

From: Stace Nelson
Sent: Thursday, December 14, 2017 11:07 AM
To: Troy Heinert; Shawn Bordeaux; Steve Livermont; Oren Lesmeister; Jessica LaMie; Phil Jensen; Lance Russell; John Lake; Kevin Killer; Elizabeth May
Subject: Dissent and protest for today's minutes

Dissent & Protest Plurality (Minority) Report

Pursuant to Joint Rule 1-10, Legislative Interim Rule 14, and Masons Manual of Legislative Procedures Section 674, we, the undersigned, do hereby respectfully dissent from, and protest against, the October rulings of the Chairman of the Joint Tribal Relations Committee, Senator Troy Heinert, in ruling against Senator Nelson's point of order that Senator Heinert be excused & recuse himself from voting on Senator Jensen's motion to summons and subpoena witnesses in the GEAR UP corruption due to Senator Heinert's conflict of interest of voting on an issue in which his mother has been identified as being potentially involved; and, we do hereby respectfully dissent from, and protest against the plurality's defeat of Senator Jensen's motion to summons and subpoena said GEAR UP witnesses on claims the committee does not have the authority to do so on claims the statutory interim Tribal Relations Committee, which meets during the interim of the legislature, and is recognized in reports to and by the Legislative Research Council as an interim committee, is not an "interim committee" and is solely controlled and empowered by "best practices" exhibited within the Joint Tribal Relations historic committee minutes.

Senator Heinert's refusal to recuse himself from his personal conflict of interest on a motion potentially affecting his mother, and from reviewing his own conflict of interest in the request to recuse himself, in our opinion, promotes a practice that undermines the very foundation of our State Constitution, weakens the rule of law, besmirches the reputation and integrity of the South Dakota Legislature, and violates legislative rules against such practice: Masons Manual for Legislative Procedures Sec 522 "It is a general rule that no members can vote on a question in which they have a direct personal or pecuniary interest."

The interim rules of the South Dakota Legislature are clear and explicit that committees operating during the interim of the regular session of the legislature possess the Constitutional authority to summons and subpoena: Interim Rule 15 "...committee may administer oaths, require reports, issue subpoenas, compel the attendance of witnesses, and the production of any papers, books, accounts, documents, and testimony, and to cause the depositions of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the circuit court." The gold standard of "best practices" adopted by the SD Legislature, and recognized authority on parliamentary law in all 50 states, Mason's Manual for Legislative Procedures explicitly cites in Sec 802 that committees in fact have long-standing Constitutional authority to summons and subpoena. Additionally, South Dakota's own Supreme Court states the legislature is only limited if it has done so on itself explicitly in statute (See ¶ 22 Bob GRAY, President Pro Tempore of the South Dakota State Senate and Members of the South Dakota State Senate, Applicants, v. David R. GIENAPP, Circuit Judge, Respondent, Daniel Sutton, Intervenor and Respondent, No. 24407, January 18, 2007). No such limitations in statute exist which precludes the Tribal Relations Committee's legislative authority to summons and subpoena.

In light of the catastrophic human and financial costs of the widely publicized and acknowledged corruption in the GEAR UP grant program, important tasks specific to the statutory obligations of the State Tribal Relations committee remain negligently undone. Nevertheless, a plurality of the State Tribal Relations Committee members opposed our committee from exercising its statutory authority to summons witnesses and subpoena records of this infamous corruption that has robbed countless Native American youth of opportunities which have and will negatively affect their lives and economic conditions in our Native American communities for generations to come.

For these reasons, we, a plurality of the Joint State Tribal Relations Committee, respectfully submit this dissent and protest to be entered into the minutes.

Senator Stace Nelson
Representative Elizabeth May

Senator Lance Russell
Representative Steve Livermont

Senator Phil Jensen

Sent from my iPad