

MINUTES OF THE MEETING
CONFERENCE COMMITTEE
SENATE BILL 26

April 15, 1985

The meeting was called to order by the chairman, Senator Tom Towe, on April 15, 1985 at 11:05 a.m. in room 315 of the State Capitol.

ROLL CALL: Members present were: Senators Tom Towe and Bill Yellowtail; Representatives Dave Brown, Marian Hanson, Royland Kennerly and John Mercer. Absent was Senator Dell Gage.

The meeting was called in reference to Representative Mercer's concerns in SB 26. Representative Mercer addressed the committee and said there are a lot of concerns but the major thing they are trying to get at is to try to get the local governing body to have some kind of input beyond that of a regular citizen testifying before the Department of State Lands. Since you have the State of Montana making an appeal and the tribal government making an appeal, it could and would have some impact on the local governing body, thus they should play some type of role.

Senator Towe asked if there were a concern about the property being lost from the tax rolls and Representative Mercer stated he is not sure he fully understands that, but maybe one of the concerns is the deal that would be made between the state and the tribe without the local people being involved, which could lead to friction. Another concern is the acreage limitation.

Senator Towe stated at the present time the Department of State Lands does have the right to negotiate and enter into an agreement with the tribe, and the county commission isn't involved in that so there is a reason for them to be involved here.

Representative Mercer stated, yes, one reason is that the taxation was not clear because if they sell to a private individual, there will be property taxes to the county. The other side of the coin is that there are various radical groups on both sides, and at present they have pretty good cooperation. He stated that his concern was that something might upset that. If the state were permitted to come in and make deals with the tribe, some acreage would shift around and it would not be in the best interest of the state. If the local authorities could be elevated to a status similar to the tribe's in this field, they could make a deal that is good for the tribe, the county and the state. He said he believes all parties should be involved.

Senator Towe asked Dennis Hemmer, Department of State Lands, to respond. Mr. Hemmer said if you are talking about the sale, they would go to the board and propose that certain tracts are sold, and when they are sold, they are noticed in the locality and sold at a public sale to the highest bidder. This bill would enable the tribes to bid and remove the acreage limitation. In

an exchange, we go through the board and let the board know that we would like to look at an exchange and lay out the particulars at that time, who the parties are and so on.. With the passage of HB 705 they now have to notify all the lessees even before they go to the board for their approval. If they receive the preliminary approval from the board, they hold a public hearing in locality, get appraisals, etc. and come back to the board with the outcome. A public hearing is now required through HB 705.

Representative Mercer said that this does not solve the problem.

Representative Kennerly stated that he has a fear of the County Commissioners and feels what exists now is adequate.

It was noted that the public hearing is held in the county of where the land is being exchanged.

Senator Yellowtail questioned if the purpose of the bill is to just allow the tribes to be bidders. He stated that he believes this bill to be permissive. Considering the provisions of HB 705 sponsored by Rep. Rehberg and others, he said he believes there are extensive due process of provisions here and pointed out new section 3 of HB 705 which gives the board the power and is the duty to disapprove any exchange that they feel disadvantageous to the state, thus their first criteria is to see the sale is an advantage to the state. The last thing is Article X, Section 4 of the Codes. He stated that such lands sold to the tribe at fee status stays so..there is not an automatic transfer.

Representative Mercer said that in his area, if it is held in fee status it is not taxable.

Donald Claybourn, Indian Affairs, responded that it is taxable. Rocky Boy and Ft. Belknap are the concern.

Rep. Hanson said that they concern in her area was if land was traded 40 or 50 miles away, the rules are not the same and the concern is from the tenants standpoint.

Senator Yellowtail remarked that he does not believe the passage of HB 26 would bring on any big land sale.

Representative Hanson said if we leave the County Commissioners in there with some handle she would agree with it.

Mr. Hemmer addressed the committee and suggested that if they are heading in the direction of consulting the County Commissioners that they strike "obtaining approval of" and insert "without first consulting with the board of county commissioners." He said that one of the things they did last session in SB 118

is establish a rule that they must consult with the County Commissioners before they exchange any federal land. If you insert something like that you would be consistent.

There was a discussion as to whether this committee as a Conference Committee could take action on the amendment before Senator Towe. Senator Towe stated that under new ruling in this session it is possible for the Conference Committee to act as long as they stay within the realm of the amendments presented and not go into any of the bill.

Representative Mercer asked how many acres of state lands there are. He said it seems you would be trading more parts of sections than sections.

Senator Yellowtail said he was not sure what is meant by acreage limitations.

Senator Towe read the way he has proposed it: "No contract or agreement involving land in excess of the acreage limitations in Section 3 may be entered into under this subsection without first consulting with the board of county commissioners of the county or counties in which land exchanges are located." In the acreage limitation of states, no person or corporation may purchase more than one section of state lands, and this area should not include more than 160 acres. This does not refer to tribes, he said.

Mr. Hemmer said this is not needed in the first amendment. He said he would like to see it all consistent.

Senator Towe proposed the following amendment to amendments 1 and 2:

Amendment 1. Following: "may be entered into under this subsection without first" Insert: "consulting with"

Amendment 2. Following: "No sale may be made under this subsection without first" Insert: "consulting with"

The motion was made by Senator Yellowtail to adopt the amendments presented by Senator Towe. The motion passed unanimously.

There being no further business the meeting was adjourned at 12:03 p.m.



Senator Thomas E. Towe, Chairman

