1999, the Legislature passed Senate Bill No. 11 (SB 11) that reorganized the interim committee structure by consolidating committees and establishing permanent interim committees with membership drawn from specific session standing committees. SB 11 eliminated the Committee on Indian Affairs and folded its responsibilities into the newly created Law, Justice, and Indian Affairs Interim Committee (LJIAC).

The LJIAC was selected to serve as the forum for state-tribal relations because many of the issues affecting state-tribal relations would most likely be addressed by the House and Senate Judiciary Committees. The membership of the LJIAC was drawn from these committees.

At the same time, the Coordinator of Indian Affairs (a position created by the Legislature in 1951 and appointed by the governor) was circulating a proposal to create a Commission on Indian Affairs that would be attached to the Executive Branch. This proposal eventually became a study resolution assigned to the LJIAC.

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

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

Contents

History of the State-Tribal Relations Interim Committee	2
Introduction	4
How this work plan will be used	4
Member Issues Proposed for STRC Study	5
1) Study of cultural patrimony and sacred objects and sites.....	5
2) Study of economic impacts and financing of tribal colleges	6
3) Study of jurisdictional issues.....	6
4) Study of financial assistance provided through state agencies to tribes	8
5) Study of public charter schools’ impact on reservations.....	9
New and Ongoing Initiatives	10
1) Indian Language Preservation Program Implementation.....	10
2) Cultural Integrity Commitment Act Implementation	10
3) Native American Collateral Support Program	10
5) Suicide Prevention	10
Member Suggested Items	11
1) Participation of federally funded Bureau of Indian Education schools in interscholastic competitions – Sen. Hansen	11
2) Impacts of SB 410 (2015) on reservation schools – Sen. Hansen	11
3) Upgrades to St. Mary’s Diversion and Canal – Sen. Hansen.....	11
State-Tribal Relations Interim Committee Meeting Schedule	12

Introduction

This is the final work plan for the State-Tribal Relations Interim Committee (STRC or Committee) for the 2015-2016 interim. In this document you will find:

- An explanation of how this work plan will be used
- Descriptions of work plan topics and timetables for addressing those topics
- A list of meeting agenda items
- A meeting timeline

How this work plan will be used

At its July 2015 meeting, the STRC set its study priorities and allotted the Committee's budget for staff time in order to complete the Committee's work prior to the September 15, 2016, deadline.

During this legislative interim, the STRC will explore several study topics, while also visiting the Blackfeet, Rocky Boy's, and Fort Peck Reservations to learn about tribal issues of concern.

Staff developed work plans for each study topic and timetables for completing each major task. A timeline illustrating the overall schedule that these work plans will fit into is presented at the end of this document.

The STRC may provide additional input and direction to staff for each work plan topic, as needed.

Work Plan Topics

Member Issues Proposed for STRC Study

1) Study of cultural patrimony and sacred objects and sites

Background: House Bill No. 585 proposed a prohibition of and penalties for the sale or trade of cultural patrimony and sacred objects, but was not enacted.

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

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

Staff time allocated: .015 FTE

Study Timeline

October 2015

- Provide summary of current state, federal, and tribal laws and regulations regarding cultural patrimony and sacred objects
- Provide summary of other states’ laws and regulations
- Provide summary of copyright laws
- STRC provides further direction to staff

March/April 2016

- Receive update from Rep. Kipp regarding input from each tribe’s traditionalists
- STRC provides input on recommendations/legislation, as needed

July 2016

- Review draft report and any recommendations or legislation, and seek public comment, if requested

September 2016

- Finalize and approve report and recommendations and legislation, if requested

2) Study of economic impacts and financing of tribal colleges

Background: Senate Joint Resolution No. 28 sought a study of the economic impacts and financing of tribal colleges, but was not approved.

Montana has seven tribal colleges, the most of any state, that serve over 5,000 Indian and non-Indian students. The state supports the tribal colleges through partial reimbursements for the costs of educating resident nonbeneficiary students, but SJ 28 says this mechanism provides an unpredictable revenue source for the tribal colleges and is not consistent with the mechanism for providing state support for Montana's community colleges or units of the university system. House Bill No. 196 increased the reimbursement rate from \$3,024 to \$3,280 per nonbeneficiary student.

Staff time allocated: .05 FTE

Study timeline

July 2016

- Provide summary of tribal college economic data, including wages, employment rates, domestic product, spending, and local and state tax revenue
- Provide summary of the financing of Montana tribal colleges, including federal contributions, state contributions, and tuition
- Provide comparison of state and federal support for tribal colleges, community colleges, and units of the Montana university system
- STRC provides input on recommendations, legislation, as needed, and seeks public comment on those, if requested

September 2016

- Review, finalize, and approve report and any recommendations or legislation, if requested

3) Study of jurisdictional issues

Background: Senate Joint Resolution No. 24, assigned to the Law and Justice Interim Committee, requested an interim study of all aspects of sexual assault in Montana, including jurisdictional factors in the state system's response to sexual assault on Indian reservations and coordination of involved agencies. A wider look at jurisdictional issues between state, tribal, and federal law enforcement entities and individual rights was proposed by two STRC members. At its July 2015 meeting, the STRC selected specific jurisdictional subtopics to study.

Part 1: The Indian Child Welfare Act (ICWA) and Child Protective Services (CPS) at DPHHS

Staff time allocated: .015 FTE

Study timeline

October 2015

- Receive overview of ICWA and CPS, including legislative performance audits
- Panel discussion with representatives of the tribes and the Department of Health and Human Services
- STRC provides further direction to staff

March/April 2016

- Further information provided, if requested
- STRC provides input on recommendations/legislation, as needed

July 2016

- Review draft report and any recommendations or legislation, and seek public comment, if requested

September 2016

- Finalize and approve report and recommendations and legislation, if requested

Part 2: Focus on gas, alcohol, tobacco, and natural resource tax collection and distribution to tribes

Staff time allocated: .03 FTE

Study timeline

October 2015

- Provide overview of gas, alcohol, tobacco, and natural resource tax collection and distribution to tribes
- Summarize the legal underpinnings of the various governments' authority and examine the duties, responsibilities, and limitations of each party to cross-jurisdictional agreements to determine how or if any of the agreements could be improved or adapted for use elsewhere
- Panel discussion with the Departments of Revenue and Transportation and representatives of tribes
- STRC provides further direction to staff

March/April 2016

- Further information provided, if requested
- STRC provides input on recommendations/legislation, as needed

July 2016

- Review draft report and any recommendations or legislation, and seek public comment, if requested

September 2016

- Finalize and approve report and any recommendations and legislation, if requested

4) Study of financial assistance provided through state agencies to tribes

Background: House Bill No. 562 wasn't enacted but sought to require reporting on state and federal financial assistance administered directly or indirectly by 29 state agencies/entities to Montana Indian tribes. Financial assistance could be in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct appropriations, or other noncash assistance provided directly or indirectly to tribal entities. At its July 2015 meeting, the STRC opted to study select forms of financial assistance provided to tribes that correlate with the jurisdictional study also being conducted by the STRC.

Staff time allocated: .03 FTE

Study timeline

October 2015

- Summarize financial assistance provided to tribes through DPHHS related to ICWA and CPS
- Summarize payments to tribes from the Tribal Motor Fuels Tax Account, Highways Special Revenue, Tobacco and Cigarette Tribal Agreements, Alcohol Tribal Agreements and provide information on the state portion of those funds
- Summarize federal highway funding going to tribes
- Summarize coal tax revenues generated on reservations and what portions go to the tribes
- Summarize how much revenue from oil and gas leases on reservations goes to the state General Fund
- Summarize the state administrative/overhead costs for federal money passed through state agencies to tribes
- STRC provides further direction to staff

March/April 2016

- Further information provided, if requested
- STRC provides input on recommendations/legislation, as needed

July 2016

- Review draft report and any recommendations or legislation, and seek public comment, if requested

September 2016

- Finalize and approve report and any recommendations and legislation, if requested

5) Study of public charter schools' impact on reservations

Background: According to the Fall 2014 Montana American Indian Student Achievement Data Report produced by the Office of Public Instruction, 13.7% of the students enrolled in Montana's K-12 public schools in the 2013-2014 school year were American Indian. Among those students, the special education rate was 14.3% compared to 10.9% for White students. On statewide assessments for reading, math, and science that school year, American Indian students' proficiency rates were 25% to 35% lower than those of White students. While dropout rates declined overall in 2012-2013, the dropout rate for American Indian students remained significantly higher at 9.6% in grades 9-12 when compared to 2.8% for White students.

This study would seek to identify whether charter schools could improve educational opportunities and outcomes for American Indian students in Montana.

Staff time allocated: .025 FTE

Study timeline

July 2016

- Provide short synopsis of data on the existing public and private educational systems for Indian students in Montana on and off the reservations and on student attendance, performance, and other educational outcomes
- Summarize the use of charter schools to educate Indian students in other states to provide school choice and available research on the resulting educational outcomes in other states
- STRC provides input on recommendations, legislation, as needed, and seeks public comment on those, if requested

September 2016

- Review, finalize, and approve report and any recommendations and legislation, if requested

Meeting Agenda Items

Meeting agenda items require minimal staff time to facilitate and do not count toward the FTE available to the STRC's study topics for the interim. At its July 2015 meeting, the STRC chose to receive overviews and updates on the following topics.

New and Ongoing Initiatives

1) Indian Language Preservation Program Implementation

Meeting time allocated: July 2016

HB 559 revises the Montana Indian Language Preservation Program, revises performance and output standards, allows tribal governments or their designees to administer local programs, removes the requirement for local program advisory boards, requires the local programs to report to the State-Tribal Economic Development Commission, and requires the Commission to report to the legislature. HB 559 also appropriates \$1.5 million for the biennium and extends the program's termination date to June 30, 2017.

2) Cultural Integrity Commitment Act Implementation

Meeting time allocated: Every meeting

SB 272 enacts the Cultural Integrity Commitment Act, encourages school districts to create Indian language immersion programs, provides a funding formula, and provides a one-time-only biennial appropriation of \$45,000.

3) Native American Collateral Support Program

Meeting time allocated: October 2015

HB 2 appropriates \$500,000 from the Big Sky Economic Development Trust Fund this biennium to this Native American gap financing program, which is designed to address the lack of capital for Native American-owned businesses.

5) Suicide Prevention

Meeting time allocated: October 2015

HB 2 appropriates \$250,000 in general fund money to suicide prevention grants to be used on the reservations in Montana.

Member Suggested Items

1) Participation of federally funded Bureau of Indian Education schools in interscholastic competitions – Sen. Hansen

Meeting time allocated: July 2016

Currently, public schools must be accredited by the state to participate in certain athletic programs sanctioned by the Montana High School Association. Some public reservation schools are federally funded and accredited. House Bill No. 163 (not enacted) sought to allow those schools to participate without being required to seek state accreditation.

2) Impacts of SB 410 (2015) on reservation schools – Sen. Hansen

Meeting time allocated: July 2016

SB 410 authorizes income tax credits for donations made to student scholarship organizations or to the educational improvement state special revenue account for the purpose of providing supplemental funding to public schools for innovative educational programs and technology deficiencies. The amount of the credit allowed is equal to the amount of the donation, not to exceed \$150. Money donated to the state special revenue account must be allocated to the geographic region or large district schools that serve the taxpayer's residence unless the taxpayer directs the donation to a specific geographic region or large district.

3) Upgrades to St. Mary's Diversion and Canal – Sen. Hansen

Meeting time allocated: March/April 2016

Background: The St. Mary's Diversion Dam and subsequent 29-mile long canal, located just downstream from Lower St. Mary Lake on the Blackfeet Reservation, are integral parts of the Milk River Project that furnishes irrigation water for about 121,000 acres in north-central Montana. According to a 2009 report prepared for the Department of Natural Resources and Conservation, "the entire Milk River ecosystem is dependent upon water from the St. Mary's diversion. The diversion also supports municipal, industrial and recreational uses of water. . . ." ¹ The system is sometimes called the "lifeline of the Highline".

The St. Mary's Canal discharges into the North Fork of the Milk River approximately 20 miles northeast of Babb and then flows into southern Alberta and southern Saskatchewan before returning to north-central Hill County.

"The Milk River Project has been the subject of much scrutiny for the past several years due to the severe deterioration of major components of the system and inadequate funding available for repairs and reconstruction."² The St. Mary's diversion and canal system alone is estimated to need \$134 million to \$164 million.

¹ Irrigation in Montana: A Preliminary Inventory of Infrastructure Condition, PBS&J, January 2009, page 86.

² Ibid, page 22.

State-Tribal Relations Interim Committee Meeting Schedule

At its July 2015 meeting, the STRC adopted the following meeting schedule.

July 9-10, 2015, Browning	STRC meeting. Interim work plan prioritization and STRC organizational meeting. Selection of studies, topics, and reservation visits.
October 21-22, 2015, Helena	STRC meeting. Final adoption of work plans. First installment of study work received.
March/April, 2016	STRC meeting and combined visits to Rocky Boy's and Fort Peck Reservations. Second installment of study work. STRC begins making recommendations, proposing legislative concepts, if needed.
July 14-15 , 2016, Helena <u>July 13-14</u>	STRC meeting. Decision on recommendations, any proposed legislation, final report contents. Last date to suggest revisions to a <i>draft</i> document if a 30-day public comment period is desired. Comments received from the public will be compiled by staff and distributed to the STRC 1-2 weeks before the September 2016 meeting.
September 7-8 , 2016, Helena <u>August 30-31</u>	STRC meeting. Final approval of recommendations, reports, proposed legislation. Select bill sponsors.

Committee interim work must be completed September 15, 2016.