



MINUTES EXECUTIVE BOARD

**Three hundred twentieth Meeting
Monday
October 25, 2004**

**LCR 1
State Capitol Building
Pierre, South Dakota**

Monday, October 25, 2004

The three hundred twentieth meeting of the Legislative Research Council Executive Board was called to order by Chair Representative Orville B. Smidt at 2:03 p.m. (CT), October 25, 2004, in LCR 1 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Arnold M. Brown, Tom Dempster*, H. Paul Dennert*, Brock L. Greenfield*, Gil Koetzle, Royal "Mac" McCracken*, and Ed Olson; and Representatives Julie Bartling, Rebekah Craddock, Phyllis M. Heineman*, Claire B. Konold, Gerald Lange, Orville B. Smidt, and Ron Williamson*. Representative Matthew Michels was unable to participate in the meeting.

Senators Eric H. Bogue* and Garry A. Moore, and Representative Bill Peterson* also participated in the meeting.

* Participated via teleconference.

Staff members present included James Fry, Director; Reuben Bezpaletz, Chief Analyst for Research & Legal Services; Reed Holwegner, Chief Fiscal Analyst; Jacquelyn Storm, Principal Legislative Attorney; and Yolonda J. Soyer, Administrative Assistant.

Others in attendance were Attorney General Larry Long; Assistant Attorney General John Guhin; and Secretary of State Chris Nelson.

(**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.)

(**Clarification:** Voice votes that prevail with all members present voting "aye" will carry the disposition language "prevailed unanimously." Voice votes that prevail with a majority of all members present voting "aye" will carry the disposition language "prevailed." Voice votes that prevail without all members present voting "aye" will list those members casting "nay" votes if so requested by the dissenting voter.)

Approval of Agenda

REPRESENTATIVE KONOLD MOVED, SECONDED BY REPRESENTATIVE CRADDUCK, THAT THE AGENDA BE APPROVED. MOTION PREVAILED ON A ROLL CALL VOTE WITH 14 AYES AND 1 EXCUSED. Voting **AYE:** Brown, Dempster, Dennert, Greenfield, Koetzle, McCracken, Olson, Bartling, Craddock, Heineman, Konold, Lange, Williamson, and Smidt. **EXCUSED:** Michels.

SENATOR BROWN MOVED, SECONDED BY SENATOR OLSON, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION FOR THE PURPOSE OF CONSIDERING ACTION TO BE TAKEN IN REGARD TO THE FEDERAL DISTRICT COURT DECISION ON REDISTRICTING. MOTION PREVAILED ON A ROLL CALL VOTE WITH 14 AYES AND 1 EXCUSED. Voting **AYE:** Brown, Dempster, Dennert, Greenfield, Koetzle, McCracken, Olson, Bartling, Craddock, Heineman, Konold, Lange, Williamson, and Smidt. **EXCUSED:** Michels.

The executive session commenced at 2:05 p.m.

REPRESENTATIVE CRADDUCK MOVED, SECONDED BY REPRESENTATIVE BARTLING, THAT THE EXECUTIVE SESSION CONCLUDE. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The executive session concluded at 3:10 p.m.

EXECUTIVE BOARD ACTION

SENATOR OLSON MOVED, SECONDED BY SENATOR BROWN, THAT THE EXECUTIVE BOARD, HAVING MET WITH COUNSEL AND BEING CONVINCED THAT THE LEGISLATURE DOES NOT HAVE THE AUTHORITY TO REDISTRICT AT THIS STAGE OF THE LEGAL PROCEEDINGS, CONSISTENT WITH THE DECISION OF THE SOUTH DAKOTA SUPREME COURT IN *EMERY V. HUNT*, AND ALSO BELIEVING THAT THE 2001 REDISTRICTING PLAN IS FAIR AND SOUND, AND IN THE ABSENCE OF ANY INDICATION FROM THE FEDERAL DISTRICT COURT AS TO THE EXTENT TO WHICH THE LEGISLATURE WAS JUSTIFIED IN ATTEMPTING TO RECOGNIZE AND APPRAISE THE UNIQUE DEMOGRAPHIC AND SOCIO-ECONOMIC CHARACTERISTICS OF OUR LAKOTA POPULATIONS, HEREBY DIRECTS THE ATTORNEY GENERAL TO RESPOND TO THE JUDGE'S REQUEST FOR A REMEDIAL PLAN REQUESTING SAID JUDGE TO CERTIFY THE QUESTION OF THE APPLICABILITY OF *EMERY V. HUNT* TO THE CURRENT CASE AND TO ENTER AN ORDER IN THIS MATTER IN THE FORM OF FURTHER DIRECTION TO THE LEGISLATURE WITH REGARD TO THE APPROPRIATE RANGE OF NATIVE AMERICAN VOTING POPULATIONS IN THE NEW DISTRICTS. MOTION PREVAILED ON A ROLL CALL VOTE WITH 14 AYES AND 1 EXCUSED. Voting **AYE: Brown, Dempster, Dennert, Greenfield, Koetzle, McCracken, Olson, Bartling, Cradduck, Heineman, Konold, Lange, Williamson, and Smidt. **EXCUSED**: Michels.**

Senator Koetzle thanked the Executive Board members for their many kindnesses extended to him during a trying time this past summer. He said that it was nice to know that he had so many friends.

Next Meeting Date

The Board is scheduled to meet on Monday and Tuesday, November 22 and 23, 2004.

REPRESENTATIVE CRADDUCK MOVED, SECONDED BY REPRESENTATIVE BARTLING, THAT THE EXECUTIVE BOARD ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The Executive Board adjourned at 3:15 p.m.



All Legislative Research Council committee minutes and agendas are available at the South Dakota Legislature's home page: <http://legis.state.sd.us>. Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at **My LRC** (<http://legis.state.sd.us/mylrc/index.cfm>).