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MINNESOTA
STATE GOVERNMENT
ISSUES

STATE/INDIAN GOVERNMENT RELATIONS

Executive Branch Policy Development Program
1984-1985

STATE/INDIAN GOVERNMENT RELATIONS

STATE PLANNING AGENCY

AUGUST 1984

State/Indian Government Relationships Issues
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Executive Management Subcabinet

I. Executive Summary

Most Indian citizens in Minnesota have two governments. Yet, basic needs of the Indian citizen are not being met. When comparing Indians and non-Indians, a 1981 State Planning Agency report showed shocking disparities between the two groups. For example:

	<u>Non-Indian Citizen</u>	<u>Indian</u>
Median income	\$9,928	\$5,391
Unemployment	8%	40-90%
Chemical Dependency	8.5%	40%
High school completion	90%	40%
Over 55 years	19%	9.4%

The two governmental systems which share responsibility for Minnesota Indians must find ways to respond to the needs. The ultimate goal for Minnesota state government should be identification and, within its authorities, elimination of the disparities which exist between Indians and non-Indians.

The issue team addressed only government to government actions between state and Indian governments, i.e. Tribal Councils and Reservation Business Committees. The recommendations emphasize policies and processes to improve relations and communications between state and Indian governments. The actions recommended will not eliminate the disparities, but are an extremely important first step towards that goal.

While improvement of state government relationships with Indian governments is sorely needed, off-reservation (i.e. urban) Indians will not be significantly affected by these actions. The team recommends establishing an issue team or Governor's Task Force to address local government and off-reservation Indian issues.

The major findings and conclusions of the team are:

- * The unique status of Indian governmental authorities is not consistently recognized by the state and its agencies as governmental entities.
- * Communications and working relationships between state agencies and Indian governments range from inconsistent to non-existent;

- * The Indian Affairs Council is underutilized by state agencies;
- * Non-Indian state employees need training to improve understanding of Indian government, policy, law and culture;
- * Astounding disparities exist between Indian and non-Indian citizens in the education, employment, economic development, income, health, housing and criminal justice areas;
- * When Indians fully participate in a process or program to meet a need, the results are significantly more successful than when they do not; and
- * Gross inaccuracies, inconsistencies and gaps exist in the Indian information base.

To improve the situation, the team recommends the following actions:

1. By proclamation, the Governor:
 - * Recognizes the unique status of Indian governmental authorities.
 - * Adopts the policy of intergovernmental coordination and cooperation of policies and practices to assure adequate services when jurisdiction is overlapping or unclear.
 - * Sets a state goal, within its authorities, of eliminating disparities between Indians and non-Indians in the areas of health, education, employment, housing and criminal justice with major emphasis on enhancement of employment opportunities.
2. By administrative order, the Governor:
 - * Directs state agencies with significant opportunities to help eliminate disparities between Indians and non-Indians, as well as the Governor's office to designate an Indian liaison person by October 1, 1985.
 - * Expands the ex-officio membership of the Indian Affairs Council by including the Departments of Transportation, Public Safety, Revenue and the State Planning Agency, the area directors of the Bureau of Indian Affairs and the Indian Health Service.
 - * Directs state agencies to use the Indian Affairs Council as the primary coordinating and resource agency for Indians.
 - * Directs the Departments of Education, Energy and Economic Development, Human Services, Health, Housing Finance, Economic Security and Corrections by January 1, 1985 to submit a plan for eliminating disparities.

- * Directs the State Planning Agency, Governmental Affairs Division, by January 1, 1985 to develop an Indian information collection system plan.
- * Directs each state agency to assure that economic development activities which result in jobs, include Indian reservations as part of their service delivery area.
- * Directs the Department of Employee Relations to work with the Indian Affairs Council and review the existing affirmative action guidelines for Indian state government employment.
- * Directs state agencies to identify barriers to reservation economic growth and devise plans and programs to breakdown such barriers and stimulate economic growth.
- * Directs the Department of Energy and Economic Development to address and eliminate the barriers to maintenance of enterprise zones which exist for Indian reservations.
- * Directs the Department of Human Services to clarify the county and state role in the delivery of welfare services and examine grant diversion as a method of assisting Indian welfare recipients in small business development and self-employment.
- * Commits to increasing the funding for the Indian Business Loan Program and finding a new, more reliable source.
- * Directs the Department of Employee Relations by January 1, 1985 to submit a plan for training of state agency personnel.
- * Directs state agencies to examine their respective governing statutes and make appropriate changes consistent with recognition of the unique status of Indian governmental authorities.

Budgetary Implications

PLEASE NOTE: Approval of this report by the Subcabinet does not imply approval of these budgetary items. The legislative budgetary process must still be followed.

The Indian Affairs Council staff should be increased by two persons.

Information collection system costs.

Budgetary Implications (continued)

Personnel training costs.

Elimination of disparity estimates by agencies.

Timetable

Conference/Seminar	- Fall, 1984
Governor's Proclamation	- October, 1984
Governor's Orders	- October, 1984
Needed legislation (known)	- October, 1984
Local Government Issues Team	- November, 1984
Agencies submit plans	- January 1, 1985
Legislative proposals	- January 15, 1985

II. Background

A. History. The relationship between state and tribal government in Minnesota has evolved very slowly since the 1920s when state involvement in Indian education began. Most of the involvement has been through the educational and judicial systems and as a response to federal actions. However, in the late 50s and early 60s, state agencies began to prepare studies and reports on Indian needs.

Since 1955, the state has established a number of programs specifically for Indians, such as Indian elementary and secondary education programs; an Indian scholarship program; the Indian Business Loan Program; an American Indian Housing Program; special Corrections Department, chemical dependency programs, etc.

In 1963, Minnesota established the Indian Affairs Commission -- the first legislated state body to incorporate Indians. In 1983, the legislature continued the Agency with a name change to Indian Affairs Council. The Agency was unanimously supported in 1983 by Minnesota tribes.

Since the 1975 passage of the federal Indian Self-Determination and Education Act, the role of Indian government has changed from receiving all services to receiving funding for services planned and administered by Indians.

In February, 1981, the State Planning Agency submitted a report to the legislature on Indian needs which demonstrated that the needs were so obvious a more comprehensive study on needs was wasting time. A 1983 update of the report (following Federal cutbacks) showed that the situation had become more critical.

Governor Perpich's long-standing concern and commitment to the Indian citizen, coupled with the severe economic distress on reservations from the recession, culminated in "State/Tribal government relations" becoming a top priority issue of his Administration.

Minnesota's concern with state/tribal relations is relevant and shared with other states. Theodore Taylor, in his book, American Indian Policy estimates that state and local government provide 80 to 85% of government services received by Indians. In October, 1983, Governor Earl of Wisconsin, by proclamation, addressed the issue. The June, 1984, State Government News issue featured agreements between several states and their respective Indian governments, also.

B. Charge. An inter-agency team was formed and assigned to the Executive Management Subcabinet which accepted the following General Objective and Charge:

Objective: To improve relations and communications between state and tribal governments to promote early identification of potential problems.

Charge: To review state government's relationships with Indian reservations; determine appropriate governmental roles; develop and recommend processes for resolution of issues.

C. Analysis method. Interagency team members were assigned by the subcabinets. The team members further divided into three subgroups. Team members and subgroups are:

GOVERNANCE AND JURISDICTION

Mike Robertson, PCA
Steve Thorne, DNR
Chuck Hawkins, SPA

Roger Head, IAC
Dorothy McClung, Revenue
Ken Peterson, Public Service

EDUCATION AND HUMAN SERVICES

Shirley Dougherty, SPA
Francis Moriarty, DHS
Chuck Fecht, DHS

John Brenneman, DHS
Nan Skelton, ED
Mark Skubic, Health

ECONOMIC

Peg Michaels, DEED
John Herrera, DEED
Larry Kitto, DES

Donna Folstad, HFA
Bill Strand, MnDOT

At the initial meeting, the team agreed to limit the scope of the issue to recommendations for state government only, to emphasize government to government interrelations, and to concentrate on long-term policy and process development recommendations.

The subgroup members met and shared information on programs, problems and solutions. The team leader gathered background information from Minnesota and other state sources, conducted a cursory literature search and informed group members. The subgroups identified key issues, actions and concepts and the entire team chose the recommended course of action through group discussion.

The primary sources of information used were:

REPORT ON INDIAN NEEDS, February, 1981, SPA, Human Resources Division

AN UPDATE ON THE NEEDS OF MINNESOTA INDIANS, February, 1983, SPA

HANDBOOK ON STATE-TRIBAL RELATIONS, Commission on State-Tribal Relations, American Indian Law Center

STATE TRIBAL AGREEMENTS: A COMPREHENSIVE STUDY, May, 1981, Commission on State-Tribal Relations

III. Major Findings/Conclusions/Recommendations

- A. The team found that there is a general lack of recognition by the state and its agencies of the unique status of governmental authorities of Indian tribes, bands and reservation business committees. Through the years, single state agencies have worked out agreements on specific issues with Indian governments (e.g. Housing Finance Agency/Indian Government Loan Account; PCA/Minnesota Chippewa Tribe Abandoned Car Agreement; Department of Revenue/Chippewa Tribe and Sioux Reservations Tax Collection and Refund Agreements, DNR, Leech Lake Hunting and Fishing). The principle underlying the specific agreements is intergovernmental coordination of policies and practices in areas of exclusive jurisdiction and cooperation to assure adequate service when jurisdiction is unclear.

The team recommends that the Governor direct all state agencies to recognize the unique status of Indian governmental authorities, to adopt the principle of coordination and cooperation and to work fairly, actively and openly with representatives of Indian governments.

- B. The team found astounding disparities in the comparison statistics between Indian and non-Indian citizens in the education, employment, economic development, income, health and housing and criminal justice areas, and that Indian governments have not been included fully in either planning for Indian needs or in the service delivery systems. The state should commit to a goal of eliminating the disparities, within its authorities, and institute planning and actions by state agencies.

The team recommends that the departments of Education, Energy and Economic Development, Economic Security, Human Services, Health, Housing Finance and Corrections work with the Indian Affairs Council and by January 1, 1985, submit a report to the Governor stating the disparities that exist and a plan for their elimination.

The team recommends that agencies which administer block grants to local units of government establish strict requirements for Indian governmental participation in plan preparation and priority setting for the funds.

- C. The unemployment rate on many reservations is in excess of 60%. State government must take steps to respond to the long-range problems of Indian unemployment. Reservation economic development should be a major state goal. We recommend that state and Indian governments work together to develop and implement the following actions:
1. Each state agency shall assure that economic development activities which result in jobs, include Indian reservations as part of their service delivery area.
 2. The Department of Employee Relations, working with the Indian Affairs Council, shall review the existing affirmative action guidelines for Indian state government employment.
 3. The State Planning Agency and Department of Energy and Economic Development, when requested, shall assist each reservation in its reservation economic development planning process.
 4. State agencies shall work with reservation tribal councils and business communities to identify barriers to economic growth and devise plans and programs to breakdown such barriers and stimulate economic growth.
 5. The Department of Energy and Economic Development shall address and eliminate barriers to maintenance of enterprise zones which exist for Indian governmental authorities as part of its 1985 legislative proposals.

6. The Department of Human Services shall examine the distribution of services to Indian populations and clarify the county and state role in the delivery of welfare services. They shall examine grant diversion as a method of assisting Indian welfare recipients in small business development and self-employment.
 7. The source of funding for the Indian Business Loan program is based on the severed mineral interests tax and is inadequate and diminishing. The funding should be increased and a new, more reliable source designated in the Governor's legislative proposals.
- D. The team found that communications and working relationships between state agencies and Indian governments range from inconsistent to non-existent. Through the Indian Affairs Council the state has a workable structure for coordinating and cooperating with Indian governments. However, the Council is underutilized by state agencies.

The team recommends that all agencies examine their programs for their effects on Indians and develop an appropriate communication system which maximizes Indian input into the needs assessment processes and service delivery systems. Indian governments should be involved in policy development, implementation procedures and the promulgation of rules and regulations for programs that affect Indians.

The team recommends that the Governor's office and state agencies which either 1) have significant opportunities to help eliminate disparities between Indians and non-Indians, or 2) have numerous contacts or programs affecting Indians designate an Indian liaison person by October 1, 1985. The liaison person should be in, or have access to, the decision-making echelon of an agency. The liaison person shall take the lead in working with Indian governments and resolving issues and problems raised by the Indian Affairs Council. It is crucial that the liaison be known to Indian governmental authorities, establish close and open working relationships with Indians attend some tribal meetings and work through the Indian Affairs Council.

The Indian Affairs Council is the primary coordinating state agency for dealing with Indian issues. State agencies shall use the Indian Affairs Council as a resource and as a coordinating agency and seek its aid when addressing Indian concerns. The team recommends that the Indian Affairs Council oversee and assure consistency in state agencies' approach to Indian concerns; develop and maintain a close relationship with the Minnesota/Washington office in order to monitor federal legislation affecting Indians and develop close ties with the Congressional delegation; advise, evaluate and make appropriate recommendations for actions to the Governor and legislature; and monitor and report the progress of the implementation of recommendations in this report in its annual report to the Governor and legislature.

The team recommends that the Indian Affairs Council be expanded to include the Departments of Transportation, Public Safety, Revenue, State Planning and the area directors of the Bureau of Indian Affairs and the Indian Health Service.

- E. Gross inaccuracies, inconsistencies and gaps in the agency information base concerning Indian needs exists. The team recommends that the Governmental Affairs Division of the State Planning Agency and the Indian Affairs Council by January 1, 1985, develop a system and plan for consistent, accurate agency collection of Indian specific information, as well as identify a central repository agency; oversee the implementation of the plan and monitor its effectiveness.
- F. The team found a lack of understanding by non-Indian citizens, including state employees, of Indian government, law and culture. There is a great need for increased knowledge, sensitivity and understanding by Agency personnel and boards.

The team recommends that the Department of Employee Relations, working with the Indian Affairs Council, submit to the Governor by January 1, 1985, a plan and implementation schedule for training of state agency personnel who work directly or indirectly with programs which affect Indians.

- G. Minnesota Statutes and policies should be changed where appropriate to reflect the recognition of the unique status of Indian governmental authorities.

The team recommends that all state agencies examine the statutes governing their activities to determine whether Indian governments should be included in definitions of governmental entities eligible for grants and other services or benefits and to include appropriate changes in their respective 1985 legislative proposals.

The team recommends that the Governor, the Department of Human Services and the Indian Affairs Council work together to ensure the 1985 passage of legislation making Minnesota laws consistent with the federal Indian Child Welfare Act.

- H. The team found that historically, Indians have not used the state's resources in the area of human rights; they file very few complaints.

The team recommends that the re-vitalized Department of Human Rights, working with the Indian Affairs Council, consider re-opening the Duluth office and a Bemidji office to better serve Indians, as well as address the general issue of improvement of Indian participation in its programs.

- I. While improvement of state government relationships with Indian governments is sorely needed, the team recognizes that the off-reservation (e.g. urban) Indians' needs will not be fully addressed by recommended actions.

The team recommends that an issue team or Governor's task force be formed to study local government's relationship with Indian government and the Indian citizens and to make recommendations for improvement to the Governor in 1985. The issue should be assigned to the local and regional affairs subcabinet.

IV. Preferred Implementing Mechanisms

- A. The preferred mechanisms for implementing the recommendations are:
 1. SPA/IAC Jointly Sponsored Conference/Seminar - to be held in early fall for heads of state agencies, Indian tribal leaders, key legislators and agency designated liaisons. Purpose of the seminar would be to increase sensitivity, understanding and knowledge of Indian government and policies; to collectively develop the state's agenda for improving relations between the two governments; and to make specific legislative proposals for the 1985 session.
 2. Governor's Proclamation which recognizes Indian Governmental authorities; adopts the state policy of intergovernmental coordination and cooperation; sets a state goal of elimination of disparities between Indians and non-Indians, especially in the economic area.
 3. Governor's Executive or Administrative Orders to appropriate state agencies to: designate an Indian liaison; expand the ex-officio membership of the Indian Affairs Council; prepare plans for eliminating disparities; develop an Indian information collection system and repository; examine activities which result in employment to include reservations in service delivery area; review affirmative action guidelines for Indians; plan for training of non-Indian personnel; plan for reservation economic growth; examine statutes for recognition of Indian government.
 4. Governor's Legislative Proposals to expand the ex-officio membership of the Indian Affairs Council; to propose a new source of funding for the Indian Business Loan Program and increase the funding; statutory changes to reflect the recognition of Indian government; and ensure consistency with federal Indian Child Welfare Act.

5. Agency Legislative Proposals

Departments of Education, Energy and Economic Development, Human Services, Health, Housing Finance, Economic Security and Corrections budgetary and other proposals necessary to implement their respective "elimination of disparity" plans.

State Planning Agency - budgetary and other proposals necessary to implement an Indian Information Collection System and Central Repository Plan.

Department of Energy and Economic Development budgetary and other proposals necessary to implement Indian reservation enterprise zones and proposals for stimulating reservation economic development and growth.

Department of Employee Relations - budgetary and other proposals necessary for training of state agency personnel.

Indian Affairs Council - proposals for two positions and budgetary and other proposals necessary to implement the team's recommendations for improved state/tribal relationships.

Department of Human Rights - re-opening of Duluth office and establishing a Bemidji office.

6. Establishing an "issues" type team or task force for further study and recommendations concerning local government/Indian relationships. Membership on this team would need to include personnel outside of the state agency system. The team should be established under the Local and Regional Affairs Subcabinet.
7. Extending the term of the current state/Indian government relationship team through the 1985 legislative session to oversee the implementation of its recommendations.

B. Support and opposition to recommendations

State government - expect support
Indian tribes - support
Regional government - some opposition
Local government - some opposition possible
Federal agencies - support
Urban Indians - support
Associations - other minorities - opposition possible
Other special interest groups - League of Women Voters - support

V. Schedule and Fiscal Implications

<u>Schedule</u>		<u>Fiscal?/Amount</u>
1984		
August	To Subcabinet	no
September	Liaison Appointments	
October	Conference/Seminar	no/registration
	Governor's Proclamation	
	Governor's Orders	no
November	Local government/Indian team established	
1985		
January	Governor's legislative proposals	yes/?
	Agency plans to Governor	yes/?
	Agency legislative proposals	yes/?

CHARGE
RELATIONSHIPS WITH
INDIAN RESERVATIONS TEAM

General Objective:

To improve relations and communications between state and tribal governments to promote early identification of potential problems.

Charge:

Review state governments' relationships with Indian reservations; determine appropriate governmental roles; develop and recommend optional processes for resolution of issues.

Background:

Throughout the history of the State of Minnesota questions of governance of Indians and of non-Indians residing in the state has pervaded both the personal and governmental relationships between the two groups. In spite of the continuing non-resolution of the governance question (or the "sovereignty issue"), the two groups have managed to reside, communicate and work together for decades. However, the lack of policies or processes for working with the Indian communities has caused the resolution of specific issues to be more haphazard, piecemeal and time consuming than may be necessary. The resolution of issues frequently seems more dependent upon the personalities and levels of trust between specific participants than on established processes or policy. For example, after years of working with the reservations on environmental issues, in November, 1983, the Minnesota Pollution Control Agency Board adopted an Indian Liaison policy.

Method:

The team recognizes that there are current, short term issues involving Indian reservations, but intends to concentrate on developing processes and policies for the long term. Therefore, the approach will be two-tiered:

1. A cursory identification of current, specific issues and recommendation of interim processes;
2. A detailed identification of past and present issues and development of appropriate process and policy options.

Without becoming enmeshed in current specific issues, this project team will identify and analyze past and present issues, identify positive factors which led to issue resolution, identify options and recommend processes or policies which could lead to more orderly and improved communications and working relationships between Indian and non-Indian governments in Minnesota.

Process and policy options will be identified and developed for three general categories of issues: education and human services delivery; economic development; governance and jurisdiction. Due to time restrictions for product development, the team will concentrate on state government relationships.

Products:

Identification of 1984 issues and recommend interim processes for subcabinet.

Documentation of state agency/reservation issues and identification of process options appropriate to resolution of specific issue areas.

Developed and recommended policy options for the subcabinet.

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