

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1060

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1060

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 01/08/09

Recorder Job Number: 6705

Committee Clerk Signature

*Lori Englund*

Minutes:

**Chairman Grande** opened the hearing on HB 1060. The title was read by the clerk.

**Jeff Nelson:** My name is Jeff Nelson. I'm with the legislative counsel, and my comments this morning should not be construed as being in favor of HB 1060 or opposed to HB 1060. HB 1060 is being recommended by the interim tribal and state relations committee. What this bill does is extends the committee for another two years from July 31, 2009 to July 31, 2011. The Legislative Assembly created the tribal and state relations committee in 2005. They met throughout that interim and then last session they extended it for another two-year period. The committee is composed of seven members: the chairman of the Legislative Council, three members of the house and three members of the senate. The committee is required to conduct joint meetings with the Native American Tribal Citizens' Task Force to study tribal-state issues including government to government relations, the delivery of services, case management services, child support enforcement, and issues related to the promotion of economic development. The Native American Tribal Citizens' Task Force lists who those members are. The executive director of the Indian Affairs Commission and the chairmen of the five tribes in North Dakota. When the Native American Tribal Citizens' Task Force was created in 2005, it was created at the end of the session. You can see in this section the

names are being changed. How this came about is, number one, in 2005, in the haste to create this at the end of the session, some of the members of the committee felt in order to promote sovereign to sovereign relationships and the respect of the state of North Dakota for these tribes, the committee would ask the tribes what name they wanted. I agree with Mr. Disselhorst, he's been practicing Indian law for longer than I can even think about and is one of the recognized experts in the state on Indian law. If he's correct, those are not the official recognized names of the tribes. What the committee did in an effort to show the respect that the state of North Dakota and the committee has for tribe. It asked the tribe what name it wanted in this legislation, and these are the names that were provided to the committee. The federal name is the Tree Affiliated Tribes of the Fort Berthold Indian Reservation. The name that it requested the committee to put into the legislation is Three Affiliated Tribes – Mandan, Hidatsa, and Arikara. I don't believe any federal recognition or money turns on that. That is just what the tribe is being called in this piece of legislation. That's the issue. The committee simply asked each tribe and tribal chairman what name that tribe wanted in the statute. The purpose of the bill is to extend the committee for another two years, from 2009 to 2011.

**Chairman Grande:** Questions from the committee.

**Rep. Kasper:** You said that the tribal chairmen came and requested. That's the current tribal chairman. What do we do in the next session if there's a new tribal chairman, and that tribal chairman doesn't like this and so we need to consider changing the name again as opposed to going with an official name. Was that discussion had at all in the interim committee?

**Jeff Nelson:** No, it really wasn't because, for example, we used the Three Affiliated Tribes. Everyone we talked to felt that even though the official name is the Three Affiliated Tribes of the Fort Berthold Indian Reservation, that name has not been used for many years. Officially, but not on the reservation among the tribal members. Number one, I don't think the new

chairman will come in and change it to something entirely different. This seems to be the common name up there, and I suppose if the committee is extended and a new tribal chairman came in and tried through a constitutional amendment to change it's name and felt strongly about it, then they might request the committee make that change and come forward.

**Rep. Froseth:** Is it in our constitution or code, where is the official listing of the names of the five tribes in North Dakota. If we were to change them, it would change the whole code.

**Jeff Nelson:** I don't believe that there is a listing of the official names in the Century Code. The only places I'm aware is the membership of the Indian Affairs Commission and the membership of the tribal and state relations committee. For purposes of these statutes, we have the opportunity to change them.

**Chairman Grande:** Are you making that request representative.

**Rep. Froseth:** Just for discussion purposes. It seems to me there should be an official list somewhere. You change the official list, then it's up to the legislative council to change it throughout the Century Code wherever it existed. You shouldn't have to go through every section of the code to the legislature to make the changes.

**Chairman Grande:** We do have to do it that way. Difficulty in getting us a list?

**Jeff Nelson:** No, we can do a search and find anywhere that these terms are used in the Century Code. If this is the vehicle you would like to use to change.

**Chairman Grande:** I thought it was interesting looking at the two pieces (HB 1059 and HB 1060) here they are listed differently in both places to start with. It wouldn't hurt to at least get some consistency throughout code so the name is always the same.

**Rep. Froseth:** I would suggest that we have a commission through the attorneys give us the official name of what they want at this point.

**Jeff Nelson:** I believe so. That's what the interim committee came up with. The main request for the bill is to continue the committee.

**Chairman Grande:** Anyone else wish to testify in favor of 1060.

**Tom Disselhorst** testified in support of HB 1060. See attachment #1. My name is Tom Disselhorst. I'm an attorney with the United Tribes Technical College. There were official representatives of the tribes asking for these name changes. I'm not sure that they recognize they are not the official names of the tribes. There are a lot of ways to do it. The committee wanted to recognize a government to government relationship and respond to the wishes of the governments. The Tribal State Relations Committee is very important. This is the legislative equivalent of the Indian Affairs Commission. We've never had a legislative equivalent of it before whereby the legislature can communicate with tribes directly, especially in the interim on issues important to the tribes. There was some concern when this bill was being proposed in 2005 that aren't all those needs met by other committees on an interim basis. As an attorney who has followed the legislation for a lot of years, I could say, yes that's probably true, but for the tribal leaders who need a forum at which to discuss issues of the State Tribal Relations with legislative representatives, this committee provides that forum in a special kind of way on a government to government relation basis. I see this committee as extremely valuable. Our recommendation is to make it permanent.

**Chairman Grande:** At no time did more than two tribal leaders ever show up at the same time, and we had some tribal leaders that never came. So, if they don't think that it's an important enough meeting to attend, why would we wish to continue it.

**Tom Disselhorst:** First of all the tribal leaders have almost always sent various representatives. Number two, the tribal leaders have to go to a number of different jurisdictions. The tribal leaders first and foremost have a federal relationship. A government to

government relationship and the states were not to interfere at all. You can say if they didn't think it was important enough to come, sometimes they have conflicts. There's no way to resolve those conflicts with tribal leaders when they have federal obligations and federal mandates that they have to fulfill as tribal leaders. That's something apart from state government. The other part of that is this committee is relatively new and the tribal leaders are also on the Indian Affairs Commission which is the executive branch of that relationship between the tribes and the state. Cheryl will attest she has a hard time getting tribal leaders to that meeting as well. It's not that they don't think it's important. They know it's important. But it sometimes gets reduced in its importance and yet the effort on the part of the state to reach out to tribes is critical. If you withdraw that relationship, you're sending the wrong signal to the tribes.

**Chairman Grande:** I agree with you when you say it's a nice friendship, but when it's not received back by attendance, you can see where the discourse begins.

**Tom Disselhorst:** I realized very quickly that one year is hardly enough time for anyone in the tribal communities to get to know me. And so it took a long time for people to get to know me. Think about the relationship with the state that started out with an act that said you're not going to interfere with our relationships and then all of the sudden everything starts happening where that interference happens all the time. It seems to me that it is rather important that the state continue to make that effort to extend itself to the tribes. It may not always be reciprocated but it really is an effort that needs to be made if we are going to make the progress we really need to make to help understand who the tribe relations are, what they are trying to accomplish and how they can help North Dakota. The tribal nations are part of the state and can be a tremendous asset to the state as they develop economically. If we don't continue that discussion in a very concentrated kind of way, I think we lose out in the long run.

**Rep. Kasper:** If this were to be extended for two more years, would there be a way to gracefully deliver a message to the tribal leaders that this committee and maybe the legislature as a whole is really concerned about their taking part in the next two years of this committee. If this is really a priority as you say and I think it is to the tribes, wouldn't it be a meaningful gesture on their parts to take ownership as well and attend the meeting to try to work through issues that are important to both the tribes and the state?

**Tom Disselhorst:** You're right. I think part of that effort was done in the last two years by the committee meetings on the reservations themselves and that assisted greatly in getting tribal leadership and other tribal citizens there to see the proceedings. Another part of it is committee meetings the first time around, the first two years, were basically held here at the state capitol and they didn't have it until the second year of the biennium. And that caused a great deal of disinterest. That creates an atmosphere you're not quite sure the legislature is taking this seriously either. The other part of that is to communicate carefully with the tribal governments and sometimes what you have to do to work with tribes, you have to go up there and actually be there at the tribal council meeting and talk to them about why this is important. That level of outreach is critical. You think, why should we have to do that. We're the legislature. That's the kind of level of commitment that the tribal leaders would hope the legislature would seek to do those kinds of things.

**Rep. Wolf:** Why haven't the tribes gone to the federal registry and had the names changed. Do you know why these tribes have not done that?

**Tom Disselhorst:** It's the federal register and not the federal registry. The federal register is where all announcements and notices about the federal government have been placed. One of the notices is what the Bureau of Indian Affairs puts out every year about what the official names of the tribes are. Those are based on what the tribe has given to the Department of the

Interior but is based on what the constitution of that tribe says. So if the tribe hasn't changed its constitution, the federal register is not going to change for that particular tribe. The Fort Berthold tribe, the Three Affiliated Tribes of the Fort Berthold Reservation are called that in their constitution but has a dash behind that and says Mandan, Hidatsa, and Arikara nation. Now that nation part isn't reflected in this proposed amendment so even that is a little bit inconsistent with the constitution. I'm just suggesting as Rep. Kasper alluded to, that the next tribal leader might want to change it. Jeff says it's been used that way for a long time. Well it has since the constitution was adopted for the Three Affiliated Tribes. Globally we could call it whatever the tribal leader at the time wants to call it.

**Rep. Wolf:** Why haven't they made the move to change their constitution.

**Tom Disselhorst:** I think the Three Affiliated Tribes, I don't think they feel they need to because the constitution lists the Mandan, Hidatsa and Arikara nations as part of the whole name. It's actually listed that way in the constitution. Spirit Lake has not changed their name officially even though the chairperson might have said they want to be called Spirit Lake Nation.

**Rep. Amerman:** What the legislature in this committee is being asked to be done as far as name changes, is because of the whim of one person or people that are head of the tribe. It can change by whoever's the head. In fact what they should be doing is taking it to the members and have the name changed in their constitution.

**Tom Disselhorst:** The names have been used quite a while. The source of the problem is that people got confused on what the actual constitutional amendment said. I think it's fair to say it wouldn't be changed tomorrow by a new tribal chairperson. One of the ways I would address it is simply list the name as it is correct in the federal register and then put it in parentheses what the tribal leaders what the tribal leaders want to be called. So you have that

allowance of the name that they wish to be called and you explain to the tribal leaders what your official name in the federal register is. I wouldn't have any problem if you put those changes they requested in parentheses. I think that's really more appropriate for what the nature of the change that is being requested.

**Rep. Nathe:** Is it the perception of the leaders that this committee is not as important as the Indian Affairs Commission. If it is important to one you will find time to be there. So my question is it not as important in their mind.

**Tom Disselhorst:** Inaudible. Back in 1991 there was a great debate about the attendance of tribal leaders. One reason it was reduced to 11 is to give the tribes a majority on the commission. The timing of it varies. It's very difficult to get everybody on the same schedule. The same thing occurs with the Tribal State Relations Committee. You have to make it plain this is important and we want tribal leaders. The same is true with human affairs commission, but I still think the average effort is critically important. This is a new committee that got off to a rocky start. We really didn't have our first meeting until 2006 after the 2005 session.

**Rep. Nathe:** What's your perception. You talk to these people.

**Tom Disselhorst:** I know one of the reasons, Sen. Marcellais is now the chairman of the Turtle Mountain Chippewa. He's on another committee. Chairperson Myra Pearson is giving a speech today. So that's why she's not here. As to the other chairs, I'm not certain I know. Standing Rock probably has it's council meeting this week. Sisseton Wahpeton who was recently added as a member is also in a council meeting.

**Rep. Nathe:** When it comes to scheduling, do they have an input as far scheduling?

**Tom Disselhorst:** I don't know. I know that Sen. Mathern, Rep. Boucher who chaired the committee this last two years, I know that in speaking with them, they made a great effort to work with the tribal leaders to make sure the people were available. Schedules change.

These committee meetings are set several weeks in advance so that can interfere greatly with what happens to the ability to the tribal leaders to actually show up.

**Chairman Grande:** Anyone else wish to speak to 1060? Close the hearing on HB 1060.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One HB 1060

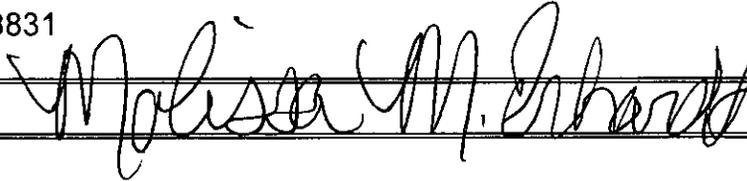
House Government and Veterans Affairs Committee

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Hearing Date: 02/05/2009

Recorder Job Number: 8831

Committee Clerk Signature



Minutes:

**Chairman Grande:** Called Committee to order. Rep. Boschee would like to address HB 1060 with us since he was unable to make it down for that hearing.

**Rep. Boschee:** The HB 1060 deals with the continuation of the Tribal and State Relations Committee. That particular day was the State of the Tribes address and there was a lot of confusion around the Capital that day and unfortunately I didn't get the notice for this particular hearing or I would have been down here to testify at that time. I apologize for whatever mix up there was and whatever happened there. But I would like a little bit of your time this afternoon just to talk about this particular committee because the Tribal and State Relations Committee was created two sessions ago and the purpose and function of the Tribal and State Relations Committee is to bring Tribal officials and representatives who are Tribal Communities from around the State of ND, our reservation communities, together with the State officials, and create a forum whereby, we can discuss issues that affect both the State Government and Tribal

Government. To be very honest with you and very frank with you, it has had somewhat of a slow start, it has had a little bit of a difficult history, there have been some frustrations in terms of attendance at meetings and so forth, but I want to emphasize to you that I think we have started to develop a process that moving forward, it could become and make this a very, very, effective interim committee; 1. I think we can develop some very important and some very critical relationships, and create a forum to discuss matters of tribal government and tribal issues along with matters of State Government and the relations. One of the issues that I think we have found to be quite successful, or during the interim or during this last go around with this particular effort, was the fact that we met at four of the States five reservations. The fifth reservation being Wahpeton/Sisseton and only a small portion of that reservation affects ND. But we did meet at the four major reservation communities. What we did find when we went out to those reservation communities, is that locally people were very appreciative of us being there and coming to their communities and also people did come and participate with their issues. Now some folks may ask, why don't you just meet en-mass with the Tribal Communities. We did have a meeting, with our first meeting in Bismarck, and our last meeting in Bismarck. Those were the two meeting that interestingly, were not very well attended. Some people ask why do not Tribal people attend these meetings. Part of the issue is simply this, each Tribal community and each reservation, Spirit Lake Nations, Turtle

Mountain Band of Chippewa, (which is the district that I represent and home of about 80% of my constituency), then we have the Three Affiliated Tribes, and Standing Rock. I think that what we find is that each of these reservations in many respects is a unique community of their own. In regard to issues that affect these communities, oftentimes, are somewhat different than the issues that affect the total population of the State of ND and what might imagine would be the issues that affect people in Indian Country and our Indian citizens. I want you to understand and I think it's something that a lot of times that legislatures don't understand and the general public doesn't understand is that when we deal with Tribal issues and Indian issues, that we deal with them in sort of a boiler plate fashion. We have to understand how to work through this whole issue of sovereignty and Tribal Nations and Sovereign Nations. I know it creates a lot of heartburn amongst a lot of people. But I hear this all the time, but if they are Sovereign Nations why don't they act as a nation and go about their business in that way? Well, yes indeed they are Sovereign Nation and Tribal Governments are very intent upon maintaining their Sovereignty but at the same time they operate and exist within the borders of the State of ND. They are a political division, a political unit of their own, why each city or county with some very unique features that does set them apart, yet their relationships and things that affect them, affect them very much the same way that many other political subdivisions do, but within their own boundaries. Take the gas tax for instance,

this is an issue that has been going back and forth with ND State Government and the Tax Department and the Tribal Communities because of the uniqueness of each of the reservations and the Sovereign Nations and the Sovereignty that they have is that we have had to over the course of time develop separate individual gas tax compacts and relationships. Through the work of the tax department, the State of ND, and our Tribal Governments, three of the four reservations to my knowledge at this time have worked out a gas tax agreement. Each is different, each of these units, or political entities approaches this kind of situation in a different fashion. We have issues of hunting, we now have the experience with Three Affiliated Tribes have worked out hunting relationships and hunting agreements and game agreements with the State of ND on their own individual basis. Likewise, we are going to find that as this progresses and moves on, the same will be true with the other reservation communities. Again, we have to understand that we are talking about Sovereign units here, each has their own local community culture and each has their own political agendas, and each has their own political operations. So you are dealing with separate and independent government units. What we did find very, very, encouraging is that we found when we went out to the four reservations and visited with the people that came to those particular meetings at that time, they really appreciated having a forum, where they could in their community and representing their individual reservations an opportunity to express their thoughts, their feelings,

and actually ask the questions about their relationship with State Government as it affected them locally. I think from this whole process that we as Legislators and people in State Government are starting to learn how each of these are unique political entities, each of these are communities of their own, and consequently there has been a tremendous value in what we have done. I talked with other members from the Legislature who serve on this committee, we have some of the frustrations because as we mentioned when we went to one, it seemed to the group from that particular community that attended and participated and were a part of the activity. But at the same time, these people are very pleased and very happy because we were able to talk about school issues, we were able to talk about child support enforcement issues, we were able to talk about gas tax issues, we were able to talk about hunting issues, we were able to talk about education issues, and I think the tremendous value was in the relationships that were developed between the communities and something that I think is very needed in the State of ND, a better understanding of what we call our Indian country, government to government relationships and those exchanges of information and dealings in the communities. I would really ask that this committee give this consideration for a Do Pass, I visited with Senator Lyson and some others in this regard and there are some things we want to do as we move through the Legislative process to amend this bill to redefine the presence of some of the people. We know that the way the current bill is written

that it is supposed to be the Tribal Chair or the immediate designee. These are very busy people and often times it is very difficult to bring four of these people together at the same time. For example, we want to go in and create language so that we can have them identify a specific representative of the tribe who we hope could get to all of these meetings, all the time. That is an example and there are many other types of things that we want to address. The one thing we did agree upon is that it is an important committee, serves a very useful purpose, and we wish to move forward with it. For those reasons, I would certainly encourage you to give this very positive consideration.

**Chairman Grande:** One question, this does not have a fiscal note on it, I can wait until next Thursday to get that language in if you would like?

**Vice Chairman Randy Boehning:** We have two committees, we have one that is an Executive Branch committee for the Indian Affairs Commission and then we have the Tribal and State Relations on the interim committees. On the commission side we have all the Tribes and Representatives, on that commission we have a designee, would it suit us better to put Legislators on to that than we have a forum. Then you will be there with either the Chairman or else a designee of them and you would be able to get the input from them all the time instead of having to go out and do another meeting and you would have

their input there at the same time?

**Rep. Boschee:** I guess I have to disagree with you. First of all, the Indian Affairs Commission is an agency. It actually is a cabinet position of the Governor's office and operates as an executive agency. Yes, indeed, there is a committee that gathers and is representing the Tribes. But this particular committee for Tribal and State we really get into the Legislative aspects, the public policy aspects, where we come and we talk about laws, legislation that will affect people living in Indian Country on each of these reservations. As I mentioned we talked about issues of child support enforcement, issues of compacts and things like that, there is a relationship between the Executive branch and the Tribal communities but this one really brings people together in the Legislative arena and we have an opportunity to discuss those kinds of issues.

**Vice Chairman Randy Boehning:** There was some talk that you might have a meeting on each one of the reservations. If each one of the reservations don't want to go together for whatever the politics are, how can you come to a consensus when proposing legislation that they are all agreeable on or not agreeable on if they are not in the same room to discuss it?

**Rep. Boschee:** They do come together and discuss, but there are also issues that are unique to each of them. I want to point out very emphatically that I don't think when you see the relationships and what we would call the uniqueness of Turtle Mountain Reservation as opposed to Three Affiliated Tribes might not be

any different than what would be unique to the community of Valley City versus Dickinson. But when the State of ND has issues specific to Valley City, the Sheyenne River and so on, that you don't bring in the people from Dickinson even though they live in the State of ND, even though water maybe a common issues or vice versa out in Dickinson where they may have an oil issue or development issue affecting that area. Those communities are unique just like all the other communities around the State of ND. We do those kinds of things in a public capacity that when we deal with issues of water in the Sheyenne River and the Sheyenne Valley it affects Valley City, we go to Valley City, and it's the people there in that area, and likewise the same is true when you have issues out in the western part of the State, you go to Dickinson and do those kinds of things. We do that with our colleges. On our interim higher education committee, we go to the individual campuses, so I don't think there is anything unusual about going to the respective reservations.

**Rep. Wolf:** When we had testimony originally on both HB 1059 and HB 1060 there was quite a discussion as to the names of the different tribes and the changing of the names and the changes they are asking for are not federally recognized names of those Tribes. One of the suggestions by one of the gentlemen that testified was to put the legal name in the bill, followed by what they want to be called in parentheses. Is that something that is a good idea, bad idea or how do you think we should deal with that particular issue?

**Rep. Boschee:** I guess this has not been brought to my attention. I guess I am not going to speak on behalf of the Sovereign communities and how they want to address this. I am sure there is a solution to this. In my history of living in ND, and my history of being in the Legislature there have been changes to the official names. So in that regard I think I would defer to those that probably are closer to that issue.

**Chairman Grande:** I have a memo from the Indian Affairs Commission as to the names they had agreed on and the voting, and who voted from each of the tribes. That just got to me and we have not had a chance to discuss it.

**Rep. Winrich:** One of the suggestions that we had in testimony on the bill from David Gipp was that we take the "Sunset Clause" out of this and make the commission permanent. Would you support that change?

**Rep. Boschee:** Certainly, I would support the change. I agree that it would be just like a higher education committee or any other interim committee that we operate with and that exists within the realm of the Legislative Branch of State Government. This is an issue that is there, we have these four reservations that exist and are politically recognized, not only by the State of ND, but by the United States Government and I guess the world. None of this is going to go away and these issues will be before us and I think it is a tremendous experience for both the State Legislature to learn the political culture of how Tribal Government works, it works by resolutions and the different process than the State

Government were we work by statutes and things like that. I think that they have learned a lot just observing our hearing process. I am thrilled that it exists and what we can bring back from the experience and go back and forth. Looking to make Tribal Government better for the people in the Tribal communities and I think we are moving in the right direction.

**Chairman Grande:** Committee when we heard HB 1059 there was a fiscal note attached and I checked with appropriations, and I checked with Legislative Council that was not supposed to have been on this. It does not have an appropriation. In the language when we go to amend that bill with the Tribal names and stuff we are going to just take out the wording, continuing appropriations. That appropriation is there it is an Executive Agency, it has its own budget. It does not need bill approval for its budget. Somehow that got attached and it does not belong on here.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work Two HB 1060

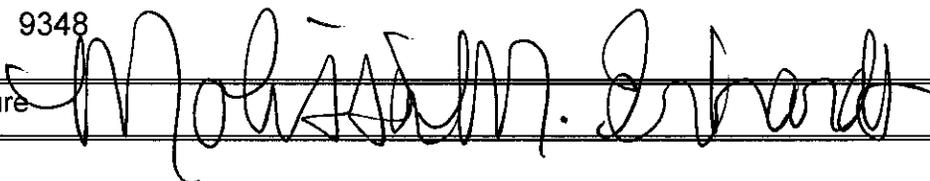
House Government and Veterans Affairs Committee

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Hearing Date: 2/12/2009

Recorder Job Number: 9348

Committee Clerk Signature



Minutes:

### COMMITTEE WORK TWO:

**Chairman Grande:** We will discuss HB 1060. Cheryl also sent down some amendments for this bill too. Make sure I remember we have to get Rep.

Boucher amendment on here and I don't think that she has that on here. Let's start with Line 24, adding in that this committee will not be limited to.

**Vice Chairman Randy Boehning:** I talked with Council and that is not in style and form for them. But not limited to. They don't want that type of language.

**Chairman Grande:** I don't know that we have to say that. They are not limited to it anyway. We are okay with that language. We go to Page 2, Line 14 and get all the name changes. So basically what we are going to do with this is continue the committee on Tribal and State relations for one more biennium and see how it goes for attendance and things like that.

**Rep. Wolf:** I have in my notes on Page 2, Line 13, something that Rep. Boucher talked about was adding in the word "specific" before "designee" ? That way it would be one specific person.

**Chairman Grande:** That is what I just said when I handed this out. Remind me of Rep. Boucher amendment. Is that "specific" designee? I just have a note saying to make a change. I am on Page 2, Line 13, or the executive director's specific designee?

**Rep. Dahl:** What was the rationale for that?

**Chairman Grande:** For attendance purposes to make sure that the person at the table was at the table.

**Rep. Dahl:** If you become the designee then why would you need specific?

**Vice Chairman Randy Boehning:** I think with "specific" if they designate someone to be there someone just can't get up and start voting on the bill without permission. Basically, what it is going to do is let the Executive Director specific designation for a person to vote. You just can't have a person come in and sit down and start voting.

**Chairman Grande:** That is not the one that we are supposed to be making a designee for. What he wants to do here is to make it so the tribal chairman does not have to be the designee. We don't want Line 13, that's Cheryl's and she already can do the director as a designee. I thought that Rep. Boucher wanted

to make sure that the chairman had the opportunity to have someone else there but he already does by having a designee.

**Rep. Wolf:** Right but what he wanted to do was make sure it was the same person each time, the same specific designee each time they met. That way it wasn't Johnny one time, Mikey the next time, Billy the next time, and that way it would be consistency.

**Rep. Dahl:** But I don't think that would change with that being the law. It doesn't specifically say specific designee that is to remain the same for each meeting, this is kind of wide open, you could have a specific different designee for each meeting.

**Chairman Grande:** Correct and he wants to stop having different designees.

**Rep. Dahl:** Right but specific doesn't change that.

**Chairman Grande:** Not there it doesn't either and it needs to be worded different.

**Rep. Amerman:** These amendments, they do not change what is in the bill?

**Chairman Grande:** No, I think what she is sending down is an agreement to the names is basically what she has done here. So these amendments are not really amendments here. Right now we have no amendments to this bill. Yes we do, these are amendments, it's just we have to go back to the old language. So actually we have no bill other than if we continue this.

**Rep. Dahl:** We would want to keep Page 2, Line 22, we want to keep that language.

**Vice Chairman Randy Boehning:** Page 2, Line 16, remove the overstrike.

**Rep. Dahl:** No. I think we want to keep that. It is new language. We want it to say Oyate.

**Chairman Grande:** We want it to say pride, not nation.

**Rep. Dahl:** I am talking about Page 2, Lines 22 and 23. That is pretty much the only change we would need other than extending it to 2011.

**Rep. Wolf:** Maybe instead of trying to get at Rep. Boucher point of having it to be consistent if you put something in the law to make it be specific, what if that person would pass away or have a car accident or something, maybe we should just let them encourage it on their own.

**Chairman Grande:** I just don't think that we need to mandate that they find consistency. That is up to them and they need to figure that out. In my conversation with the representative, really if they are going to do it as tribal to tribal and moving this around, when they get to this reservation, they are going to deal with those people, when they get to the next one it is the next one, and the next one the next one, they don't cross over, they don't show up at the other one so with designee, everybody is there. I just don't know that we have to get into

that language right now. If it is something specifically has to come up let's deal with it over there as he had mentioned earlier.

**Vice Chairman Randy Boehning:** When Rep. Boucher was up here and they go to the meeting and the tribal chairman appoints someone to come and they had some members of the tribe in the audience so one of them was thinking that they could vote but they were not a designee of the chairman. I think that is what he is trying to do so the chairman designates a specific person to be there if the tribal chairman was not there because otherwise the designee could have been someone else other than the chairman but if the chairman doesn't appoint them there was no designee there.

**Chairman Grande:** But it says specifically "the chairman or the chairman's designee" if the chairman has failed to have a designee for that meeting then no one represents them that day, end of discussion, that is how the law works.

**Vice Chairman Randy Boehning:** Motion for moving the amendments.

**Rep. Dahl:** One last thing, Page 2, Line 18, if we do want to add of the Ft. Berthhold Reservation to make that consistent with our last bill that we passed.

**Chairman Grande:** Is that right, is that what you are saying?

**Rep. Dahl:** Yes, it is not technically right but I think we understand what she is trying to do. For example, Page 2, Line 14 and 15, that is the way it already is.

**Chairman Grande:** These are not formal amendments but what she is just trying to tell us is how it is going to read and this gentlemen is in charge of getting it done right.

**Rep. Dahl:** 2<sup>nd</sup> the motion for amendments.

**Chairman Grande:** Vice Chairman Randy Boehning moves the amendments and Rep. Dahl seconds. Discussion? Favor of the amendments? I. Consent. All. Amended bill is before us.

**Rep. Winrich:** One other small point I would like to make, it doesn't really make a great difference but it might be interrupted as a gesture to encourage

participation. In the written testimony that we received from David Gipp he suggests in the next to the last sentence that has an amendment they would like to see the committee made permanent rather than with a sunset clause. I noticed that this bill extends it through July 31, 2011, if we just took that bait out, the 2011 session of the Legislature could terminate it anyway, with the same effect as this bill. I think that might be something that could encourage it to be viewed as a permanent commission.

**Rep. Dahl:** I sort of disagree. The last biennium did not go that well, in terms of participation, so if we extend it two years, knowing that we will look at it and revisit it again perhaps it will put some pressure on the tribes to make this committee work.

**Rep. Winrich:** I guess Rep. Dahl and I simply disagree. I don't think that we want try to implement this by putting pressure on the tribes. I think what we need to do is offer cooperation.

**Chairman Grande:** There is enough people that probably would have liked to have this go away do to the lack of participation so I think that the gesture of even offering it even two more years is saying we are going to give this one more go. I think that we need participation on both sides and that putting this date on their makes a lot of sense just to have this very clear that we want to see participation on both sides. I think that the gesture of us going on to each of the reservations is going to clarify that, depends on who is chairing it and whatever Legislative Council decides, but I think that this a better gesture or more formal way of doing that to them than putting it in writing right here.

**Rep. Conklin:** 2<sup>nd</sup>.

**Chairman Grande:** Rep. Dahl has a Do Pass As Amended in front of us, Rep. Conklin 2<sup>nd</sup>. Clerk will call the roll.

**Clerk Erhardt:** Roll Call. Yes: 10. No: 3. Absent: 0. Carrier: Rep. Kasper.

VK  
2/13/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1060

Page 2, line 16, remove the overstrike over "~~Tribe~~" and remove "Nation"

Page 2, line 18, remove "- Mandan, Hidatsa, and"

Page 2, line 19, replace "Arikara" with "of the Fort Berthold Reservation"

Renumber accordingly

Date: 2/12/04  
 Roll Call Vote #: 1060

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1060

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Rep Dahl Seconded By Rep Conklin

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth	✓		Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier		✓			
Rep. Nathe		✓			

Total (Yes) 10 No 3

Absent 0

Floor Assignment Rep. Kasper

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

**REPORT OF STANDING COMMITTEE**

**HB 1060: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1060 was placed  
on the Sixth order on the calendar.

Page 2, line 16, remove the overstrike over "~~Tribe~~" and remove "Nation"

Page 2, line 18, remove "- Mandan, Hidatsa, and"

Page 2, line 19, replace "Arikara" with "of the Fort Berthold Reservation"

Renumber accordingly

2009 SENATE POLITICAL SUBDIVISIONS

HB 1060

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1060

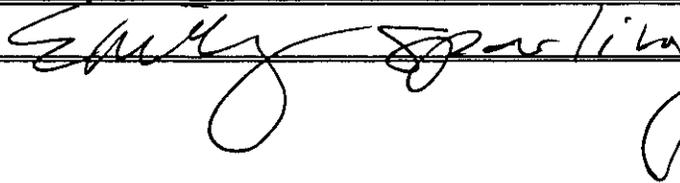
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 03/06/2009

Recorder Job Number: 10371

Committee Clerk Signature



Minutes:

**Jeff Nelson** Staff Attorney for Legislative Council. Introduced HB 1060 and provided information. Essentially the bill extends the committee on tribal and state relations for another 2 years until 2011. The tribal and state committee studies tribal state issues. He explained how the council works and what it does. He also explained how the name changes within the bill came about in order to call tribes by their government recognized name rather than using the name the tribe may use for themselves.

**Chairman Andrist** What does *Oyate* mean?

**Nelson** Nation or people

**Senator Lee** Was there good attendance at these meetings?

**Nelson** On the whole, yes.

**Senator Lee** We deal with a lot of tribal issues in Human Services but we never have anything brought forward by these groups. I think it is odd, I am not blaming you, but perhaps I need to talk with the council about including their views in our committee.

**Nelson** That would seem to be a good idea.

**Chairman Andrist** Is your council promulgated in any other areas?

**Nelson** Yes. Listed some of the other bills and their descriptions

**Senator Dotzenrod** I see that this bill has changed, was it because of any controversy?

**Nelson** No, the changes were related to the name issue.

**Senator Dotzenrod** Is there some reason the committee is not set up to go on forever?

**Nelson** That is a policy question that is left up to the legislative assembly.

**Senator Bakke** In order to make it permanent do we just need to get of the effective date?

**Nelson** Yes

**Bob Parisien** Indian Education Program Manager for the Indian Affairs Commission. Spoke in support of 1060. Spoke on behalf of his boss in the IAC. The IAC supports the bill. He sees some positive things coming out of these meetings.

**Senator Bakke** Should this be permanent?

**Parisien** I'm in education so I do not necessarily have a position. Sometimes we can become over committee-ed but in this case I do think the committee is having a positive effect.

**Chairman Andrist** Closed the hearing on HB 1060

**Chairman Andrist** My thinking is that we should not make this permanent unless the commission requests it.

**Senator Bakke** I move **Do Pass**

**Senator Dotzenrod** Second

The Clerk called the role on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0.**

**Senator Bakke** with carry the bill.

Date:  
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1060

Senate Political Subdivisions

Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do pass  Do not pass  Amendment

Motion Made By A. Bakke Seconded By J. Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	/		Senator Arden C. Anderson	/	
Vice Chairman Curtis Olafson	/		Senator JoNell A. Bakke	/	
Senator Judy Lee	/		Senator Jim Dotzenrod	/	

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment A. Bakke

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

**REPORT OF STANDING COMMITTEE**

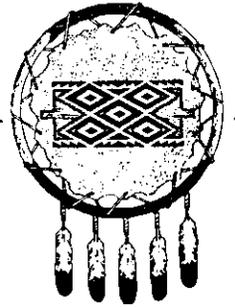
**HB 1060, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1060 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1060



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**Testimony on HB 1060  
Regarding the Indian Affairs Commission**

**Before the North Dakota Government and Veteran's Affairs Committee**

**January 8, 2009**

**David M. Gipp, President  
United Tribes Technical College  
on behalf of United Tribes of North Dakota**

Madam Chairwoman and members of the Committee:

This testimony is on behalf of United Tribes of North Dakota (United Tribes), made up of the Chairs and one additional representative of the five federally recognized Indian tribes in North Dakota.

United Tribes is in favor of the bill you have before you, which extends the existence of the Tribal-State Relations Interim Committee of the North Dakota Legislative Council, but we have one concern and one suggested amendment.

The first section of the bill changes the names of two of the Tribal Nations in North Dakota. As we testified relating to HB 1059, we are not certain whether the government of those Tribal Nations, the Three Affiliated Tribes of the Fort Berthold Reservation, and the Spirit Lake Tribe, have communicated officially with the Tribal-state relations committee requesting that the names be changed, indicating that such a name change has been officially authorized by the tribal government.

The official names of the two tribes whose names are being changed have not changed according to the federal government's listing of federally recognized tribes which appears annually. We at United Tribes of North Dakota have not received any request that the names of the tribes be changed. The names of those tribes are now correctly stated in the North Dakota laws. We do know that generally for a tribe to change its name requires a constitutional amendment, voted on by the citizens of that tribal nation.

Therefore, we would ask that if this Committee were to act favorably on this bill, that there be official communication with the governments of the tribes whose names are being changed to ensure that the change of name is in fact what the Tribe now wishes itself to be called. As an amendment, we would ask that this committee be established permanently. The committee has done good work and needs to be a permanent part of the legislative process.

Otherwise, we urge a DO PASS on HB 1060.

*Attachment #1*



## North Dakota Indian Affairs Commission

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1060

**Governor John Hoeven**  
CHAIRMAN

**Cheryl M. Kulas**  
EXECUTIVE DIRECTOR

### Memorandum

**TO:** House Subcommittee on Government and Veterans Affairs

**SUBJECT:** Clarify pending changes to House Bill 1060, an Act to amend and reenact section 54-35-23 of the North Dakota Century Code, relating to extension of the committee on tribal and state affairs

**FROM:** Cheryl M. Kulas, Executive Director, ND Indian Affairs Commission

At the request of the members on the *Native American Task Force* of the Tribal State Relations Committee, the House Subcommittee on Government and Veterans Affairs is respectfully requested to approve of the following changes to H.B. 1060:

P. 1, line 24, ... relations, but not limited to the delivery of services, case management services, child support enforcement and issues related to the promotion of economic development.

P. 2, Lines 14. and 15. (2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;

P.2, Line 16. (3). The chairman of the Spirit Lake ~~Tribe Nation~~ Tribe, or the chairman's designee.

P. 2, Line 18. (4). The chairman of the Three Affiliated Tribes – ~~Mandan, Hidatsa, and Arikara~~, of the Fort Berthold Reservation, or the chairman's designee; and

P.2, Line 20. (5). The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and

P. 2, Line 22. (6). The chairman of the Sisseton-Wahpeton ~~Sioux Tribe~~ Oyate of the Lake Traverse Reservation, or the chairman's designee.

The proposed change on page 1, line 24. is based on comments and recommendations of Indian Affairs Commission members that the dialogue between legislators and tribal chairpersons need not be limited to the issues of the delivery of services, case management services and child support enforcement.

Proposed changes on p. 2, lines 12 through 23, collectively reflect the legal status of individual tribal governments in North Dakota as acknowledged by federal recognition and codified in 72 FR 13648.