

# MINUTES

## State-Tribal Relations



Representative Shawn Bordeaux, Chair  
Senator Jordan Youngberg, Vice Chair

**First Meeting, 2019 Interim  
Tuesday, November 12, 2019**

**Room 362 – State Capitol  
Pierre, South Dakota**

The first interim meeting of the 2019 State-Tribal Relations Committee was called to order by Senator Troy Heinert at 10:02 a.m. (CST) on Tuesday, November 12, 2019 in room 362 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering roll call: Senators Red Dawn Foster, Troy Heinert, Phil Jensen, Lance Russell, and Jordan Youngberg (via phone); and Representatives Shawn Bordeaux, Steve Livermont, Peri Pourier, and Tamara St. John. Representative Steven Hugaard was excused.

Staff members present included Alex Timperley, Legislative Attorney; and Rachael Person, Senior Legislative Secretary.

NOTE: *For the purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available on the LRC website at [sdlegislature.gov](http://sdlegislature.gov).*

### **Opening Remarks**

Senator Heinert welcomed everyone to the meeting and opened up the discussion for nominations for chair and vice chair.

### **Election of Officers**

***A motion was made by Senator Russell, seconded by Senator Jensen, that Representative Steve Livermont be appointed Chair of the State-Tribal Relations Committee.***

***A motion was made by Senator Foster, seconded by Representative Pourier, that Representative Shawn Bordeaux be appointed Chair of the State-Tribal Relations Committee.***

***Representative Shawn Bordeaux was elected chair of the State-Tribal Relations committee by secret ballot.***

***A motion was made by Senator Foster, seconded by Senator Heinert, that Senator Jordan Youngberg be appointed Vice Chair of the State-Tribal Relations Committee.***

***A motion was made by Senator Heinert, seconded by Representative Livermont, that nominations cease. The motion prevailed on a voice vote.***

***The motion to appoint Senator Jordan Youngberg as the Vice Chair of the State-Tribal Relations Committee passed unanimously on a voice vote.***

### **Opening Remarks by Representative Bordeaux**

Representative Bordeaux thanked the committee for the opportunity to serve as chairman for the State-Tribal Relations committee. He then opened the discussion for suggestions from the committee on what they would like to have on the agenda for future meetings.

### **Committee Discussion**

Senator Heinert provided the committee with a brief update from the Fighting Methamphetamine Addiction Subgroup. Senator Heinert said after partaking in the subgroup it has become evident that meth is hitting all of the communities in South Dakota very hard. He told the committee there will be movement from the Department of Public Safety and the Department of Social Services to try and get ahead of what is happening in the communities across South Dakota.

Senator Russell asked if any draft legislation had been created. Senator Heinert responded the subgroup did not have any legislation but the larger Offenses Regarding Controlled Substances group was looking at what was done with Senate Bill (SB) 70 and fixing it, so it works for the counties and the state. They were also discussing options for diversion and not waiting until people are in the criminal justice system.

Representative St. John, who was also a member of the Fighting Meth subgroup, said she really appreciated Attorney Mark Vargo's comments about the opposite of addiction being reconnection. She mentioned she was happy to see partnerships being built, particularly in Pennington County, and how Rosebud has been very aggressive in their wish to combat meth. Representative St. John said Rosebud's efforts set a good example for other tribal communities.

Senator Youngberg said he wanted to see the State-Tribal Relations committee hold their meetings across the state in the areas of the different tribes so the committee can hear from the tribes individually and the experiences each of them face.

### **Department of Tribal Relations**

**Mr. Dave Flute, Department Secretary, Department of Tribal Relations,** provided an update on the efforts and activities the Department of Tribal Relations has been a part of over the last year.

Mr. Flute spoke on the flooding challenges some of the reservations have been facing and the assistance given by citizens, the Governor, and the National Guard in those areas. He also touched on Bureau of Indian Affairs canine certifications.

After hearing the committee discussion on meth, Mr. Flute said he is very proud of the department's efforts and the support from the Governor to work with the tribes. He discussed the meeting requested by the leadership from Rosebud Sioux Tribe to look over the Crow Creek Memorandum of Understanding (MOU) and the Joint Powers Agreement (JPA) from Sisseton. Mr. Flute said it was an excellent effort by the Rosebud Sioux Tribe. Unfortunately, some challenges did develop due to the lack of trust between the tribe and the state. Mr. Flute emphasized that the MOUs and JPAs are not a waiver of sovereignty or jurisdiction, however, they are seen as such. Mr. Flute praised the Rosebud Sioux Tribe for their efforts towards battling the meth problem.

Mr. Flute also touched on the State-Tribal Meth Summit that was held which brought together the Department of Tribal Relations and other state and federal partners. He lauded the Summit for resulting in some of the tribes applying for grant money which helps to reconnect the families of those coming out of treatment and jails.

Representative Bordeaux praised Mr. Flute and his team on the way they handled the situation in Rosebud. He commented that Mr. Flute's team was very close to an agreement being made with Rosebud, but people were not trusting that the cross deputization of tribal officials would happen. He told Mr. Flute if the department provided education for the communities and showed that it has worked in other jurisdictions, people would be more trusting. Representative Bordeaux encouraged Mr. Flute to continue down the path he and his team are going.

Senator Russell also commended Mr. Flute for the work he, and the department, has done. He expressed disappointment in a recent press release by the Governor and suggested her presence at the December 18, 2019 State-Tribal Relations meeting might be a good start to building trust so individuals can see that the government is listening and trying to move forward in a positive way that is inclusive.

Senator Heinert thanked Mr. Flute for the leadership and insight he provided to help pass [SB 126](#), and asked Mr. Flute if any effort was being made to utilize it more across the state. Mr. Flute discussed the ways it was being implemented and included some information on the State-Tribal Relations day coming up in January.

Representative Pourier asked Mr. Flute for an explanation, from his perspective, of what transpired during the Governor's visit to Pine Ridge. Mr. Flute shared his viewpoint with the committee and stated his office and the Governor hope to mend that relationship.

### **30<sup>th</sup> Anniversary of Native American Day**

**Mr. Richie Richards, Journalist, Native Sun**, gave the committee an overview of his background, his work with Native Sun News, parades, meth awareness walks, and other events he has planned across the state. He then discussed his involvement in the Native American Day parade he has tried to, and would like to, initiate in Pierre. He referred often to the efforts made by Governor Mickelson in 1990.

Representative St. John also spoke to the committee on the parade and said that as a historian working with cultural heritage history and tourism, part of her mantra is for the tribes to take control of their history by telling their own story.

Senator Heinert commented that a parade of this magnitude would be a long time coming in the community. He asked Mr. Richards if, in his capacity as a leader in the Black Hills area, he had heard anything as it pertained to the Sioux San and the reconciliation efforts that are going on with recognizing the children who never made it home from there. Mr. Richards responded they have held marches for the past couple of years where family members and participants have carried signs with the names of the deceased on them. He also spoke on some other efforts taking place regarding Sioux San.

Senator Russell thanked Mr. Richards for his work. He mentioned that growing up close to a reservation, one of the things he always regretted was not having a good knowledge base of the culture and he wishes more people were exposed to the history and culture and stated people should be enlightened about different cultures as much as possible to bring about better understanding.

## Increasing Tribal Enrollment in Higher Education

**Mr. Paul Beran, Executive Director,** and **Mr. Jay Perry, System Vice President for Academic Affairs, Board of Regents (BOR),** provided the committee with updates on projects the BOR has accomplished. Mr. Beran spoke on the Wokini Initiative, the Jump Start program, and different programs the universities are implementing, or already have in place, for American Indian students. Mr. Beran also spoke in depth on the Dakota's Promise program which he said will be the Board's top priority in the upcoming legislative session.

The program is aimed at financially challenged students who qualify for the PELL grant. If funded, the program would provide 2 million dollars in state funds and 2 million dollars in matching funds from participating institutions to provide \$2500 each year to 470 students graduation from high school and entering a university who meet scholarship and testing criteria.

Senator Russell commented on the amount of debt students in South Dakota universities acquire during their time in the programs. He recognized the importance of the Dakota's Promise program but said BOR should be looking at a bigger picture, so South Dakota students are not the most heavily indebted individuals coming out in a national average.

Senator Heinert touched on the efforts being made to recruit and retain the students. He said the schools are meeting that challenge, but he pointed out that the South Dakota tribes are losing a lot of students to out-of-state universities because they have tuition waivers. He asked Mr. Beran if the BOR has looked at tuition waivers for members of the nine federally recognized tribes in South Dakota. Mr. Beran responded that the obstacle right now is [SDCL 13-55-1](#), and stated that if a law was passed to waive those fees and if a law was not conversely passed that reimbursed the institutions for the funds it would take to educate those students, it means the students who are paying and building up the debt are the ones who will be paying that tuition because it is a real cost and has to be paid somewhere along the way. Mr. Beran said he would like to see the legislature embrace a bill that would provide funding for tuition waivers for American Indian students and that the institutions are reimbursed for the cost of that waiver so other students are not given the burden of paying for another student, but the difficult part of legislation of this kind is that the funding does not come with it.

Representative Pourier asked what cooperation is taking place to deal with the transfer of credits issue that is continuously a topic of discussion. Mr. Perry said each of the institutions maintain specific agreements on the credits that will transfer from tribal colleges to the universities. He also mentioned that South Dakota State University is working on a master's degree in interdisciplinary studies for the purpose of addressing the required credentials teachers at the university level need to maintain, and the difficulty tribal colleges have in retaining staff with those credentials.

## Native Education – NDN Collective

**Ms. Sarah Pierce, Director, South Dakota Education Equity Coalition,** provided the committee with in-depth information on the South Dakota Education Equity Coalition and their Indigenous Public Charter Schools Initiative.

The goal of convening the Coalition was to create equitable and inclusive education options and solutions to close the educational achievement gap for Native American youth in South Dakota. Ms. Pierce said the foundation of development begins in schools and with that knowledge, the primary goal of the Coalition is to create legislation to support a community-based public charter school model of indigenous education and create a conducive funding model.

Ms. Pierce stated the desired outcome is that by 2025 South Dakota's indigenous students will experience greater access to educational opportunities for success and equity. The Coalition wants children to go to schools and be unapologetically indigenous in all senses of the word. Ms. Pierce also stated the Coalition's board of stakeholders compiled a group to create draft legislation the Coalition hopes to present in the upcoming legislative session.

**Ms. Nakina Mills, Vice Chair, Education Committee, Ogallala Sioux Tribe,** read a statement by **Mr. Matthew Rama, Director, Lakota Language Initiative, Thunder Valley CDC.** Ms. Mills also spoke in support of the initiative stating that as a resident of the Ogallala Sioux Tribe she commends and supports the initiative and asked for the committee to do the same.

**Mr. Sage Fast Dog, Rosebud Economic Development Corporation,** gave an overview of the work he has done in the education system, and spoke on the Inspired Schools Network that has allowed indigenous leaders an opportunity to transform their communities and showed him how to lead. Mr. Fast Dog said the committee's support of the charter legislation would provide opportunities to develop equal education to help their youth. He said the development of the charter school will raise the bar on education and he hopes the state will do its part and support the legislation.

**Ms. Chante Heart, Organizer representing the South Dakota Education Equity Coalition,** spoke of her children, their education, and the opportunity to learn their own language and heritage by attending school on the reservation rather than attending a public school which is why she is fighting for better education for their students.

**Mr. Kansas Middletent, Lower Brule Sioux Tribe,** spoke in depth of his experience working with the social and emotional needs of Native American children across the state. He gave testimony from the Aroua Plains Academy as an example of the successes seen when native students are provided cultural aspects and teachings of their heritage. Mr. Middletent said when the kids start learning their identity and getting their connectedness, they start to thrive, and the Coalition wants to help people be proud of who they are and assimilate in a positive way.

Senator Jensen asked Ms. Pierce what the biggest impediment for charter schools was. Ms. Pierce responded that the biggest opposition they face is the funding. Many of the schools in the larger districts see this option as a direct threat to funding, but she is hopeful having the option will help to catch the students being lost in the public schools.

Senator Russell asked if the Coalition would be asking for a one-time payment on a yearly basis or if the funding would be based on the number of students that matriculate into the program. Ms. Pierce said the state does not currently have a statewide per pupil amount identified so it varies from district to district, but the funding they are hoping to gain would be based on per pupil.

Representative Pourier and Senator Foster praised the work the Coalition is doing.

### **Public Testimony**

**Mr. Lester Thompson, Chairman, Crow Creek Sioux Tribe,** and **Mr. Ross Garelick-Bell, representing the Crow Creek and Yankton Sioux Tribes,** brought forth proposed legislation they are planning to introduce in the upcoming legislative session.

One bill draft is a resubmittal from last year's session and involves the Dakota Removal Act. Mr. Thompson said they are seeking support from the state to remove longstanding federal law which removed the Dakota from

Minnesota and placed them in South Dakota. He commented that its introduction in the previous legislative session was bad timing for this particular bill, but he hopes the committee will support the bill this year and push the legislation forward.

Mr. Garelick-Bell added that at the federal level, the law is causing some confusion and issues. The request is that the Legislature pass a resolution to Congress and the delegation asking to amend the federal law.

The committee asked that more information and history on the federal law be provided before they make any decisions on the request.

Mr. Thompson said the second bill they are asking the committee to support revolves around accountability toward private industry pertaining to the pipeline. The biggest concerns will be pollutants, leaks, and spills and who is responsible for the cleanup. With the bill, they are looking to propose similar legislation to the Alaskan bills that hold the private industries responsible for the cost of the clean up so it is not passed on to the private land owners, the tribes, or the state.

Senator Russell said he sided with the issue, but voiced concern over possible impediments developing from federal laws. He asked Mr. Thompson and Mr. Garelick-Bell for more research and documentation to make sure this type of request would be feasible for the state. The committee echoed his concerns and asked that more research be provided at the December 18 meeting.

Mr. Thompson commented that their goal in speaking with the committee was to initiate conversation. He remarked that they were not just approaching the issue as a tribe, but as South Dakotans who would like to see the protection and continuous protection of the state's environments.

Representative Pourier commended Mr. Thompson and Mr. Garelick-Bell for being proactive and asking for conversation prior to any action being taken.

### **Adjournment**

***A motion to adjourn was made by Senator Jensen, seconded by Senator Foster. The motion prevailed on a voice vote.***

The committee adjourned 3:28 p.m.