

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

TRIBAL AND STATE RELATIONS COMMITTEE

Wednesday, October 16, 2013
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Dennis Johnson, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Dennis Johnson, Marvin E. Nelson, Wayne Trottier; Senators Oley Larsen, Dave Oehlke, John M. Warner

North Dakota Tribal Governments' Task Force members present: Scott J. Davis, Executive Director, Indian Affairs Commission; Claryca Mandan, representing Tex G. Hall, Chairman, Three Affiliated Tribes of the Fort Berthold Reservation; Jesse McLaughlin, representing Dave Archambault II, Chairman, Standing Rock Sioux Tribe; Richard McCloud, Chairman, Turtle Mountain Band of Chippewa Indians; Nancy Greene-Robertson, representing Russell McDonald, Chairman, Spirit Lake Tribe

North Dakota Tribal Governments' Task Force members absent: Robert Shepherd, Chairman, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation

Others present: Mike D. Brandenburg, State Representative, Edgeley
Representative Jim Schmidt, member of the Legislative Management, was also in attendance.
See [Appendix A](#) for additional persons present.

At the request of Chairman Johnson, Committee Counsel reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

At the request of Chairman Johnson, Committee Counsel reviewed a memorandum entitled [Tribal and State Relations Committee - Background Memorandum](#). She said the memorandum discusses the committee's responsibilities, federal Indian law and policy, state-tribal relations, state-tribal cooperative agreements, and 2013 legislation relating to Indian issues.

Chairman Johnson said he is looking forward to working with the committee. He said this committee is slightly different from other interim committees in that the committee does not have assigned studies. Rather, he said, the committee will study issues as the issues arise. He said the committee will receive several reports later in the interim.

Chairman Johnson called on Mr. Scott J. Davis, Executive Director, Indian Affairs Commission. Mr. Davis discussed ongoing and emerging issues relating to tribal and state relations. He said North Dakota is one of a few states that have a Tribal and State Relations Committee to review and discuss issues of common concern between the state and tribes located within that state. He said this says a great deal about the positive cooperative agreement between the state and the state's tribes. He said the Legislative Assembly's decision to make the committee a permanent committee is a good thing. He said he will do his best to identify issues to bring before the committee. He said any issues the tribe wishes to address can be presented to the committee. He said the committee is also a great forum for tribal leaders and members to give testimony and remarks on behalf of their respective tribes. He said good government-to-government relations between the tribes and the state are important.

SUPREME COURT COMMITTEE UPDATE

Chairman Johnson called on Mr. Jim Ganje, State Court Administrator's office, for a presentation on the activities of the Committee on Tribal and State Court Affairs. Mr. Ganje said the Committee on Tribal and State Court Affairs was established in 1994 by [North Dakota Supreme Court Administrative Rule 37](#) after a study group of state and tribal judges concluded the resolution of some issues was not occurring because of the lack of

communication between tribal and state courts. He said the committee, which is chaired by District Judge Donovan J. Foughty, works to identify issues of possible further discussion. He said Mr. Davis has been a constant presence at the committee meetings.

Mr. Ganje said an example of an issue discussed by the committee is how to handle tribal court judgments in the state court system. He said the issue is resolved on a case-by-case basis on the basis of comity, the theory of recognizing judgments of another jurisdiction based upon respect for the jurisdiction. He said [North Dakota Rules of Court Rule 7.2](#) was adopted to address this issue. Another example, he said, is North Dakota Century Code Chapter [29-06.1](#), which sets up a court procedure for tribal arrest warrants.

Mr. Ganje said other issues that have been addressed by the Committee on Tribal and State Court Affairs include child support, game and fish, gaming, the Indian Child Welfare Act (ICWA), and the cross-deputizing of law enforcement officers. He said the committee allows for discussion and a forum to sort out issues. He said it is a process that is invaluable in maintaining a chain of communication between tribal and state officials.

In response to a question from Mr. McLaughlin, Mr. Ganje said the amount of cooperation with the extradition process under Chapter 29-06.1 varies from tribe to tribe.

Mr. Davis said Judge Foughty has pointed out to the tribes that cooperating with Chapter 29-06.1 does not threaten tribal sovereignty. He said the purpose of the procedure is to get bad actors off the streets and is not intended to diminish sovereignty.

In response to a question from Senator Larsen, Mr. Ganje said he does not know if there is an effective way technologically to share law enforcement information between the state and the tribes. He said it is not possible to get tribal protection orders into the state system.

Ms. Mandan said Three Affiliated Tribes of the Fort Berthold Reservation has an extradition process. She said a murder suspect from California was recently apprehended on the reservation.

In response to a question from Representative Johnson, Mr. Ganje said there is not anything in the works to resolve this problem. He said he would encourage someone from the Bureau of Criminal Investigation to talk to the committee on data sharing.

Mr. Davis said the issue of data sharing may be an information technology issue. He said it may be worth it to have a data sharing agreement between the tribes and the state. He said this may be an issue for either the legislative committee or the court committee to address.

In response to a question from Senator Oehlke, Mr. Davis said in addition to being a technology issue, there is also the issue of jurisdiction. He said jurisdiction issues arise when there is a state highway that runs through a reservation.

Mr. Ganje said it is not always possible to give full faith and credit to protection orders since federal law disallows a dual protection order, but such orders are allowed by the state. He said the way the current system is built, the federal system would not recognize state dual protection orders because such an order does not exist in federal law.

At the request of Chairman Johnson, Mr. Davis provided an update on the Commission to Study Racial and Ethnic Bias in the Courts. He said the commission is working on implementing the recommendations that were contained in the 2012 final report of the commission. He said the discussion points of the commission include passport law, protection order law, tribal DUIs, legal assistance, and witness programs. He said the work of the commission is an ongoing process.

Chairman Johnson called on Ms. Catherine Palsgraaf, Research Analyst, Court Improvement Project Committee, Supreme Court. Ms. Palsgraaf provided information ([Appendix B](#)) on the status of the ICWA audit of the North Dakota court system. She said the purpose of the Court Improvement Project Committee is to assess and implement improvements in the roles, responsibilities, and effectiveness of state courts in court-supervised foster care and adoption cases. She said one of the committee's subcommittees is the Indian Child Welfare Act

Audit Subcommittee. She said ICWA is a federal law enacted in 1978 after years of congressional hearings relating to federal Indian policies and their impact on the stability and security of Native American tribes and families. Under the law, she said, if a child protected by ICWA resides on the reservation or is a ward of tribal court, the tribe has exclusive jurisdiction, and state courts do not have jurisdiction except in emergency proceedings.

Ms. Palsgraaf said in an effort to measure state court compliance with ICWA requirements, the Court Improvement Project Committee, at the suggestion of the ICWA Audit Subcommittee, undertook an ICWA audit project. She said the three-year project began with an initial audit the first year to set a baseline and target improvements. She said audits were conducted in the second and third years to measure whether the targets were met. She said the results of the audit will be submitted to the Court Improvement Project Committee in December 2013 for review. She said based on the audit, that committee will determine the next steps to take to address issues that are raised in the audit.

In response to a question from Senator Warner, Ms. Palsgraaf said as a percentage of the total social services cases, the number of ICWA cases is relatively small, but in relation to the Native American population, the percentage is high.

In response to a question from Senator Larsen, Ms. Mandan said some children are housed in the Wahpeton boarding school.

In response to a question from Chairman McCloud, Mr. Davis said there are tribal social services directors on the ICWA Audit Subcommittee. He said to help ensure accuracy of the audit report, it was very important social services directors were included on the subcommittee.

In response to a question from Senator Larsen, Ms. Palsgraaf said when placing a child in a setting such as Home on the Range or Job Corps, it is important to ask whether the setting is the most culturally appropriate placement.

Mr. Davis said the annual ICWA summit is another way the state is communicating with tribal systems.

LAKE SAKAKAWEA AND LAKE OAHE LAND TRANSFER ISSUES

Chairman Johnson called on Representative Mike D. Brandenburg. Representative Brandenburg discussed 2013 House Bill No. [1338](#), which directs the Board of University and School Lands to study options to address the concerns of landowners adjacent to land surrounding Lake Sakakawea and Lake Oahe, which is under the control of the Army Corps of Engineers. He said the work on this bill, which he sponsored, included discussions with the tribes. He said some of the concerns of the interested parties include grazing rights on corps land, control of noxious weeds, and protecting public access for hunting and fishing. He said when land was taken around Lake Sakakawea and Lake Oahe by the corps for flood protection, excess land was taken above the high water mark. He said the tribes are ahead of us in dealing with these land issues. He said the intent of this study is not to hurt anyone's interests but rather to work together in addressing all issues, including grazing, farming, recreation, tourism, hunting and fishing, and the use of land by the National Guard. He said \$50,000 was appropriated for the study.

Representative Schmidt said he was a cosponsor of the bill. He said the interests of the Standing Rock Sioux Tribe as they relate to this study are different from those of Morton County ranchers. He said the study must take these differing interests into consideration.

In response to a question from Senator Oehlke, Representative Brandenburg said the land in question is above the high water mark. He said there is 10,000 acres to 12,000 acres around Lake Oahe at that level and about 37,000 acres around Lake Sakakawea. He said working together with the tribes could be a powerful machine in achieving the goal of returning the land.

Mr. Davis said the state and the tribes could be more powerful against the corps if they were united in their effort. He said the common goal is to get the land back.

Chairman Johnson called on Mr. Lance Gaebe, Commissioner, Department of Trust Lands. Mr. Gaebe said he is also the Secretary for the Board of University and School Lands. He provided written testimony ([Appendix C](#)) in

which he discussed the status of the study of issues associated with federal lands near and around Lake Sakakawea and Lake Oahe. He said the study is a general government review that does not involve the trust assets, thus permanent trust funds cannot be expended. He said the Legislative Assembly appropriated \$50,000 for the study with the authority to request another \$50,000 from the Emergency Commission if needed. He said the request for proposal (RFP) for the study is undergoing a review by the State Procurement Office. He discussed the qualifications and tasks the board seeks to have accomplished. He said the study will also include a review of a South Dakota land transfer and its applicability to North Dakota. He said one of the challenges of the project will be the survey of complex meandering shorelines of Lake Sakakawea.

In response to a question from Senator Oehlke, Mr. Gaebe said his understanding is the excess land that was transferred back to the State of South Dakota is being managed, under federal auspices, within the South Dakota Department of Natural Resources. He said the land is being used for recreation and wildlife purposes.

Representative Schmidt said he would like to see the study conducted by a contractor that is an objective party with no conflicts of interest.

In response to a question from Representative Schmidt, Mr. Gaebe said there is nothing in the RFP which would exclude certain contractors from conducting the study; however, they will not be contracting with an advocacy group. He said it is his understanding there is still privately owned mineral rights on corps land at Lake Sakakawea. He said those mineral rights apply only to the original bed of the river. He said residents of Morton County were required to give up their mineral rights. He said at the time land was being taken for the Garrison Dam project, oil was discovered at Tioga. He said as a result of this discovery, landowners began to withhold mineral rights. He provided a copy ([Appendix D](#)) of testimony regarding invasive species control and Title VI lands in South Dakota which Mr. Paul Coughlin, South Dakota Department of Game, Fish and Parks, presented to the interim Natural Resources Committee on March 4, 2010.

Ms. Mandan said it may be beneficial for the contractor to interview the South Dakota tribes on how they perceived the transfer and whether other conflicts have continued. Mr. Gaebe said it was a good suggestion.

In response to a question from Representative Nelson, Mr. Gaebe said the South Dakota land transfer was to the flood elevation.

Chairman Johnson called on Mr. Peter Capossela, an attorney representing the Standing Rock Sioux Tribe. Mr. Capossela said he has been working with the tribe since 1987. He said there have been numerous examples of legislation passed over the years which were intended to transfer lands back to the tribes. He said in North Dakota, only about 386 acres on the Standing Rock Reservation have been returned to the tribe. He said the Garrison Diversion Unit Reformulation Act of 1986 is an example of such legislation. He said that Act reauthorized the Garrison Diversion Project and included components for municipal, rural, and industrial water delivery. He said it also included infrastructure for irrigating more than 130,000 acres on the Fort Berthold and Standing Rock Reservations. He said it was a bargain entered to provide water to rural North Dakota which remains largely unresolved.

Mr. Capossela said the tribes have not been able to get the corps to implement a land transfer in good faith. He said an agreement for a transfer of corps land to the tribes which was entered 30 years ago has not happened because the corps is not cooperating. He said there are concerns at Standing Rock a state action could complicate long-standing efforts to return land. He said the best way to proceed in efforts to reclaim the land from the corps would be for the state to support the tribes' efforts rather than risk complicating the efforts of the tribes in working with the corps and the federal government. He said the parties involved should proceed judiciously to avoid South Dakota's problems.

In response to a question from Representative Schmidt, Mr. Capossela said the state should not take any action that impedes tribal efforts to get the lands returned. He said the state's role should be to support the tribes in their efforts. He said the Standing Rock Sioux Tribe is willing to work with the state.

Ms. Mandan said as was discussed by Mr. Capossela, the expectation of the tribes under that agreement was that the land would be restored to the tribes. She said the state got money for its water projects; however, the tribes are still trying to get the land transferred which was promised in that agreement.

Ms. Mandan read and provided to the committee a copy ([Appendix E](#)) of a letter from Mr. Tex G. Hall, Chairman, Three Affiliated Tribes of the Fort Berthold Reservation.

Mr. Davis said the letter from Chairman Hall outlined some of the concerns of the Governor. He said Mr. Ladd Erickson, State's Attorney, McLean County, who was unable to attend the meeting, will discuss some of that county's concerns at the next meeting of the committee.

Chairman Johnson called on Ms. Phyllis Young, Tribal Council, Standing Rock Sioux Tribe. Ms. Young said she is a survivor of the building of the Garrison Dam. She said the project took away the tribe's independence and way of life. She said the tribe wants just compensation for its losses. She said tribal people gave in the national interest and are entitled under the United States Constitution to be compensated.

Ms. Greene-Robertson said the tribes have lost land and homes due to flooding. She said the corps needs to step up and respond to the issues. She said those who lost land should be compensated for their losses.

Senator Oehlke said there is an inherent desire of people in power to keep control. He said it is important to understand the corps has been around since 1789.

CENTRAL INDEXING AND TRIBAL VOTING IDENTIFICATION

Chairman Johnson called on Mr. Alvin A. Jaeger, Secretary of State. Mr. Jaeger presented testimony ([Appendix F](#)) regarding the central indexing system, the Uniform Commercial Code (UCC), and tribal governments. He discussed the ongoing discussions between the Secretary of State's office and Mr. Davis regarding economic development on tribal reservations and the benefits of tribal governments having regulations and a filing system for UCC-secured transactions. He said because of passage of 2013 House Bill No. [1136](#), the Secretary of State's office is developing a new central indexing system. He said the new system includes UCC transactions. He said when deployed, all filing and searches will be done electronically. He said at that time, the Secretary of State's office will again extend its offer to have discussions with any tribal government that would be interested in executing a joint agreement to allow UCC filings to be effective on reservations.

In response to a question from Senator Warner, Mr. Jaeger said his software provider is the state Information Technology Department. He said he does not have funding in his budget to assist the tribes with costs of implementation.

Senator Warner said the committee may want to consider recommending a bill to appropriate funds to the Secretary of State's office to assist the tribes with the costs of implementation.

Mr. Davis said tribes in Minnesota and Montana have entered similar agreements with the Secretary of State offices in those states. He said outside entities want to invest on tribal land, but they want to know what the rules are. He said an agreement would give stability and reduce the risk to investors.

Chairman Johnson called on Mr. Jim Silrum, Deputy Secretary of State. Mr. Silrum provided written testimony ([Appendix G](#)) on the tribal identification database of the Bureau of Indian Affairs and the state's central voter file to facilitate the use of tribal identification for voting purposes. He said with the passage of 2013 House Bill No. [1332](#), voters are required to provide an acceptable form of identification which includes the voter's name, residential address, and date of birth in order to receive a ballot and vote in an election. He said a tribal identification card that includes the required information and which is issued to a resident of the state from a tribal government within the state is one of the acceptable forms of identification for voting. He said discussions with the Indian Affairs Commission revealed not all tribal identification cards list all of the required information in order to vote. He said the Secretary of State's office is in the process of meeting with each of the tribal councils in the state to discuss the possibility of receiving the names, residential addresses, birth dates, and tribal identification numbers of tribal members so the data could be included in the central voter file. With this information included in the voter's record, he said, the process for receiving a ballot for voting would be expedited for those individuals providing tribal identification cards in the same manner as for those voters using their North Dakota driver's license or nondriver's identification card. He said following a discussion with the Bureau of Indian Affairs, it was revealed that for the data to come to the Secretary of State's office directly from the Bureau of Indian Affairs, a resolution would be needed from each of the tribal councils in the state. He said a meeting with the tribal government of the Turtle Mountain Band of Chippewa Indians was held in August 2013. He said his office is working on scheduling meetings with the remaining tribal councils.

In response to a question from Senator Warner, Mr. Silrum said the central voter file includes both the 911 residential address and the mailing address, if those addresses are different.

Chairman McCloud said his tribal identification card includes a mailing address but not a 911 address. He said the Bureau of Indian Affairs does not have the funds to update the cards with 911 addresses.

Mr. Silrum said if the Secretary of State's office can establish the relationship with the tribal councils, they will be able to associate the residential address on the database with the tribal identification. He said while the residential address may not be on the tribal identification card, the residential address is included in the Bureau of Indian Affairs database.

Mr. Davis also discussed jury pools. He said this effort could be a way of helping to get tribal members in jury pools. He commended the Secretary of State's office for its work on these two issues.

Mr. Silrum said there are fewer than 100 voters within the central voter file who have used a tribal identification card for voting. He said this is because most tribal members use their driver's license. He said because a tribal identification card is an acceptable form of identification for voting, it is the Secretary of State's duty to determine what can be done to make a tribal identification card an acceptable form of identification for voting.

In response to a question from Representative Nelson, Mr. Silrum said the central voter file includes both the residential address and mailing address. He said if a list is provided for a jury pool, his office provides both addresses, if different.

DEPARTMENT OF PUBLIC INSTRUCTION

Chairman Johnson called on Ms. Lucy Fredericks, Director, Indian Education, Department of Public Instruction. Ms. Fredericks provided information on the status of Indian education issues. She said her primary responsibility is to provide for focus, planning, strategies, programs, and implementation of Indian education policy and program initiatives. She said she works to develop Indian education standards and to create a resource for teachers to use for all students, not just Indian students. She said she has been working on an Indian education initiative that would mirror a similar project in South Dakota. She said the initiative is in the early planning stages. She said a November meeting is planned with South Dakota officials. She said after the necessary information has been gathered, a plan will be developed for North Dakota. She provided information ([Appendix H](#)) on the Indian education program within the Department of Public Instruction. She also provided a copy of the "[Oceti Sakowin Essential Understandings and Standards](#)", which was developed by the South Dakota Office of Indian Education.

In response to a question from Senator Larsen, Ms. Fredericks said the Indian education standards would be used in grades K-12. She said there are currently multicultural education requirements for certain programs at the college level.

In response to a question from Ms. Greene-Robertson, Ms. Fredericks said the standards have been in place in South Dakota since 2007. She said she will get more information at the meeting in November regarding its success.

In response to a question from Chairman McCloud, Ms. Fredericks said the Department of Public Instruction staff and the Indian Affairs Commission will initially meet with the South Dakota officials. She said the project will then be expanded to get input from the five tribes in the state.

In response to a question from Ms. Mandan, Ms. Fredericks said a target implementation date will be determined after the initial planning meeting.

In response to a question from Mr. Davis, Ms. Fredericks said language and culture cannot be separated. She said languages are being offered through the Interactive Video Network. She said the department needs to get more involved in getting language offerings in the schools. She said aligning standards is a good starting point.

Mr. Davis said he often gets requests regarding the honor of the eagle feather for graduation ceremonies. He said some superintendents do not allow the wearing of these eagle feathers during the ceremonies. He said it is important to educate school administrations on the importance of including ceremonial rituals in graduation ceremonies involving Indian students.

MEDICAID EXPANSION AND THE MONEY FOLLOWS THE PERSON TRIBAL INITIATIVE

Chairman Johnson called on Ms. Maggie D. Anderson, Executive Director, Department of Human Services. Ms. Anderson presented information ([Appendix I](#)) on the "Money Follows the Person Rebalancing Demonstration Grant: Tribal Initiative" and on Medicaid expansion. She said the funding opportunity for the Money Follows the Person grant was announced on July 22, 2013. She said the grant application was submitted on October 15, 2013. She said following the anticipated notice of award on November 14, 2013, her office will contract to develop formal working agreements with all North Dakota tribes and secure the needs and demographic data.

Regarding Medicaid expansion, Ms. Anderson said the Legislative Assembly enacted 2013 House Bill No. [1362](#) which directs the Department of Human Services to expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act to individuals under 65 years of age with income below 138 percent of the federal poverty level, based on modified adjusted gross income. She said coverage will begin January 1, 2014. She said estimates are between 20,000 individuals and 30,000 individuals in North Dakota may be eligible for the Medicaid expansion. She said it is uncertain as to how many of those individuals will apply for coverage. She said outreach materials have been developed to get the word out about Medicaid expansion and how to apply for coverage. She said the department is hosting informational meetings around the state. She also provided a copy of outreach materials--one directed at the general public ([Appendix J](#)) and the other directed to tribal outreach ([Appendix K](#)). She said the department's role only relates to the Medicaid expansion component of the Affordable Care Act. She said the private insurance market component is being handled by the federal government.

In response to a question from Senator Warner, Ms. Anderson said whether an adult child stays on a parent's plan or is considered a new household depends on the circumstances of the case, such as the adult child's status on the income tax return. She said college students typically stay on their parents' plan while in college.

In response to a question from Senator Larsen, Ms. Anderson said there is no indication that under Medicaid expansion, parents will discontinue including an adult child under age 26 on the parents' health insurance plan, so the adult child can be eligible for Medicaid and the parents will not have to pay any additional costs to include the adult child on the parents' health insurance. She said after the new Medicaid expansion program is in effect for a year or so, they will have more data to see if that is happening.

In response to a question from Mr. Davis, Ms. Anderson said a "train the trainer" training session is scheduled to aid in getting the message out to the communities about Medicaid expansion and to help those people who need help. She said she and Mr. Davis have done some public service announcements to promote Medicaid expansion.

In response to a question from Senator Larsen, Ms. Anderson said the training does not include the private insurance part of Affordable Care Act--only the Medicaid expansion. She said the department is not working on training insurance agents because the department is not involved in the private insurance piece of the Act.

Mr. Davis said under the navigator grant, assistance is provided to walk applicants through the process and to assist applicants in signing up for the right plan. He said it is the role of the navigator to get people to the table, but it is the role of certified application assistants to assist applicants in choosing the insurance product that is best for them.

In response to a question from Representative Trottier, Ms. Anderson said there is a two dollar copay on each Medicaid claim. She said there are no premiums or deductibles.

TRIBAL COLLEGE GRANT PROGRAM

Chairman Johnson called on Ms. Beth Zander, Director, Workforce Development Division, Department of Commerce. Ms. Zander provided testimony ([Appendix L](#)) regarding the tribal college grants established by 2013 Senate Bill No. [2218](#). She said the 2013 legislation appropriated \$5 million to the Department of Commerce to establish a grant program for the state's five tribal colleges for the creation or enhancement of programs and courses of study to prepare students for the state's high-demand job opportunities. She said three rounds of grant applications have been established to ensure full utilization of funds. She said for the first round, applications were due on July 1, 2013, and awards were announced on August 1, 2013. She said the department received applications from four institutions in the July 1 grant round and \$3.5 million was awarded. She said the grantees

are busy implementing their programs. She said grantees will report expenditures and implementation updates on a quarterly basis throughout the biennium. She said the information will be reported by June 30 of each year.

Chairman Johnson called on Ms. Kelli Hall, Vice President, Turtle Mountain Community College. Ms. Hall said Turtle Mountain Community College is very appreciative of the \$1 million grant that was awarded to her institution. She said the grant has allowed them to provide training for employment that is in demand in the oilfield. She said they now have 24 students enrolled in the electrical program. She said the college has been able to provide shorter-term training as a result of the grant. She said a portion of the grant is being used to fund an additional instructor. She said the college's strategy is to leverage this grant money with the federal Training for Regional Energy in North Dakota (TREND) grant.

In response to a question from Senator Larsen, Ms. Hall said data will be compiled on where the graduates are working and living after receiving their degrees and certificates.

In response to a question from Representative Johnson, Ms. Hall said the grant has helped them purchase adequate equipment for commercial driver's license training.

Mr. Davis said these workforce development funds are so important to the tribes. He said the funds are being well used and are a good return on the investment. He said this will help to make a dent in the poverty issues on the reservations. He said the committee will continue to get updates on the grant program.

GOVERNMENT-TO-GOVERNMENT RELATIONS

Chairman Johnson called on Mr. Mark Fox, Director, Tax Commission, Three Affiliated Tribes of the Fort Berthold Reservation. Mr. Fox provided written testimony ([Appendix M](#)) regarding taxation and water development. He discussed issues related to environmental and economic impact to the Fort Berthold Reservation, including the amended tribal-state oil and gas agreement, the continued negative impact of oil and gas development on Fort Berthold, the lack of federal assistance, regulation and understanding between the state and the Mandan, Hidatsa, and Arikara Nation, and the continued tax agreement development.

In response to a question from Senator Larsen, Mr. Fox said with a cost of \$1.8 million per mile of road, an estimated \$1.4 billion is needed to repair the roads on the reservation. He said if they can get it done for less than \$1.8 million per mile, they could tackle some other priorities. He said the projected increase in tax revenue in the amended tribal-state oil and gas agreement is about \$3.5 million for July 2013, the first month of the new agreement.

Ms. Mandan said she would invite anyone to come up to the reservation to see the traffic and road problems. She said they are experiencing a large transient population who is looking for work and housing. She said they are dealing with many oil impact issues. She said the tribe does not have access to the same funding as is available to the rest of the state. She said the federal government has not changed its funding formula because the reservation is now in an oil impact area. She said the transient population has little respect for the tribes or for the tribe's traditions, laws, or law enforcement. She said they are experiencing illegal dumping. She said the Legislative Assembly should be aware of the impact the oil boom is having on the tribes, not just the nontribal people and lands.

Mr. Fox said North Dakota has learned how to balance the state's different cultures. He said the new group of people who have come to the state are not a part of that. He said the new people in the state tend to be more violent and more racist. He said the result is people are very afraid.

Chairman Johnson called on Chairman McCloud. Chairman McCloud provided written testimony ([Appendix N](#)) regarding the state of the reservation's road systems. In his testimony, he said, the tribe needs state assistance to upgrade its reservation road system, specifically the reservation's most dangerous route, Jack Rabbit Road.

Senator Oehlke suggested Chairman McCloud appear before the interim Economic Impact Committee at its next meeting in November. He said that committee may be the more appropriate committee to discuss this road issue.

Chairman McCloud said he and his transportation director will plan to attend that meeting.

Representative Nelson and Mr. Davis agreed with Chairman McCloud's assessment of the condition of the roads on the reservation. Mr. Davis said the Canadian traffic also uses these roads to get to the tribal casino.

Chairman Johnson called on Ms. Young. She discussed issues relating to ICWA. She said because no rulemaking authority was given at the time ICWA was passed, they are embarking on a campaign to develop rules themselves. She said the abuse of children in foster care continues to be a concern. She said Standing Rock received assistance from the state in establishing a group home in 1978. She said that group home still exists and continues to be licensed by the state. She said there have been multiple cases of abuse of children in foster care on the South Dakota side of their reservation. She said continued support and partnership with the State of North Dakota on foster care is important so the same problems do not occur in North Dakota. She commended North Dakota for auditing social services agencies to ensure they are in compliance with ICWA.

In response to a question from Senator Oehlke, Ms. Young said tribal families are concerned about losing the children. She said the cases in which tribal children were allowed to be adopted by nontribal families was based on integrity of the families and the promises made that the families could continue to expose the children to their native culture. She said they did what was best for the children.

Mr. Davis said he is concerned about the lack of communication in South Dakota. He said it is a very different issue when dealing with children. He said whatever is best for the child is what is important. He said it can be difficult to determine if a child is an enrolled member or not. He said if the child is an enrolled member, he has a responsibility to work with the tribe.

The committee discussed future meeting dates and locations.

Senator Warner said because the perception is that the focus of the meeting will be on the hosting tribe, it can be difficult to get participation from the other tribes when meeting on a reservation.

Mr. Fox said when attempts have been made to rotate the meeting locations, it is usually only the hosting tribe that attends. He said meeting in Bismarck gives the committee more access to testimony from state agencies and departments.

No further business appearing, Chairman Johnson adjourned the meeting at 4:00 p.m.

Vonette J. Richter
Committee Counsel

ATTACH:14