



Third Meeting
2004 – 2005 Interim
June 23, 2005

LCR 1 & 2
State Capitol Building
Pierre, South Dakota

Thursday, June 23, 2005

The third meeting of the State and Local Government Task Force was called to order by Matt Adamski, Chair, at 9:15 a.m. on June 23, 2005, in LCR 1 & 2 of the State Capitol Building in Pierre, South Dakota.

A quorum was established. The following members were present: Matt Adamski, Chair, Rod Bowar, Arlene Ham-Burr, Lyle Hendrickson, Susan Humiston, Curt Jones, Christopher Maynard, Patty McGee, Bill Peterson, Will Walter, Jim Shaw, Sam Tidball, Dean Wink, Kenneth Blanchard, Tom Helland, and James Zweep. Senator Garry Moore, Representative Mike Kroger, Brenda Barger, Debra Vedvei, Elizabeth Smith, and Jim Hutmacher were excused.

Staff members present included Tom Magedanz, Principal Research Analyst, and Reta Rodman, Legislative Secretary.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the master minutes.)

Opening Remarks

Mr. Matt Adamski, Chair, welcomed everyone to the meeting, introduced Tom Magedanz to the group, and asked the members of the task force to introduce themselves.

Education Service Agencies and Cooperation between School Districts

Mr. Wade Pogany, Director, Office of Curriculum, Technology, & Assessment, Department of Education, distributed a handout entitled "S. D. Education Service Agencies" (**Document #1**). Mr. Pogany discussed Education Service Agencies (ESA) and their role in promoting cooperation and sharing of resources among school districts. Mr. Pogany explained to the committee that an Education Service Agency is in partnership with the Department of Education, school districts, and post secondary institutions. It is designed for the purpose of providing customized services, leadership, and technical assistance on a regional basis to schools in South Dakota. The purpose is building capacity of educators, improving student

achievement and facilitating growth opportunities in professional development. ESAs assist school districts in sharing resources and engaging in activities on a cooperative basis.

Mr. Pogany informed the committee that there are 168 school districts and seven regions in South Dakota. He said that the Department of Education has contracted with those seven regional Education Service Agencies (ESAs), and their goal is to provide services to schools throughout South Dakota. Each region has a director. The regions are as follows: Northeast Education Cooperative, Hayti; East Dakota Education Cooperatives, Sioux Falls; Mid Central Education Cooperative, Platte; Northern State University, Aberdeen; Northwest Education Cooperative, Isabel; Three Rivers Cooperative, Pierre; and Black Hills Special Services Coop, Rapid City.

Mr. Pogany advised that during the 2005-06 school year ESA personnel will be trained to provide professional development opportunities for schools in five areas, including school improvement, use of data analysis, technical assistance, curriculum, and classroom assessments and strategies. He stated that the most important issue is the expansion of services for school improvement planning.

Mr. Pogany stated that the Department would like to see additional efforts in regionalization and cooperation in other academic areas. One example could be pooling resources in a region such as cooperative purchasing. Mr. Pogany said that one activity that is occurring already is in the sharing of resources and staff within a servicing agency such as sharing duties of counselors. When sharing of staff occurs, Mr. Pogany confirmed that coordinating schedules among schools can be difficult, and the block scheduling system is used in some cases. He said the Department of Education has received positive responses from the education community on the use of ESAs.

In response to questions by the committee, Mr. Pogany said that Education Service Agencies have found people to work from all over South Dakota, and that staff live in various areas of the state. He informed the committee that the travel budget is the largest expense in dealing with ESAs. It was stated that the cost to a school district depends upon the number of individuals in the class. He said that in some instances two school districts could work more effectively; although consolidation or reorganization of school districts is sometimes more efficient. He noted that consolidation of school districts can be a political and emotional issue that involves more than just financial or efficiency questions.

Mr. Adamski asked about the ability of school districts to enter into joint powers agreements, as well as other opportunities for intergovernmental cooperation. Mr. Pogany said that more opportunities exist, and this is an area that could be explored further. On the topic of No Child Left Behind, Mr. Pogany stated that there are problems in the special education field, and the federal act did not take special needs children sufficiently into account in its testing requirements. Mr. Pogany was asked what the largest problem facing school districts is, and he replied that resources and funding are the most serious challenges, along with making sure school districts can maintain quality. Mr. Peterson asked how the school districts would react to the repeal of the property tax limitation. Mr. Pogany stated that public schools have limited taxation revenues, and they would not go out and spend haphazardly. School districts know what they need, and the repeal of the tax limitation would take some of the pressure off.

Mr. Pogany stated that capital outlay funds vary widely between school districts. He indicated that school districts should look at enrollment five and ten years out and plan accordingly. He stated that revenue is tied to the number of students that a school district will have. He reported that many school districts are experiencing a drop in enrollment; although enrollment on the Indian reservations is going up. Overall demographic trends in the Midwest is a very significant issue in school enrollment, and enrollment will directly impact school finances.

Election Procedures and Responsibilities

Mr. Chris Nelson, Secretary of State, described election responsibilities and functions in the state and discussed areas in which governments cooperate to conduct elections. He stated that the Secretary of State is the chief election official of the state, and his office is guided by statutes and rules describing duties and requirements during the election process. His office conducts a significant amount of training of local election officials, but has little authority over them. Mr. Nelson said that the county auditors do most of the work at election time. Originally, city elections were held in April and school elections were held in June. However, during the 1980s a law was passed to allow the combination of city and school elections to be held anytime between April and June. Mr. Nelson estimates that 60% to 70% of the districts chose to combine the city and school elections.

Mr. Nelson said that there are various reasons why some districts do not combine those elections, including complexity of the process, conflicts between entities, scheduling conflicts, and the desire for local autonomy. In the late 1990s, another option allowed the combination to be at the same time as the primary election, which saves time and money, and is popular with the voters. The year 2000 was the first year districts were allowed to combine with the primary election. Districts that did combine showed 35.5% turnout with only 16.5% turnout in districts that did not combine elections.

Mr. Nelson discussed possible ways that election relationships and responsibilities can be improved. Possibilities include required combination elections, county auditors handling all elections, and making local election officials subordinate to the Secretary of State. Mr. Nelson discussed factors that make cooperative efforts in elections more difficult. One problem is that school district boundaries don't always coincide with county boundaries. Also, ballot styles and formats can be a problem with a possibility of 100 different ballot styles in an election area. Other concerns include what to do in the off year; the relationship between county, city and school districts; and different voter disability requirements for different jurisdictions.

In some other states, Mr. Nelson pointed out that county auditors are under the Secretary of State, and the Secretary of State's office also prints the ballots and sends them to the auditors. By the year 2006 the Federal Government will require all federal election polling places in South Dakota to have touch screen voting machines. He also explained that there will be scanners for handicapped persons in every polling place in South Dakota.

Mr. Zweep asked Mr. Nelson whether he could work with the State Auditor to establish a process which would allow counties the ability to budget for a two-year cycle for elections. Mr.

Nelson stated that this concept is workable, but it would take legislation to change the process.

South Dakota Coalition for Responsible Taxation

Mr. Jerry Wheeler, Executive Director, South Dakota Retailers Association, informed the committee that in 1992 a group was formed called the No More Taxes Coalition. The coalition wanted the government to live within its means and not raise taxes.

Mr. Wheeler stated that by 2003 the group had grown, and the need for reorganization was evident. At that time the name was changed to the South Dakota Coalition for Responsible Taxation. The organization is based on the idea that the power to tax should only be used in a careful manner, that taxes should only be raised as a last resort, and that certain people and groups should not be targeted where taxes are concerned. Mr. Wheeler said that the group generally opposes dedication of taxes, and believes that short term needs should be met with budget reserves and not ongoing taxes. He also stated that the Coalition for Responsible Taxation supports temporary taxes for certain situations.

Mr. Bill Peterson asked whether the coalition would oppose dedicating a tax to education funding. Mr. Wheeler replied that the organization would not be opposed if the rate can be changed when necessary so there is flexibility. Mr. Peterson also asked whether he thought the people of South Dakota were ready to live without the property tax limitation, and could they set their taxes? Mr. Wheeler's reply was that people will always support an issue if a need is proven. He also said that many people don't associate the taxes they pay with the services they receive. In 2004 the coalition led the effort to repeal the tax on food. Ultimately, Governor Round's sales tax on food refund program was approved.

The committee members and Mr. Wheeler discussed the sales tax issue in South Dakota. Mr. Wheeler stated that sales tax is the biggest part of the state's revenue. Mr. Christopher Maynard asked him what the views of the coalition were regarding user fees, and Mr. Wheeler responded that the group does not oppose user fees. Mr. Wheeler and committee members also discussed additional sales tax issues, the inheritance tax, and other issues

Relationship Between the State, Counties, and Other Local Governments in Judicial Matters

Mr. D. J. Hanson, State Court Administrator, South Dakota Unified Judicial System (UJS), introduced Jill Gusso and Lynn Sudbeck from his office. He distributed handouts entitled "South Dakota's Unified Judicial System" (**Document #2**), "South Dakota Courts" (**Document #3**), and "Definitions of Receipt Categories" (**Document #4**). Mr. Hanson explained in his presentation that there are three branches of government: judiciary, legislature, and executive. The judicial branch gets its powers through Article V of the South Dakota Constitution and is a separate branch of the government. The state's judicial system is administered through UJS and has its own personnel system. Mr. Hanson said that South Dakota has two levels of court: the State Supreme Court and the circuit courts. There are seven judicial circuit courts with 38 circuit judges and 12 magistrate judges.

Mr. Hanson indicated that court costs provided by the county are as follows: courthouse facilities and security, court transcripts, indigent defense costs, jury expenses, witness fees, and law library. Indigent defense costs are supported by a \$6.00 liquidated cost on each criminal filing, and are collected by the UJS for the counties. The law library is supported by a \$2.00 or \$5.00 law library fee on each civil filing, which is also collected by the UJS for the counties.

Court costs provided by the state are UJS Judge/Employee Salaries and Benefits and UJS Operating Expenses, which includes travel expense-contractual services-supplies and materials and capital assets. Mr. Hanson said the total 2003 county expenditures were \$206.1 million. Of this amount, \$8.9 million was for court-related expenditures, which is broken down into court appointed attorney and public defenders and jury-witness-transcripts-security fees.

Mr. Hanson said that the relationship between the judicial branch of government and local law enforcement is good. He did indicate that there are no standards for courthouse security. The counties may apply and receive a security grant in the amount of \$50,000 on a 50/50 basis. Mr. Hanson explained that in FY2004 \$13.4 million passed through Unified Judicial System (UJS) and was distributed to the counties. Mr. Hanson said that in FY2004 \$13,450,621 was remitted to the counties, \$7,089,169 returned to the state, and \$851,078 to the cities. These disbursements come from a variety of resources such as: state fines, cash fees, state costs, state forfeitures, law library fees, divorce fees, court-appointed attorney fees, petty offense judgments, and county fines and costs.

Public Testimony

Mr. Chuck Schroyer, Executive Director, South Dakota States Attorneys Association, stated that South Dakota is viewed by some states as having a model judicial system. Our system is administered from one specific point and is highly automated. However, there are five areas of concern that the association would like discussed at the committee meeting. These include:

1. Judges scheduling multiple trials in a day. The reason for this practice is that many times jury trials are given up by plea bargaining. However, if the case does go to trial, scheduling for all of the people who must be there can present a problem.
2. Regionalizing or consolidating prosecutors' services. Mr. Schroyer said the minimum states attorney's salary is set by statute, and it is often difficult to find someone to run for this position. There are 66 states attorneys and six are contracted. The Legislature passed a bill about ten years ago authorizing a regional prosecution concept, but this law has not been used.
3. The level of security during a trial. Questions are being asked by county commissioners about the level of security that is necessary during a trial and would appreciate guidelines about what constitutes adequate security.
4. Juvenile costs. Mr. Schroyer stated that it is difficult to reimburse in juvenile cases because their files are closed and no information on their parents is available.
5. Technology in the courtroom. Equipment available to prosecutors in many county courthouses needs to be updated. Mr. Schroyer said that the idea of having

regional trial centers used by several counties should be considered, which would allow the costs of technology and security to be shared among counties.

Committee Discussion

Mr. Peterson stated that he felt the testimony was excellent, and the committee should consider contacting Jason Diliges from Bureau of Finance & Management to give a presentation at the next meeting on the state's budget and resources. Mr. Peterson also explained why he recommended that this task force be created. He stated that some mandates are federally driven, and we aren't going to change that. However, he said there are several areas that this committee could address. One is the issue of communications and red tape. The issue of empowerment would include authorizing home rule throughout the state, which would give more flexibility to local governments. Another area is the use of joint operating agreements, including such areas as: school/cities/counties working together, law enforcement relationships between state and counties, and court-appointed attorneys. He felt that the committee in the interim should develop its own list of ideas to improve relationships and functioning of various levels of government.

Mr. Adamski, chair, instructed each member to provide a list of ideas to Tom Magedanz before the next meeting. He advised that he would like to have the report prepared by October, and presented to the Executive Board at their meeting in November. Mr. Adamski is considering having a smaller group meet to discuss the list of ideas with a preliminary report being presented to the larger group at a later date.

SAM TIDBALL MOVED, SECONDED BY PATTI MCGEE, THAT THE STATE AND LOCAL GOVERNMENT TASK FORCE ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The meeting adjourned at 4:30 p.m.



All Legislative Research Council committee minutes and agendas are available at the South Dakota Legislature's Homepage: <http://legis.state.sd.us>. Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at **MyLRC** (<http://legis.state.sd.us/mylrc/index.htm>).