

Meeting Minutes

23.5056.03000

**TRIBAL AND STATE RELATIONS COMMITTEE**

Tuesday, August 31, 2021
 Room 210, MHA Nation Interpretive Center
 9386 Lake Sakakawea Road
 New Town, North Dakota

Senator Rich Wardner, Chairman, called the meeting to order at 9:10 a.m.

Members present: Senators Rich Wardner, Jessica Bell, Joan Heckaman, Dave Oehlke; Representatives Joshua A. Boschee, Terry B. Jones, Chet Pollert

Members absent: none

Others present: Representative Ruth Buffalo, Fargo
 Nathan Davis, Executive Director, Indian Affairs Commission; Mark Fox, Chairman, Three Affiliated Tribes of the Fort Berthold Reservation
 See [appendix](#) for additional persons present.

It was moved by Representative Boschee, seconded by Senator Oehlke, and carried on a voice vote that the minutes of the August 17, 2021, meeting be approved as distributed.

LEGISLATIVE REDISTRICTING

Chairman Fox noted tribal concerns regarding legislative redistricting:

- The Legislative Assembly should strongly consider tribal concerns.
- The Fort Berthold Reservation should be a single legislative district.
- The census data for the reservation likely is inaccurate due to tribal members being deterred from reporting.

In response to questions from committee members, Chairman Fox noted:

- The tribe likely would not be opposed to the inclusion of other like-minded communities, such as Watford City, where energy development also is prevalent.
- The most unfavorable outcome would be splitting the reservation into different districts because the tribe does not want to dilute its ability to collectively express tribal concerns.
- Many tribal members live in nearby communities, including Watford City, Stanley, and Minot.

Representative Boschee noted the Redistricting Committee is limited slightly by the number of laptops with the licensed redistricting software, but the tribe may contact committee members or the Legislative Council for more information and assistance.

Representative Buffalo noted although she represents District 27, she is approached often regarding tribal issues because she is an enrolled member and grew up on the reservation. She noted a common theme expressed by tribal members is the desire for the reservation to be its own legislative district.

In response to a question, Representative Boschee noted:

- The Redistricting Committee tasked the Tribal and State Relations Committee with collecting input from each tribe regarding redistricting and providing a report to the Redistricting Committee.
- The Redistricting Committee will conduct public hearings at which public input will be sought, and tribal members are encouraged to attend and be involved in those discussions.

Mr. Ted Lone Fight noted he is in favor of the reservation being its own legislative district.

Ms. Melanie Moniz noted she is a resident of District 4 and supports legislative subdistricts to ensure tribal voices are heard.

Ms. Joletta Bird Bear noted she is a resident of District 4 who regularly votes in tribal and state elections, but feels her vote is diluted due to the district's large size. She noted her preference to vote in a district where her vote carries tribal issues.

Ms. Lisa DeVille noted her support for legislative subdistricts to ensure tribal members are represented fairly.

HEALTH CARE

Dr. Monica Mayer, Councilwoman, Three Affiliated Tribes of the Fort Berthold Reservation, noted, as a physician, her primary concern is tribal members' health. She noted:

- The tribe has paid millions of dollars toward health care insurance premiums for tribal members, but members are not seeing the benefits.
- The tribe pays health care insurance premiums for members who are otherwise eligible for Medicaid because tribal elders face barriers when attempting to enroll in Medicaid, such as poor customer service from county social services.

Chairman Fox noted the federal government has failed to provide sufficient outreach to tribal members regarding Medicaid and Medicare eligibility and enrollment.

ALCOHOL TAX AGREEMENT

Chairman Fox noted the tribe may be interested in entering a state-tribal alcohol tax agreement, but the terms need to be more favorable to the tribe. He noted:

- Past negotiations and legislation have failed.
- No tribe has entered an alcohol tax agreement because the tax revenue allocation formula is not equitable to tribes and the regulation resides with the state rather than jointly between the state and the tribe.
- The failure to allow joint regulation of alcohol sales within reservation boundaries is an erosion of the tribe's sovereignty and its authority under federal law to tax nontribal members within reservation boundaries.

Mr. John Fredericks, legal counsel, Mandan, Hidatsa and Arikara Nation, noted the allocation formula needs to be revisited because the formula does not take into account the tribe's authority to tax nontribal members who consume alcohol on the reservation or the impact of alcohol use on the reservation.

SALES AND USE TAX AGREEMENT

Chairman Fox noted concerns regarding the unlawful collection of sales tax from tribal members' purchases on the reservation, and until a state-tribal sales and use tax agreement is entered, this will continue to be an issue.

MOTOR FUELS AND BULK SALES

Chairman Fox noted the current motor vehicle fuel tax agreement does not contemplate bulk fuel sales. He noted the tribe would like bulk fuel sales to be included because many vendors purchase fuel in bulk, and the tribe is losing an opportunity to collect tax revenue.

TAXATION PROCESS FOR STRADDLE WELLS

Chairman Fox noted oil and gas activity has increased after the resolution of the straddle wells issue, and straddle wells are no longer an issue of concern.

STATE-TRIBAL POLICY

Chairman Fox noted other states, including Montana, Nevada, and Washington, have laws outlining formal state-tribal relations policies. He noted enacting such legislation in North Dakota would be a positive step toward government-to-government relations.

Ms. Cynthia Monteau noted other states have formalized consultation policies in statute outlining how the state will consult with tribes on various issues and how tribal input is gathered.

GAMING AND ELECTRONIC PULL TAB DEVICES

Chairman Fox noted the implementation and expansion of electronic pull tab devices has severely impacted tribal gaming revenue. He noted:

- Many people do not travel to tribal casinos since games similar to slot machines are now available in their own communities.
- There is a limited number of people in the state who have the disposable income to play games of chance, and the total amount which can be spent on gaming is finite.
- Only a few charities control the vast majority of charitable gaming revenue.
- More stringent regulations and limitations should be imposed on electronic pull tab devices.

A few committee members expressed concern regarding the expansion of electronic pull tab devices and the desire to impose more regulations and limitations.

No further business appearing, Chairman Wardner adjourned the meeting at 2:54 p.m.

Jill Grossman
Counsel

ATTACH:1