

**From:** Michael Loesevitz  
**Sent:** Wednesday, October 14, 2020 2:07 PM  
**Subject:** FW: State-Tribal Relations Committee Meeting

Dear Members of the Committee on State-Tribal Relations:

Below is the e-mail I received from SHPO in response to the Microsoft Teams Meeting invitation I sent to next week's committee meeting and the following e-mail (in red text):

Good morning,

Concerns were voiced about communication issues between Tribe Historical Preservation Officers in the state and your office at the last meeting held by the Committee on State-Tribal Relations on September 24, 2020. You can get more specifics about the concerns by listening to the testimony that was provided beginning at the 3:00:24 mark of the audio recording of the meeting, which is accessible at <http://sdpb.sd.gov/SDPBPodcast/2020/Interim/STR09242020.mp3>.

Our next meeting is scheduled to be held on Thursday, October 22<sup>nd</sup> at 1 p.m. in room 413 at the Capitol and may be attended virtually by accessing the link below or using the phone number/conference ID. The Committee on State-Tribal Relations respectfully requests someone at your office to attend this meeting to note and/or address the concerns regarding the communication issues between the THPOs and SHPO. Please advise at your earliest opportunity whether you will be able to attend the meeting.

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Respectfully,

**Michael A. Loesevitz, J.D., LL.M. (taxation), CPA**  
Senior Legislative Attorney  
Legislative Research Council  
500 East Capitol Avenue, Pierre, SD 57501  
Office: (605) 773-4289 | [Homepage: SDLegislature.gov](http://SDLegislature.gov)

**Michael A. Loesevitz, J.D., LL.M. (taxation), CPA**  
Senior Legislative Attorney  
Legislative Research Council  
500 East Capitol Avenue, Pierre, SD 57501  
Office: (605) 773-4289 | [Homepage: SDLegislature.gov](http://SDLegislature.gov)

**From:** Vogt, Jay <[Jay.Vogt@state.sd.us](mailto:Jay.Vogt@state.sd.us)>  
**Sent:** Wednesday, October 14, 2020 1:08 PM  
**To:** Michael Loesevitz <[Michael.Loesevitz@sdlegislature.gov](mailto:Michael.Loesevitz@sdlegislature.gov)>  
**Subject:** RE: State-Tribal Relations Committee Meeting

The legislation I reference was from the 2018 and the 2019 sessions. jdv

-----Original Appointment-----

**From:** Roy, Diane <[Diane.Roy@state.sd.us](mailto:Diane.Roy@state.sd.us)> **On Behalf Of** Loesevitz, Michael

**Sent:** Wednesday, October 14, 2020 12:10 PM

**To:** Vogt, Jay

**Subject:** Fwd: [EXT] State-Tribal Relations Committee Meeting

**When:** Thursday, October 22, 2020 1:00 PM-4:00 PM (UTC-06:00) Central Time (US & Canada).

**Where:** Room 413 or Microsoft Teams Meeting

Age old consultation controversy. You're right. The federal to tribal lack thereof is the usual scenario for historic preservation, as well as EPA, DOI, state etc. Not sure what bills you're referring to—are they new bill drafts or referring to prior ones in prior years?

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**From:** Vogt, Jay <[Jay.Vogt@state.sd.us](mailto:Jay.Vogt@state.sd.us)> on behalf of Loesevitz, Michael <[Michael.Loesevitz@sdlegislature.gov](mailto:Michael.Loesevitz@sdlegislature.gov)>

**Sent:** Wednesday, October 14, 2020 11:59 AM

**To:** Jones, Ben (DOE); Stadick Smith, Mary; Roy, Diane; Spencer, Ted

**Subject:** FW: [EXT] State-Tribal Relations Committee Meeting

The message below came in on our public email. In another email, he sent the PBS coverage of the issue to be discussed. During the public comment period of the State Tribal Relations Committee, a member of the public stated that the SHPO does not consult with the tribes and referenced legislation introduced in 2018 (SB 197) and 2019 (HB 1153), similar but not exactly the same. The bills would do many things related to historic preservation, and we killed the legislation both years. Nevertheless, in Section 3 “tribal” was inserted as one of the governments we need to cooperate. That is not problematic. Section 4 in the bills also includes tribal governments in SDCL 1-19A-11.1, the law that authorizes the SHPO to review projects requiring local government action (permit, etc.). I would prefer not to touch this law. Lastly and most troubling, Section 5 gives the tribal governments “veto power” (my words) over the SHPO review of federal projects. The bills mix responsibilities under state and federal laws. The emphasis was on the perceived lack of government to government consultation between my office and the THPOs, and the Keystone XL project was used as an example. (States do not have standing in “government to government consultation.” It is a federal responsibility.)

Please review and comment on how to proceed. Thank you. jdv