



# As fears mount over state misconduct, tribes focus on creating their own foster care systems

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Following mounting anger over charges that the state has routinely and illegally placed Native American children with non-native foster parents, South Dakota tribes gathered Monday in Rapid City to discuss how they could form their own tribal-run foster care systems.

The discussion, hosted by the Standing Rock Sioux tribe at the Rushmore Plaza, marked the first day of the three-day Oceti Sakowin Conference. The meeting is the third in a series of quarterly summits between the state's nine Lakota tribes to discuss common concerns.

While the afternoon discussion touched upon preservation of sacred sites and opposition to the Keystone XL pipeline, the morning was dominated by debate over alleged abuses by the state of South Dakota under the Indian Child Welfare Act.

Following a report by National Public Radio in 2011, concern has been building that the Department of Social Services has repeatedly violated ICWA, a law enacted in 1978 to ensure the preservation of Native American culture by ensuring that native children taken by social workers are placed in Native American foster homes. The NPR report found that 90 percent of native children in South Dakota are placed in non-native homes.

Since a conference held by the tribes in Rapid City in May, attended by Kevin Washburn, the U.S. Interior Department's assistant secretary for Indian Affairs, the Lakota have focused increasingly on steps to wrestle away federal funding from South Dakota and create native-run foster care systems.

"The \$56 million that's going to the state of South Dakota should be coming to us so we can keep our families together," Chase Iron Eyes, a private attorney and member of the Standing Rock Sioux, told attendees. "That's the bottom line."

Speaking during a recess, Dan Sheehan, chief counsel for the Lakota People's Law Project, a non-profit that has provided expertise to the Lakota since 2006 about ICWA violations, said that it is looking increasingly likely that the tribes could attain federal funding.

Sheehan, an attorney who was involved in cases surrounding the Iran-Contra scandals in the 1980s and the publication of the Pentagon Papers in the 1970s, said that his group had recently met with officials in the U.S. Department of the Interior that favored creating an application process to give funds directly to Lakota tribes.

"The money will be taken away from the state and given directly to the tribes," Sheehan said, adding that he was reasonably confident that could happen within the next two years.

Monday's discussion also focused on potential models for native-run foster care systems. On the Pine Ridge Reservation, the Oglala Sioux have a tribal-run foster care system that is partially funded by the state of South Dakota.

The administering agency, called Lakota Oyate Wakanyeja Owicakiyapi (LOWO), only handles cases on the reservation and still must follow South Dakota rules that have been criticized by Native American advocates. Still, with a focus on traditional Lakota culture like purification ceremonies, reformers see it as a path to repair a system that has failed natives.

That doesn't mean starting their own systems will be simple for tribes. Emily Iron Cloud, executive director of LOWO, said that the planning work alone was hugely time consuming.

"You need to have the community's voice, their vision for what kind of agency they want to see, and there's a lot of work that needs to happen," she said.

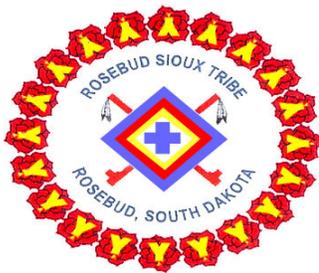
The following Lakota Sioux Tribal Councils in South Dakota have passed this resolution, or a similar one, declaring that they support the Lakota Tribes receiving direct Federal IV-E funding for Child & Family Service programs.



Standing Rock Sioux Tribe



Crow Creek Sioux Tribe



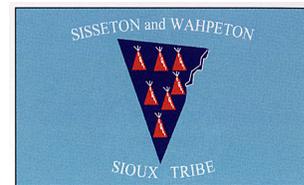
Rosebud Sioux Tribe



Yankton Sioux Tribe



Cheyenne River Sioux Tribe



Sisseton Sioux Tribe



Flandreau Sioux Tribe



Oglala Sioux Tribe

\*\*The hope is that Lower Brule Sioux Tribe will be signing a resolution soon\*\*

## **RESOLUTION IN SUPPORT OF OUR CHILDREN**

Whereas, our children are sacred; and

Whereas, every year the state of South Dakota removes over 740 Lakota, Dakota, and Nakota children from their families and places ninety percent of them in non-Indian homes; and

Whereas, the state does this in violation of moral, customary, and federal law; and

Whereas, other tribes in the United States have assumed responsibility for providing child and family services for their people; and

Whereas, we believe that the principle and practice of tribal self-governance should be honored; and

Whereas, the opportunity for tribes to receive direct federal funding to manage child and family services exists; and

Whereas, Assistant Secretary of the Interior Kevin Washburn has committed to assisting South Dakota's tribes in securing this funding.

Therefore, be it resolved that we commit to begin the process of administering our own child and family services organizations, securing direct funding from the United States federal government to do so, and thereby relieving the state of South Dakota of its ability to take our children.

**Wakanyeja ota wokakijapi kiksuyapo!**

# Gov. Daugaard voices support of tribal foster care proposal

By Steve Young :: July 18

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Gov. Dennis Daugaard has sent a letter to Health and Human Services Secretary Kathleen Sebelius saying he supports tribal efforts in this state to run their own child welfare and foster care services.

In the letter dated Wednesday, Daugaard said he understands that the tribes might ask Sebelius for federal dollars to be sent directly to them to administer those services to their members.

“I want you to know that I am fully in support of these efforts, and I ask you to favorably consider the requests of any South Dakota tribe,” the governor wrote.

The letter is a positive sign to Danny Sheehan, chief counsel for the Lakota People’s Law Project, a nonprofit that has provided expertise to the tribes since 2006 on the Indian Child Welfare Act. Sheehan’s group and many Lakota and Dakota have charged South Dakota’s Department of Social Services with routinely and illegally placing Native American children with non-Native foster parents.

“I view this as a very major, positive development,” Sheehan said Thursday. “I think this should accelerate matters to the good.”

Following a report by National Public Radio in 2011, concern had been building among the tribes that the Department of Social Services had repeatedly violated ICWA, a law enacted in 1978 to try to preserve Native American culture by ensuring that tribal children taken by social workers are placed in Native American foster homes.

In March, the Oglala and Rosebud Sioux tribes sued the state in federal court over temporary custody proceedings, alleging a systematic violation of due process rights that keeps tribal children in foster care unnecessarily.

That action was followed by a conference in May in Rapid City attended by Kevin Washburn, the U.S. Interior Department’s assistant secretary for Indian Affairs. Since then, the tribes have focused increasingly on how to wrest federal funding from South Dakota and create tribally run foster care systems.

Sheehan thinks as much as \$56 million now is funneled through the state that tribes could be allowed to access directly. The governor’s spokesman, Tony Venhuizen, said he couldn’t confirm that figure.

In his letter, Daugaard noted that the state has agreements with four of nine tribes to provide child welfare or foster care services. That allows the tribes, working with the state, to access federal Title IV-E dollars from the Social Security Act to pay for foster care placement and administrative costs.

Many of the tribes are talking now about trying to access those dollars directly without them being funneled through the state, and Daugaard noted that the state has supported a grant application from the Rosebud Sioux Tribe to do that very thing.

He also advised Sebelius that the state has tried to inform tribal leaders about the opportunity to administer their own programs and how to do that. Venhuizen said tribes have to understand that running these programs isn't a simple process.

"There are a lot of requirements and things that have to be done," he said. "But there are tribes that do things like this. It is certainly possible."

Sheehan said he hopes Daugaard's letter also suggests a willingness on the governor's part to push for a review of all cases in which Native children find themselves in non-Native group homes or individual foster homes, or have been transferred by DSS to other state agencies.

"These cases should be reviewed, perhaps by an outside appointed special master," Sheehan said. "My position, and that of tribes ... is that we would like to have some process where careful steps are taken to review each of these kinds of placements in a non-Native foster care setting so we can undo those that are reasonable to undo."

Venhuizen didn't address that. But he did say that the governor's letter should be interpreted as meaning Daugaard wants to work with the tribes on child welfare issues, at least as it pertains to accessing direct government funding.

"One might think that this is something the state might oppose," Venhuizen said. "In this case, that is an incorrect assumption."