

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS - BACKGROUND MEMORANDUM

INTRODUCTION

The Advisory Commission on Intergovernmental Relations occupies a unique status among committees with legislative membership in North Dakota. The commission differs from usual Legislative Council interim committees in its membership, its permanent status, and its statutory authority to determine its own study priorities. The membership of the commission is provided in North Dakota Century Code (NDCC) Section 54-35.2-01(1):

1. The advisory commission on intergovernmental relations consists of twelve members:
 - a. The North Dakota league of cities executive committee shall appoint two members of the commission.
 - b. The North Dakota association of counties executive committee shall appoint two members of the commission.
 - c. The North Dakota township officers association executive board of directors shall appoint one member of the commission.
 - d. The North Dakota recreation and park association executive board shall appoint one member of the commission.
 - e. The North Dakota school boards association board of directors shall appoint one member of the commission.
 - f. The governor or the governor's designee is a member of the commission.
 - g. The legislative council shall appoint four members of the legislative assembly as members of the commission.

The powers and duties of the commission are provided in NDCC Section 54-35.2-02:

The advisory commission on intergovernmental relations shall:

1. Serve as a forum for the discussion of resolution of intergovernmental problems.
2. Engage in activities and studies relating to the following subjects:
 - a. Local governmental structure.
 - b. Fiscal and other powers and functions of local governments.

- c. Relationships between and among local governments and the state or any other government.
 - d. Allocation of state and local resources.
 - e. Interstate issues involving local governments, including cooperation with appropriate authorities of other states.
 - f. Statutory changes required to implement commission recommendations.
3. Present reports and recommended legislative bills to the legislative council for consideration in the same manner as interim legislative council committees.
 4. Prepare model ordinances or resolutions for consideration by officials of political subdivisions.

Under the broad statutory authority of NDCC Section 54-35.2-02, the commission is free to establish its own study agenda and to accept suggestions from groups or individuals for study.

RELEVANT STUDIES

Because the commission may establish its own study priorities, the commission should be aware of studies being conducted by the Legislative Council during the 2003-04 interim which may relate to topics of interest to the commission. The following are studies being conducted by the Legislative Council, listed with the Legislative Council interim committee to which the study is assigned:

Study Source	Subject Matter
1155 § 1	Study the criteria by which a student's school district of residence is established and whether that criteria correctly assigns both benefits and responsibilities to the appropriate school districts (Education Committee)
1186 § 1	Study the leasing or renting of county court facilities by the state or other political subdivision (Judicial Process Committee)
1212 § 2	Study the effects and operation of requiring agency consideration of the effect of proposed administrative rules on small businesses, organizations, and political subdivisions (Administrative Rules Committee)
1506 § 6	Study the long-term needs of all state

	inmates and whether the Department of Corrections and Rehabilitation should continue to contract to house state female inmates with county jails or the state should expand the prison system, including a review of the east cell block of the State Penitentiary and future needs for maximum security prisoners; the female population and related treatment, programming, and training needs; and the mental health services of the State Hospital, including whether the Department of Corrections and Rehabilitation should continue to expand its facilities on the State Hospital grounds and whether patients at the State Hospital with mental health needs should be served in other locations (Budget Committee on Government Services)		impact and availability of community services; the state's criminal justice process from arrest to release; alternatives to incarceration; and the effectiveness of incarceration and treatment (Budget Committee on Government Services)
		3052	Study school district data collection and reporting requirements (Education Committee)
		3053	Study the state's emergency management system, the impact of federal emergency reorganization on the state's emergency operations plan, and the emergency management preparedness of state agencies and local governments (Emergency Services Committee)
		3054	Study the state's public health unit infrastructure and the ability of the public health units to respond to public health issues, including disease and other physical health, environmental, and disaster-related issues (Emergency Services Committee)
2012 § 14	Study administrative costs of human service programs, including costs incurred by the central office of the Department of Human Services, human service centers, and county social services, and review the effects of the 1997 "swap" legislation on state and county human service program costs (Budget Committee on Human Services)	4001	Study the delivery of services and the cost versus benefit of those services provided by the eight human service centers, the possibility of combining service centers, the administrative costs of the centers related to the programs and clients served, and third-party reimbursement and competition with private providers (Budget Committee on Human Services)
2310 § 1	Study issues related to wind energy development in this state - Limited by Legislative Council directive (Natural Resources Committee)		
2358 § 5	Study the sale and lease of railroad rights of way (Transportation Committee)		
2418 § 1	Investigate the adoption of the No Child Left Behind Act of 2001, the direct and indirect impact of the Act on the school districts of this state, and the financial impact of the Act on the budget of this state and on the taxpayers of this state (No Child Left Behind Committee)	15.1-02-13	Receive from the Superintendent of Public Instruction the compilation of annual school district employee compensation reports (Education Committee)
		15.1-02-14	Receive annual report from the Superintendent of Public Instruction regarding any transfer to the state tuition fund by the Superintendent of federal or other moneys received by the Superintendent to pay programmatic administrative expenses for which the Superintendent received a state general fund appropriation (Budget Section)
2421 § 32	Study the manner in which elementary and secondary education is funded in this state and the feasibility and desirability of instituting alternative funding methods (Education Committee)		
3037	Study the needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities, including individuals with multiple needs, and how the state responds to those needs; the long-term plans for the State Hospital, the Developmental Center at Westwood Park, state and county correctional facilities, and other state facilities and the relationships among those facilities; the	15.1-06-08	Receive report from the Superintendent of Public Instruction of a request from a school or school district for a waiver of any rule governing the accreditation of schools (Education Committee)
		15.1-06-08.1	Receive report from the Superintendent of Public Instruction of a request from a school or school district for a waiver of

	NDCC Section 15.1-21-03 (Education Committee)	regarding coordination of information technology between the Information Technology Department and higher education (Information Technology Committee)
15.1-21-10	Receive from the Superintendent of Public Instruction the compilation of test scores of a test aligned to the state content standards in reading and mathematics, given annually to students in three grades statewide (Education Committee)	
20.1-02-05.1	Approve comprehensive statewide land acquisition plan established by the director of the Game and Fish Department and every land acquisition of more than 10 acres or exceeding \$10,000 by the Game and Fish Department (Budget Section)	
23-38-02	Receive report from the State Health Officer not later than September 30, 2004, regarding implementation of the community health grant program (Budget Committee on Health Care)	
40-23-22.1	Approve waiver of exemption of state property in a city from special assessments levied for flood control purposes (Budget Section)	
40-63-03	Receive annual reports from the Division of Community Services on renaissance zone progress (Economic Development Committee)	
40-63-07	Receive annual report from the Division of Community Services on conclusions of annual audits of renaissance fund organizations (Budget Section)	
54-10-13	Determine when State Auditor is to perform audits of political subdivisions (Legislative Audit and Fiscal Review Committee)	
54-10-15	Order the State Auditor to audit or review the accounts of any political subdivision (Legislative Audit and Fiscal Review Committee)	
54-35-02.7	Overview of the Garrison Diversion Project and related matters and any necessary discussions with adjacent states on water-related topics (Natural Resources Committee)	
54-40-01	Approve any agreement between a North Dakota state entity and South Dakota to form a bistate authority (Budget Committee on Government Services)	
54-59-12	Receive report from the Chief Information Officer of the state regarding the coordination of services with political subdivisions, and from the Chief Information Officer and the commissioner of the State Board of Higher Education	
Chapter 157 § 10	Receive report from the Education Standards and Practices Board before July 1, 2004, regarding potential changes to the licensure process and the impact of those changes (Education Committee)	
Chapter 666 § 5	Receive report at the fall 2003 and summer 2004 meetings from the Department of Corrections and Rehabilitation and county jails contracting to house state female inmates on the implementation and procedures of contracting with counties to house state female inmates (Budget Section)	
Chapter 667 § 33	Receive information from the Superintendent of Public Instruction regarding the estimated costs that are likely to be incurred by this state during the ensuing eight years to meet the requirements of the No Child Left Behind Act of 2001 (No Child Left Behind Committee)	
Chapter 667 § 34	Receive from the Superintendent of Public Instruction, as soon after September 1, 2004, as practicable any findings and conclusions with respect to completion of the data envelopment analysis project (Education Committee)	
Chapter 667 § 38	Receive report from the Superintendent of Public Instruction regarding notices received from school boards which detail the grounds for not using at least 70 percent of new money received for per student payments and tuition apportionment payments for the purpose of increasing compensation paid to teachers (Education Committee)	

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS HISTORY

The 1989 Legislative Assembly enacted NDCC Chapter 54-35.2, which provides for the commission. The 1991 Legislative Assembly enacted Section 54-35.2-02.1, which provided for administration by the commission of local government efficiency planning grants. The 1991 Legislative Assembly also provided an appropriation of \$250,000 for these grants. The commission spent the majority of its time during the 1991-92 interim developing guidelines and procedures, reviewing grant requests, and monitoring grant projects. During the 1991-92 interim, the commission approved grant awards for 15 grant projects in the total amount of \$198,558.34, leaving \$51,441.66 unexpended from the

\$250,000 appropriated for grants during the 1991-93 biennium.

The 1993 Legislative Assembly amended NDCC Section 54-35.2-02.1, changing the objects for which grants could be provided, allowing the commission to directly expend all or a portion of the appropriated amount for research and studies, and providing that unexpended grant funds that are returned are to be deposited in the state aid distribution fund. The 1993 Legislative Assembly also provided an appropriation of \$51,400 to the commission for distribution in local government efficiency planning grants. During the 1993-94 interim, the commission received final reports from grant recipients from the previous interim and returned \$1,466.14 in unexpended grant funds to the state from grant recipients who had completed their grant projects. The commission also authorized two grants of \$24,999 each.

The 1995 Legislative Assembly did not appropriate any funds for continuation of the local government efficiency planning grant program. During the 1995-96 interim, the commission received reports from the two grant recipients from the previous interim.

The 1997 Legislative Assembly did not appropriate any funds for the continuation of the local government efficiency planning grant program. The only 1997 amendment to NDCC Chapter 54-35.2 was not substantive in nature.

As a result of the 1997-98 interim studies, the commission recommended Senate Bill No. 2028 to repeal NDCC Section 54-35.2-02.1 relating to the local government efficiency planning grant program. The commission found that although the local government efficiency planning grant program served an important purpose, the program probably will not receive funding in the future; therefore, the law establishing the program was no longer necessary. The 1999 Legislative Assembly enacted Senate Bill No. 2028, which repealed Section 54-35.2-02.1.

The 2001 Legislative Assembly amended NDCC Section 54-35.2-02 to include on the commission a member appointed by the North Dakota School Boards Association Board of Directors.

The 2003 Legislative Assembly considered House Bill No. 1333, which as introduced would have repealed NDCC Chapter 54-35.2 and Section 54-40.3-03, with the effect of abolishing the commission. As engrossed in the first house, House Bill No. 1333 was amended to retain Chapter 54-35.2 but instead would have removed the commission's authority to recommend proposed legislation to the Legislative Council. The bill passed the first house with a vote of 86 yeas and 8 nays; however, it failed to pass the second house with a vote of 4 yeas and 41 nays.

RECENT INTERIMS

During the 1999-2000 interim, the commission focused on 12 areas of interest:

1. Park district mill levy consolidation - Resulting in enrolled House Bill No. 1031.
2. The membership of the commission - Resulting in enrolled House Bill No. 1032.
3. Tobacco education and cessation - Resulting in enrolled Senate Bill No. 2024.
4. Clarification of definition of institutions of public charity exempt from property taxation - Resulting in Senate Concurrent Resolution No. 4001, which was not prioritized for study.
5. Collection of municipal court fines.
6. Creation of a disaster relief fund.
7. Status of the Leadership Initiative for Community Strategic Planning.
8. Provision of government services at the local level, including receipt of a report from the Child Support Enforcement Division of the Department of Human Services regarding the status of the child support state disbursement unit and the provision of child support services at the local level; receipt of a report on the provision of judicial services at the local level from the North Dakota Supreme Court, and receipt of a report from the Driver and Vehicle Services Division of the Department of Transportation regarding vehicle registration services in branch offices.
9. Funding of maintenance of local roads.
10. Census 2000 and areas of possible state and local government interest.
11. History of revenue sharing and personal property tax replacement.
12. Status of taxing of e-commerce.

During the 2001-02 interim, in addition to the assigned study of the feasibility and desirability of creating cost-sharing mechanisms for the unexpected discovery of cultural and paleontological resources within local road projects, the commission focused on eight areas of interest:

1. County mill levy consolidation - Resulting in enrolled House Bill No. 1024.
2. Revenue sharing and personal property tax replacement - Resulting in enrolled House Bill No. 1025.
3. Tobacco education and cessation.
4. Homeland Security.
5. E-commerce taxation.
6. Public school funding and taxation.
7. Tool chest legislation update.
8. Wind energy.

STUDY APPROACH

North Dakota Century Code Section 54-35.2-02 provides that the commission is charged with serving "as a forum for the discussion of resolution of

intergovernmental problems”; engaging in activities and studies relating to state, local, and any other government; and preparing “model ordinances or resolutions for consideration by officials of political subdivisions.” It

may be helpful for the commission to request members and representatives of local governments and other interested groups to provide suggestions of topics for consideration during this interim.