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ROLL NUMBER

DESCRIPTION

3031

2005 HOUSE JUDICIARY

HCR 3031

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3031

House Judiciary Committee

☐ Conference Committee

Hearing Date 2/8/05

Tape Number	Side A	Side B	Meter #
1	XX		27.1-34.5
Committee Clerk Signature	· Maus Pens	ml-	

Minutes: 13 members present, 1 member absent (Rep. Maragos).

<u>Chairman DeKrey:</u> We will open the hearing on HCR 3031.

Rep. Merle Boucher: I am a sponsor of this bill, explained the bill (handed out testimony for Phil Board, who wasn't there). This bill addresses Native American issues. I think you've read through this quite clearly, and the real impetus of this particular resolution and objective of it is, I really feel that it is long overdue and we've been working at it, and I think, in recent years, trying to develop relationships between state government and the tribal governments in tribal communities, or Indian country across the state of ND. There are a lot of issues that overlap. There are issues and problems on and off the reservations, regarding the Native American population. Native American peoples who live off reservations, outnumber the number that live on reservations and reservation situations and settings have their set of issues and circumstances, and also we have differing circumstances with the Native American population off the reservation. Over the years, I think we've maintained arm's length relationships with one

Page 2 House Judiciary Committee Bill/Resolution Number HCR 3031 Hearing Date 2/8/05

another, and the time has come to come to the table and start looking at many of the issues. health. education, law enforcement, economic development, agriculture, water issues and issues where we have overlapping issues and shared services and shared responsibilities. There is a lot of misunderstanding. Where do we draw the line, where do we put up the barriers and who's responsible for what. The time has come for us to sit down at the table, understand the terminology. There are a lot of people who talk about Indians, reservations, and we talk about tribes, they don't even understand the basic issue of enrollment. Enrollment creates a number of issues that have to be addressed in the process as we do address Native American issues and reservation issues. Issues like those have to become understood. Issues of sovereignty have to be more clearly defined and understood. I think this is an important and necessary initiative on the part of the state government and in the process, I'm really hoping that our five reservations and the tribes across the state of ND and the non-reservation Native American populations across the state of ND have input in this, and do come to the Capitol and participate in this process. That is critical. If it's a process, where we as legislators sit here in the Capitol, study it and try to make decisions on it, I think it could turn out to be very inadequate. There has to be a message sent out to Indian leaders and Indian citizens that this is important to them, and their input in vital to the process. I would like to recommend this be an Interim Committee. We can as legislative council can create that committee. There is a means out there already for being able to create a committee specific to these issues.

Representative Charging: You referenced a couple of HCR floating out there.

Rep. Merle Boucher: As I understand, there are other resolutions that are out there. I want to emphasize this is a good resolution, it's needed, it's time we get moving forward. I'm also going

Page 3 House Judiciary Committee Bill/Resolution Number HCR 3031 Hearing Date 2/8/05

to point out that there are a lot of politics going on, and the strategies as to how it's going to be heard and where it's going to be heard, and I think in the end, if that doesn't work, there is a very simple process that we can go to create a committee that's needed to do the job.

Representative Charging: I know there's another one out there, create a specific board.

You're saying that's already available.

Rep. Merle Boucher: I'm not going to get involved and try to sway anyone's thinking on any of these initiatives out there in any shape or form. I am supportive of anything we can do. But I am saying that there is an option for us to do this.

Representative Charging: We can do this without....

Rep. Merle Boucher: We could do it without. If people feel more comfortable doing it with, as we're saying here, that's fine.

<u>Chairman DeKrey:</u> Thank you. Further testimony in support, testimony in opposition. We will close the hearing. What are the committee's wishes in regard to HCR 3031.

Representative Delmore: I move a Do Pass.

Representative Koppelman: Seconded.

13 YES 0 NO 1 ABSENT DO PASS CARRIER: Rep. Onstad

Date: 2/8/05Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. __HCR_3031_

HOUSE JUDICIARY COMMITTEE

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Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	/		Representative Delmore		
Representative Maragos	A		Representative Meyer		
Representative Bernstein	//		Representative Onstad	/	
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REPORT OF STANDING COMMITTEE (410) February 8, 2005 10:34 a.m.

Module No: HR-25-2100 Carrier: Onstad Insert LC: Title:

REPORT OF STANDING COMMITTEE

HCR 3031: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3031 was placed on the Tenth order on the calendar.

2005 SENATE JUDICIARY

HCR 3031

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3031

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 8, 2005 p.m.

Side A	Side B	Meter #
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Minutes: Relating to fairness & equity to issuance of enforcement of child visitation orders.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Sen. David O'Connell - Introduced the bill (meter 06) The bill is self explanatory of the issues; including water. This is to help us have better relations with them.

Sen. Nelson of the Judiciary committee (meter 71) questioned why the third where as does not reflect the first and last? I do not know why it was written that way. I was satisfied that the issues were brought out, if you want to include it in the other two sections for strength, it would be good.

Sen. Traynor sited that Ramsey and Roulette Co.'s are responsible for taking care of a lot of the sited issues do we know what impact this has financially on these counties? I would hope so. Those two counties have the highest draw out of Human Services and should be reviewed.

Page 2
Senate Judiciary Committee
Bill/Resolution Number HCR 3031
Hearing Date March 8, 2005 (p.m.)

Tiffany Johnson - Enrolled member of the Mandan, Hidatsa & Arikara Nation and Lobbies for our tribe. (meter 290) Gave Testimony - Att. #1. We would be happy to host the meetings when they are started. The Chairman asked if the Co's effect on the money spent

Senator Syverson asked if they could include education and a few other things? No problem.

Cheryl Bergman - Director of the Human Rights Coalition (meter 306) In support of bill, thanked the committee for the consideration of these resolutions. We have sovereign nations within our boarders and it is important to encourage the relationships between these sovereign nations and the state.

Austin Jellett - Lobbyist of the Three Affiliated Tribe. I am an enrolled member of the tribes. I have been a lobbyist and elected official for the tribe with over 24 years of experience. These studies have effected our lives daily. Sited work done in the 80's to allow for extradition within Tribe and state of ND. This process will open more doors and make it even better for the tribes and the state.

Intern is to put together Amendments to add to the study; environmental protection and education and impact on counties. To also include in the Introduction and the final were as.

Testimony in Opposition of the Bill:

none

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3031

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 9, 2005

Tape Number	Side A	Side B	Meter #
2	X		2588 - 3399
Committee Clerk Signature	Morra L	Salverg	

Minutes: Relating to fairness and equity to issuance of enforcement of child visitation orders.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Traynor handed out an amendment for the committee to review. Discussion of adding the word "within".

Senator Triplett made the motion to Do Pass Amendment with the additional word and Sen.

Trenbeath seconded the motion. All members were in favor and the motion passes.

Senator Hacker made the motion to DO PASS as Amended and **Sen. Trenbeath** seconded the motion. All members were in favor and the motion passes.

Carrier: Sen. Traynor

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 3/8/05
Roll Call Vote #: 7

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. HB 303 (

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Check here for Conference Con					
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Legislative Council Amendment Nu Action Taken Enfer line frote Motion Made By Senator	C+101)	· En Se	npact on Rockets	te or	. , ,
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Sen. Traynor			Sen. Nelson		
Senator Syverson		ļ	Senator Triplett		
Senator Hacker					
Sen. Trenbeath (2)					
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PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3031

Page 1, line 2, replace the second comma with a semicolon

Page 1, line 3, replace the comma with a semicolon

Page 1, line 4, after "care" insert ", child welfare services, social services, environmental protection, education, and law enforcement" and replace the comma with "; the identification and study of the social and fiscal impact of providing social services in counties adjacent to the reservations;"

Page 1, line 25, replace the comma with a semicolon

Page 2, line 1, replace the comma with a semicolon and after "care" insert ", child welfare services, social services, environmental protection, education, and law enforcement"

Page 2, line 2, replace the comma with "; the identification and study of the social and fiscal impact of providing social services in counties adjacent to the reservations;"

Renumber accordingly

within &

Date: 3/9/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. HB 303 /

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Sen. Traynor	V		Sen. Nelson	~	
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Date: 3/9/05 Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. HB 36 3/

Senate Judiciai	<u>ry</u>		<u>.</u>			Com	mittee
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Sen. Traynor					Sen. Nelson	1	
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Module No: SR-44-4601

Carrier: Traynor

Insert LC: 53093.0103 Title: .0200

REPORT OF STANDING COMMITTEE

HCR 3031: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3031 was placed on the Sixth order on the calendar.

- Page 1, line 2, replace the second comma with a semicolon
- Page 1, line 3, replace the comma with a semicolon
- Page 1, line 4, after "care" insert ", child welfare services, social services, environmental protection, education, and law enforcement" and replace the comma with "; the identification and study of the social and fiscal impact of providing social services in counties within and adjacent to the reservations;"
- Page 1, line 25, replace the comma with a semicolon
- Page 2, line 1, replace the comma with a semicolon and after "care" insert ", child welfare services, social services, environmental protection, education, and law enforcement"
- Page 2, line 2, replace the comma with "; the identification and study of the social and fiscal impact of providing social services in counties within and adjacent to the reservations;"

Renumber accordingly

2005 TESTIMONY

HCR 3031

Public Testimony in Support of North Dakota House Concurrent Resolution No. 3031 "A concurrent resolution directing the Legislative Council to study issues relating to state-Tribal relations...."

By Phil Baird, At-large Member North Dakota Indian Affairs Commission

February 8, 2005

Chairman DeKrey and members of the House Judiciary Committee:

Good morning, my name is Phil Baird. I currently serve as an at-large member of the North Dakota Indian Affairs Commission. I'm also the dean of vocational and academic programs at United Tribes Technical College. Thank you for this opportunity to present testimony before this committee.

For the record, I must state that I cannot and do not officially speak on behalf of any individual Tribal government among North Dakota's Indian Nations. Nor can I speak officially on behalf of the United Tribes of North Dakota, a task that historically has been fulfilled by the president of United Tribes Technical College, David M. Gipp.

As a member the state Indian Affairs Commission, I do take this opportunity to offer my perspectives in support of two related proposals being considered by the North Dakota legislature –

- S.B. 2320 to establish a legislative state-Tribal relations committee.
- HCR 3031 to study issues relating to state-Tribal relations.

Enactment of these legislative proposals would be valuable in addressing the needs of a unique North Dakota constituency who are state citizens along with being recognized as descendants of this country's indigenous Peoples. Of course, I'm referring to those citizens residing in American Indian communities situated both on- and off the federal Indian reservations located within the boundaries of the state.

There are several important reasons why these should be considered.

1. Government-to-Government Relationships

As state legislators, you already know there are five sovereign Tribal entities with legal, political, social, and economic interests within the boundaries of the state. These are the Mandan/Hidatsa/Arikara Nations of the Fort Berthold Indian Reservation, the Sisseton-Wahpeton Sioux Tribe, the Spirit Lake Nation, the Standing Rock Sioux Tribe, and the Turtle Mountain Band of Chippewa. The cultural, historical, socio-economic, and geographic characteristics of these Nations are diverse. Sisseton and Standing Rock Tribal Nations are particularly unique with Tribal lands and communities located in both North and South Dakota.

Creating a legislative committee for state-Tribal relations would affirm and support the government-to-government relationships between the state of North Dakota and the sovereign Indian Nations of North Dakota. There already is a mechanism for state-Tribal relations within the state's executive branch, this being the North Dakota Indian Affairs Commission. What is missing, however, is an interactive mechanism within the state's legislative branch.

A legislative committee on state-Tribal relations could, at minimum, serve as a central clearinghouse for important discussions among state and Tribal government policy-makers in studying general issues related to economic development, education, hunting and fishing, health, law enforcement, and intergovernmental jurisdiction. These issues could be further broken down to more specific topics such as water rights, child support, diabetes, meth abuse, taxation, and the Indian inmate population in correctional institutions, to name but a few.

On a more proactive level, a state-Tribal relations committee could identify and study policy options and solutions for those issues and problems facing state and Tribal governments. Too many times in the past, the cross-jurisdictional interests of state and Tribal governments have taken on an adversarial flavor, leading to miscommunications, mistrust, and expensive litigation. Unfortunately, these outcomes have typically led to the utilization of limited taxpayer resources. A state-Tribal relations committee within the legislative arena could tap another pool of expertise and community representation in search of more productive outcomes rather than litigation.

While the perceived functions of the proposed state-Tribal relations committee would appear to be similar to the mission and work of the State Indian Affairs Commission, there would be major distinctions. The most distinctive feature would, in fact, be the authentic engagement of state and Tribal legislators, which does not occur at the governor's Commission level. The present composition of the Commission includes the governor, Tribal government chairpersons, and at-large American Indian representatives.

The focus of a legislative committee would be more on policy issues rather than on administrative services that are typically addressed by the Commission. Strengthening services for the state's Indian citizens is an important function of the Commission. And policy-related issues are in fact discussed as part of the Commission's agenda. But for a variety of reasons, these may not necessarily receive legislative attention nor translate into policy proposals for the state legislature that convenes every two years. 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 effective, this process must be carried out with active consultations involving Tribal government leadership.

2. Complexity of State/Tribal Citizen Issues

The needs and challenges of North Dakota's American Indian populations are diverse and complex. There is a tendency by state and federal government leadership to develop a common "one fits all" solution for Tribal issues. A study guided by a legislative committee on state-Tribal relations would serve to nurture a better understanding that there are few common fixes to complex problems, and that more time and energy — yes, this means more work — are needed to come up with effective approaches and solutions.

One of the biggest issues impacting Indian populations today is the question "What is an Indian?" The multi-faceted dimensions of this question continue to create confusion and misunderstanding about what governmental entity has responsibility for meeting the socio-economic needs of Tribal people in this state.

It is important to note that last year marked the anniversary of an important event in U.S. history. Eighty years ago, the U.S. Congress passed the American Citizenship Act of 1924, answering in part the question of "What

is an Indian?" This country's indigenous peoples became recognized as United States citizens. Along with this action came state citizenship for Indian People. So it is important to understand that the creation of a state-Tribal relations committee is a response, in part, to addressing the needs and issues of state citizens who are American Indians and who also may enjoy the privileges of citizenship status as enrolled members of Indian Nations.

The multiple citizenship status of North Dakota's Tribal people has established the framework by which the needs of the state's Tribal citizens must be addressed. We understand that the federal government has obligations to Indian People because of treaties negotiated with Tribes. To regain the self-sufficiency of past life, contemporary Tribal government is involved with guiding the future of Tribal members by virtue of its inherent sovereign rights and responsibilities.

Part of the challenge in addressing Tribal needs is maneuvering around a "pedigree" system that was imposed upon Indian People. Services from both federal and Tribal governments are provided to Tribal people having a blood quantum of one-fourth degree Indian blood, the minimum established for eligibility of services. Because of this standard, a key problem emerges from this system – who addresses the needs of Tribal people, especially those who do not meet the blood quantum standard and those that reside outside of the reservation population? The most logical approach is a shared responsibility by Tribal and state governments.

Today's North Dakota Indian population is experiencing a unique trend. We keep hearing about the out-migration of young non-Indian people from the state. However, the fastest growing group in North Dakota is the reservation-based population. According to the 2000 U.S. Census, at least fifty percent of this population is 18 years of age and younger. This could conceivably represent the future workforce of North Dakota. The question for all of us should be — what are we doing to nurture and educate that population as an important facet of North Dakota's future?

One particular ingredient of this future is economic development. In our communities, all we have are basically two things – land and human resources. The challenge before us is cultivating both resources so that viable economic opportunities can be shaped, leading to an acceptable qualify of life for all community members. This must be a high priority on

the agenda to study state-Tribal relations. The broad scope of this topic warrants attention from different sources and different perspectives.

One example of an economic development issue shared by both state and Tribal governments is water rights and conservation. Water is the "gold standard" of the future. Life cannot exist without it. Historically, state and Tribal governments have been on the opposite sides of the table when dealing with water-related issues. For the future, they must be on the same side because the most critical challenges are not from within the state but coming from outside the boundaries of the state. Study activities along with a proposed state-Tribal relations committee could bring together key stakeholders to strategize and plan for efficient use of water and land resources.

The other important ingredient of economic development is human resources. The state cannot continue to do business as in the past when dealing with Tribal human resources. We can no longer maintain the position that the development of our Tribal communities is the exclusive responsibility of federal and Tribal governments. Too much of what happens in our Tribal communities, both good things and not-so-good things, spill over into the other communities of the state.

Again, we must understand that the socio-economic needs and issues of Tribal communities are diverse and complex. We must be realistic about the agenda and study activities of the proposed state-Tribal relations committee. The issues and challenges are central to the most basic needs of both Indian and non-Indian communities of our state – human nutrition, housing, law and order, health, education, transportation, technology infrastructure development, and community leadership to name just a few areas. These socio-economic areas along with economic development are central to shaping a better quality of life here in North Dakota. That should be the goal of the proposed state-Tribal relations committee.

3. Educational Opportunities

There are two other perspectives I wish to offer concerning the potential opportunities that emerge with studying state-Tribal relations. One is the opportunity of education - to be a student and a teacher at the same time. There is a need for state and Tribal government policy-makers to assume these roles while wearing the "hat" as legislator.

It has been my experience with state legislatures, and being involved with such entities as the state Indian Affairs Commission, that there is a tremendous need for education about the problems and challenges facing American Indian People and Tribal communities. There are just too many dynamics – ignorance, stereotypes, pre-conceived assumptions, racial prejudice, governmental paternalism, and attitudes of "one upmanship" – that have served as barriers when it comes to addressing Tribal issues. I envision the proposed state-Tribal relations committee and study activities creating opportunities for truthful communications via consultations and forums so that policy-makers can become educated and pursue informed decisions.

I also see opportunities to make good use of people with knowledge, insights, and expertise about the place of American Indian People in this state, in this nation, and throughout the world. Some of these people will come from educational institutions such as our Tribal colleges and universities. I envision not only an educational process for policy-makers, but an introduction to "lessons learned" about coping with the dynamics of cross-cultural diversity. State and Tribal government legislators could become the role models in this state for demonstrating leadership behavior that embraces and positively deals with the diversity among people.

The educational process does not flow in one direction to the benefit of non-Indian stakeholders. The potential activities stemming the enactment of legislative proposals relating to state-Tribal relations could provide opportunities for Tribal people to better understand and participate in state government. For example, a legislative internship program for Tribal college students could evolve through the committee. Reservation-based schools could tap into committee forums through the state's interactive video network system. The educational opportunities are only limited by the commitment to make things happen.

4. Proactive Leadership in State-Tribal Relations

Lastly, the establishment of the proposed study and a state-Tribal relations committee would provide an opportunity for state and Tribal government policy-makers to assume a proactive leadership role in the state. History will show that more times than not, policy-makers have been in "reactive" mode when it comes to Tribal issues, and the outcomes have been less than

desirable. We need to turn this approach around so that our state leaders — both Indian and non-Indian - become proactive and forward-thinking.

In his North Dakota "State of the Tribes" address on January 6, 2005, Standing Rock Tribal Chairman Charles W. Murphy cited examples of past and current cooperative efforts between state and Tribal governments. He talked about authentic partnerships, and the need to continue on this path. The establishment of a state-Tribal relations committee proposed by S.B. 2320 is a good step in that direction. A study on state-Tribal relations envisioned by HCR 3031 is another valuable step. I encourage and recommend your consideration to support these important legislative proposals directed at a better future.

Again, thank you for this opportunity to share my thoughts and perspectives. If there are any questions, I will try to answer these.

Phil Baird, At-large Member N.D. Indian Affairs Commission Mandan, N.D. 58554 701-255-3285 Ext. 1201 (O) Email: pbaird@uttc.edu



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

59th LEGISLATIVE ASSEMBLY SENATE JUDICIARY COMMITTEE HONORABLE JOHN TRAYNOR, CHAIRMAN & COMMITTEE MEMBERS

TESTIMONY OF TIFFIANY R. JOHNSON MANDAN, HIDATSA & ARIKARA NATION ON HOUSE CONCURRENT RESOLUTION NO. 3031

Dosha! (Hello, in the Hidatsa language) Chairman Traynor and Committee Members my name is Tiffiany Johnson and I am an enrolled member of the Mandan, Hidatsa & Arikara Nation and I am also a lobbyist for our tribe. Thank you for allowing me to testify before you today.

House Concurrent Resolution No. 3031 requires the legislative council to study issues relating to tribal-state relations and how our great State of North Dakota and our Tribes can work together to promote economic development, improve health care, and resolve water issues affecting us all. The Mandan, Hidatsa & Arikara Nation supports this resolution and the legislature's efforts to work with our North Dakota's tribes. I firmly believe that this resolution will lead to legislation in the 60th Legislative Assembly that will benefit North Dakota, North Dakota's tribes, and the people we serve.

The Mandan, Hidatsa & Arikara Nation is committed to working with the legislative council in studying the issues identified in the resolution. In addition, I believe that the legislative council should identify other issues of common interest such as education and law enforcement. Communication on all of these issues is necessary in order for our governments to provide the best services and protection to our people.

In closing, I would like to commend the sponsors of this resolution and all of the members of the 59th Legislative Assembly for taking this proactive approach to State/Tribal relations. You are doing a great service to all the people of North Dakota.

I respectfully urge this committee to recommend a DO PASS on House Concurrent Resolution No. 3031.