

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Thursday, March 23, 2006
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Scot Kelsh, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Scot Kelsh, Chuck Damschen; Senators Dwight Cook, Constance Triplett; Citizen Members Randy Bina, Barry Cox, Jon Martinson, Mary Lee Nielson, Greg Sund, Ken Yantes

Members absent: Citizen Member Karin Fischer; Governor John Hoeven

Others present: See attached appendix

It was moved by Mr. Martinson, seconded by Mr. Bina, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

COORDINATION OF EFFORTS TO DISCOURAGE DESTRUCTIVE BEHAVIOR

Mr. Lee Erickson, State Coordinator, North Dakota Students Against Destructive Decisions (SADD), provided testimony on the need for funding of SADD. He said SADD is a strong and successful organization. He said federal grants are designed to build programs, not sustain programs. He said SADD has received three grants for approximately \$80,000. He said one grant is in the final year, one has one year left, and one is year to year. He said money is needed especially for college programs. He said SADD is considering an initiated measure; however, it would prefer the legislative method. He said one solution may be to use a portion of existing alcohol taxes to fund SADD. He provided a handout of the suggested initiated measure, SADD state funding, and SADD's annual budget. A copy of each handout is on file in the Legislative Council office.

In response to a question from Senator Cook, Mr. Erickson said through a request for proposal process, SADD receives grants through state agencies that receive federal funding.

In response to a question from Senator Cook, Mr. Erickson said there is a concern with the separation of church and state if SADD were to promote a religious agenda in schools.

In response to a question from Senator Cook, Mr. Erickson said the majority of states fund SADD through federal highway safety funds. He said there is a short supply of these funds in this state because of the low population. He said SADD in this state receives approximately \$25,000 per year in highway safety funds.

In response to a question from Representative Kelsh, Mr. Erickson said 2005 Senate Bill No. 2372 would have raised \$1.7 million to \$1.8 million. He said the suggested initiated measure will raise \$1.3 million to \$1.4 million per year. He said SADD wants approximately \$250,000 per year. He said the remaining money would be allocated by the Responsible Choices Committee.

Ms. Janet Seaworth, Executive Director, North Dakota Beer Wholesalers Association, provided written testimony on funding and programs for discouraging destructive decisions. A copy of her testimony is on file in the Legislative Council office. She provided a handout of state, federal, and private foundation funding for alcohol abuse and related activities in this state conducted by Fiscal Planning Services, Inc. She said each of the 16 wholesalers in this state contribute approximately \$10,000 each to Responsible Choices campaigns. She said this money is usually matched by brewers. She provided handouts of different programs supported by brewers and wholesalers. A copy of each handout is on file in the Legislative Council office.

In response to a question from Representative Damschen, Ms. Seaworth said the use of materials provided by wholesalers in schools has a positive response from schools. She said the industry has been involved with promoting responsible decisions for the last 20 years and there has been a significant decline in alcohol abuse.

In response to a question from Mr. Sund, Ms. Seaworth said the document listing available grant money is somewhat ambiguous as to what particular portion of money that is available for alcohol-related programs.

In response to a question from Senator Triplett, Ms. Seaworth said approximately \$500,000 is contributed by alcohol wholesalers and brewers each year for programs in this state.

In response to a question from Representative Kelsh, Ms. Seaworth said the main problem with Senate Bill No. 2372 was the tax was not fiscally responsible. She said a beer tax is regressive. She said changing the funding from beer taxes to general fund money as a means of supporting a private organization is relatively unprecedented. She said she would not oppose a direct appropriation; however, it would be a major change in policy.

In response to a question from Senator Cook, Ms. Seaworth said wholesalers and brewers work with

local SADD chapters; however, SADD will not accept money from the alcohol industry.

Mr. Sund said the purpose of Senate Bill No. 2372 was to launder money for SADD. He said this should not be the purpose of a tax.

Ms. Nielson said grants are not applied for because the writing of the application and the administration of the grant has to be done within an organization's budget. She said most organizations do not have the administration and grant writing expertise to receive grants.

Representative Damschen said the sincerity of the alcohol industry in funding SADD is suspect because if SADD were completely successful, the alcohol industry would be out of business.

Mr. Sund said the commission should consider a centralized office that aids private groups in applying for grants and applies for grants to pass through to private groups. He said grants that are applied for by a professional grant writer appear more professional and have a greater chance of success than grants written by a layperson.

Commission counsel provided a handout entitled *Strengthening Youth Policy - Positive Youth Development: State Strategies* published by the National Conference of State Legislatures in October 2005. A copy of the handout is on file in the Legislative Council office.

INCREASED TAX LEVY AUTHORITY BILL DRAFT

At the request of Chairman Kelsh, commission counsel presented a bill draft [\[70025.0200\]](#) allowing a taxing district to increase the amount levied in dollars in the base year as adjusted by the consumer price index.

Mr. Jerry Hjelmstad, North Dakota League of Cities, Bismarck, presented information on the consumer price index. He said he received the information he presented from www.bls.gov/cpi. A copy of the handout used as the basis of his testimony is on file in the Legislative Council office.

Ms. Sandy Clark, North Dakota Farm Bureau, Bismarck, presented testimony in opposition of the bill draft. She said any tax increase should be brought to a vote of the people. She said most people want property tax relief, not an increase. She said the bill draft includes all political subdivisions. She said mill levy limitations were increased during the 2005 legislative session for certain political subdivisions. She said this bill draft would be an increase on top of recent increases.

In response to a question from Mr. Cox, Ms. Clark said the procedure for creating a county budget is that the board of county commissioners creates a budget, tabulates income, and fills in the rest with property tax. She said this is backwards in comparison to how an individual creates a budget.

In response to a question from Mr. Cox, Ms. Marcy Dickerson, Tax Department, said in 2005, 256 cities

were over the general fund limit of 38 mills and 25 counties had exceeded the general fund limit. She said under North Dakota Century Code Section 57-15-01.1 the general fund limit may be exceeded.

Senator Cook said the interim Finance and Taxation Committee is studying property tax reduction.

Mr. Yantes said there are increases in the cost of services that political subdivisions provide, such as fuel. He said the political subdivisions need to be able to increase taxes to meet the costs.

Senator Triplett said a flat mill levy is a decrease in taxes as inflation goes up. She said the bill draft allows an increase and if valuations are increasing then a political subdivision would not need to use this authority.

Mr. Sund said he is concerned the bill draft might have an unintended consequence of affecting the distribution formula for school districts by punishing school districts that are fiscally conservative.

Senator Cook said taxation is a three-legged stool of property tax, sales tax, and income tax. He said the property tax leg is too long. He said there may need to be an increase in sales or income tax. He said the first step is to balance taxes and the second step is to keep them in balance. He said the bill draft may be premature and should be considered as part of a larger plan. He said he is not opposed to the bill draft presently; however, the commission should delay action on the bill draft.

CITY DEVELOPMENT IMPACT FEES BILL DRAFT

At the request of Chairman Kelsh, commission counsel presented a bill draft [\[70026.0200\]](#) to allow for city development impact fees.

Mr. Mike Williams, Fargo City Commission, presented testimony on the bill draft and provided handouts on the use of city development impact fees by other cities. A copy of his testimony and handouts are on file in the Legislative Council office.

Mr. Williams said impact fees place the cost of new development in the purchase price of the lot, not in special assessments. He said impact fees place the risk of development on developers. He said impact fees discourage urban sprawl by putting the cost of developing far away from existing development on developers. He said impact fees place competitive pressures on developers. He said the administrative cost for special assessments is 25 to 35 percent. He said developers have development costs of around 11 percent.

In response to a question from Mr. Sund, Mr. Williams said although some cities have impact fees, the bill draft places all cities on the same playing field.

In response to a question from Senator Cook, Mr. Williams said there may need to be some limitation on impact fees so cities do not unrealistically mark up the price of services.

In response to a question from Senator Cook, Mr. Williams said the authority to impose city development impact fees lies with the city.

REPORT ON COUNTY DOCUMENT PRESERVATION FUNDS

Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, provided a written report of how each county has used the county's preservation funds during the preceding two fiscal years. A copy of the report is on file in the Legislative Council office.

In response to a question from Senator Cook, Mr. Traynor said the largest problem with Internet access to records was the fees; however, the fees have been cut in half. He said he hopes that all counties will join the single web access system by the next legislative session. He said the system charges a \$100 setup charge and a monthly service fee of \$25. He said Grand Forks charges a setup fee of \$200 and monthly services of \$100. He said Grand Forks started its system earlier due to the flood and is an independent system.

TOWNSHIP LEVY LIMITATION INCREASE

Mr. Yantes provided testimony on the resolution of the North Dakota Township Officers Association to support an increase in the mill levy limitation from 18 to 30 mills. He said considering the work of the interim Finance and Taxation Committee, this commission should not address this issue.

In response to a question from Mr. Cox, Mr. Yantes said a township may increase the mill levy limitation from 18 to 27 mills at a meeting through proper procedures.

EXTRATERRITORIAL ZONING JURISDICTION

Mr. Yantes provided testimony on the reduction of city extraterritorial zoning jurisdiction. He said some political subdivisions are concerned with the four-mile reach of city zoning jurisdiction.

Mr. Sund said extraterritorial jurisdiction is purely a zoning issue and does not relate to taxation. He said the four-mile reach is for cities with a population of 25,000 people or more. He said this includes four cities. He said extraterritorial zoning jurisdiction is a planning tool and in Dickinson the county has representatives on the zoning board.

Senator Triplett said Grand Forks extended the city's extraterritorial jurisdiction over the objection of the county, township, and people living in the area. She said the zoning rules require at least 40 acres so development has been shut down. She said this may cause a ring of development over four miles outside the city to develop. She said counties had put in infrastructure in anticipation of the development and now that investment is lost.

Mr. Hjelmstad provided testimony on extraterritorial zoning. He said the four largest cities may expand their extraterritorial zoning jurisdiction to four miles. He said three have done this and Minot has not. He said eight cities may increase their extraterritorial zoning jurisdiction up to two miles. He said 345 cities may increase their extraterritorial zoning jurisdiction from one-half mile to one mile.

JAIL ADMINISTRATION

Senator Triplett presented a bill draft [\[70020.0100\]](#) allowing the board of county commissioners to provide for the administration of county jails. She said a recent Attorney General's opinion said the Burleigh County Board of County Commissioners could not hire an administrator of the jail. She said the opinion said the administration of the jail was the sheriff's duty. She said the opinion hinted the administration of the jail by a hired administrator in Grand Forks may be illegal. She said the Grand Forks Board of County Commissioners has two choices--make the jail a regional facility or seek to clarify the law.

In response to a question from Mr. Sund, Senator Triplett said the bill draft could be changed to remove the administration of jails from the duties of the sheriff. She said the bill draft recognizes that generally sheriffs administer the jail; however, the board of county commissioners may make an exception for a hired administrator.

No further business appearing, Chairman Kelsh adjourned the meeting at 11:45 a.m.

Timothy J. Dawson
Commission Counsel

[ATTACH:1](#)