

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 25, 2004
8:00 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Jim Holm, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Paul Seaton
Representative Ethan Berkowitz
Representative Max Gruenberg

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Mary Kapsner

COMMITTEE CALENDAR

OVERVIEW OF STATE/TRIBAL RELATIONS (FINAL SESSION)

TAPES

04-46, SIDE(S) A & B

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee to order at 8:00 a.m. Present at the call to order were Representatives Holm, Coghill, Lynn, Seaton, Berkowitz, Gruenberg, and Weyhrauch.

SUMMARY OF INFORMATION

CHAIR WEYHRAUCH commented on the large packets of information that had been received for today's hearing from the Tanana Chiefs Conference, the Association of Village Council Presidents (AVCP), Mary Pete, the Division of Subsistence, Rosita Worl, the Sealaska Heritage Institute, Representative Albert Kookesh, and Willie Kasuylie. All the information will become part of the public record. He encouraged anyone interested to submit written testimony.

EDNA AHGEAK MACLEAN, Ph.D., President, Ilisagvik College, Barrow, Alaska, and Chairman for the Consortium for Alaska Native Higher Education, testified to the relationship between Alaska tribal colleges and the University of Alaska and why tribal colleges are being developed in Alaska. [The text of Ms. MacLean's testimony is available as part of the committee packet.] In response to a question from Chair Weyhrauch, Ms. MacLean said that in 20 years, she sees the tribal colleges and the University of Alaska working together to reach a higher level of college attainment for Alaska Natives, developing articulation and mutual assistance agreements, as well as sharing faculty and special skills in language, culture, and Native knowledge. She went on to say that collaboration in the recruitment of tribal college graduates with Associate of Arts (AA) degrees, into the university upper division and academic programs is important; working together to reverse the declining trend in numbers of Alaska Native teachers, and helping in the retention and graduation of Alaska Natives in Alaska's high schools.

MARSHALL LIND, Ph.D., Chancellor, University of Alaska Fairbanks, spoke to his observations of the working relationships between the university and Ilisagvik College. He stated he has seen a major shift in the last four or five years in working with the various entities in rural Alaska in terms of providing higher educational opportunities. He doesn't see the university competing with tribal colleges. He stated that the University of Alaska, Sheldon Jackson College, Alaska Pacific University, and Ilisagvik College are the only accredited colleges in Alaska.

DR. LIND, in response to a comment from Representative Holm, said he could not recall the percent of non-Native students who enroll [during] their senior year [of high school].

DR. MACLEAN, in response to a question from Representative Lynn, confirmed that non-Natives can attend tribal colleges. Furthermore, she noted that there are some exchange programs between major universities and tribal colleges.

DON MITCHELL, Attorney at Law, noted that he serves in the capacity of advisor to the Alaska State Legislature on the subject of tribes in Alaska and has represented the Legislative Council in court actions with respect to the same issues. He made three points: First, all of the programs that Alaska Natives receive and administer are programs that Congress has authorized through the enactment of statutes, such as the Indian

Self-Determination Act, the Indian Health Care Improvement Act, the Indian Child Welfare Act [of 1978], the Indian Financing Act [of 1974], and the Indian Housing Act [of 1998]. Second, he expanded on why there is not agreement that there are 200 federally recognized tribes in Alaska - [John v. Baker]. He said that the Alaska Supreme Court can express its view about a federal question, but its view is not determinative. Third, he concluded that if there really are more than 200 tribal governments scattered from Hyadaburg to Barrow, the policy and social consequences both for the people of Alaska in general and for the jurisdiction of this particular body are incredibly profound.

EDGAR BLATCHFORD, Commissioner, Office of the Commissioner, Department of Community & Economic Development (DCED), spoke about the department and the efforts to keep up with the growth of Alaska. He said that in the 1990s there was an out-migration from Alaska, but there was an overall growth in the population of Alaska due to the natural birth rate. Alaska's population mass is large enough now that Alaska will continue to grow. DCED sees state/tribal relations in terms of community empowerment; the department will contract with any entity that is willing to take control and be accountable for its actions. In rural areas there is a rise in social problems, namely in suicide rates to 16 times the national average. Education attainment levels are not up to par; rural areas have some of the nation's highest unemployment rates in the nation.

COMMISSIONER BLATCHFORD, responding to Representative Berkowitz's comments regarding the [New] Millennium Agreement and municipal assistance and revenue sharing decreases, stated that the governor recognizes the agreement is a document of cooperation, and efforts will be made to cooperate where possible, under that agreement. He went on to say that he is aware of the value of municipal assistance and will continue to advocate for it.

CARL ROSIER, as the representative for the Alaska Outdoor Council (AOC), noted that the interest of AOC in state/tribal relations is based on rural and urban issues relating to hunting, fishing, and trapping, coupled with access and habitat considerations related to these pursuits. Allocation of resources in a fair and equitable manner is important to AOC. Mr. Rosier stressed that issues involving sovereign immunity deserve careful examination by the State of Alaska.

MR. ROSIER, in response to a question from Representative Kapsner regarding partnering between the Alaska Department of Fish & Game and Native groups or villages in writing grants for various fisheries related projects, clarified that he was not saying that it was the opinion of AOC that the collaboration shouldn't be happening just because there is a tribe involved, but that getting the work done in rural areas becomes a very important thing. He went on to say that AOC is concerned with the potential threat to state authorities; these are policy issues, and many of them can affect the rights of the citizens of Alaska.

REPRESENTATIVE KAPSNER rebutted by saying that it is interesting that people perceive such collaboration as nefarious or undermining for the state.

CHAIR WEYHRAUCH stated his concern that abrogation of the power to tax, the power to enforce laws, and to manage lands for the public is a plenary authority of the government, and to delegate that to a co-management agreement or a Memorandum of Understanding (MOU) then cedes by contract to agreement that authority to another kind of sovereign entity not responsible to the public.

REPRESENTATIVE BERKOWITZ opined that the state abdicated its responsibility to the people of various regions of Alaska. When the state relinquishes its authority the indigenous structures emerge and reassert themselves.

CHAIR WEYHRAUCH replied that he understands for every action there is a reaction. Penalties are clear in state statute, while they may not be as clear regarding tribal regulation or policy.

REPRESENTATIVE BERKOWITZ elaborated on his opinion that the opportunity exists to change instead of to be fearful.

DONNA GOLDSMITH, Executive Director, Alaska Inter-Tribal Council, submitted written testimony, included in the committee packets, that she did not speak to. Ms. Goldsmith testified to her familiarity with and the necessity of tribal courts in Alaska. Tribal courts have flourished by necessity. Extensive training is given to Tribal Judges in various areas of expertise.

MS. GOLDSMITH, responding to a comment from Representative Lynn, said that tribal courts don't replace state courts, but are a

supplement to them. They are not based on racial or ethnic criteria exercised over membership. She said she knows of some areas of the state where non-Natives are availing themselves of the tribal court.

MS. GOLDSMITH answered a question from Representative Kapsner regarding the John v. Baker case by acknowledging that tribal courts probably lack authority to exercise over a nontribal member's case if that person opts out of a tribal court.

CHAIR WEYHRAUCH expressed his desire to hear more about the development of tribal courts at the "Bar convention" later this year.

EDWARD THOMAS, President, Central Council of Tlingit & Haida Indian Tribes of Alaska, thanked Chair Weyhrauch and the committee for hosting the hearings. Mr. Thomas spoke to some of the issues brought forward, offering his thoughts. He indicated that sovereign immunity is a good tool to use in avoiding frivolous lawsuits over the ambiguity of certain laws. He stressed the importance of tribes and the state focusing on a common ground, and of his desire to let some of the extreme issues take their course.

ANNOUNCEMENTS

There were no announcements.

COMMITTEE ACTION

The committee took no action.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:50 a.m.

NOTE: The meeting was recorded. A copy of the tape(s) may be obtained by contacting the House Records Office at State Capitol, Room 3, Juneau, Alaska 99801 (mailing address), (907) 465-2214, and after adjournment of the second session of the Twenty-Third Alaska State Legislature this information may be obtained by contacting the Legislative Reference Library at (907) 465-3808.