

Issue Memo Draft 12-04 – History of the State-Tribal Relations Committee

October 9, 2012 – Tom Magedanz

Introduction. The State-Tribal Relations Committee was established by the 1993 Legislature as a permanent legislative study committee to “make a continuing study of the relations between the state and its political subdivisions and the tribes and their tribal governments” (SDCL 2-6-20). The committee was established as a continuation of Governor George Mickelson’s reconciliation efforts following his designation of 1990 as a Year of Reconciliation in South Dakota. The committee has been in operation since 1993 and has included a large number of legislators who served as members of the committee and has met on a variety of topics over the years. The committee has served primarily as a means of enhancing communication between the legislature and Native American tribes and other Native American groups and as a means of educating legislators on issues and conditions relating to South Dakota’s Native American community.

State Commissions and Offices Relating to Tribal Affairs. Before the formation of the State-Tribal Relations Committee in 1993, a number of state commissions and agencies were established to address issues affecting Native Americans in South Dakota. These include the following:

1949 – State Commission of Indian Affairs (HB 388, Ch 244, 1949 session Laws; SDCL 1-4-1). The commission’s purpose was “...to consider and study living conditions among the Indians residing within the state, with the purpose in view of establishing a method of absorbing the Indian people into the economy of the state. Such study shall be made with reference to education, employment, housing, betterment of living conditions, medical care, hospitalization, and promotion of the general welfare of the Indian population of the state...” The commission had even members: Director State Board of Health, Director Department of Public Welfare, Superintendent of Public Instruction, Attorney General, member at large appointed by Governor, two persons at least one-fourth Indian blood appointed by Governor. Members served three-year terms. The commission was to meet at least twice a year and report findings and recommendations to the legislature.

In 1974 the State Commission of Indian Affairs was transferred to office of the Governor (Ch 2, Sec. 283, 1974 Session Laws), and the commission’s composition and mission were revised (SB 33, Ch 4, 1974 Session Laws; SDCL 1-4-1 to 1-4-7). The commission’s purpose (1-4-1) was to “... serve as agency for securing assistance... and services... particularly in areas of education, health, welfare, legal problems, small businesses...; equal opportunity to Indian people to solve their educational, economic, and social problems... retain as much of their culture and background as they desire...; serve as an advocate of the Indian citizen; coordinate resources ... ; validate needs ...; create awareness ...; report needs and recommendations to the Legislature; ... study factors ... to promote the general welfare of South Dakota’s Indian population; review problems and suggested solutions ... act as liaison... “. The commission would now include eighteen members: secretaries of the departments of Health, Social services, Education and Cultural Affairs; Attorney general; nine at-large with one residing on each reservation appointed by Governor; three at-large from Indian people who live off reservation appointed by Governor; one House of Representatives member appointed by the Speaker of the House and one Senator appointed by the President of the Senate. Members would serve two-year terms and the commission would meet at least four times per year. Tribal governments were to be notified, and the commission was to report annually to the legislature. A coordinator “of Indian descent” would be appointed by the Governor to administer the duties and affairs of the commission (SDCL 1-4-7).

In 1975, the composition and mission of Commission of Indian Affairs were again revised (HB 840, Ch 9, 1975 Session Laws; SDCL 1-4-1 to 1-4-7). The commission's purpose (1-4-1) was "...to aid in securing and coordinating federal, state, and local resources to help solve Indian problems and to serve as an advocate of the Indian people...". The commission was expanded to twenty-one members: nonvoting members were Governor; secretaries of departments of Health, Social Services, Education and Cultural Affairs; and the Attorney General. Voting members include Tribal Chair or designee from each tribe; three at-large members who are Indian people who reside in nonreservation areas; two members of House of Representatives and two Senate members. Members would serve two-year terms, and the commission would meet at least four times per year, with public notice of meetings required. A coordinator "of Indian descent" appointed by Governor to administer the duties and affairs of the commission (SDCL 1-4-7).

1975 – Indian Negotiating Committee (HB 841, Ch 8, 1975 Session Laws; SDCL 1-4-8 to 1-4-12). The Indian Negotiating Committee was established in 1975 in order to represent the state in negotiations with Indian tribes to provide for continued orderly negotiation and settlement of differences between the state and the tribes. The committee consisted of six legislators, two appointed by the Governor and representing districts containing Indian reservations, one each appointed by majority and minority leaders of House and Senate, and one lay member appointed by the Governor. The committee was to meet at least six times per year. The committee was repealed in 1988 (HB 1013, Ch 3, 1988 Session Laws - Repeal SDCL 1-4-8, 9, 10, 11, 12).

1977 – State Indian Business Development Organization (SB 233, Ch 5, 1977 Session Laws; SDCL 1-4-13 to 1-4-24). The State Indian Business Development Organization was established in 1977 to: "... provide grants to persons of Indian descent and to promote business development by persons of Indian descent." The organization's board consisted of five members appointed by the Governor, including one member knowledgeable in tribal government operations, one member knowledgeable in commercial business financing, one at-large member of the Indian community, one member of the House of Representatives, and one member of the Senate. A majority of members were to be persons of Indian descent. The committee was to report annually to the Commission on Indian Affairs, Governor, and Legislature. The Indian Business Development Organization and its board were repealed in 1988 (SB 7, Ch 4, 1988 Session Laws - Repeal SDCL 1-4-14 through 1-4-22 and 1-4-24).

1987 – South Dakota Indian Affairs Commission (abolish State Commission of Indian Affairs – Executive Order 87-6, Ch 395, 1987 Session Laws; SDCL 1-4-1, 1-4-2.1). The South Dakota Indian Affairs Commission was established (and the State Commission of Indian Affairs was abolished) in 1987. Its mission (SDCL 1-4-1) was to: "... to aid in securing and coordinating federal, state, and local resources to help solve Indian problems and to serve as an advocate of the Indian people... ." Other powers and duties of former Commission of Indian Affairs were transferred to the Indian Affairs Commission. The commission had fourteen members: the Governor was a member; the Governor appointed two at-large members; the Governor appointed nine members from recommendations by the Tribal Chair of each Tribe; and one Representative and one Senator were appointed by Speaker and President of Senate. Members served two-year terms. The commission was abolished in 1995.

1995 – Office of Tribal Government Relations (Executive Order 95-4, Ch 320, 1995 Session Laws - abolish SD Indian Affairs Commission and the Commissioner of Indian Affairs). The Office of Tribal Government Relations was established in 1995 with all the functions and programs of the former Indian Affairs Commission, which was abolished at that time. The office was located administratively within the

office of the Governor. In 2003, the Tribal Government Relations Office was placed under the jurisdiction of the Department of Tourism and State Development (Executive Order 2003-1, Sec. 74, Ch 272, 2003 Session Laws). This transfer resulted in some controversy over the loss of cabinet status for the Office of Tribal Government Relations.

2011 – Department of Tribal Relations (Executive Order 2011-01, Sec 28-30). In 2011, the Department of Tribal Relations was created as a cabinet-level department, and the Office of Tribal Government relations was abolished.

Legislative Activity – Task Force on Indian-State Government Relations, 1973-75

In 1973, the Legislature passed SCR 7 requesting that a task force to study the relationship between Native American governments in South Dakota and the state government of South Dakota be created. During the same legislative session, SB 206 appropriated \$100,000 to operate the task force for one year, and Governor Kneip issued Executive Order 73-8 establishing the Task Force on Indian-State Government Relations. In 1974, the Legislature extended the task force for an additional year (SB 177) with an additional \$40,000 appropriation for the second year. The task force continued in operation until June 30, 1975. The task force was composed of eighteen members, one each appointed by each of the nine tribal chairmen, five by the Governor, and one each appointed by the President of the Senate and the Speaker of the House.

The task force had two major goals, to open lines of communication between the tribes and state government and to research and offer recommended solutions to problem areas that exist between the tribes and state government. The task force researched and discussed numerous areas of interest, including taxation, hunting and fishing, services provided by state government to Native Americans on reservations, law enforcement, reciprocal recognition of tribal and state court decisions, liquor licensing, and representation of Native American people in state government. The task force recommended some legislation and conducted extensive research in these areas. (Source: The Final Report of the South Dakota Task force on Indian-State Government Relations, June 30, 1975)

State-Tribal Relations Committee

In 1989, the 100th anniversary of the Wounded Knee Massacre, Governor Mickelson proclaimed 1990 as a Year of Reconciliation between Native and non-Native people in South Dakota, and in 1991 a Century of Reconciliation was declared. In addition, the legislature in 1990 revised the observance of the Columbus Day or Pioneer Day holiday to an observance of Native American Day.

The State-Tribal Relations Committee was established by statute in 1993 as a part of Governor Mickelson's Year of Reconciliation initiative. This legislation (SDCL 2-6-20 through 2-6-23) established the committee as an ongoing legislative interim study committee for the purpose of making a continuing study of the relations between the state and its political subdivisions and the tribes and their tribal governments. The committee consists of ten state legislators, five from the Senate and five from the House of Representatives, appointed for two-year terms.

Since 1993, the State-Tribal Relations Committee has met several times each year during the summer and fall, in Pierre and at various Indian reservations, as well as other locations around the state. The

committee selects study topics each year and hears presentations and testimony on those topics, and open public testimony is also taken at each meeting on any subject. A major function of the committee is to familiarize legislators with conditions and issues related to Native Americans and with interactions between the Native American community and state government. Although the committee is authorized to introduce legislation for consideration during the annual legislative session, the committee does not generally introduce large amounts of legislation, serving instead as an educational vehicle for legislators and as a forum for discussion and an opportunity for communication between the Native and non-Native communities.

Over the years, the State-Tribal Relations Committee has focused on such topics and issues as criminal jurisdiction in reservation areas, land classifications and issues, nursing homes and long-term care, Bear Butte, fetal alcohol syndrome and substance abuse, Missouri River land transfer issues, gaming, economic development, tribal colleges, racial profiling, conditions and treatment of Native Americans in the criminal justice system, child placement, health care, voting and election issues, federal water projects in reservation areas, coordination of emergency and disaster response systems, agreements and compacts between the state and the tribes, and many more.

State-Tribal Relations Committee Membership

1993-94:

Senators:

Paul Valandra, Chair
Darrell Bender, Vice Chair
Jim Emery
Roger Porch
Mark Rogen

Representatives:

Dick Hagen
Gordon Pederson
Jim Putnam
Dean Schrempp
Ron Volesky

1995-96:

Senators:

Darrell Bender, Chair
Paul Valandra, Vice Chair
Jim Emery
Bill Johnson
Mark Rogen

Representatives:

Dick Hagen
Gordon Pederson
Jim Putnam
John Sears
Ron Volesky

1997-98:

Senators:

Alan Aker
Bob Benson
Jim Hutmacher
Bill Johnson
Paul Valandra

Representatives:

Gordon Pederson, Chair
Dick Hagen, Vice Chair
Bill Napoli
Jim Putnam
Ron Volesky

1999-2000:

Senators:

Bob Benson, Chair
Ken Albers
Arnold Brown

Representatives:

Ken Wetz, Vice Chair
Dick Hagen
Sam Nachtigal

Jim Hutmacher
Paul Valandra

2001-2002:

Senators:

Jim Putnam, Chair
Arnold Brown
Patti de Hueck
Dick Hagen
Ron Volesky

2003-2004:

Senators:

Mike LaPointe, Vice Chair
Patti de Hueck
Brock Greenfield
Gil Koetzle
Sam Nachtigal

2005-2006:

Senators:

Stan Adelstein, Chair
Julie Bartling
Tom Dempster
Bob Gray
Theresa Two Bulls

2007-2008:

Senators:

Theresa Two Bulls, Vice Chair
Julie Bartling
Tom Dempster
Cooper Garnos
Tom Katus

2009-2010:

Senators:

Jim Bradford, Chair
Dan Ahlers
Ryan Maher
Russell Olson
Craig Tieszen

2011-2012:

Senators:

Ryan Maher, Vice Chair
Jim Bradford
Russell Olson

Bill Napoli
Jim Putnam

Representatives:

Stan Adelstein, Vice Chair
Jean Hunhoff
Barry Jensen
Paul Valandra
Tom Van Norman

Representatives:

Stan Adelstein, Chair
Jim Bradford
Kent Juhnke
Jim Putnam
Tom Van Norman

Representatives:

Paul Valandra, Vice Chair
Jim Bradford
Cooper Garnos
Jim Putnam
Tom Van Norman

Representatives:

Kent Juhnke, Chair
Jim Bradford
Mark DeVries
Tom Van Norman
Keri Weems

Representatives:

Kent Juhnke, Vice Chair
Ed Iron Cloud III
Kevin Killer
Carol Pitts
Dean Wink

Representatives:

Tom Brunner, Chair
Ed Iron Cloud III
Kevin Killer

Billie Sutton
Craig Tieszen

Patricia Stricherz
Mike Verchio

STATE-TRIBAL RELATIONS STUDY TOPICS

1993-Committee met three times, twice in Pierre and once at Flandreau on issues related to tribal lands, allotment and trust lands, gaming, criminal jurisdiction, criminal jurisdiction in reservation areas, and the Native American Graves Repatriation Act.

1994-Committee met three times in Pierre on tribal jurisdiction over nonmember Indians on reservation lands, nursing homes and long-term care, and Bear Butte public policies.

1995-Committee met twice in Pierre on status of state-tribal relations and reports on the federal Self-Determination Act of 1975.

1996-Committee met once in Pierre on fetal alcohol syndrome and substance abuse.

1997-Committee met three times in Pierre on Missouri River land transfer legislation, effects of tribal land acquisitions and impacts on county tax base, federal welfare legislation and impacts in reservation areas.

1998-Committee met three times, twice in Pierre and once at Rosebud on tribal colleges and universities, economic development on reservations, economic impacts of welfare reform efforts, Missouri River land transfer status, and the Rosebud hog farm project.

1999-Committee met twice in Pierre on criminal justice and law enforcement issues on Indian reservations and in surrounding areas, Missouri River land transfer legislation, functions and activities of the Tribal Government Relations Office; historical overview of federal Indian lands policy and law; federal water projects in reservation areas.

2000-Committee met twice in Pierre. Topics included the US Civil Rights Commission Report on incidents and conditions in South Dakota, nursing homes and elderly care, law enforcement and jurisdiction issues, Hamill Dam project, and Missouri River land transfer status.

2001-Committee met three times, twice in Pierre and once at Agency Village with Sisseton-Wahpeton Oyate on licensure and practice issues involving Indian Health Service physicians, nursing homes and elderly care, economic development, and racial profiling.

2002-Committee met three times in Pierre on coordination of emergency and disaster response systems, review of nursing homes and long-term care issues, and condition and treatment of Native Americans in the penal system.

2003-Committee met three times, twice in Pierre and once at Lower Brule. Topics included education and workforce preparation, economic development and job creation, health care, child placement and visitation, and corrections issues updates.

2004-Committee met three times, twice in Pierre and once at Rosebud. Topics included trust lands;

health issues, focusing on diabetes among Native American population; South Dakota's voter identification law; corrections; and child placement issue updates.

2005-Committee met four times, three in Pierre and once at Pine Ridge. Topics included corrections issues and the makeup of the Board of Pardons and Paroles, economic development, education and technical training, and child placement.

2006-Committee held only one meeting in 2006, in Pierre, which addressed issues related to uranium exploration in western South Dakota.

2007-Committee met in Pierre, Standing Rock (Grand River Casino), and Sisseton-Wahpeton. The committee heard a variety of topics, including tribal substance abuse program accreditation, education, trust land policy, law enforcement training, state-tribal tax agreements, health, and gaming.

2008-Committee met in Pierre, Pine Ridge (Kyle), Rapid City, Flandreau, and Yankton Sioux Tribe (Ft. Randall Casino) on a variety of topics, including tourism, health, economic development, Badlands management, election issues, education, restorative justice, substance abuse program accreditation, 2010 Census, gaming.

2009-Committee met four times, three in Pierre and once at Rosebud. Topics included health care, corrections, tax agreements, driver license exam stations, 9-1-1 communication issues, county services, and education.

2010-Committee met four times, three in Pierre and once at Agency Village with the Sisseton-Wahpeton Oyate. Topics included the Crazy Horse Scenic Byway proposal, jurisdiction background and issues, trust land and land policies and issues, corrections, juvenile justice, education, gaming, 2010 Census, child protection and placement, tax agreements, TERO issues, environmental issues, and historic preservation.

2011-Committee met three times, twice in Pierre and once at Eagle Butte with the Cheyenne River Sioux Tribe. Topics included jurisdiction and historical background, education, tax collection agreements, social services, health care, land into trust, and tribal identification cards.

Summary

The State-Tribal Relations is currently in its twentieth year of operation. The committee has played an important role in maintaining lines of communication and in familiarizing legislators with issues and conditions affecting South Dakota's Native American population. In some instances, the committee has been able to play a role in addressing and resolving issues through contact with appropriate agencies, while in other cases the committee's role has been to provide the opportunity for interaction and for the sharing of information, knowledge, and beliefs among South Dakota's Native American and non-Native populations. The State-Tribal Relations Committee is not a high-profile legislative committee, but it has made positive contributions over the last two decades.