

2009 HOUSE EDUCATION

HCR 3004

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3004

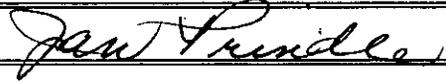
House Education Committee

Check here for Conference Committee

Hearing Date: **January 21, 2009**

Recorder Job Number: 7429

Committee Clerk Signature



Minutes:

**Chairman Kelsch opened the hearing of HCR 3004.**

**Jeff Nelson, staff attorney, Legislative Council,** introduced the resolution. The Interim Tribal and State Relations Committee recommend this resolution. My comments should not be construed as being in favor or opposed to the measure. My purpose is to review the resolution and answer any questions you might have. The Legislative Assembly established the Tribal and State Relations Committee during the 2005 Legislative Assembly and directed the Committee by statute 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 promotion of economic development. The Committee took under its prevue and jurisdiction relating to tribal and state relations in ND. The Committee held meetings in Bismarck and four of the five Indian reservations in the state. One of the issues that came up at several of these meetings was the issue of elementary and secondary education in Indian country. For example, at Standing Rock Reservation, the Committee was informed that the tribally controlled or grant schools are not eligible to receive state foundation aid. At our meeting at the Fort Berthold Reservation, several representatives of the Trenton Public Schools testified on the difficulty that school district is experiencing as a result in losing some federal Indian

School Equalization Program funds during '08 and '09. The Committee also reviewed concerns related to the 21<sup>st</sup> Century Learning Centers in Indian country. Although Interim Committee did not submit any legislation or sponsor any bills specifically relating to Indian education, they did develop HCR 3004. The resolution directs the Legislative Council to study Indian education issues. It's a very broad all encompassing study—essentially any issue that would relate to Indian education would be referred to Legislative Council for study.

**Representative Merle Boucher, District 9**, spoke in support of the resolution. (**Attachment**

**1)** There are a lot of issues we identify with Indian country: poverty, illiteracy, high dropout rates and those kinds of social ills we talk a lot about. We have many well intended people and programs to deal with these in our mind and concepts and our thinking. I think a lot of times we do approach them in a custodial manner. We feel it's our responsibility to take care. In reality it's our responsibility to empower. I have seen education empower many, many

Indian people and Indian families so they can make progress have those skills and the understanding to do very well. In that part of the world there are very successful professionals who are very self sufficient and do very well both professional and financially. If there is one thing that I have seen over my lifetime that has created that transition and empowered those people to accomplish what they have accomplished is what has been provided in terms of education. This particular study resolution not only will look at the difficulties in the issues but hope will spend time reflecting upon the accomplishment of how education has empowered many of our Native American citizens around the state and in their local communities.

**Representative Schatz:** Have we ever done this before.

**Representative Dosch:** I'm sure there have been countless studies. We don't always live up to what we find in our studies but I don't think we give up. We need to look at where we have been successful. Success leads to success.

**Chairman Kelsch:** On line 8 where it talks about the schools in Indian country are challenged by school funding issues, are we talking the state-funded schools or the BIA schools? Is it basically financial issues? We have nothing to do with the funding of BIA schools. Are any of the BIA schools considering becoming state schools?

**Representative Boucher:** I will give you a little background from Indian country. There are school district schools—they are state funded schools and receive foundation aid monies and operate like school districts across the State of ND and under the purview of the state. There are BIA schools—they are public schools. They are funded by the BIA and serve Indian students. State law currently allows local school districts to contract with those schools to provide educational services and foundation aid monies follow those contracts. Not every student enrolled in a BIA school gets Indian education money. There are a number of non-enrolled students. They educate a number of non-beneficiary students. Then there are Tribal Contract Schools—they get federal funding but they are run by the tribes. Because of an inadequacy in our state law or lack of clarity in our state law, they do not qualify as the BIA schools under these contract arrangements. They do not get state foundation aid money. That is an issue. Indian education deals with funding just like all communities across the State of ND—it's a challenge. Their challenge is perhaps greater because of the population we're talking about. They have more needs for special education and support services. We also know there is a local property tax issue. They don't have the ability to collect property tax. Taxable land is small so what they raise from that source is very small.

**Cheryl Kulis, executive director of the Indian Affairs Commission,** spoke in favor of the resolution. I pleased to see and wholeheartedly support this proposal for a study resolution. Over the years as we have looked at issues of school improvement and working with tribal communities it has to be understood that it is an extremely complex process. Eighty percent of

our American Indian kids are in public schools. Some of those are on or near reservations.

Having access to support funds for those schools is a challenge because they do not get BIA funding or federal funding. Funding is a primary issue. Those public schools located on the reservation we term "cooperative schools" because they get BIA and foundation aid funding and they are eligible for impact aid funding because of the lack of a tax base. It's important that we undertake this study during the interim. In 1984 it was my first opportunity to address the issues and challenges when we work in concert with two sovereigns. There were numerous issues that had to be ironed out. What came out of that was the creation of multiple inter-agency agreements between the State of ND and the tribes. One of the agreements we were able to forge between the ND DPI and the BIA was when NCLB came in. The question of who would assess those children that are within BIA schools within the State. Every one of those children had to be assessed under the State assessment. The sanctions had to be under the sanctions of the BIA not under the State of ND. We need to have a better understanding how those educational systems work on the reservation—they are different. The challenges of those school districts that are educating more and more American Indian kids off the reservation without the tax base to support the funding, needs to be addressed.

**Josh Askvig, NDEA**, testified in favor of the resolution. We just want to be on the record that we support this.

**Phil Baird, private citizen:** Like you, I am very concerned and anxious about the workforce here in ND. To have a good workforce you have to have good human resource development. That comes to the educational system. I managed the casino for 5 years and I wish we could have more educational preparation of our casino workers. Not just in casino operations but with basic skills as well as those things you walk out of the classroom with. These are state citizens who happen to be Indians. It may be a federal responsibility but in this day and age

we have to look at a multiple jurisdictional approach of workforce development education. The P-16 Commission studied it and made an effort to make an investment and make suggestions. Our reservation schools are subject to the same scrutiny in the NCLB act. We're anticipating another White House Conference on Education and I think the study that we support with initiative would have a feed in looking at the needs of Indian students. A lot of things have changed since the last conference. Right now the United Tribes is up for accreditation in 2011. We're asking about the next generation of tribal college student. There is a very different student coming through classrooms right now. This last generation is very unique. These youngsters have been impacted by technology. They are multi-taskers. They are processing information differently than any of you have ever done in a classroom. They are being bombarded with information and stimuli that we have never experienced. They need instant gratification and feedback. It is changing how we teach because students are learning differently. This warrants some special attention and study.

**Representative Karls:** I understand you are with United Tribes. I'm on another Committee that is hearing a tribal relations bill and this study would probably be done by that Committee. The problem when we heard those bills even on reservations, never more than two of chiefs came. There was a concern that we all show up and they don't, what can be decided. Do you have a possible solution to that?

**Baird:** My personal perspective—I have made a lot of observations. In the beginning when the Committee was discussed it would include tribal and non tribal participation on an equal basis. Can you have a legislative committee with members that are not legislators? The answer is no. The Indian representatives were brought in as advisory. Personally that took a little different spin to getting the stakeholders at the table on an equal basis. When you pick issues you know you can deal with and not the difficult issues, it makes you think twice your

potential value of being at the table. We have some pretty talented people here in the state that could forward and get the work done and then bring it to the appropriate governmental representatives to make a decision. There is a way we can do this. The study would bring equal stakeholders and the people who truly want to see change.

**Chairman Kelsch:** I sat a couple of national education meetings recently and one of the issues that keeps coming up especially in the two Dakotas because of the growth of the Native American population, is how do we address educating Native Americans and making sure that they are getting a good education. They are the workforce of the future. There has been a lot of focus on that at the national level. There are a lot of dynamics involved here and it is going to take a lot of work and dedication on the parts of the state in collaboration with the Native Americans. I don't know if this resolution is the answer, but it is probably a start.

**Baird:** Having been involved in these discussions, a huge part is economic. It won't be just about education it will be about all those other issues include economics that affect the success of human beings.

**There being no further testimony, Chairman Kelsch closed the hearing of HCR 3004.**

Later in that same day, discussion was opened on HCR 3004.

**Vice Chairman Meier: I move a Do Pass on HCR 3004 and place it on the Consent Calendar.**

**Representative Kelsh: Second.**

**A roll call vote was taken: Kelsh: Second.**

**A roll call vote was taken: Yes: 13, No: 0, Absent: 1 (Mueller)**

**HCR 3004 passed and will be placed on the Consent Calendar.**

**Chairman Kelsch:** In case it is pulled of the Consent Calendar who will carry it?

**Vice Chairman Meier will carry the bill.**



Date: 1-21-09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3004

House Education Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Rep. Meier Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman RaeAnn Kelsch	✓		Rep. Lyle Hanson	✓	
Vice Chairman Lisa Meier	✓		Rep. Bob Hunsakor	✓	
Rep. Brenda Heller	✓		Rep. Jerry Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Corey Mock	✓	
Rep. Karen Karls	✓		Rep. Phillip Mueller	✗	
Rep. Mike Schatz	✓		Rep. Lee Myxter	✓	
Rep. John D. Wall	✓				
Rep. David Rust	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Meier

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

*and place on the consent calendar.*

**REPORT OF STANDING COMMITTEE**

**HCR 3004: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3004 was placed on the Tenth order on the calendar.**

2009 SENATE EDUCATION

HCR 3004

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 3004

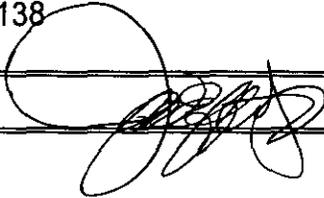
Senate Education Committee

Check here for Conference Committee

Hearing Date: March 4, 2009

Recorder Job Number: 10138

Committee Clerk Signature



Minutes:

Chairman Freborg opened the hearing on HCR 3004. All members were present.

Jeff Nelson, staff attorney, Legislative Council, explained the resolution. This resolution was recommended by the interim Tribal and State Relations Committee, for which he was the staff attorney this past interim. It is a statutory committee, directed 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. This interim the committee took under its jurisdiction any issue that affected the tribes in North Dakota. The committee visited 4 of the 5 reservations and held meetings at the reservations to hear the concerns of the tribal citizens. One of the concerns expressed, especially at Standing Rock Reservation and at Fort Berthold by representatives of Trenton Public Schools, concerned education funding. The Trenton public schools are facing severe financial pressure as the result of losing federal Indian school equalization program funds. The committee did not make specific recommendations for legislation however they did recommend a resolution which is HCR 3004. It is a broad mandate and if prioritized by the legislative council would call

for a broad study of Indian education issues. The "Where As" clauses indicate some of the need for the study.

Senator Flakoll asked if the legislative council could assign the study to the Tribal and State Relations Committee.

Jeff Nelson said yes.

Senator Flakoll asked if the committee needs the resolution to do the study.

Jeff Nelson said yes and no. If the legislative council prioritizes the study, they could assign it to the Tribal and State Relations Committee or to the interim Education Committee. Education is not in the statutory language of the Tribal and State Relations Committee but the committee felt it was important enough to introduce the resolution.

Senator Taylor asked if the issues are within the purview of state or federal issues.

Jeff Nelson said both. There are some federal issues that the state cannot address except by resolution. There are other funding issues for the school districts on the reservations. For example, at Standing Rock, the committee heard tribally controlled or tribal grant schools are not eligible to receive state foundation aid and urged the committee to change that. The committee learned Department of Public Instruction does not have any emergency funds available for the Trenton school district to access to assist with their reduction in federal Indian school equalization program funds.

Representative Boucher testified in favor of the resolution. See written testimony. He is the chairman of the Tribal and State Relations Committee. Historically, the government has taken a custodial position with our Native American citizens and it is really a citizenship relationship. Education is how we enhance the relationship. We are not custodians of our Native American citizens. We should empower people so they can take care of themselves.

Senator Lee asked if there is a resolution in the other chamber that is similar to this, HCR 3061.

Representative Boucher said it is very similar but it did not come out of the Tribal and State Relations Committee. He introduced 3061 on his own, there is a lot of misunderstanding of how schools are structured in Indian country. The two could be combined. 3061 is specific to school organization in Indian communities and on the reservation. 3004 is broader and more comprehensive.

Cheryl Kolas, Executive Director of the Indian Affairs Commission, testified in favor of the resolution. She distributed 4 books that contain the history and culture of several tribes and they are attached. She has served 12 years in Department of Public Instruction. She wants to look at how the issues involved in the education of Indian kids affect our communities. The challenges are complex. Why do we have such difficulty in American Indian students achieving state standards. Perhaps we need to look at how Native people define excellence and achievement. We have a growing and integrated population. Their kids are in all but one school district in North Dakota. The four books are the result of legislation passed in 1977. In 1991, the legislature appropriated \$50,000 to develop a curriculum for the state of North Dakota. A lot of the colleges use these materials, they are higher order documents about the history and culture of the tribes in North Dakota. They will be online this summer. The legislation was requested in 1971 because our schools did not know a lot about American Indian people in the state of North Dakota. This resolution proposes to study the issues confronting Indian education. It is important to develop more culturally competent teachers. She would like to see a structured approach to the educational issues.

Fern Pokorny, North Dakota Education Association, testified in favor of the bill. HCR 3061 is similar to this resolution and she urges a Do Pass on both. AYP is a problem with Native American schools.

Chairman Freborg closed the hearing on HCR 3004.

Senator Bakke moved a Do Pass on HCR 3004, seconded by Senator Taylor.

Senator Bakke said we have heard enough testimony today to realize there are some issues with AYP with Native American children. It would be in our best interest to see what is happening there from a K – 12 perspective.

The motion passed 5 – 0. Senator Bakke will carry the bill.



**REPORT OF STANDING COMMITTEE (410)**  
March 4, 2009 11:53 a.m.

**Module No: SR-39-4016**  
**Carrier: Bakke**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HCR 3004: Education Committee (Sen. Freborg, Chairman) recommends DO PASS**  
(5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3004 was placed on the  
Fourteenth order on the calendar.

2009 TESTIMONY

HCR 3004

*Sumner testimony given to Senate*

HOUSE EDUCATION COMMITTEE  
HCR 3004  
REPRESENTATIVE MERLE BOUCHER

*Attachment*

CHAIRMAN KELSCH AND MEMBERS OF THE HOUSE EDUCATION COMMITTEE. FOR THE RECORD I AM REPRESENTATIVE MERLE BOUCHER REPRESENTING DISTRICT NINE (9), WHICH INCLUDES THE TURTLE MOUNTAINS BAND OF CHIPPEWA INDIAN RESERVATION.

I WOULD LIKE TO BEGIN MY TESTIMONY WITH THIS QUOTE: "IF YOU HAVE COME HERE TO HELP ME, YOU ARE WASTING YOUR TIME... BUT, IF YOU HAVE COME BECAUSE YOUR LIBERATION IS BOUND UP WITH MINE, THEN LET US WORK TOGETHER."

THE WORDS OF THE QUOTE CONVEY A VERY DIRECT AND POWERFUL MESSAGE. PEOPLE VIEW OUR OVERTURES OF HELPING OFTEN TIMES AS CREATING, OR REAFFIRMING CUSTODIAL RELATIONSHIPS. REALITY IS THAT PEOPLE WANT TO BE SELF-SUFFICIENT.

EDUCATION IS A POWERFUL MEDIUM TO EMPOWER PEOPLE WITH THE KNOWLEDGE AND SKILLS TO BE SELF-SUFFICIENT.

AS A MATTER OF POLICY, AND A RESPONSIBILITY OF POLICY MAKERS: IT IS OUR RESPONSIBILITY TO FACILITATE THOSE KINDS OF OPPORTUNITIES AND DIRECT USEFUL RESOURCES TO THOSE AREAS OF THE STATE AND THOSE POPULATIONS THAT ARE NOTICEABLY BEHIND OUR GENERAL POPULATION.

HCR3004 WOULD ADDRESS VITAL EDUCATION CONCERNS (VITAL TO ENPOWERMENT) ON THE STATE'S RESERVATIONS AND IN INDIAN COUNTRY.

CHAIRMAN KELSCH AND MEMBERS OF THE EDUCATION COMMITTEE, I URGE YOU TO GIVE HCR3004 A DO PASS RECOMMENDATION.

THANK YOU.

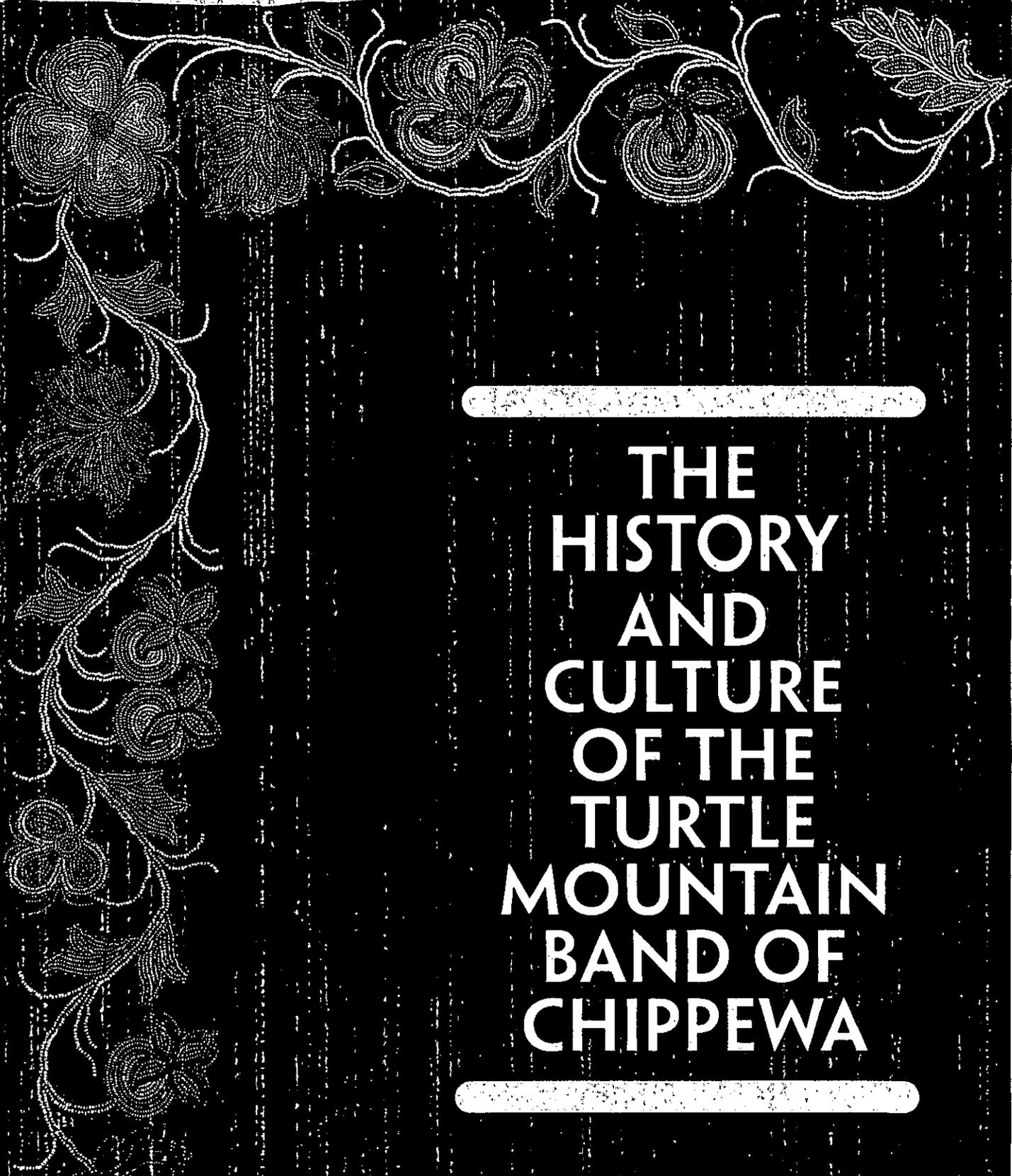
CONTACT THE STATE LIBRARY FOR COPIES OF THE  
FOUR HISTORY AND CULTURE BOOKS WHOSE COVER  
SHEETS FOLLOW.

HCR 3004

**THE  
HISTORY  
AND  
CULTURE  
OF THE  
STANDING  
ROCK  
OYATE**



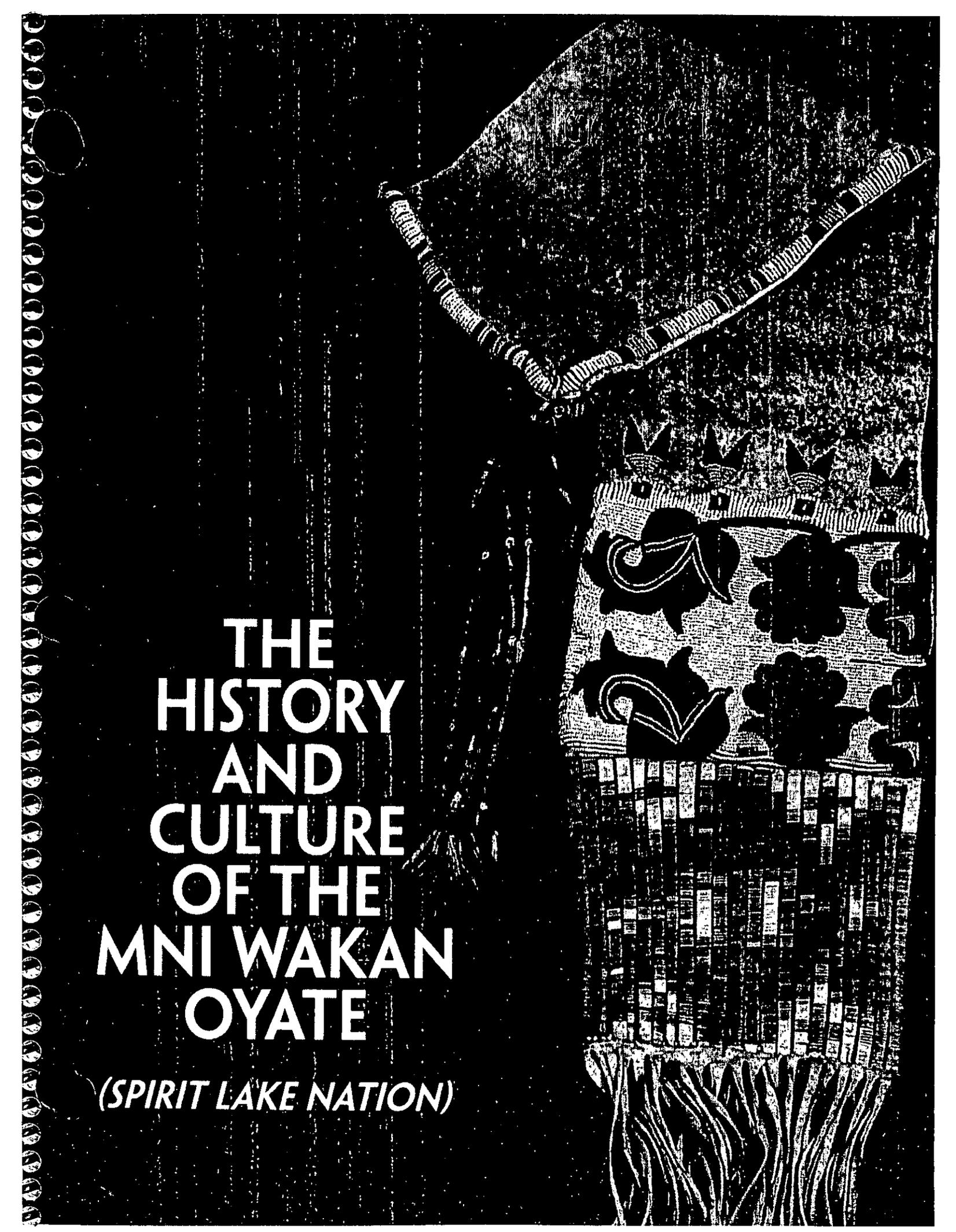
HCR 3004



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**THE  
HISTORY  
AND  
CULTURE  
OF THE  
TURTLE  
MOUNTAIN  
BAND OF  
CHIPPEWA**

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**THE  
HISTORY  
AND  
CULTURE  
OF THE  
MNI WAKAN  
OYATE**

*(SPIRIT LAKE NATION)*

**THE  
HISTORY  
AND  
CULTURE  
OF THE  
MANDAN,  
HIDATSA,  
SAHNISH  
(ARIKARA)**

HCR3004

