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1440

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1440

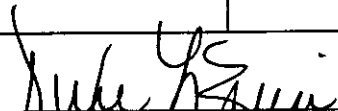
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1440

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/10/05

Tape Number	Side A	Side B	Meter #
1	x		41.1-end
2	x		0-20.5
Committee Clerk Signature 			

Minutes: HB 1440 Relating to the legislative council state-tribal relations committee; and to provide an expiration date.

14 members present, 0 absent.

Kenton Onstad-District 4-For-Testimony Attached

Rep. Klemin: We just had something similar to this in the house judiciary committee, how does this differ what we just did in judiciary.

Rep. Onstad: That was basically a study resolution, to study different Indians and tribal relationships. This puts it clearly that a committee would be formed **and that** these things would be looked at, do we want to create better relationships. Yes we do.

Rep. Froseth: Did you check to see if this would need a fiscal note, because what they are doing is establishing another legislative internal committee, to work with the six people, are we going to need a fiscal note.

Rep. Onstad: To see if the Tribal has there own money and it is kind of left up to them.

Rep. Sitte: How many members of the legislative assembly would you have on this committee?

Rep. Onstad: It would typical of any legislative interim committee, some are as high as 18 or 20, they would pick that committee, along with that committee that comes out of legislative council, depending on the numbers they would have, were are asking the executive director of Indian Affairs is a part of that committee and the five chairman are a part of that. They have no voting rights on that committee, they are not part of the expenses, they have fund there own way.

Rep. Sitte: One or two biennium's, if you had one biennium's you can accomplish more and by having time constraint.

Rep. Onstad: The thing behind the two biennium's, get that chance to get some proposals in front of the legislators and then you come back with good proposal, so when the second time comes around and follow up on that particular council.

Rep. Klemin: I am trying to think of any other circumstances when we require the legislative council to establish an interim committee. Usually it is always the legislative council may do this, this one the legislative council shall establish. Can you think of any other situation where we actually required the legislative council to create a committee.

Rep. Onstad: My understanding the committee was started under this need. They felt the need to deal with that study and it has continued. The basis of this has followed that whole history.

Rep. Conrad: Refresh my memory on the Indian Affairs Commission and how that is appointed and structured.

Rep. Onstad: It is basically a representation of the governors office and if you visit with the tribal chairman's they will probably not agree and sometimes they feel they are being restricted, because it is strictly representation of the governors office. They feel they would be better

represented to bring there own situation. Between the different tribes, we have heard hunting issues, water issues, various things, they look at things not necessarily the same and so we still want the governors office there, but we would like to have the chairman's come in there and get into that same dialogue.

Rep. Conrad: The neat thing is that you are asking the chairman to come, is that part of it, government to government.

Rep. Onstad: Absolutely.

Rep. Klemin: On this issue of sovereign nations, what could we put in state law that these tribes that they would be on it. Isn't that a conflict of jurisdiction?

Rep. Onstad: The basic bill that you have before you is from Montana.

Rep. Klemin: Each state is a little different.

Rep. Onstad: That is correct, so if you look at there history, it took quite a few sessions to create this commission.

Rep. Potter: I am sure you have visited with the different tribes on this and I would like to know what they have said about this.

Rep. Onstad: They are very eager to have this come forward.

Rep. Kasper: I am glad to hear they are eager, I am a little concerned, the bill says that the chairman or the chairman's designee may sit on the committee and I can appreciate the fact that the chairman are out of state or another conference. However, if they are eager, I would have thought there would have been a lot of chairman or designees here to let us know how eager they are, because in order for this to succeed, I think you need to have participation at the highest levels of the tribes and the chairman's designee should only be involved in this when chairman is

absolutely not available, otherwise the leadership of the tribes have got to make this work. I am wondering where is the tribes. I see another individual who has walked in and the tribal members should be here telling us about there eagerness.

Rep. Onstad: I can't speak for the tribes, they were out of state, the timing was probably not the best.

Chairman Haas: Anymore questions for Rep. Onstad? Thank you very much. Anymore testimony in favor of HB 1440.

Senator Dennis D. Bercier-District 9-For-I would like to address the question why the tribal members are not here. A lot of the tribal chairman are going to be here tomorrow with the Indian Affairs Commission. They are out of state on economic development business. Why is this important. They are eager and they are a little apprehensive. They want to sit down with the state and extend there hands and work out issues, before they end up in litigation. They are exercising there sovereign rights. Land issue, water issues, hunting and fishing issues, the tribes are going to have to go to a federal agency to get authority. It would be a lot easier if the state have worked out some reasonable agreement. The federal government might not always agree with those agreements, but the state and tribes have come together and started working on them. The Indian Affairs was started in 1949. The Indian Affairs can always offer good information.

Rep. Froseth: I am not real familiar with the Indian Affairs commission, could you tell us about it.

Sen: Bercier: I don't the complete make-up, but I do know all the tribal chairs are members of it. The governor has some members that are part of it.

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House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1440

Hearing Date 2/10/05

Rep. Klemin: Question on page 2, line 7, it is one of the duties of this committee would be to promote economic development, legislators who are appointed to this committee, I would wonder what my duty would be as an economic development or what my duties would be. That is kind of out of my roll as a legislator isn't it? The word promoting kind of bothers me.

Sen. Bercier: By promoting you are bringing to the table issues and letting the state and the tribes work out the problems and the barriers and diminishing those. You are going to have a first hand opportunity to help with the process moving barriers, so in a way you could call that promoting.

Rep. Potter: The voting and nonvoting and that was one of the differences between the Senate bill and the House bill, which one of those do you think is better, voting or nonvoting?

Sen. Bercier: In order for this to get started, when these tribal chairman come to the table, I hope they have an opportunity to vote.

Rep. Potter: When we work through this, come back and discuss this and amend this bill.

Sen. Bercier: When you pass this, I think that is a perfectly good way to approach this.

Chairman Haas: Any more questions, Thank you very much. Cheryl would you please come and answer Rep. Froseth's question.

Cheryl Kubos-North Dakota Indian Affairs Commission-Neutral-The commission is comprised of nine members, it is made up of the designated Tribal Chairman of each tribe and there are four at large positions. Establish their own government. Appointed by governor, one represents the economic, one represents the United Tribes College, another standing rock in South Dakota, and another contracting for small businesses.

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House Government and Veterans Affairs Committee

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Rep. Kasper: Voting versus nonvoting on this commission or counsel on this interim committee, if it is enacted. I hear the tribal position of sovereign immunity and hear were asking if Sen.

Bercier would prefer voting, **under this** bill were are not asking for voting, the tribes have there own sovereign immunity wanting, if we had voting rights, to be able to vote in a nation, but they really have there own sovereignty, it would almost be like the tribes are appointing a commission of tribal origin and a legislator or a citizen saying that they want to come and vote in that committee. I am wondering how you feel about this voting versus nonvoting in the sovereign issue, that we might be getting into hear?

Cheryl: As sovereign nations there has to be a discussion.

Rep. Kasper: So far as voting on a committee that is not part of there sovereignty, but voting in a committee that is a different sovereignty, you don't see a problem or the sovereignty issue between the two entities, that is what I am getting to.

Cheryl: It is an ideal position if it could take place.

Tex G. Hall-Chairman-Mandan-Hidatsa-Arikara Nation-For

Austin Gillette-For-Bringing Chairman Halls testimony

Chairman Haas: Thank you very much. Additional Testimony on HB 1440.

Rep. Boehning: I move a Do Not Pass on HB 1440.

Rep. Grande: I second the motion.

VOTE: YES 12 NO 2 ABSENT 0 DO NOT PASS

REP. BOEHNING WILL CARRY THE BILL.

Date: 2/10/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1440

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Not Pass

Motion Made By

Rep. Boehning

Seconded By

Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas			Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman			Rep. Kari Conrad		✓
Rep. Randy Boehning			Rep. Louise Potter	✓	
Rep. Glen Froseth			Rep. Sally M. Sandvig		✓
Rep. Pat Galvin					
Rep. Stacey Horter					
Rep. Jim Kasper					
Rep. Lawrence R. Klemin					
Rep. Lisa Meier					
Rep. Margaret Sitte					

Total

(Yes)

12

No

2

Absent

0

Floor Assignment

Rep. Boehning

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 11, 2005 12:07 p.m.

Module No: HR-28-2536
Carrier: Boehning
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1440: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
HB 1440 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HB 1440

Chairman Haas and members of the Government and Veterans Affair Committee

I am Representative Kenton Onstad, District #4. District #4 Encompasses the entire Fort Berthold Indian Reservation, home of the Three Affiliated Tribes. HB 1440 provides in statute a State- Tribal Relations Committee, it also provides for a sunset to run 2 bienniums .

HB 1440 creates a Legislative Interim Committee with 6 additional members: the Executive Director of the Indian Affairs Commission and the 5 Chairmans or their designee, from Standing Rock Sious, Spirit Lake Nation, Three Affiliated Tribes, Turtle Mountain Band of the Chippewa and Sisseton-Wahpeton Sioux Tribe.

The North Dakota Indian Affairs Commission is a mechanism for State and Tribal relations. This bill creates an interactive mechanism with the the State's Legislative branch. HB 1440 establishes dialogue in a formal setting to understand the Tribes and their Federal Relationship, but also the Tribes to understand How State Government functions. There is currently 26 states having some form of State -Tribal councils or committees.

A State-Tribal relations would identify common bonds and propose legislation for the mutual benefit of the State and Tribes. A State-Tribal relations committee would provide a formal conduit for study and problem-solving within the policy-making arena of the legislature. To be fair and effedtive, this process must be carried out with active consultations involving Tribal Government Leadership.

Our Native American population in North Dakota is diverse and complex. There is a tendency by state and federal government leadership to develop a common "one size fits all" solution for Tribal issues. A Legislative Committee on State-Tribal relations would serve to nurture a better understanding that there are few common fixes to complex problems.

State and Tribal Governments have common purposes to provide comprehensive services to their respective members. These mutual interests have created jurisdictional disputes. Let's use Cooperation and Partnerships rather than litigation.

Members of the Government and Veterans Affair Committee. I would hope you will seriously consider passage of HB 1440. Thank you and I hope I can answer any of your questions



MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes • Ft. Berthold Reservation
404 Frontage Road • New Town, ND 58763-9402

**59th LEGISLATIVE ASSEMBLY
HOUSE COMMITTEE ON
GOVERNMENT & VETERANS AFFAIRS
HONORABLE C.B. HAAS, CHAIRMAN &
COMMITTEE MEMBERS**

**TESTIMONY OF TEX G. HALL, CHAIRMAN
MANDAN, HIDATSA & ARIKARA NATION
ON HOUSE BILL 1440**

Chairman Haas and Committee Members, my name is Tex Hall and I am the Chairman of the Mandan, Hidatsa & Arikara Nation. Thank you for allowing me to testify before you today.

Senate Bill 1440 would create a tribal-state relations committee that would be comprised of members of the legislature and allow the executive director of the Indian Affairs Commission and the Chairman of North Dakota's Tribes to serve as ex-officio members of this committee. This committee would operate in the same manner as all other interim committees of the State legislature.

This committee would serve as the legislature's liaison to Tribes. It would provide a mechanism for the legislature and Tribal leaders to explore ways to enact laws that benefit both the State and Tribes. HB 1440 promotes communication between Tribes and the State's leaders which and provides a forum where Tribal and State leaders can vet their ideas concerning State-Tribal relationships concerning jurisdiction, welfare, education, transportation, taxation, employment, economic development and ect. HB 1440 is an innovative Bill that I believe will lead to good results for the State and Tribes and that will be used as a model for other States.

For these reasons, I urge this committee to recommend a DO PASS on HB 1440. Thank you for allowing me to testify.



North Dakota Indian Affairs Commission

Membership of the ND Indian Affairs Commission

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- [Protocol](#)
- [Publications](#)
- [Statistics](#)
- [Tribes in ND](#)
- [Goals](#)

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CHAPTER 54-36 INDIAN AFFAIRS COMMISSION

54-36-01. Commission - Members - Officers - Expenses of members. The North Dakota Indian affairs commission consists of the governor, four members appointed by the governor from the state at large, three of whom must be of Indian descent, must be enrolled members of a tribe, and must be current voting residents of the state of North Dakota, and the chairpersons of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian Reservations or in the absence of the chairperson, the vice chairperson. The governor is the chairperson of the commission. The commission shall meet quarterly or as otherwise agreed. Members of the commission or the vice chairperson are entitled to receive mileage and expenses for attending each meeting as are allowed other state officers.

54-36-02. Employees - Duties - Compensation. The governor, after consultation with the members of the commission, shall appoint an executive director of the Indian affairs commission who must serve at the pleasure of the governor. The governor may employ such other personnel, as the governor deems necessary, and shall prescribe duties and fix compensation.

54-36-03. Powers and duties. The Indian affairs commission shall have the power to assist and to mobilize the support of state and federal agencies in assisting Indian individuals and groups in North Dakota, especially the five tribal councils, as they seek to develop their own goals, project plans for achieving those goals, and implement those plans. The commission's duties are:

1. To investigate any phase of Indian affairs and to assemble and make available the facts needed by tribal, state, and federal agencies to work effectively together.
2. To assist tribal, state, and federal agencies in developing programs whereby Indian citizens may achieve more adequate standards of living.
3. To assist tribal groups in developing increasingly effective institutions of self-government.
4. To work for greater understanding and improved relationships between Indians and non-Indians.
5. To seek increased participation by Indian citizens in local and state affairs.
6. To confer with and coordinate officials and agencies of other governmental units and congressional committees with regard to Indian needs and goals.
7. To encourage and propose agreements and accords between federal, state, and local agencies and the several tribal governments, and, pursuant to chapter 54-40.2, to assist in monitoring and negotiating agreements and accords when asked by an affected tribe.

54-36-04. Public officers to cooperate. All public officers, both state and local, shall upon request furnish the Indian affairs commission such available information as it may require for its purposes.

54-36-05. Meetings - Quorum. At any meeting of the commission a majority of the members constitutes a quorum and a majority of the quorum may act in any matter falling within the jurisdiction of the commission.

54-36-06. Report and recommendations. The Indian affairs commission may submit its recommendations to the legislative assembly in the form of proposed legislation or resolutions and may submit report to the governor and the secretary of state in accordance with section 54-06-04.

54-36-07. Appropriation. Omitted.