



Second Meeting
2005 Interim
March 21, 2005

Room 464
State Capitol
Pierre, South Dakota

The second meeting of the Legislature's State-Tribal Relations Committee was called to order by Chair Senator Stanford M. Adelstein at 3:30 p.m. (CT), March 21, 2005, in Room 464 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Stanford M. Adelstein (Chair), Julie Bartling, Thomas A. Dempster, Bob Gray, and Theresa B. Two Bulls; and Representatives Jim Bradford, Cooper Garnos, Paul Valandra (Vice Chair), and Thomas J. Van Norman. Representative J.E. "Jim" Putnam was excused.

Staff members present included Tom Magedanz, Principal Research Analyst, and Teri Retrum, Senior 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.)

Approval of Minutes

SENATOR DEMPSTER MOVED, SECONDED BY SENATOR BARTLING, THAT THE MINUTES OF THE FIRST MEETING (FEBRUARY 28, 2005) MEETING BE APPROVED. The motion prevailed unanimously on a voice vote.

Discussion of HCR 1021

Chair Stanford Adelstein said that HCR 1021—A concurrent resolution supporting the construction of an outdoor facility for Native American performing arts and competitive events—was deferred to the 40th legislative day in the 2005 Legislative Session. He said that the resolution passed the House and asked for discussion on what the issues were that led to its deferment by the Senate.

Ms. MaryAnn Bear Heels McCowan, First Voices, distributed copies of architectural drawings of the proposed Oahe Pow Wow Grounds Site Plan, Grounds Plan, Grounds Roof Plan, and the Oahe Pow Wow View from the Parking Lot (**compiled and labeled Document #1**). Ms. Bear Heels McCowan said that the intent is to construct a state-of-the-art pow wow grounds just below Campground #3. She said that the facility will benefit all people in the area by attracting townspeople and tourists and will be culturally interesting to many.

Senator Bob Gray expressed strong approval for the project, gave a brief overview of the proposal, and explained some legislative concerns regarding funding. Senator Gray said that

he spoke to **Mr. Doug Hofer**, Game, Fish and Parks, and reported that Mr. Hofer said that he is comfortable with the language in the resolution.

Representative Paul Valandra said that the campground used to be part of the Corps of Engineers and is now operated by the state Department of Game, Fish and Parks.

Mr. Sam Tidball, Mayor, Fort Pierre, South Dakota, said that he very much supports the proposed pow wow site. Mayor Tidball said that the facility would have an impact on improving cultural relations and would bring economic development to the area and to the state. He said that the Governor has expressed interest in the project in a letter and said that Title VI cultural resource money possibly could be used. Mayor Tidball said that the committee's support for the resolution would help the Wakpa Sica Historical Society obtain funding.

Mr. Dennis Eisnach, Mayor, Pierre, South Dakota, echoed comments made by Mayor Tidball and in answer to a question by Chair Adelstein said that it is his understanding that there is about \$1.6 million in Title VI cultural resource money. Mayor Eisnach said that the Pierre community really supports the project. He said that it would give Native American people a place to have events, perhaps even on a competitive basis. Mayor Eisnach said that with the committee's support, it could be a project of which everyone could be proud.

Chair Adelstein asked whether approval of HCR 1021 would commit the state in any way to provide funding. Senator Gray responded negatively.

Representative Valandra expressed hope that the Senate will concur in HCR 1012.

Chair Adelstein said that he will speak for the resolution in the Senate and explain that there is no intention to ask for state general funds for the project.

SENATOR BARTLING MOVED, SECONDED BY SENATOR GRAY, THAT THE COMMITTEE URGE THE SENATE TO CONCUR IN HCR 1021. The motion prevailed unanimously on a roll call vote with 8 voting AYE, 0 voting NAY, and 2 EXCUSED. Those voting AYE: Bartling, Dempster, Gray, Bradford, Garnos, Valandra, Van Norman, and Adelstein. Those EXCUSED: Two Bulls and Putnam.

Study Topics for the 2005 Interim

Ms. Heidi Bogda-Cleveland, Deputy Director, Office of Tribal Relations, read a letter from **Mr. James (JC) Crawford**, Tribal Chairman, Sisseton-Wahpeton Sioux Tribe, (**Document #2**) regarding the state's interpretation of SDCL 36-4-10 as it applies to Indian Health Service (IHS) physicians. Ms. Bogda-Cleveland said that the issue has been "out there for a number of years," and there is still no resolution of the concerns. She asked the committee to at least look into this matter.

With the consensus of the committee, Chair Adelstein asked staff to resubmit the letter requesting an Attorney General's Opinion on the state's interpretation of SDCL 36-4-10 as it applies to physicians and surgeons of the Indian Health Service (IHS). The committee had originally requested an Attorney General's opinion on this matter in 2001, with no response.

Ms. Twyla Turney, Oglala Sioux Tribe, asked the Legislature to help inmates in Yankton and Springfield. She said that, in Springfield, Native American inmates are no longer allowed donated buffalo meat; whereas, in Sioux Falls, it is allowed. Ms. Turney said that the officials in Springfield and Yankton said that the buffalo meat has to be bought from a store.

Ms. Turney said that medical care in prison has to be addressed, particularly for diabetic patients. She also expressed great concern about the suicide rates of Native Americans, especially on the Standing Rock and Rosebud Reservations.

Ms. Turney said that she tries to do as much as she can for the inmates but that it is difficult to do it on her own. She said that she will be delivering products needed for ceremonial events to Springfield soon.

Chair Adelstein commented that Ms. Turney has been a long-standing advocate of prisoners' issues and concerns and commended her efforts.

Mr. Tom Magedanz, LRC, distributed copies of a letter (**Document #3**) received from **Mr. Charles C. Colombe**, President, Rosebud Sioux Tribe, concerning interim study topics. In the letter, President Colombe states that he is opposed to the study of gaming compacts because there is nothing wrong with the current system. Instead, President Colombe proposed that the committee study why the number of Native Americans in the state prisons is disproportionate to the number of Native Americans in the state's population.

Stating his concern that the committee formally request an attorney general's opinion on IHS, **REPRESENTATIVE VAN NORMAN MOVED, SECONDED BY REPRESENTATIVE BRADFORD, THAT THE COMMITTEE REQUEST THE ATTORNEY GENERAL TO RENDER A FORMAL LEGAL OPINION REGARDING THE STATE'S INTERPRETATION OF SDCL 36-4-10 AS IT APPLIES TO PHYSICIANS AND SURGEONS OF THE INDIAN HEALTH SERVICE. The motion prevailed unanimously on a voice vote.**

Representative Thomas Van Norman said that the committee also should review the composition of the South Dakota Board of Pardons and Paroles. He said that approximately thirty-six percent of all inmates are Native Americans and that there should be at least one member of that population on the Board of Pardons and Paroles. Representative Van Norman said that statistics indicate that Native Americans also are incarcerated more often and for a longer duration than others. He said that he would like to hear from the Department of Corrections again regarding the composition of the Board of Pardons and Paroles. According to Representative Van Norman, having a Native American member of the board would allow someone who really knows the people, the culture, and the labor market and economic situation to make a recommendation regarding a person's pardon or parole. He also said that Michigan, Minnesota, and Kansas have successful reentry programs that perhaps the committee should learn more about.

Chair Adelstein said that the reason the Senate did not pass the legislation to mandate that a Native American be a member of the Board of Pardons and Paroles is because the majority of

the Senate believed that it would set bad precedent to require that membership on any state board be based on gender, race, or religion.

Representative Van Norman said that the expertise of Native Americans would be valuable to the board.

Chair Adelstein said that perhaps the committee should invite the Attorney General, a representative from the Governor's office, and the Chief Justice to discuss the membership of the Board of Pardons and Paroles. Representative Van Norman agreed.

Representative Van Norman said that the committee should look at ways to encourage economic development and private investment on the state's reservations. He noted comments made by **Dr. Wayne Evans** at a previous committee meeting suggesting that the committee should study the economy as a whole. Representative Van Norman said that Dr. Evans also focused on the importance of education. He asked staff to provide copies of those minutes and related materials to committee members.

Representative Van Norman said that he is unaware of an instance when REDI Funds have been loaned to a tribe and that perhaps the committee should review that process.

Representative Jim Bradford said that he attended a meeting in Rapid City where technical education on reservations was discussed, especially the Pine Ridge area. He said that vocational schools are interested, and the delivery of that education needs to be discussed. Representative Bradford said that he is interested in hearing from someone representing the vocational-technical schools on this matter.

Chair Adelstein interjected that perhaps this also could relate to inmate training.

Mr. Mitch Richter spoke about vocational education opportunities on the reservations. Specifically, Mr. Richter noted a successful heavy equipment operator program on the Cheyenne River reservation. Ten people were enrolled in the program; of the ten, six completed the program, and all got jobs. However, Mr. Richter said that four of those six had to leave the reservation to find a job. He said that Western Dakota Technical Institute is working with Pine Ridge on setting up a branch campus for those interested in technical education. Mr. Richter also said that other technical schools in South Dakota are exploring ways to expand their services to the reservations.

Mr. Richter said that there are companies that are interested in operating on the reservations and providing training for the types of skills they would need. He also noted a successful welding program at the Springfield prison.

Senator Thomas Dempster suggested the following organizational outline as a way to organize the focus of the committee:

- Agree to act as a sounding board—make sure that the committee is accessible by conducting several meetings throughout the state;

- Choose one very specific concern on which to focus, devote all the study time to that one issue, and develop solutions regarding that issue; and
- Direct staff to prepare a "white paper" on issues that have been studied in the past and that were not chosen for the one specific study topic for this interim.

Chair Adelstein said that if the committee agrees to Senator Dempster's idea of studying one topic for the 2005 interim, he would like to work on training and rehabilitation of prisoners. He said that he is considering conducting three meetings this interim--one meeting east of the river, one meeting west of the river, one meeting in Pierre—and two meetings during session.

Senator Julie Bartling expressed support for Senator Dempster's idea because she believes that for a committee to be productive it needs to be focused in its deliberations.

Representative Cooper Garnos agreed that it is important to conduct meetings on the reservations and that the committee perhaps should consider inviting all legislators to these meetings. Representative Bradford strongly agreed and stated that inviting all legislators would allow them a chance to see what life is like on the reservation.

Representative Bradford said that there is a housing shortage on the reservations. He suggested that Native American prisoners be allowed work release to help build housing on reservations. Representative Bradford said that the inmates would learn usable job skills that would benefit them when they are released from prison.

Mr. Richter said that he thought flooring and shingling would be good trades for those on the reservations to learn, but there is no housing on the reservations for those skilled tradesmen to apply those skills. He said that every reservation has Tribal Employment Rights Office (TERO) funds which could be used for these purposes.

Senator Dempster said one of the reasons there is no housing is because there are no mortgage lenders on reservations.

Chair Adelstein said that a situation is developing in which children are no longer being entered into some Head Start Programs because funding is dwindling. He said that he is concerned about this development because early education is so important.

For informational purposes, Ms. Bogda-Cleveland told the committee the Governor's Education Seminar will be held April 24-26 in Pierre.

Representative Van Norman noted legislation brought forward by Representative Bradford regarding the state placement of Native American children. He said that some progress was made this session, but he expressed continuing concern with Indian child welfare on the reservations. He suggested that a discussion day on the Indian Child Welfare Act geared toward solutions would be appropriate.

Representative Van Norman said that the bottom line is resources; there needs to be a heavy investment of capital. Representative Van Norman said that the youth population is exploding

on the reservations and commented that better educational tracking of those young people needs to be developed.

Representative Van Norman said that he would like to see numbers that show how much the state is spending per day on adults in prison, including all the peripheral costs, such as county jails, public defenders, and so on. He also asked for information on how the state identifies Native Americans in prison.

Representative Van Norman applauded the efforts of the National Conference of State Legislatures to include a discussion on state and tribal relations, of which a portion focuses on a rural component, on its agenda for its upcoming spring meeting in April in Washington, D.C.

Ms. Jennifer Ring, American Civil Liberties Union (ACLU), said that information is available on the cost of education versus the cost of imprisonment. She said that one of the things that the ACLU looks at is discrimination in education; it is harder to get information on it, but it is an important part of the education discussion. Ms. Ring noted that education has a large impact on quality of life and she would like to focus on education.

Chair Adelstein stated that he would devise a schedule and topics for the next meeting using suggestions made at this meeting, focusing particularly on the interplay between conditions in the prison system, the need for education and training, and economic development in reservation areas.

Adjournment

SENATOR DEMPSTER MOVED, SECONDED BY SENATOR BARTLING, THAT THE COMMITTEE BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The committee adjourned at 5:15 p.m.



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