

# NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

## ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Monday, November 18, 2002  
Fort Union Room, State Capitol  
Bismarck, North Dakota

Representative Scot Kelsh, Chairman, called the meeting to order at 1:00 p.m.

**Members present:** Representatives Scot Kelsh, Kim Koppelman; Senators Dennis Bercier, Herb Urlacher; Citizen Members Randy Bina, Bob Frantsvog, Les Korgel, Maxine Olson-Hill, Devra Smestad

**Members absent:** Citizen Members Donny L. Malcomb, Jon Martinson; Governor John Hoeven

**Others present:** Terry Traynor, North Dakota Association of Counties, Bismarck

Jerry Hjelmstad, North Dakota League of Cities, Bismarck

Sandy Clark, North Dakota Farm Bureau, Bismarck

Bev Nielson, North Dakota School Boards Association, Bismarck

**It was moved by Citizen Member Smestad, seconded by Senator Bercier, and carried on a voice vote that the minutes of the September 23, 2002, meeting be approved as distributed.**

### STATE AID DISTRIBUTION FUND FORMULA

At the request of Chairman Kelsh, commission counsel reviewed a bill draft [30227.0100] that revises the formula for allocation of state aid to cities and counties. He said the bill draft revises the formula for determining the amount of aid provided to cities and counties to account for changes in population of the cities and counties after the 2000 federal census.

Mr. Jerry Hjelmstad, North Dakota League of Cities, said the League of Cities supports the bill draft. He said the changes in the population categories are due to the shifting of cities among different categories after the 2000 census. He said the changes are an attempt to maintain the same funding levels for most cities as the current levels.

Mr. Terry Traynor, North Dakota Association of Counties, said the association supports the bill draft.

**It was moved by Citizen Member Frantsvog, seconded by Citizen Member Smestad, and carried on a roll call vote that the bill draft relating to the revision of the state aid distribution fund formulas be approved and recommended to the Legislative Council.** Representatives Kelsh and Koppelman, Senators Bercier and Urlacher, and Citizen Members Bina, Frantsvog, Korgel, Olson-Hill,

and Smestad voted "aye." No negative votes were cast.

### COUNTY MILL LEVY CONSOLIDATION

Commission counsel reviewed a bill draft relating to the consolidation of several county special mill levies into a county general fund mill levy that may not exceed 134 mills. He said the bill draft [30132.0200] was revised from the last meeting to remove the jobs development mill levy and the emergency mill levy from the consolidated general fund levy.

Mr. Traynor submitted written comments regarding the bill draft, a copy of which is on file in the Legislative Council office. He said the Association of Counties supports the consolidated levy proposal as a tool to give local officials better control of county budgets, allow for a more honest approach to property tax levies, and remove the inducement to raise property taxes that exists in current law. He said a revision of the bill draft to provide that the board of county commissioners must hold at least one public hearing regarding a proposal to consolidate the mill levy would remove the requirement that a county commission hold multiple public hearings in different locations when one meeting may be all that is necessary.

In response to a question from Senator Bercier, Mr. Traynor said approximately 33 special levies will remain in place after the consolidation. He said the consolidation is an option for counties and the voters will have the power to refer any proposal to consolidate the mill levies.

In response to a question from Representative Koppelman, Mr. Traynor said under current law counties that have reached maximum levy amounts in a particular fund are still allowed growth in valuation and most boards of county commissioners will take advantage of that allowable growth in valuation because of future limits on growth. He said the bill draft would set the maximum cap at a level where boards of county commissioners will not have to worry about hitting the maximum allowed levy and will not be encouraged to raise levies just for the sake of avoiding future cap problems. He said the county that levies the most mills now would only be about two-thirds of the way to the maximum allowed under the bill draft.

In response to a question from Senator Bercier, Mr. Traynor said a board of county commissioners does not have the flexibility to shift funds to areas of needs under current law.

Citizen Member Korgel said if a designated special fund is used entirely, a county does not have the ability to take from another special fund to use for that designated purpose. He said the county may get some additional funds from the general fund.

In response to a question from Representative Koppelman, Mr. Traynor said some of the special levies provided for in law are not used by all of the counties. He said consolidation of the special levies would allow boards of county commissioners to have flexibility in managing budgets. He said county commissioners historically have been fiscally conservative in their approach to raising levies. He said the commissioners must be responsive to the voters of the county.

Ms. Sandy Clark, North Dakota Farm Bureau, said the consolidation of mill levies is an issue on the agenda for the Farm Bureau at its next meeting. She said many counties are not at the maximum level with respect to special levies but are at the limit for general fund levies. Thus, she said, consolidation of the special levies into the general fund levy results in a tax increase without a vote of the county electors. She said the proposal would be better if the voters of the county had the option to petition to provide for a consolidated levy rather than have to petition to refer an action of the board of county commissioners.

In response to a question from Representative Koppelman, Ms. Clark said representatives of the Farm Bureau have been meeting with representatives of the Association of Counties to look for common ground with respect to the issue of consolidation of mill levies.

**It was moved by Citizen Member Frantsvog, seconded by Citizen Member Olson-Hill, and carried on a roll call vote that the bill draft relating to the consolidation of county mill levies be revised to require a board of county commissioners to hold at least one public hearing regarding consolidation of mill levies and that the bill draft, as revised, be approved and recommended to the Legislative Council.** Representatives Kelsh and Koppelman, Senators Bercier and Urlacher, and Citizen Members Bina, Frantsvog, Korgel, Olson-Hill, and Smestad voted "aye." No negative votes were cast.

### **COST-SHARING OF UNEXPECTED DISCOVERY OF CULTURAL OR PALEONTOLOGICAL RESOURCES STUDY**

Representative Kelsh said the testimony at prior meetings indicated the problem of unexpected

discoveries of cultural or paleontological resources appears to be isolated.

Representative Koppelman said as a result of this study the dialogue between county officials and the State Geological Survey and the State Historical Society should be improved. He encouraged those entities to cooperate to address this problem in the future.

Citizen Member Korgel said communication before a project is begun is important.

Senator Urlacher said he agrees the lack of communication has likely been the problem in the past. He said with a continued attempt to improve communication among the interested parties, any problems can likely be resolved.

Senator Bercier said a strong effort is necessary to address cultural and paleontological resources before work begins on a project. He said nomadic tribes used many of the same routes as highways are located today. Therefore, he said, the discovery of cultural artifacts is likely along those nomadic trails.

In response to a question from Senator Urlacher, Senator Bercier said the migratory routes are often identifiable through the use of technology and oral history. In addition, he said, in some places the ruts made from carts are still visible.

Representative Kelsh said it is important to protect our state's heritage and keep the artifacts and fossils in the state.

In response to a question from Representative Koppelman, Senator Bercier said reasonableness is needed on both sides of the issue when addressing whether cultural resources are significant and should be protected and when the resources are not as important as a particular project.

### **CONCLUDING COMMENTS**

Chairman Kelsh thanked the commission members for their efforts. He said the work during the interim has been interesting and fruitful.

**It was moved by Senator Bercier, seconded by Senator Urlacher, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a final report and to present the report to the Legislative Council.**

There being no further business, Chairman Kelsh adjourned the meeting at 2:00 p.m.

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John Bjornson  
Commission Counsel