

# MINUTES

## State-Tribal Relations



Representative Shawn Bordeaux, Chair  
Senator Red Dawn Foster, Vice Chair

**Second Meeting, 2020 Interim  
Thursday, August 27, 2020**

**Room 413 – State Capitol  
Pierre, South Dakota**

The second interim meeting of the 2020 State-Tribal Relations Committee was called to order by Representative Shawn Bordeaux at 1:05 p.m. (CST) on Thursday, August 27, 2020 via electronic conference and in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering roll call: Representatives Shawn Bordeaux, Chair, Steven Haugaard, Peri Pourier, Tony Randolph, and Tamara St. John; and Senators Red Dawn Foster, Vice Chair, Troy Heinert, Phil Jensen, Lance Russell, and V.J. Smith.

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**

Representative Bordeaux welcomed everyone and opened by saying it is important for tribal people to participate in government at all levels. He said he is trying to instill confidence in the tribes of South Dakota that state government works for them and is willing to work with them, but everyone has to engage with the state on all levels to help move things forward and improve things across the state. Representative Bordeaux spoke on the work the committee has inherited, going back to the reconciliation efforts started by the late Governor Mickelson. He said the committee has done great work in the past, and he is confident in the members of the committee and the work they will do going forward.

### **Approval of Minutes**

***Senator Russell moved, seconded by Representative Haugaard, that the July 21, 2020 minutes be approved. Motion prevailed unanimously.***

### **Voting Issues**

**Mr. OJ Semans, Four Directions**, spoke on the voting and voting rights issues taking place throughout the country. He pointed out that voter registration has declined in certain areas within Indian country and the number of individuals not receiving the assistance they need in registering to vote. Mr. Semans voiced his concerns with certain actions being taken by the Secretary of State's office and said the committee should be aware that lawsuits could be filed in the future.

Representative Bordeaux asked if Mr. Semans had any ideas on how the state and the tribes could work together regarding the tribal I.D. verification issue that has been experienced in the past. Mr. Semans suggested that the

state notify the tribes of the requirements for a tribal I.D. to be accepted, and that the state accept tribal I.D.'s that meet those requirements. Mr. Semans added that a lot of rules and regulations are put in place to stop certain things from happening but what ends up happening is that thousands of people are unable to utilize their tribal I.D.'s, so if the state would create requirements for tribal I.D.'s, and the tribe meets them, they should be acceptable for voter registration and voting.

Representative St. John commented that the state could run into issues if tribes, as sovereign nations, objected to the state stipulating what is required for I.D.'s. She encouraged each tribe meet with the Secretary of State to discuss the information their members would be willing to have on their tribal I.D.'s. Representative St. John also touched on an amendment she brought forth in the 2020 Legislative Session, and Native American Voting Rights Act legislation she looks to propose in the upcoming session.

Senator Heinert highlighted the issue of the Secretary of State's office not having a way to access the numbers that coincide with tribal I.D.'s, and said it should be a point of focus to figure out a way for the numbers and addresses to be verified.

**Mr. Steve Barnett, Secretary of State, South Dakota**, added that the state has to be able to verify individual's information. If the tribes want to let the state have access to their databases to verify the members, the county auditors would be able to accept the tribal I.D.'s for individuals registering to vote. He clarified that if an individual is already registered to vote, the tribal I.D.'s are accepted at the polls, and individuals can use them to vote in person, absentee, as well as request an absentee ballot be mailed to their house. However, to register to vote, a driver's license, or non-driver ID, issued by the state of South Dakota, or a social security number is required.

**Ms. Kea Warne, Director of Elections, Secretary of State**, spoke on absentee satellite sites and South Dakota's Help America Vote Act (HAVA) state plan that sets out which counties can apply for the absentee satellite site HAVA grant. By July 1 of every odd year, county auditors can submit an application for the absentee satellite grant. The applications are reviewed by the HAVA grant board and then sent to the Secretary of State's office with approval, denial, or recommendations on reducing or increasing the amounts. Ms. Warne also provided information on the requirements of the HAVA grants and statistics from the last 4 years.

Representative Bordeaux inquired after the requirements on the hours the satellite sites are open and if those hours are limited. Ms. Warne said the hours of operation are determined by the county commissioners and auditors. If counties are running into difficulties with limited hours of operation, it could be a result of limited available staff.

Ms. Warne also touched on concerns raised by Mr. Semans and discussed changes the Secretary of State's office has made to be of better assistance to those who need it when registering to vote.

### **Tribal Leader Discussions**

Representative Bordeaux asked the tribal leaders to provide an update on situations on their reservations, particularly concerning COVID, and any requests they may have that the committee could help with.

**Chairman Boyd Gourneau, Lower Brule Sioux Tribe**, discussed voting in Lower Brule and stated the tribe has a good relationship with the county, the issue is getting people out to vote. He also discussed the checkpoints at the request of the committee and said the checkpoints have given members of the community a sense of comfort, have curbed a lot of traffic that did not need to be coming into the reservation, led to some arrests involving drugs, and also provided good employment opportunities.

Chairman Gourneau said the Lower Brule Sioux Tribe is holding their own when it comes to COVID. Their school started, unfortunately had to shut down after a few days due to a few positive cases but is up and running again. He commented that personal protective equipment (PPE) would be the greatest help to the community, especially for the students riding the buses.

Representative Pourier asked if Lower Brule was running into any challenges with their census count and if they have been getting the resources needed. Chairman Gourneau said they have been getting the resources they need but it is still a challenge due to staffing issues. They are doing their best to get an accurate count as that will help when it comes to the amount of funding received.

**Vice Chairman Jason Cooke, Yankton Sioux Tribe**, spoke about the unemployment rate and how that has been detrimental to their community. He also discussed an ongoing pipeline and flooding issue they have been dealing with in their community and how the pandemic has slowed progression on repairing the problem.

Representative St. John asked Vice Chairman Cooke if his community members have been denied or are not receiving answers or communication in regard to unemployment. Vice Chairman Cooke said people are really struggling and some have not received their first unemployment check yet.

Senator Jensen added he has been approached by numerous people in the Rapid City area regarding the lack of unemployment benefits being distributed by the state.

Senator Heinert also voiced his concern with the unemployment issue and his disappointment with statements made about how the state has recovered from the pandemic and the low unemployment rate.

Due to the concern with unemployment, the committee requested research be done on the numbers in the state. Representative Pourier advised caution when gathering unemployment data for Native American communities as a large disparity exists between the numbers the Bureau of Indian Affairs reports versus what the state reports.

### **School Openings on Reservations and Education Related Issues**

**Ms. Dayna Brave Eagle, Oglala Sioux Tribal Education Agency Director**, told the committee the tribal council created a Shelter-in-Place ordinance in March that addressed distance learning at that time. The ordinance is the law of the land and most of their schools and school boards took action to have schools start online and an assessment will be done as the first quarter ends. The ordinance is currently still in place and plans have been designed with guidelines for reopening once the tribe decides it is safe to reopen. Ms. Brave Eagle said the Pine Ridge Indian Reservation is not reopening schools because they do not have the resources to handle an outbreak if one should occur. The children are their greatest resource and they do not want to take any chances when it comes to the health and welfare of the children. Ms. Brave Eagle emphasized that it is important for the state and the tribes to work together and support each other to keep children safe.

**Dr. Sherry Johnson, Sisseton Wahpeton Oyate**, deals with a number of schools including public schools and tribally funded schools. She said their schools are using a number of different strategies to keep children and staff members safe. Dr. Johnson commended the Department of Education and the support they have provided. She said their community is doing everything they can to make sure students and families have the resources they need for virtual learning. Dr. Johnson pointed out that her main concern is making sure the food program allows for deviances in how they are serving food, especially for those who are partaking in digital learning. They need to be allowed to have the food service delivered or have the option of picking it up.

**Mr. Brian Wagner, school liaison, Crow Creek and Lower Brule Sioux Tribes**, recognized Mr. Gil Moran who has worked diligently with tribal education directors to keep them informed during this difficult time. He also thanked the state for making Zoom services available to the tribal schools as well as the public schools. He reiterated Dr. Johnson's comments on the free and reduced lunch and said there could be a number of students who end up having to learn virtually this year and they probably will not get the free and reduced lunches they would get if they were physically in attendance.

Mr. Wagner said the state should have taken formal action when it came to the Athletics Association. It is unrealistic to expect children to wear masks when they're in school, but not when they are on the athletics field. This has put many schools in awkward situations because children want to play sports, and some are being forced to transfer to schools that are offering athletics as most tribal schools are not allowing athletics this year.

**Chairman Peter Lengkeek, Crow Creek Sioux Tribe**, said Crow Creek has pushed back the opening of their schools and the first nine weeks are going to be all virtual. Chairman Lengkeek said one of the biggest concerns they have is the ordinances put in place by their governing body that state if an individual in a household tests positive, the entire household must quarantine. Many of their children attend school in Chamberlain and more have transferred to Chamberlain to participate in sports. Chairman Lengkeek voiced concern over truancy issues that could arise if those children are forced to quarantine due to family members testing positive and the ordinances put in place.

**Ms. Cherie Farlee, Cheyenne River**, echoed what was said by the other tribal education directors. She said their biggest concern is connectivity. They have been working with the local telephone authority and have put in hot spots and Wi-Fi but there are many isolated homes so not everyone is connected. Ms. Farlee said some of their schools have started and some have not, and they have had issues with schools or athletic programs starting and having to be shut down due to people contracting COVID. She said they have not had concerns over children getting fed because everyone has pitched in to make sure their children are getting the food they need. Ms. Farlee stated there needs to be a uniform plan for schools to get up and running. A uniform plan was in place when everything shut down, but it has not been uniform when it comes to schools and athletic programs starting up and that has created tension and severed relationships.

### **Public Testimony**

**Mr. Ross Garelick-Bell, lobbyist for the Yankton Sioux Tribe, Crow Creek Sioux Tribe, and South Dakota Education Equity Coalition (SDEEC)**, provided an update on the Moon to Mars program the Crow Creek and Yankton Sioux Tribes have been working on with NASA. The program is moving forward, and the tribes have had discussions with NASA leaders about possible demonstrations and set up. NASA is also looking at creating a Space Act agreement which will officially engage the tribes with the federal government and NASA in particular. Mr. Garelick-Bell said he would update the committee as the program continues to move forward.

Mr. Garelick-Bell also informed the committee on draft legislation the SDEEC is working on and will bring in front of the committee when it is completed.

### **Committee Discussion**

Representative Bordeaux highlighted a draft letter to the Bureau of Indian Affairs (BIA) encouraging them to accept the offer from the South Dakota Law Enforcement Training to host BIA training in South Dakota.

***Representative Haugaard moved, seconded by Senator Heinert, that the letter to the Bureau of Indian Affairs be supported. Motion prevailed unanimously on a roll call vote.***

Representative Bordeaux spoke about the equine therapy program at Sinte Gleska University and their hopes of sending horses and riders to participate in the annual buffalo round-up dressed in full regalia. Representative Bordeaux said this would be an excellent opportunity for the event and tourism in the state. He asked the committee to support a letter he wrote to ask that their riders be allowed to participate which he intends to send to the Governor; Custer State Park; Game, Fish and Parks; Secretary Flute; and the Department of Tourism.

***Representative Randolph moved, seconded by Representative Haugaard, to support the letter of encouragement regarding the Custer State Park buffalo round up. The motion passed on a roll call vote with 9 voting AYE and 1 EXCUSED. Voting AYE: Haugaard, Pourier, Randolph, St. John, Heinert, Russell, Smith, Foster, and Bordeaux. EXCUSED: Jensen***

Representative Bordeaux discussed a resolution of support that the committee put together stating the committee supports tribal sovereignty; the Executive Branch giving the tribes PPE, testing equipment, assistance in getting testing done; and they offer any assistance they can with the COVID effort.

***Senator Russell moved, seconded by Senator Heinert, that the resolution of support be approved. The motion passed on a roll call vote with 9 voting AYE and 1 EXCUSED. Voting AYE: Haugaard, Pourier, Randolph, Heinert, Jensen, Russell, Smith, Foster, and Bordeaux. EXCUSED: St. John***

Senator Heinert commented on the number of topics discussed during the meeting and said it is imperative to assemble the different standing committees active during the legislative session so members can hear the issues taking place in the state as a legislature and discussions on allocating the resources given to the state can take place. He said the 105 legislators who represent the districts should be granted a say in how the state moves forward with the budget.

Representative Haugaard agreed with Senator Heinert and said it would be helpful if each of the tribes had a fiscal person available that could give the committee a breakdown of the dollars they are receiving or challenges they have been facing in getting the dollars.

Senator Russell added this was an important discussion to have because the money granted to the state should not be allowed to be spent without legislative oversight.

***Senator Heinert moved, seconded by Senator Foster, that the State-Tribal Relations Committee recommend that the Governor call a special session before the dispersal of CARES Act funds and that the Legislature's Executive Board establish standing committees to discuss the expenditures of funds. The motion passed on a roll call vote with 9 voting AYE and 1 EXCUSED. Voting AYE: Haugaard, Pourier, Randolph, Heinert, Jensen, Russell, Smith, Foster, and Bordeaux. EXCUSED: St. John***

## Adjournment

***Representative Randolph moved, seconded by Senator Smith, that the State-Tribal Relations Committee adjourn. Motion passed unanimously on a voice vote.***

The committee adjourned at 4:44 p.m.