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2001 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2424

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2424

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date February 8, 2001

Tape Number	Side A	Side B	Meter #
1		X	0.6-End
2	X		0.0-4.9
3	X		22.6-27.4
February 15, 2001 1		X	8.8-22.7
Committee Clerk Signature <i>James A. Rails</i>			

Minute : **Chairman Krebsbach** called the committee back to order and opened the hearing on SB 2424 which relates to the state historical society and the state historical society advisory board and specific sections of the current North Dakota Century Code relating to the same, providing an effective date; and declaring an emergency. **Senator Rich Wardner**, District 37, prime sponsor of the bill appeared before the committee to explain the proposed legislation. He indicated that SB 2424 really breaks down into two parts. The first part is a clean up part. This bill cleans up language and addresses the issues. For the record, last summer the past superintendent of the historical society, Sam Wagner asked Senator Wardner to sponsor this bill. In all fairness to him the second part of the bill which changes the make up of the board that was not something that he was into. He was into cleaning up the language. Senator Wardner indicated that he wanted that on the record. He has a great deal of respect for Sam Wagner and was disappointed that he left us. He knows we have a good man in his place and he feels good

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about that. He really enjoyed the enthusiasm that Mr. Wagner brought to the historical society so he wants everyone to understand that he did not undercut anyone or go behind anyone's back. He is a very honorable person. On the first part cleaning up the language, we were changing the word from superintendent to director. That is what persons in this position in other states are referred to as. Another one is changing the word board to society. Changing the word president to chairman or chairperson. Those are the things that go throughout the bill. That is why the bill is so lengthy. It clears up some designations to historical sites, naming things, getting things current. The second part of the bill is in Section 18, page 10 of the bill. This is something that came along later. There were some that had some concerns about the board and Senator Wardner agreed to allow this to be debated in this bill. The debate was should this be a different bill or should this be debated here? He indicated that he will fight for the first part of the bill because he thinks it is important for the language cleanup throughout the bill. As far as killing the bill for any reason, he does not want that to happen. If amendments are needed to adjust the portion on that makeup of the board that is fine. Page 10, line 27, the over struck language tells you what the current board is made up of. There are 12 members on the State Historical Board. That has now been changed in the bill. If you go back to page 10, line 21, it has been changed to the governor, the secretary of state, the chairman of the council, two members from the legislative assembly. On page 11, line 16, 9 members appointed by the governor. That basically explains the bill. The second part which involves the make up of the board is the portion that is up for debate. **Senator T. Mathern** inquired in your splitting of the bill into two parts, one kind of cleaning things up and bringing things up to date and the other one changing the make up of the governing structure. In the second part does that include both sections 18 and 20? **Senator Wardner** indicated that section 20 would be a new part because that is all new language.

Chairman Krebsbach indicated the board is changing from 12 to 5 members and the advisory committee would consist of 9 members. **Senator Wardner** indicated that is correct. **Al Jaeger**, Secretary of State, appeared before the committee. By law he is a member of the State Historical Society Board. His comments should be taken as one member of the board and not be reflective of the entire board. As Senator Wardner has referred to the bill, it has 60 sections. Except for sections 18 and 20, all of the rest of the sections do not change anything substantial in the law at all. What it does is it changes wording that makes it consistent in referring to the proper entities throughout the century code. Secretary Jaeger urges that the language in the 58 sections be changed as they are very critical as we move forward. The second thing has to do with sections 18 and 20. Secretary Jaeger indicated he has been involved with several people that have concerns about the present structure of the board. You will hear testimony that under the present board structure he is in the minority by a vote of 8 to 2 in terms of supporting these and that he can fully understand. As Senator Wardner has alluded to these sections are open for discussion and in the last 24 hours have received a lot of input from a lot of people that he has a tremendous amount of respect for. He indicated that there is a drafting error in section 20, line 25 subsection 3 should be deleted. There are proposed amendments from the legislative council which will do this. The second question deals with why the change in the make up of the board. The change in the board is not reflective on anyone or any person. It is intended to clearly identify the state historical society as an agency and clearly put the responsibility for the operation, daily operation of the that board in the hands of the director. And that the accountability and responsibility that they would then have would be to the new five member board. Under the present structure, the 12 member board meets four times a year. There is kind of a fine line where the director is caught with whims of the board and carrying out the duties of the agency as mandated in a

number of other things. On the other hand there is definitely a need for public input so the proposal as far as the board is to expedite the business of the board of studying the policy of the board and long term direction, hiring a director and having that director run the agency. To allow for the public input there would be an advisory council. Based on a comment that was made yesterday in a special board meeting referring to the advisory council as something that would just end up as a social group. That is not the intent. In the bill the advisory council is given very specific responsibilities. But having heard that he also reflected that an advisory council of 9 might be unwieldy. He would hope that the new board structure would use the advisory council as very much a working advisory council. He indicated that he would recommend that the advisory council number be changed from 9 to 5. The way he can see the advisory council work, we are obviously in a search for a new director. He could see very easily see that council be the screening committee. They could review applications that come in and be used to forward 2 or 3 recommendations to the board for their consideration. He can see them meeting during the year and bringing forth specific needs and awarenesses to the board. You have a much better way of strengthening the board in the long run. There has been some concern that if we should change it would take away, it would take the board away from, well, in its current make up the board has become rather political both in the normal political party political and also just political among the make up of the particular board and the interaction. The intent is really to improve, really allow the historical society to blossom. They are one of our most valuable assets in the state of North Dakota. In the present structure sometimes the director is in a very difficult spot, he doesn't know which way he is to respond and who he is really working for. This gets to be very awkward. He presented the proposed amendments to the committee. He presented the committee with a handout of the board structure from it's origin to the present

time. Questions were offered at this time. **Senator T. Mathern** indicated he noted the comment made by Secretary Jaeger that he didn't want this to be political, but he did get a request from someone, he thinks a republican, wondering why the new board everyone would be republican. That just doesn't fit. **Secretary Jaeger** indicated that he doesn't recall in any discussion where anyone has done a head count in terms of the political make up of the board. The governor was chosen because he was the governor, the secretary of state was chosen because he has been on the historical society since 1895, the two legislative appointments; in talking with Senator G. Nelson, he felt that it was best to leave it open so that the legislative council with every structure that it has, has the leeway to appoint the two members as they see fit and not to have that directed in law. The fifth person would be a member of the advisory committee. I guess it can be assumed that the advisory council might be made up of people that the governor has appointed but he does not know anywhere even in the present structure where there is been a means of identifying political parties. **Senator T. Mathern** indicated that is what he is trying to figure out here. The question then is if it isn't in fact it is in perception. This was somebody who had served and thought that this was the intent of the bill. **Secretary Jaeger** indicated that even under the current structure there are only two members that are independently elected. Under the current system there are 10 people that are in the effective control of the governor and 2 that are not. Under this system he can only see that the governor has possible control of a fifth person. The Secretary of State is elected independently and so would be the two people chosen by the legislative council. The proposed structure is less political in nature if you are getting into party identification, than the potential of the new. **Senator C. Nelson** inquired what is going on with the state board now? Is it their mission to develop policy and then give it to whoever your director is going to be to carry out or is their mission policy plus implementation and an

oversight? **Secretary Jaeger** indicated the society has had two superintendents who have served over a term of 50 years. The board has not always set policy like it should. At times what the board has done is put, I shouldn't say the board, but I think individually at times certain people have put individual pressure on the director to go in a direction that quite frankly would be contrary to what the whole board might feel, or what that members responsibilities are in other areas. For instance combined efforts regarding Lewis and Clark. Sometimes I think there are things that have been at odds. The board meets four times a year so the public members input is exceedingly important. There are things for instance, how much do you pay the director, there are certain logistical, management things, that become the responsibility of the board when they are not in a good position to know exactly all of the ins and outs and what is involved in running an agency and the budget. That is why under this system he would view the board as being a policy making body, giving specific direction to a director to carry out that policy, and then hold that director accountable for doing it. Section 19 of the bill which actually is the new part, makes it very clear that the society is an executive agency of the state. Right now I don't know that is the case. **Senator C. Nelson** inquired how the Foundation fits into the Historical Society? **Secretary Jaeger** explained this. **Merl Paaverud**, interim superintendent for the historical society appeared before the committee, a copy of his written testimony is attached. **John Von Rueden**, vice-president of the state historical society board, came before the committee to testify in support of SB 2424 with amendments. He indicated that he is not feeling good about this. He was glad that the secretary of state was here because he now knows where the genesis of the subterfuge came from. He handed out an E-mail from Bev Horne, president of the state historical society in which she made her written recommendations to the committee. Mr. Von Rueden also handed out a copy to each member of the strategic long range plan for the State

Historical Society for the years 2000 to 2007. He indicated that the board is a volunteer board. We don't need any more bureaucracy. The board is a buffer, for or against, the society out there that wants to have people they can talk to. That wants people that love history, not people that may or may not show up for a meeting. This is a labor of love. We are not talking about a political subterfuge. What do we do? We don't do anything, the faceless board. At this time he handed out the strategic long range plan to committee members. We function very well, this thing was put together with the board involvement. With the organizations involvement. It was a dual project that shows you that we are addressing all of the needs of not only the North Dakota State Historical Society but the things that we think that those hundreds and thousands of North Dakota Volunteers that are out there. You see we care about places, we've been there, we go to places. This is not just based in Bismarck. We go to these places and have meetings. We are the representative of the people. Do you think that by putting another layer of bureaucracy in that the people are going to be served any better. If it ain't broke don't fix it. This works, it has worked, it will continue to work. To formulate a new plan dictated by the Oracle of the Western World whoever that may be. We were never approached to talk about this, we were never shown it, sections 18 and 20. We were never asked about it. How would you feel. We are right now officially representing the North Dakota State Historical Society. Does it make any difference, No! We don't want to talk to them because they might want to get political. This bill was put in at the eleventh hour and none of us were contacted. We had a meeting yesterday of the state historical society and in the meeting our good president made the, being quite sad about the whole thing, made the suggestion that was agreed upon by others by a vote of 8 to 2 that we still need the document without section 18 and 20. All that which has been scratched we ask, we implore you leave in, reject the new wording for 18 and 20. Keep the bill, the other stuff in here,

the other things are things that we the board, the current board with concurrence with the North Dakota State Historical Society. People, we put this together. The additions were made by others who didn't have the common decency to ask our opinion. Officially representing the state historical society, we ask that bill 2424 be passed without the changes in sections 18 and 20.

Senator C. Nelson inquired why Mr. Wagner left. Was it for money or for other reasons? **Mr. Von Reuden** indicated that we don't know. I think that he found a better thing. In the meantime he had very good advice for us as is evidenced in the long range plan for the society. **Pemina Yellow Bird**, enrolled member of the three affiliated tribes and member of the North Dakota Intertribal Reinternment Committee and 5 year veteran of the state historic board. She also appears on behalf of her tribal chairman. She indicated that she stands opposed to the passage of SB 2424. We are dissatisfied with the level of consultation between the state of North Dakota and the indigenous nations whose homelands you are in, the permitting section of SB 2424 does not take into account that if this newly created 5 member board is allowed to make decisions regarding sites that are associated with our people. Those are people making decisions about sites really that they are undereducated about. There is nobody in this state except her people who are in a position to give a true and accurate accounting of the importance of those sacred cultural and historical sites. We have lost so many of our homelands. We have lost access to so many of these sites that are important to us because they are holy, because they are part of the oral history, the living history of our people. Of the indigenous people here in North Dakota only the Mandan are truly indigenous to this area. The oldest of the peoples living here are Mandan, Hidatsa, and Arikara. Every square inch of this state is hallowed to us. Every part of it contains memories, land marks, part of our living history. If we are not careful about the treatment and disposition of sacred cultural and historic sites we are going to lose even more

