



Third Meeting
2003 Interim
November 19 & 20, 2003

LCR 1 & 2
State Capitol
Pierre, South Dakota

The third meeting of the 2003 interim of the Legislature's State-Tribal Relations Committee was called to order by Chair Representative Stan Adelstein at 9:15 a.m. (CT), November 19, 2003, in the Tribal Council Chambers of the Lower Brule Sioux Tribal Administration Building, Lower Brule, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Brock Greenfield, Gil Koetzle, Michael LaPointe, and Sam Nachtigal; and Representatives Stan Adelstein, Jim Bradford, Kent Juhnke, and J.E. "Jim" Putnam. Senator Patricia de Hueck and Representative Thomas Van Norman were present for the afternoon session.

Staff member present was Tom Magedanz, Principal Research Analyst.

(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.)

Welcome and Opening Remarks

Tribal Chair Michael Jandreau, Lower Brule Sioux Tribe, welcomed the committee to Lower Brule, and Committee Chair Representative Stan Adelstein expressed his thanks for the invitation to Lower Brule and his appreciation that the committee was allowed to use the tribal council chambers.

Approval of Minutes

SENATOR GREENFIELD MOVED, SECONDED BY REPRESENTATIVE BRADFORD, THAT THE MINUTES OF THE SEPTEMBER 29 & 30, 2003, STATE-TRIBAL MEETING BE AMENDED AS FOLLOWS AND THAT THE MINUTES OF THE SEPTEMBER 29 & 30, 2003, MEETING THEN BE APPROVED AS AMENDED.

ON PAGE 7, IN THE FIRST PARAGRAPH OF TESTIMONY BY MR. CLINT WAARA, DELETE THE THIRD, FOURTH, AND FIFTH SENTENCES, AND INSERT:

"MR. WAARA SAID THAT THE BANK INVESTS WITHIN THE EQUITY EQUIVALENT (EQ2) PROGRAM, WHICH OFFERS INVESTMENT IN COMMUNITY DEVELOPMENT CORPORATIONS THAT CAN OFFER SUCH THINGS AS SMALL BUSINESS REVOLVING FUNDS AND LOW-INTEREST MORTGAGES. HE SAID THAT WELLS FARGO HAS SIGNIFICANT RELATIONSHIPS WITH THE STANDING ROCK SIOUX TRIBE,

THE ROSEBUD SIOUX TRIBE, THE LOWER BRULE SIOUX TRIBE, AND THE CHEYENNE RIVER SIOUX TRIBE.”

The amendment was distributed and labeled Document #1.

THE MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

State Perspectives on Economic Development

Mr. Roger Campbell, Commissioner of the Office of Tribal Government Relations, discussed his office's activities in the area of economic development, including continuing work on developing tax agreements with various tribes. He is currently working with the Standing Rock, Rosebud, Oglala, and Crow Creek Sioux Tribes on tax agreements and has an agreement with the Cheyenne River Sioux Tribe. He is also working on education issues with the tribes.

Mr. Toby Morris, Governor's Office of Economic Development (GOED), discussed GOED programs that affect tribes and the Native American population. GOED is a division of the Department of Tourism and State Development and has directors in three areas: business and community development, finance, and research and marketing. He discussed the 2010 Initiative for economic development in the state and how it relates to tribes and Native Americans. Senator Michael LaPointe asked whether GOED programs are available on reservations to tribal entities. Mr. Morris stated that GOED works with Mr. Campbell on promoting their programs with the tribes and that all GOED programs are available to the tribes, but it is important to do a better job of marketing on the reservations and to develop more contacts and relationships in reservation areas. Representative Jim Bradford stated that loan application procedures and forms are overly complicated and should be simplified so that the programs are accessible to the average person. He also noted that each reservation has a different set of ordinances and land base and that land is generally unavailable except in tribal ownership. Senator LaPointe said that trust land cannot be mortgaged and land policy is often an impediment to development.

Economic Development Efforts by South Dakota Tribes

Tribal Chair Michael Jandreau, Lower Brule Sioux Tribe, stated that there is a need for a catalyst for changing attitudes and a need for the state to become a proactive ally of tribes in promoting economic development and in assisting the tribes in accessing federal development programs. He feels that reservations are a major untapped economic resource for the state of South Dakota and that it is important to keep enterprises here so that revenues will generate additional economic activity, both for the state and the tribes. He described current economic development projects and activities at Lower Brule and answered questions from committee members on Lower Brule's situation and economic development efforts. Tribal Vice Chair Mr. Orville Langdeau, Jr., who is also the Housing Authority Chair for the Lower Brule Sioux Tribe, discussed housing problems on the reservation and housing programs such as the HUD Section 184 program and the tax credit program. He noted that many people are unable to take advantage of those programs because they do not meet program requirements and there is a need for additional programs to reach those people.

Tribal Vice Chair Herbert Hare and Treasurer Leo O'Connor of the Yankton Sioux Tribe discussed economic development issues for their tribe. The Yankton Sioux Tribe is an open reservation without boundaries, which can be a barrier to development. They are working on a motor fuel tax and on a revolving loan fund for tribal members. They are also involved in a wind energy program and a possible ethanol plant. In response to a question from Representative Adelstein, they noted that they have a health clinic, but it is understaffed. Representative J.E. "Jim" Putnam noted that he has known these two men for a long time and they do an excellent job.

Mr. Edgar Artichoker, Executive Director of the Rosebud Economic Development Corporation (REDCO), stated that Rosebud had a recent election and a new tribal chair and he is not yet familiar with the new administration's economic development ideas. He stated that there is a need for a more specific emphasis on tribal needs at GOED and that tribes need to be more familiar with GOED programs. He also discussed the need to be aware of cultural differences and to find common ground in dealing with economic development for Native Americans. He also discussed tribal government complexities and various types of land status as they relate to economic development efforts. He described specific projects and issues at Rosebud and the need to change from a grant economy to a business economy.

Mr. Lou Mendoza, Tribal Development Coordinator for the Cheyenne River Sioux Tribe, discussed economic development programs and projects at Cheyenne River, including their purchase of Si Tanka University in Huron, Lakota Technologies, the development of a nursing home on the reservation, the Four Bands Community Fund, and the Tribal Housing Authority. The tribe has had a long relationship with American State Bank in Pierre and has been approached by Wells Fargo Bank about its programs. He noted that there are still many unmet needs, with high unemployment, lack of housing, and widespread poverty. The tribe has many outlying rural districts, which are difficult to develop. Ms. Debbie Day, Dawina Red Horse, and Reverend Duane Cantois of the Bridger Community on the Cheyenne River Reservation discussed the Bridger Project, an effort to revive their rural community based on self-sufficiency and using local resources, including a focus on the historical significance of their community, in that Big Foot and his band stayed in Bridger in 1890 before proceeding to Wounded Knee.

Federal Programs Affecting Economic Development for Native Americans

Mr. Paul Jurkowski, Director of the Office of Loan Guarantee, Office of Native American Programs, Denver regional office of the Department of Housing and Urban Development, discussed the Section 184 Indian Housing Loan Guarantee Program and the Title VI Loan Guarantee Program. He distributed descriptions of the Section 184 program (Document #2) and the Title VI program (Document #3), and pamphlets entitled "Home Ownership for American Indians" (Document #4) and "Don't be a Victim of Loan Fraud" (Document #5). Mr. Jurkowski discussed barriers that prevent many Native Americans from obtaining home mortgages, including unemployment, the inalienability of trust lands, the need for other collateral, lack of credit (the largest source of credit in Indian Country is credit cards), higher construction costs in rural areas, the lack of a mature secondary home market in Indian Country, and the need for rehabilitation of existing housing units. He said that South Dakota has 130 Section 184 mortgages (out of 1300 nationwide) and that South Dakota ranks second

in the nation behind Arizona in the use of Section 184 loans. The South Dakota Housing Development Authority supports the Section 184 program, and he noted that state housing authorities are usually the best mechanism for Native American borrowers using the Section 184 program. Senator LaPointe stated that many people are unable to use the Section 184 program because they are unable to meet program requirements because of previous credit problems or financial literacy problems.

Mr. Jurkowski also discussed the Title VI Loan Guarantee Program, which allows tribes to leverage funds to borrow money to build housing units. Several South Dakota tribes are looking at this program, and Wells Fargo Bank has been active in this area. In response to a question from Chair Adelstein as to what the South Dakota Legislature could do to improve the situation, Mr. Jurkowski suggested that all reservations in the state could be designated as target areas, which might allow the South Dakota Housing Development Authority to waive certain price and income requirements and restrictions for people using the federal programs. He stated that legislation may be needed for the Housing Authority to do this.

Ms. Nancy Gilbertson, State Director of the Small Business Administration, discussed programs in her agency that serve Native Americans. These include Procurement Technical Assistance Centers (PTEC); Small Business Development Centers; Tribal Business Information Centers (TBIC)—three in South Dakota, although SBA funding for these will end; Rural Business Investment Companies (RBIC), which provide money for venture capital; Development Company Loans (504 Loans); Hub Zone Program, for high-unemployment, low-income areas; the 8A Business Development Program for disadvantaged areas; and the 7A Guarantee Loan Program. These programs vary in their funding levels and amount of activity in reservation areas, but all have the potential to serve Native American groups and individuals.

Public Testimony

Ms. Germaine Tremmel, a businesswoman and member of the Yankton Sioux Tribe from the Lake Andes area, described her past and current business ventures and some of the problems and issues associated with economic and business development. She noted that alcohol and drugs and a high unemployment rate are barriers to development, as well as a lack of business development programs that are specific to women. She stated that there are organizational and political differences between the various tribes and that they do not all operate in the same way or face the same problems or opportunities. She also discussed cultural differences and the need to develop a level of trust between Native Americans and others in the state. Many people fear or lack confidence in ventures in reservation areas, and there is a need for more understanding and mutual respect. Tribes should be incorporated into the promotion of South Dakota's economy, and a state-tribal protocol should be established so that enterprises don't make mistakes based on faulty assumptions about Native Americans. She also suggested a native clearinghouse with the state to assist in marketing and promoting tribal products and resources.

Ms. Twylla Turney spoke in favor of an additional casino on the Pine ridge Reservation along Highway 79, which would increase employment opportunities on the east side of the reservation. She also discussed housing shortages.

Ms. Candy World Turner, Crow Creek, discussed housing problems in her area and also asked about the Governor's Houses program and how it applies in reservation areas. She stated that procedures and requirements should be kept simple and explained to people at the local level.

Ms. Evelyn Black Moon, Yankton Sioux Tribe, stated that poverty on the reservation is the basic problem and that it leads to most of the other problems that Native American people face. She said that administrations and programs change, but the problems remain the same. Racism, discrimination, and lack of understanding still exist in the surrounding community and continue to cause problems.

The committee recessed at 5:15 p.m. and reconvened at 9:20 a.m. in Pierre on November 20, 2003.

Thursday, November 20, 2003

The second day of the third meeting of the 2003 interim of the Legislature's State-Tribal Relations Committee was called to order by Chair Representative Stan Adelstein at 9:20 a.m. (CT), November 20, 2003, in LCR 1 and 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Patricia de Hueck, Brock Greenfield, Gil Koetzle, Michael LaPointe, and Sam Nachtigal; and Representatives Stan Adelstein, Jim Bradford, Kent Juhnke, J.E. "Jim" Putnam, and Thomas Van Norman.

Staff members present were Tom Magedanz, Principal Research Analyst, and Teri Retrum, Senior Legislative Secretary.

Native American Child Placement—Social Services

Mr. James Ellenbecker, Secretary of the Department of Social Services, introduced Ms. Virgena Wieseler, Administrator for the Office of Child Protection Services for the Department of Social Services (DSS), who addressed Native American Child Placement issues.

Ms. Wieseler said that the Office of Child Placement Services becomes involved in the process after the court takes a child into protective custody. The Office then places the child in emergency foster care and begins searching for placement opportunities, including interviewing family members for possible placement. If a family member meets the criteria and is interested in providing a home and willing to care for the child, the Office discusses various types of programs, such as the Kinship Family Program, with that relative. Ms. Wieseler listed the following among the factors considered when looking for placement with a relative:

- Distance involved between where the child lives and where the relative lives;
- How receptive and supportive the relative is of the treatment plan;
- Whether the relative believes abuse/neglect allegations; and
- Whether the relative can protect the child.

Responding to Chair Adelstein, Ms. Wieseler said that in some instances a child cannot be placed with or adopted by a family member; sometimes a family placement is disrupted, and the child may have to be placed elsewhere.

Chair Adelstein told about a specific case of which he was aware concerning four Native American siblings who were about to be adopted by their foster parents when the tribe stepped in, and the children were removed from that home and placed by the tribe in separate homes. Chair Adelstein said that in this instance, the children had a difficult time adjusting to the placement change. He asked how the Indian Child Welfare Act (ICWA) works and if the Act requires that the child be placed with the tribe in every instance.

Ms. Wieseler said that it is the responsibility of the state's attorney to notify a tribe when a Native American child is placed in protective custody. She said that the tribes have the right to follow the provisions of the ICWA. Ms. Wieseler said that the judge looks at all the circumstances of the case, not only the best interests of the child. She said that the Act does not require that the child be returned to the tribe; however, the Act does require that the tribes be notified and that they have the opportunity to be involved in all aspects of the case. Ms. Wieseler said that ICWA is a federal Act, and the state must operate under its provisions when dealing with placement of Native American children.

Senator Michael LaPointe asked how many Native American children are placed outside the tribe with a non-Indian family. He said that sometimes the tribes are not notified until late in the process and that perhaps the state could do something about requiring timely notification of the tribes when a child has been removed from a home and placed in protective custody.

Ms. Wieseler said that sometimes the tribes do not get involved after they have been notified and that tribes should get involved in the process right from the beginning.

Representative Thomas Van Norman said that the child placement issue is so important for the tribes and that communication and cooperation are the keys for success. He said that there is someone in Sioux Falls who is used as an expert witness against the tribes but whom, in Representative Van Norman's opinion, does not have the cultural background or the expertise to be a useful witness. Representative Van Norman asked: "Who pays for this expert witness?" He referenced the Safe Adoption Families Act and asked whether the Act supercedes the ICWA.

Ms. Wieseler responded that the county pays for expert witness services. She said that currently there is a national debate on which Act supercedes the other.

Representative Van Norman said that the ICWA deals exclusively with Indian children and that the termination of family rights needs to be slowed down and more effort needs to be made in finding familial placement.

Responding to Representative Jim Bradford, Ms. Wieseler said that the judge, based on recommendations from the caseworker, the state's attorney, CASA, if they are involved, and others, makes the ultimate decision.

Representative Bradford asked how cases are dealt with concerning children who are of a mixed race.

Ms. Weiseler said that the judge still makes the final decision and that the ICWA still applies in those cases.

Senator Patricia de Hueck asked whether the state continues contact with the tribes after notification.

Ms. Weiseler said that some efforts are made for continued contact but that maybe there could be more effort in this area. She noted that a better use of tribal enrollment lists would be beneficial. Ms. Weiseler said that the state sends updates to tribal officials with pictures and names of children in their care and asks the tribes for names of relatives of the children so that they can be contacted regarding the child's possible placement. She said that the same requirements to be approved as an adoptive family must be met to be approved as a foster family.

Responding to Senator LaPointe, Ms. Weiseler said that a family can appeal the court's decision to the DSS, even to the Governor. She commented that the appeal process sometimes is pursued by a family with objections to the decision.

Senator Sam Nachtigal asked that the committee hear public testimony at this time while personnel from the DSS are in attendance to address issues.

Ms. Weiseler said that she will listen to the public testimony but that she is unable to provide details concerning particular cases because she must follow confidentiality standards.

Chair Adelstein said that in his opinion there would be no benefit to such an exercise at this time in light of Ms. Weiseler's comments concerning confidentiality. He suggested that perhaps the committee should conduct a meeting during the upcoming Legislative Session to continue this discussion.

Representative Putnam suggested that the judiciary also be invited to attend such a meeting.

In addition to Representative Putnam's suggestion, Chair Adelstein expanded the invitees to include judges and state's attorneys.

Responding to a question posed by Senator LaPointe regarding a constituent, Mr. Ellenbecker said that the department is working to resolve the issue concerning reimbursement of an overpayment.

Health Care Issues

Indian Health Service (IHS) Organization and Perspectives

Mr. Vernon Donnell, Administrator IHS Unit, Pine Ridge, and Mr. Dale Young, IHS Unit, Rosebud, discussed the Indian Health Service.

Mr. Young said that IHS needs to communicate more with the state on some health issues and needs. He explained how the IHS is organized and listed contract health services, federally appropriated funds, and Medicaid and Medicare as funding sources. Mr. Young distributed copies of "Healthcare and Economic Impact of the Aberdeen Area HIS" (Document #6). Chair Adelstein asked why money passes through the state rather than going directly to IHS. Mr. Donnell said that it is written that way in federal law; however, there has been some discussion about giving the money directly to the tribes.

Mr. Young said that contract health services are used only for life-threatening conditions. All non-threatening conditions are denied for contract health care services.

Senator LaPointe said that many people do not understand the determinations that are necessary for which types of care will be paid for under contract services.

Mr. Donnell said that there is an ongoing education program designed to address this concern to let people know what services are available. He said that the program is improving.

Mr. Young discussed the economic impact to area hospitals from contract services.

Representative Putnam said that Congress must fund IHS at one hundred percent; until that is done, some of the problems with IHS will never be solved.

Mr. Young said that IHS also receives many volunteers from around the state and the country to provide some services

Chair Adelstein asked for comments on disease prevention efforts.

Mr. Donnell listed immunizations, education for disease prevention, and sexually-transmitted disease prevention among some of the cooperative efforts between the state and IHS to help Native Americans toward better health. He commented that more needs to be done in the areas of mental health and addiction problems

Responding to Chair Adelstein, Mr. Donnell said that heart-lung disease, diabetes and the sexually-transmitted disease, Chlamydia, are prevalent on reservations. He noted that the high rate of vehicle accidents cause the highest number of deaths on reservations. Also, Mr. Donnell noted suicides and the West Nile Virus among concerns. He said that many of the health problems on reservations are due to the elements and environment on those reservations—The life expectancy of a male living on the reservation is 68 to 70 years.

Representative Van Norman said that gross underfunding of IHS is a major problem and requested that a resolution be drafted stating support for funding IHS at one hundred percent.

Chair Adelstein asked Mr. Donnell and Mr. Young to please submit to the committee recommendations for changes so that "we can work on these issues" and perhaps develop legislation to alleviate some of the problems.

Mr. Donnell distributed copies of a talking paper on Pine Ridge Indian Health Service (Document #7) and a memorandum on the need for nursing home care on the Pine Ridge Reservation (Document #8),

Black Hills Center for American Indian Health

Dr. Jeffrey Henderson, President of the Black Hills Center for American Indian Health, said that the Center is focused on developing research methods to address health needs for Indian people in three South Dakota tribes and three tribes in Montana and Wyoming. Dr. Henderson listed the following among the research projects in which the Center is involved:

- Risk factors for cancer and other diseases;
- Risk factors for diabetes;
- Survey of 2,000 Lakota people in an attempt to discern Lakota attitudes to health-related research;
- Eye health of diabetic patients; and
- Address the issue of why Indian women in Montana and Wyoming, and most likely South Dakota, do not follow up on testing for abnormal cancer screenings.

Dr. Henderson gave some of his impressions regarding Indian health. He said that incidences of diabetes in Indian people has reached epidemic proportions, which also increases the risk for cardiovascular disease. He stated that approximately fifty percent of Native Americans have diabetes by age fifty, while only six percent of non-Natives have diabetes by age fifty. Dr. Henderson said that alcohol-related diseases, injuries, and accidents, and alcoholism itself constitute a large problem; however, the aforementioned are problems in all people. He also said that there is much data which shows that Native American peoples drink less than the general population; but, among Indians who drink alcohol, there are more incidences of binge drinking. Dr. Henderson said that smoking-related diseases have reached the same rate of diabetes-related diseases among Native Americans. He said that although the incidences of hypertension in Native Americans equals that of other populations in South Dakota, more Native Americans are likely to experience renal failure as a consequence. However, Dr. Henderson said that Native Americans are more likely to know their blood pressure and are more likely to receive treatment for such than other populations.

Chair Adelstein asked Dr. Henderson to comment on the diabetes epidemic.

Dr. Henderson responded that there are many theories on the cause of the diabetes epidemic. He talked about one of the popular theories—"Thrifty Gene Theory." The theory revolves around the fact that Native Americans have been hunters and gatherers in the past so they were accustomed to periods of feast and periods of scarce food supplies which resulted in a metabolism receptive to those circumstances—during times of plenty, their constitution could store energy to protect them during times of scarcity. He said that dietary choices are one of the reasons for diabetes among Native Americans; however, Dr. Henderson said that he believes that diabetes is also a symptom of the conditions resulting from oppression.

Representative Putnam asked whether there is a completion time frame and a dissemination schedule in place for the survey results.

Dr. Henderson said that the Center will explore every opportunity for dissemination once the survey results are known.

Representative Bradford asked whether diabetes is hereditary.

Dr. Henderson responded that there is a strong hereditary component and that diabetes does run in families; however, the environment in some families lends itself to developing diabetes. He said that researchers are not finding a “smoking gun” that proves diabetes to be hereditary. Dr. Henderson said that it is a complicated issue but that there are genetic and environmental influences.

Chair Adelstein asked for suggestions on what the committee and the Legislature can do legislatively to help with the health issues of Native Americans.

Dr. Henderson suggested that the state go to great lengths to ensure that American Indians who are eligible to receive state health program services are receiving them. He said that a significant percentage of eligible people are not signed up for programs.

Mr. Donnell said that it would be beneficial to develop a demonstration project to place a DSS worker in an IHS facility to help process people on the spot—perhaps even on a cost-sharing basis.

Representative Van Norman said that benefits are intended for everyone and supported state officials on-site to be involved in facilitating Native Americans who are eligible for services and to provide follow-up.

Dr. Henderson said that employment is still a problem on the reservations and encouraged state promotion of economic development on reservations.

The committee recessed at 12:30 p.m. and reconvened at 1:40 p.m.

Corrections Update—Department of Corrections

Mr. Tim Reisch, Secretary of the Department of Corrections, updated the committee via a PowerPoint presentation on changes made to address corrections issues (Document #9).

Mr. Reisch’s presentation included:

1. Recent policy changes;
2. Cultural Activities allowed;
3. Progress of the DOC Cultural Awareness Committee;
4. Juvenile Corrections;
5. Weekly Native American Activities;
6. Property items allowed;

7. Governor's Corrections Workgroup;
 - A. Sentencing Subcommittee;
 - B. Incarceration Subcommittee;
 - C. Parole and Committee Corrections Subcommittee.

Responding to committee questions, Mr. Reisch said that some of the changes have been made at the request of inmates and their families and are new since the beginning of the year. He said that 23 percent of the male inmates are Native Americans; 30 percent of the female inmates are Native Americans, so the department is beginning to explore opportunities to make its workforce more diverse. He said that it is a philosophical question on whether to provide chemical dependence on the front end or the back end of an individual's incarceration. Mr. Reisch said that all inmates are paid through the prison banking system; they are paid twenty-five cents per hour of work. He said that the department relies on many volunteers for various programs offered through its institutions. Mr. Reisch said that 792 beds have been added to the prison system; those beds are expected to be filled and capacity will be back to the triple-bed cells situation by 2010. Regarding juvenile corrections, Mr. Reisch said that he is open to any change if it is for the good of the juveniles. Regarding adult corrections, Mr. Reisch stated: "We need to do something different; need to be open to measured change." He said that he would provide data concerning the ratio of Native Americans to other inmate populations regarding disciplinary segregation. Mr. Reisch said that he would provide information on the percentage of Native Americans who get jobs while incarcerated.

South Dakota Housing Development Authority

Ms. Dar Baum, Executive Director of the South Dakota Housing Development Authority (SDHDA), talked about the Governor's House Program in response to questions that were raised at the November 19 session in Lower Brule. She said that the Governor's House Program is not available to tribal entities or tribal housing authorities for renting or giving houses to constituents. The policy is set by the SDHDA. The Governor's House Program is available to an individual tribal member.

Responding to Representative Van Norman, Ms. Baum said that she was not sure why the Cheyenne River Sioux Tribe was allowed to continue purchasing homes through this program. She said that the place to begin finding out why the change was made would be the Board of the SDHDA.

Proceeding to answer committee questions, Ms. Baum said that the tribes have been invited to participate in the Statewide Homeless Consortium. She said that the reservations are eligible for the rest of the SDHDA programs; however the tribes and the Town of Sioux Falls are not eligible for the Home Program. Ms. Baum said that the tribes are also eligible for the HUD 184 Guarantee Program, which allows for purchasing homes on the secondary market for first-time home buyers. She said that the Federal Housing Tax Program every year has placed a home on at least one reservation. Ms. Baum said that some HUD programs are available to both first-time and second-time homebuyers; the SDHDA is only for first-time homebuyers.

Representative Van Norman said the lending institutions need to be encouraged to loosen some of the restrictions so that more money can be available for low-income housing.

Chair Adelstein requested that the SDHDA explore ways the state could increase the opportunity for low-cost housing on the reservations.

Public Testimony

Webster and Marge Two Hawk, Pierre, South Dakota, spoke to the committee about the difficulties their family has experienced with the state's actions regarding their granddaughter.

Mrs. Two Hawk said that the DSS claims that they try to contact families when they remove a child from its home but that her family was not contacted when their granddaughter was removed from her home. She said that she helped raise her granddaughter since the day she was born. Mrs. Two Hawk said that her granddaughter lived with them for a while and that she was very happy there. She said that there are other family members who also would take care of her granddaughter.

Mr. Two Hawk said that ICWA was enacted in 1978 and provided that families of children who are removed from their homes must be looked for and notified. He said that every effort should be made to reunite children with their families. Mr. Two Hawk said that they were looking for their granddaughter and could not find her. He stated that he and his wife are not going to give up on this issue and that they dearly love their granddaughter.

Responding to Representative Van Norman, Mrs. Two Hawk said that they sent to DSS names of family members who were interested in taking their granddaughter into their homes, but they were never contacted by DSS.

Senator LaPointe said that he would be interested in reviewing the judge's decree in this matter and asked whether the Two Hawk family has explored the appeal process.

Mr. Two Hawk said that the family has gone through the state's appeal process but does not have the resources to appeal to the federal court.

Mrs. Two Hawk said that their granddaughter is in the process of being adopted outside the family, but the family is going to continue its efforts for family placement.

Mrs. Two Hawk submitted a letter from her daughter relaying disrespectful behavior from DSS personnel (Document #10).

Chair Adelstein said that he is going to suggest that the committee meet on January 14 or 15 to discuss issues such as those experienced by the Two Hawk family.

Senator Nachtigal said that he wants to explore the notification process because if the DSS is saying that they are notifying families and they, in fact, are not doing so, he looks at that as a very serious matter.

Ms. Nancy Fleming-Martin, Hill City, South Dakota, expressed her ongoing concerns with the corrections system in South Dakota. Among those concerns, Ms. Fleming-Martin listed the following:

- Treatment and seclusion of inmates with mental health problems;
- Health care;
- Disproportionate percentage of Native Americans in segregation units; and
- The application of ICWA.

Ms. Fleming-Martin said that there is no reason not to follow the provisions of ICWA to find relatives of children removed from their homes.

Ms. Marletta Pacheco, Rapid City, South Dakota, thanked the committee for its continuing efforts to act as a conduit for information concerning the prison system in South Dakota. She also thanked the committee for some of the positive changes that have been made by the Department of Corrections. Ms. Pacheco listed the following among concerns that still remain, expressed to her by inmates:

- Availability of an ombudsman from outside the prison;
- Family attendance at pow wows;
- Sensitivity training for staff and guards;
- Loss of property when segregated—sometimes property is not returned;
- Not classify dance costumes as a craft item;
- Respect for religious items;
- Review different treatment of different races;
- Conduct a review of the guards; most of the guards do an adequate job, but there are a few who should not be working in the prison.

Ms. Pacheco submitted written materials from the inmates (Document #11).

Senator LaPointe assumed the chair.

Senator LaPointe asked staff to notify the Department of Corrections of Ms. Pacheco's issues and to provide the department with the written materials.

Mr. Duane Martin, Sr., Hill City, South Dakota, invited committee members to a Civil Rights Forum to be held on November 22, 2003, on the Pine Ridge Reservation. Mr. Martin discussed jurisdiction issues and said that there is going to be a concerted effort to have cases involving Indians tried on the reservations. He said that he is an advocate of removing Warden Doug Weber from his duties.

Ms. Twyla Turney, Kadoka, South Dakota, said that she attended the meeting at the request of Mr. John Steele, President of the Oglala Sioux Tribe. Ms. Turney expressed her disappointment at the departure of the DOC personnel from the meeting. She said that she disagreed with the statements from Ms. Weiseler concerning contact with families regarding child placement. Ms. Turney said that there are instances of families not receiving due process in these matters. She related a personal experience concerning lack of family contact

regarding child placement. Ms. Turney also told about her son's suicide while in jail. She spoke about other areas of concern regarding DSS and DOC practices. Ms. Turney said that she will be a liaison for the Springfield Prison Unit.

Ms. Mattie High Pipe, Parmalee, South Dakota, said that she works as a liaison for Sioux Tribal inmates and that she will be conducting language classes at Springfield. She relayed an incident involving her work with a prisoner in the Winner jail. Ms. High Pipe said that the well-liked and respected chaplain at Springfield was replaced with someone the inmates do not like.

Ms. Lucinda Ellert, Rosebud, South Dakota, expressed her concern about two Native Americans who were shot by police in Rapid City. She believed it was unnecessary force and that communication and negotiation could have peacefully resolved the issue. Ms. Ellert said that police officers and judges need sensitivity training. She said that she supported alternatives to incarceration. Ms. Ellert said that she has not seen evidence of the Governor's proclaimed interest in improving relations.

Ms. Marilyn Runs After, Cheyenne River, South Dakota, told about a personal experience involving her incarcerated brother and his children's out-of-home placement. She said that family members were not notified regarding the children, and she wants to see her niece and nephew.

Ms. Maria Little Shield, Cheyenne River, South Dakota, said that her one-year-old granddaughter was taken from her family five years ago. She said that her granddaughter is now six years old, and her family does not know where she is. Ms. Little Shield stated: "We want DSS to help to get her back; we want to find out where she is; and we want her back."

Ms. Jennifer Ring, American Civil Liberties Union (ACLU), said that she was not speaking in her capacity in the ACLU but was personally urging the committee to look at how children are being removed from Native American families. She said that she believes that South Dakota is in violation of the ICWA. Ms. Ring said that she understands there are instances when children must be removed from their families. However, Ms. Ring said that the state also should review how DSS investigates families, with the main criterion to be the safety of the child rather than the family's economic situation. Ms. Ring said that she can see no reason for Native American children in South Dakota to be raised outside a Native American family in the state.

Committee Discussion and Direction

Senator LaPointe asked committee members and others to be thinking about what legislation could be drafted to address issues that would be beneficial to the Native Americans and the state.

Senator Nachtigal requested that staff from South Dakota's congressional delegation be in attendance at the State-Tribal Relations Committee meetings since so much of what happens on the reservations lies in federal legislation. He asked LRC staff to send a letter of invitation.

Representative Van Norman asked that state department officials provide a list of all their programs and the contact person for each. The list would be provided to each reservation and to anyone else so that the people would know with whom to visit about various concerns.

Senator LaPointe also asked that the state work on improving resources to Roger Campbell's office. He said that the state should work with IHS on some of the health issues.

Representative Bradford asked that staff follow up on the committee's requests for information. He advocated better use of IHS services. Representative Bradford said that Native Americans have the most concerns with the Departments of Corrections and Social Services and stated: "We should pick one or two issues to try to get legislation in those areas for a beginning."

Senator LaPointe suggested a liaison between the tribes and the Department of Corrections and the Department of Social Services since these two state agencies are both closely involved with Native Americans.

Adjournment

SENATOR KOETZLE MOVED, SECONDED BY REPRESENTATIVE JUHNKE, THAT THE COMMITTEE BE ADJOURNED. MOTION PREVAILED ON A VOICE VOTE.

The committee adjourned at 5:00 p.m.



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