

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

TRIBAL AND STATE RELATIONS COMMITTEE

Friday, August 15, 2008
Sweetgrass Room, Spirit Lake Casino and Resort
St. Michael, North Dakota

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

Members present: Representatives Merle Boucher, Duane L. DeKrey; Senators Tim Mathern, Dave Oehlke

Members absent: Representative Daryl Lies; Senator Stanley W. Lyson

Native American Tribal Citizens' Task Force members present: Cheryl Kulas, Executive Director, Indian Affairs Commission; Avis Little Eagle, Vice Chairman, Standing Rock Sioux Tribe; Myra Pearson, Chairman, Spirit Lake Nation

Native American Tribal Citizens' Task Force members absent: David Brien, Chairman, Turtle Mountain Band of Chippewa Indians; Michael Selvage, Sr., Chairman, Sisseton-Wahpeton Oyate; Marcus Wells, Jr., Chairman, Three Affiliated Tribes - Mandan, Hidatsa, and Arikara Nation

Others present: See [Appendix A](#)

Chairman Boucher introduced Representative Ben Vig, Aneta, and invited him to sit with the Tribal and State Relations Committee.

Chairman Boucher recognized Chairman Pearson, Spirit Lake Nation. Chairman Pearson welcomed the members of the Tribal and State Relations Committee to the Spirit Lake Nation. She said this is the first visit of this committee to the Spirit Lake Nation.

It was moved by Representative DeKrey, seconded by Senator Mathern, and carried on a voice vote that the minutes of the June 30, 2008, meeting be approved as distributed.

TRANSPORTATION ISSUES IN INDIAN COUNTRY

At the request of Chairman Boucher, committee counsel reviewed a bill draft [\[90203.0100\]](#) relating to Department of Transportation agreements with tribal governments. Committee counsel also distributed the legislative history for North Dakota Century Code Section 24-02-02.3.

Chairman Boucher recognized Mr. Darcy R. Rosendahl, Department of Transportation. Mr. Rosendahl said the department has no issues or concerns with the bill draft.

It was moved by Representative DeKrey, seconded by Senator Oehlke, and carried on a roll call vote that the bill draft relating to Department of Transportation agreements with tribal governments be approved and recommended to

the Legislative Council. Representatives Boucher and DeKrey and Senators Mathern and Oehlke voted "aye." No negative votes were cast.

TAXATION IN INDIAN COUNTRY

At the request of Chairman Boucher, committee counsel reviewed a bill draft [\[90204.0100\]](#) relating to a sales and use tax exemption for purchases by a tribe. Committee counsel also reviewed a memorandum ([Appendix B](#)) from Ms. Kathryn L. Strombeck, Research Analyst, Tax Commissioner's office, concerning the fiscal impact of a sales tax exemption for purchases by an Indian tribe. Committee counsel said Ms. Strombeck reported that, if enacted by the 2009 Legislative Assembly, the proposal is estimated to reduce state general fund and state aid distribution fund revenues by \$30,000 to \$40,000 during the 2009-11 biennium.

Chairman Boucher recognized Representative DeKrey. Representative DeKrey said the cost of the proposal is small, especially when compared to the good will the proposal would generate with the state's Indian tribes.

Chairman Boucher recognized Ms. Noreen K. Cavanaugh, Tax Director, Spirit Lake Nation, Fort Totten. Ms. Cavanaugh said the Spirit Lake Nation supports the bill draft and the proposal is much appreciated by the Spirit Lake Nation.

It was moved by Representative DeKrey, seconded by Senator Mathern, and carried on a roll call vote that the bill draft relating to a sales and use tax exemption for purchases by an Indian tribe be approved and recommended to the Legislative Council. Representatives Boucher and DeKrey and Senators Mathern and Oehlke voted "aye." No negative votes were cast.

INDIAN EDUCATION ISSUES

At the request of Chairman Boucher, committee counsel reviewed a bill draft [\[90205.0100\]](#) relating to tribally controlled community college assistance reporting requirements.

Chairman Boucher recognized Dr. Jim Davis, President, Turtle Mountain Community College, Belcourt, and President, North Dakota Association of Tribal Colleges.

In response to a question from Senator Mathern, Dr. Davis said there has been a change in federal law as a result of reauthorization of the federal Higher

Education Act. Under the reauthorized Act, he said, nonenrolled descendants of enrolled members would be eligible for federal funding for attending a tribally controlled college. He said changes in federal law may necessitate changes to 2007 House Bill No. 1395, 2007 S.L., ch. 160, in the definition of nonbeneficiary student and in the payment limitation to each nonbeneficiary student enrolled in a tribally controlled college. Under House Bill No. 1395, he said, nonbeneficiary student is defined as a resident of North Dakota who is enrolled in a tribally controlled community college but is not an enrolled member of a federally recognized Indian tribe. He said Section 4 of House Bill No. 1395 limits the payment per student to \$4,581. He said this amount should be raised to equal what the colleges receive from the federal government. In conclusion, he said, as a result of the change in federal law, the state's tribal colleges may not be able to use all of the funds appropriated in 2007 House Bill No. 1395 to provide financial assistance to tribally controlled community colleges.

Senator Mathern requested the Legislative Council staff work with the North Dakota Association of Tribal Colleges and the University System to revise the bill draft to address the concerns of the association.

Chairman Boucher recognized Dr. Cynthia Lindquist Mala, President, Cankdeska Cikana Community College, Fort Totten. Dr. Lindquist Mala welcomed the committee to the Spirit Lake Nation and said it is important for the committee members to visit the state's reservations. She said higher education is very important and the state should consider investing a portion of the current state surplus in the state's tribally controlled colleges.

Dr. Lindquist Mala said Cankdeska Cikana Community College had commissioned a history of the Spirit Lake Nation, a copy of which she distributed to each member of the committee.

Chairman Boucher recognized Ms. Janice Azure, school board member, Dunseith Public School District, Dunseith. Ms. Azure said the Dunseith Public School District is experiencing several financial problems as a result of several issues. She said the laws providing for state aid should be revised to provide that residency is the district of enrollment rather than where the parents live or at the parents' address. Also, she said, the Dunseith Public School District has incurred significant financial obligations for children enrolled outside the school district.

Senator Mathern requested the Legislative Council staff prepare a study resolution directing the Legislative Council to study Indian education issues.

TRIBAL AND STATE RELATIONS COMMITTEE AND INDIAN AFFAIRS COMMISSION

At the request of Chairman Boucher, committee counsel reviewed a bill draft [\[90214.0100\]](#) relating to extension of the committee on tribal and state relations.

Chairman Boucher recognized Senator Mathern. Senator Mathern said several issues under review by the committee need further study and the committee should be extended for another interim.

Chairman Boucher recognized Ms. Kulas. Ms. Kulas said the committee is working well and providing an opportunity for the Legislative Assembly to study issues relating to Indians in depth. She said the committee should be extended for another interim.

It was moved by Senator Mathern, seconded by Representative DeKrey, and carried on a roll call vote that the bill draft relating to the extension of the Tribal and State Relations Committee be approved and recommended to the Legislative Council. Representatives Boucher and DeKrey and Senators Mathern and Oehlke voted "aye." No negative votes were cast.

At the request of Chairman Boucher, committee counsel reviewed a bill draft [\[90139.0300\]](#) relating to the members and the powers and duties of the Indian Affairs Commission. Committee counsel said this bill draft had been approved by the committee for recommendation to the Legislative Council at the committee's June 30, 2008, meeting.

It was moved by Representative DeKrey, seconded by Senator Mathern, and carried on a roll call vote that the bill draft relating to the members and the powers and duties of the Indian Affairs Commission be reconsidered by the committee. Representatives Boucher and DeKrey and Senators Mathern and Oehlke voted "aye." No negative votes were cast.

Chairman Boucher recognized Chairman Pearson. Chairman Pearson said the current statute provides that the Indian Affairs Commission may assist and mobilize the support of state and federal agencies in assisting Indian individuals and groups in North Dakota. She said the members of the Indian Affairs Commission feel that this power should be mandatory and recommended that this change be made.

It was moved by Senator Mathern, seconded by Representative DeKrey, and carried on a roll call vote that the bill draft relating to the members and the powers and duties of the Indian Affairs Commission be amended to require the Indian Affairs Commission to assist and mobilize the support of state and federal agencies in assisting Indian individuals and groups in North Dakota. Representatives Boucher and DeKrey and Senators Mathern and Oehlke voted "aye." No negative votes were cast.

It was moved by Senator Mathern, seconded by Representative DeKrey, and carried on a roll call vote that the amended bill draft relating to the members and the powers and duties of the Indian Affairs Commission be approved and recommended to the Legislative Council. Representatives Boucher and DeKrey and Senators Mathern and Oehlke voted "aye." No negative votes were cast.

NORTHERN PLAINS INITIATIVE

Chairman Boucher welcomed Mr. Shannon Augare, Director of Public Policy and Community Relations, Rural Dynamics, Inc., Browning, Montana. Chairman Boucher also noted that Mr. Augare is a member of the Montana House of Representatives and an enrolled member of the Blackfeet Nation in Montana.

Mr. Augare distributed two brochures relating to the Northern Plains Initiative, copies of which are on file in the Legislative Council office. Mr. Augare said Rural Dynamics, Inc., was founded in 1968 in Montana as a consumer credit counseling service to provide credit counseling for the residents across Montana and Wyoming. He said the organization provides programs and establishes partnerships to help youth, individuals, and families achieve economic independence. He said the vision of Rural Dynamics, Inc., is to develop and maintain a new generation of financially educated and responsible consumers. He said Rural Dynamics, Inc., is a private, nonprofit corporation dedicated to providing confidential and professional counseling in aiding and rehabilitating financially distressed families and individuals regardless of race, creed, color, sex, social position, or financial status and in fostering community. He said the organization provides consumer education on money management and intelligent use of credit.

Chairman Boucher recognized Mr. Steve Davis, Rural Dynamics, Inc., and policy advisor on Indian country initiatives to Mr. Augare. Mr. Davis said representatives of Rural Dynamics, Inc., have traveled throughout North Dakota and that North Dakota is a leader in regional economic security. He described several of the initiatives and individuals that Rural Dynamics, Inc., is working with in promoting rural and regional security in the state.

Chairman Boucher recognized Mr. Paul Andrews, Rural Dynamics, Inc. Mr. Andrews reviewed the Plains Talk process and an exploration of the possibilities and promise of the Northern Plains Region.

Chairman Boucher recognized Ms. Michelle DuBray, Community Liaison, Rural Dynamics, Inc. Ms. DuBray said she is community liaison for western North Dakota and western South Dakota focusing on consumer credit counseling services. She said the next roundtable discussion will be September 4, 2008, in conjunction with meetings being hosted by United Tribes Technical College in Bismarck.

In response to a question from Representative DeKrey, Mr. Augare said the Northern Plains Initiative is supported through several grants, largest of which is a \$2.1 million grant from the W. K. Kellogg Foundation in Battle Creek, Michigan. Other sources of funds, he said, include grants from First Interstate Bank, the Ford Foundation, and the Annie E. Casey Foundation.

In response to a question from Senator Mathern, Ms. DuBray said one difference between the Northwest Area Foundation Horizons community

grants program and services provided by Rural Dynamics, Inc., is that Rural Dynamics, Inc., takes a regional approach as opposed to working with individual communities and coordinates on a regional basis.

In response to a question from Ms. Kulas, Mr. Augare said Rural Dynamics, Inc., is partnering with Pathways to Prosperity at the Turtle Mountain Indian Reservation. One service provided, he said, is free tax preparation programs, which are beneficial in that money saved stays locally while fees paid to other tax preparation services leave the state.

In response to a question from Senator Oehlke, Mr. Augare said the Northern Plains Initiative and Rural Dynamics, Inc., have had a number of successes. These include, he said, the common dialogue program, a match savings program, the free tax preparation program, and the family economic security program. He said the common dialogue program identifies the wants and needs of Indian country and attempts to address these identified needs. He said the match savings program is a service provided whereby Rural Dynamics, Inc., promotes individual development by matching individual savings. He said the family economic security program assists families in preparing budgets, financial education, and homeownership incentives.

In response to a question from Representative Vig, Mr. Augare said young people are very involved in the Northern Plains Initiative.

In response to a question from Representative Boucher, Mr. Augare said Rural Dynamics, Inc., has established the Montana Indian Business Alliance and a South Dakota Business Alliance and would like to create one in North Dakota. He said Rural Dynamics, Inc., has invested \$50,000 in the Montana Indian Business Alliance and it is planning to invest \$35,000 in the South Dakota Business Alliance. He said the business alliance process is a collaborative effort among government officials, local business, and tribes.

Chairman Boucher recognized Senator Mathern. Senator Mathern suggested that Rural Dynamics, Inc., and Northern Plains Initiative contact Mr. Nathan Berseth, Director, American Indian Business Development Office, and coordinate efforts being undertaken by Mr. Berseth's office to promote economic development in Indian country.

INDIAN CHILD WELFARE

Chairman Boucher recognized Mr. Kevin Dauphinais, Director, Spirit Lake Nation Social Services, Fort Totten. Mr. Dauphinais discussed Indian social services on the Spirit Lake Indian Reservation. He said each child deserves to live in a safe environment. He said his office can afford to employ only two social workers and these workers are overwhelmed by the number of cases they must handle. He said this results in insufficient services to the residents of the Spirit Lake Indian Reservation.

He said these services should be revamped and additional resources made available to provide good quality social services to the residents of the Spirit Lake Nation.

In response to a question from Senator Mathern, Mr. Dauphinais said the Spirit Lake Nation Social Services Department receives assistance from the Department of Human Services but is not very involved in the budget process.

In response to a question from Senator Mathern, Mr. Anthony Delorme, Spirit Lake Nation Social Services, said tribal sovereignty issues may interfere with collaborative efforts between the tribes and the state.

In response to a question from Senator Mathern, Ms. Theresa Snyder, Tribal Liaison, Department of Human Services, said licensure of tribal facilities and providers is not an issue. She said the state recognizes tribal licenses and tribally licensed facilities.

In response to Ms. Snyder's comments, Senator Mathern said tribal social services offices should be involved in the Department of Human Services' budgeting process similar to the involvement of county social services offices. He said these providers are in the best position to identify tribal needs and should identify and forward those needs assessments to the Department of Human Services when it is preparing its budget request.

Chairman Boucher recognized Mr. Edward Forde, Director, Lakes Social Services district. Mr. Forde said the Lakes Social Services district is comprised of Ramsey and Towner Counties. He said he is also the director of the Benson County Social Service district which serves the Spirit Lake Nation. He said counties have direct access and provide input to the Department of Human Services in identifying needs.

In response to a further question from Senator Mathern, Mr. Forde said the county social service districts do not receive a formal invitation to participate in the budget building process from the Department of Human Services. However, he said, they do participate in stakeholder meetings.

Chairman Boucher recognized Mr. Dennis Meier, Lake Region Human Service Center, Devils Lake. Mr. Meier said tribal social service systems do a very good job with limited resources. However, he said, there may be some conflict between state, tribal, and federal social service efforts.

Senator Mathern said the committee should consider a resolution to study the development of sustainable social service departments within each tribe in the state.

Senator Mathern requested the Legislative Council staff prepare a study resolution to study the sustainability of social service departments within Indian tribes. He said the resolution should direct the Legislative Council to assign the study to a Human Services Committee or other appropriate committee for study.

Chairman Boucher recognized Mr. Ed Brownshield, Fort Totten. Mr. Brownshield said Mr. Dauphinais is doing a splendid job with the Spirit Lake Nation social services program. However, he said, Mr. Dauphinais is hampered by understaffing and underfunding.

Chairman Boucher recognized Ms. Kulas who presented the written testimony ([Appendix C](#)) of Ms. Deborah Painte, Director, Medicine Moon Initiative Project, Native American Training Institute.

Ms. Kulas also reviewed the community needs assessment prepared by the Medicine Moon Initiative of the Native American Training Institute, a copy of which is on file in the Legislative Council office. She said the community needs assessment identifies child welfare services and supports; foster parent and parent needs; staff development, morale, and team building; and policies, procedures, and regulations within the Standing Rock Sioux Tribe, Three Affiliated Tribes, Spirit Lake Nation, and the Turtle Mountain Band of Chippewa Indians.

Chairman Boucher recognized Senator Mathern. Senator Mathern distributed a schedule ([Appendix D](#)) of Native American Training Institute Tribal IV-E statistics for the Standing Rock Sioux Tribe, Three Affiliated Tribes, Spirit Lake Nation, and the Turtle Mountain Band of Chippewa Indians.

No further business appearing, Chairman Boucher adjourned the meeting at 4:30 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:4