

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

## TRIBAL AND STATE RELATIONS COMMITTEE

Friday, April 16, 2010  
Red River Valley Room, Memorial Union  
University of North Dakota  
Grand Forks, North Dakota

Representative Merle Boucher, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Merle Boucher, Kari L. Conrad, Jim Kasper, Don Vigesaa; Senators Stanley W. Lyson, Tim Mathern, Dave Oehlke

**Native American Tribal Citizens' Task Force members present:** Scott J. Davis, Executive Director, Indian Affairs Commission; Richard J. Marcellais, Chairman, Turtle Mountain Band of Chippewa Indians

**Native American Tribal Citizens' Task Force members absent:** Marcus Levings, Chairman, Three Affiliated Tribes of the Fort Berthold Reservation; Charles Murphy, Chairman, Standing Rock Sioux Tribe; Myra Pearson, Chairman, Spirit Lake Tribe; Michael Selvage, Sr., Chairman, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation

**Others present:** Lonny Winrich, State Representative, Grand Forks

See [Appendix A](#) for additional persons present.

**It was moved by Senator Mathern, seconded by Representative Vigesaa, and carried on a voice vote that the minutes of the January 21, 2010, meeting be approved.**

Chairman Boucher recognized Mr. Leigh Jeanotte, American Indian Student Services, University of North Dakota, Grand Forks. Mr. Jeanotte welcomed the committee to the University of North Dakota and distributed a brochure entitled *Opportunities for American Indians* at the University of North Dakota and a handbook of American Indian-related programs and initiatives at the University of North Dakota. These documents are on file in the Legislative Council office.

### HATE CRIMES ISSUES

At the request of Chairman Boucher, committee counsel reviewed a bill draft [\[10021.0200\]](#) relating to enhanced penalties for conviction of discrimination in public places, aggravated assault, harassment, and criminal mischief involving a hate crime.

In response to a question from Representative Kasper, committee counsel said the amendment to North Dakota Century Code Section 12.1-14-04 contained in Section 1 of the bill draft includes a definition of "disability" for purposes of defining a person who may be a victim of a hate crime. He agreed that subsection 3 is not parallel to

subsections 1 and 2 and would review whether the definition should be contained in a separate paragraph to Section 12.1-14-04.

In response to a further question from Representative Kasper, committee counsel said the amendment in Section 2 of the bill draft to Section 12.1-17-02 which deals with aggravated assault also contains a definition of disability. He said the term "disability" is used for purposes of defining an individual who may be a victim of a hate crime, not that the aggravated assault must render an individual disabled.

Chairman Boucher recognized Senator Lyson. Senator Lyson said aggravated assault is aggravated assault, and the severity of the penalty should not be based on the status of the victim.

In response to a question from Ms. Cheryl Danks, Chief of Staff, Three Affiliated Tribes of the Fort Berthold Reservation, New Town, Representative Boucher said North Dakota does not have a separate human rights commission but human rights issues are handled within the Labor Department.

### STUDENT PRESENTATION

Chairman Boucher recognized Ms. Megan Sennie, student, Grand Forks Central High School, Grand Forks, and enrolled member, Turtle Mountain Band of Chippewa Indians. Ms. Sennie presented an essay on the current situation on Indian reservations in the Dakotas. She said the poorest county in the United States is located on the Pine Ridge Indian Reservation in South Dakota. She said Indian reservations in the United States are facing many problems, including lack of health care, lack of educational opportunities, lack of housing, and lack of job opportunities. To improve education opportunities, she said, authorities should provide incentives such as scholarships. Also, she said, if the schoolday started an hour or two later, it would improve attendance and attentiveness. She said the federal government has created a system of dependency on the nation's Indian reservations and federal funds would be better spent providing opportunities rather than subsidies to the residents.

In response to Ms. Sennie's essay, Representative Boucher thanked her and expressed his appreciation for Ms. Sennie taking the time to appear before the committee.

Chairman Boucher recognized Senator Oehlke. Senator Oehlke said Ms. Sennie presented a very fine essay and thanked her for her comments.

Chairman Boucher recognized Chairman Marcellais. Chairman Marcellais said as chairman of the Turtle Mountain Band of Chippewa Indians, he was proud of Ms. Sennie and her fine presentation.

Chairman Boucher recognized Mr. Davis. Mr. Davis said the Indian Affairs Commission is working on a number of initiatives to improve life on the state's reservations. One program that focuses on youth, he said, is the North Dakota Indian Youth Leadership Academy. He said the academy teaches Indian youth leadership components and encouraged Ms. Sennie to apply to the academy.

### INDIAN EDUCATION ISSUES

At the request of Chairman Boucher, committee counsel distributed a memorandum ([Appendix B](#)) from Mr. Joe Morrissette, Budget Analyst, Office of Management and Budget, to Ms. Sheila Peterson, Director of Fiscal Management and State Stimulus Coordinator, Office of Management and Budget, concerning the state allocation of American Recovery and Reinvestment Act of 2009 funding to local education agencies. Committee counsel said the memorandum discusses education funds available to North Dakota as a result of the American Recovery and Reinvestment Act of 2009, legislative options for the allocation of those funds to local education agencies, and the current status of funds distributed.

Committee counsel also briefed the committee on a meeting convened by Representative David Monson, Chairman, interim Education Committee, with Sioux County and Standing Rock Reservation education officials. He said Representative Monson and Representative RaeAnn G. Kelsch, Chairman, House Education Committee, reviewed the allocation of American Recovery and Reinvestment Act of 2009 funding formula enacted by the 61<sup>st</sup> Legislative Assembly with those officials.

Chairman Boucher recognized Representative Conrad. Representative Conrad said she had done extensive research on Title I and learned that the current federal formula discriminates against rural and small schools. She requested that the Legislative Council staff invite representatives of the Department of Public Instruction and The Rural School and Community Trust to address Title I issues at a future committee meeting.

Representative Boucher requested that the Legislative Council staff draft a study resolution directing the Legislative Management to study Indian education and Indian education finance issues.

Chairman Boucher recognized Mr. Robert Parisien, Indian Education Program Administrator, Indian Affairs Commission. Mr. R. Parisien said Standing Rock Reservation education officials believe the current distribution formula is inequitable for low-income students. He said the state and Legislative

Assembly should explore options to develop a more equitable formula.

At the request of Chairman Boucher, Mr. Greg Gallagher, Director of Standards and Achievement, Department of Public Instruction, addressed the committee ([Appendix C](#)). Concerning reading, he said, the performance of Native American students is lower than other subgroups in the state. He said this is important because reading proficiency is the best indicator of future economic success.

Chairman Boucher recognized Senator Mathern. Senator Mathern requested that the Department of Public Instruction develop a pilot proposal composed of four elements. He said the elements should be parent involvement, length of school term, afterschool programming, and governance. Once the pilot proposal is developed, he said, Department of Public Instruction officials should present it to the committee for review and comment.

### COMMISSION TO STUDY RACIAL AND ETHNIC BIAS IN THE COURTS

At the request of Chairman Boucher, committee counsel distributed a letter ([Appendix D](#)) from Justice Carol Ronning Kapsner, Cochairman, Commission to Study Racial and Ethnic Bias in the Courts. The letter updates the activities of the commission since Judge Donovan Foughty briefed the committee on January 21, 2010, in Fort Yates.

### TRANSPORTATION IN INDIAN COUNTRY

At the request of Chairman Boucher, committee counsel distributed a memorandum prepared by the Legislative Council staff for the Public Safety and Transportation Committee entitled [Vehicle Registration Requirements for Nonresidents Temporarily Employed in the State](#).

Chairman Boucher recognized Ms. Linda Butts, Deputy Director for Driver and Vehicle Services, Department of Transportation, for a presentation ([Appendix E](#)) on motor vehicle registration requirements for nonresidents temporarily employed in the state.

Chairman Boucher recognized Mr. Frank LaQua, Motor Vehicle Services, Department of Transportation. Mr. LaQua cautioned the committee that merely because a vehicle has an out-of-state license does not necessarily mean that the operator has not paid the requisite fees. He said the operator may have a temporary permit, a trip permit, or the vehicle may be prorated. He said the vehicle must be stopped before the status of the vehicle can be determined.

### INDIAN HUMAN SERVICES ISSUES

At the request of Chairman Boucher, committee counsel distributed a memorandum ([Appendix F](#)) prepared by the Department of Human Services describing services provided by the state's Indian

tribes for which payment is made by the Department of Human Services.

Chairman Boucher recognized Mr. Doug Boknecht, Assistant Regional Director, Lake Region Human Service Center, Devils Lake, for a presentation ([Appendix G](#)) on the disclosure of state psychological evaluations to tribal entities.

Chairman Boucher recognized Ms. Nancy McKenzie, Director, Northeast Human Service Center, Grand Forks. Ms. McKenzie discussed the status of providing a single point of entry for tribes and tribal members to access human service programs. Generally, she said, mental health services are provided through regional human service centers while economic assistance is provided through county social service offices.

Chairman Boucher recognized Representative Conrad. Representative Conrad said the Department of Human Services should have an individual contact for tribes and tribal members to obtain information concerning services offered by the department. Also, she said, the Fort Berthold Reservation lies within four human service centers and the department should consider establishing a ninth regional human service center to service only the Fort Berthold Reservation.

Representative Conrad requested that the Department of Human Services provide information on when memorandums of understanding between the department and the tribes were entered, the criteria for the memorandums, and monitoring conducted by the department of the memorandums at a future meeting.

### **LICENSING OF TRIBAL ADDICTION COUNSELORS**

Chairman Boucher recognized Mr. Conrad Parisien, counselor, Fifth Generation program, Belcourt. Mr. C. Parisien said he is licensed by several addiction counseling entities, including the National Association for Alcoholism and Drug Abuse Counselors, but has been unable to obtain a license from the North Dakota Board of Addiction Counseling Examiners. Due to his certification and experience, he said, he believes he should be able to obtain a license from the North Dakota Board of Addiction Counseling Examiners without sitting for the licensing examination.

Chairman Boucher recognized Ms. Anna M. Johnson, President, North Dakota Board of Addiction Counseling Examiners, Fargo, for a presentation ([Appendix H](#)) on the licensing of tribal addiction counselors. Ms. Johnson said if tribal or federal government standards by which tribal addiction counselors are recognized are substantially similar to the North Dakota Board of Addiction Counseling Examiners standards, reciprocity may be granted. However, she said, if the standards are substantially dissimilar, licensure may not be granted. She said each individual situation is examined by the board on

a case-by-case basis to determine whether reciprocity should be granted.

Chairman Boucher recognized Mr. Davis. Mr. Davis said the Indian Affairs Commission would work with the North Dakota Board of Addiction Counseling Examiners to facilitate recognition of individuals, such as Mr. C. Parisien, who may be subject to reciprocity.

### **HERITAGE CENTER EXPANSION**

Mr. Davis said the Indian Affairs Commission is working with the State Historical Society concerning expansion of the Heritage Center. He said the commission as well as the tribes in North Dakota are very excited about the potential exhibits at the expanded Heritage Center. He said those exhibits will tell the story of Native Americans in North Dakota.

Chairman Boucher recognized Ms. Claudia Berg, Expansion and New Initiatives Coordinator, State Historical Society. Ms. Berg distributed an expansion fast facts sheet ([Appendix I](#)) and reviewed the current status of the project.

Chairman Boucher requested that the Legislative Council staff prepare a resolution of support for the Heritage Center expansion project. He said the resolution should include a clause that the committee supports the fundraising efforts of the State Historical Society and the State Historical Society of North Dakota Foundation.

In response to a question from Senator Mathern, Ms. Berg said the State Historical Society has raised a little over \$6 million and needs to have approximately \$7 million in hand before it can break ground on the project. She said the State Historical Society is planning to commence construction in July.

In response to a question from Ms. Danks, Ms. Berg said the State Historical Society is working closely with the tribes in North Dakota on the expansion project.

### **ECONOMIC DEVELOPMENT INITIATIVES IN INDIAN COUNTRY**

Chairman Boucher recognized Mr. Robert W. Harms, Prairie Consulting Group. Mr. Harms said Prairie Consulting Group has been retained by the Department of Commerce to meet its Native American business development responsibilities. He said Prairie Consulting Group is working to assess current Native American businesses in North Dakota, compile a directive of Native American businesses, and promote private business development as opposed to procurement or Section 8(a) contracts. He said the group has visited all four reservations, and he is preparing to provide the Department of Commerce with a draft report. The next step, he said, is to settle on a strategy and to execute that strategy.

## GOVERNMENT-TO-GOVERNMENT RELATIONS

Chairman Boucher recognized Ms. JuniKae Randall, Executive Producer, Circle of Nations Publishing, Grand Forks. Ms. Randall said she is the executive producer of the Prairie Public Broadcasting program *Indian Pride*. She distributed a briefing paper and teacher guide for *Indian Pride* as well as a DVD of Season 1 of the program. These materials are on file in the Legislative Council office. She said she is trying to obtain funding for Season 2 of *Indian Pride*.

Senator Mathern requested that the Legislative Council staff prepare a resolution of support for *Indian Pride* and fundraising efforts to support the project.

## STAFF DIRECTIVES

Chairman Marcellais requested that the Legislative Council staff provide information on the amount and

disposition of American Recovery and Reinvestment Act of 2009 funds received by the state.

Representative Conrad requested that the Legislative Council staff send copies of the oil and gas tax agreement with the Three Affiliated Tribes of the Fort Berthold Reservation to the committee members.

Representative Boucher requested that the Legislative Council staff prepare a bill draft to make the Tribal and State Relations Committee a permanent interim committee.

No further business appearing, Chairman Boucher adjourned the meeting at 4:00 p.m.

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Jeffrey N. Nelson  
Committee Counsel

ATTACH:9