

**South Dakota Veterans Commission Meeting
December 9-10, 2009
Amphitheater I – Ramkota Hotel
Pierre, South Dakota**

The meeting was called to order at 11:30 AM (CT) on Wednesday, December 9, 2009, in the Amphitheater I at the Ramkota Hotel in Pierre, South Dakota, by Chairman Hubbard. Chairman Hubbard led the Commission and guests in the “Pledge of Allegiance” and then welcomed all guests.

Roll Call: Chairman Hubbard asked staff to take roll call. Roll call indicated a quorum was present. Commissioners present were: Mike Birnbaum, Wade Hubbard, John Noyes and Bill Locken. Commissioners excused were: Gene Murphy and Don Loudner.

Review of Agenda – Chairman Hubbard commended staff for the work that has been done on the Commission portion of the Web site and the access for all to review the commission meeting materials in advance of the meetings.

Commissioners were presented copies of their respective bios to have posted on the Commission portion of the Web site.

Chairman Hubbard asked if there were any additions or changes for the proposed agenda. Representatives from the South Dakota American Legion asked if they could address the Commission on the first day of the meeting due to travel conflicts. A motion was made by Bill Locken, seconded by Mike Birnbaum, to approve the agenda with the modification of the American Legion report. Motion carried.

Consideration and Approval of Commission Meeting Minutes – Chairman Hubbard noted that the Commission had before them the Commission meeting minutes for October 15-16, 2009 Commission meeting. Chairman Hubbard asked the Commission how they wished to dispose of the minutes. Commissioner Birnbaum moved to approve the October 15-16, 2009, South Dakota Veterans Commission Meeting Minutes as presented. Commissioner Locken seconded the motion and the motion carried.

Format to be used for Review of SDCL - Chairman Hubbard opened the floor for discussion on the format to use for the review of South Dakota’s statutes impacting veterans. Commissioners discussed definition of veteran, statutes dealing with State Veterans Home and statutes dealing with the Division Director. The Commission agreed that the best path for this study of the statutes would be to begin with SDCL 33-16 and continue through the rest of the chapters. Hubbard reminded the Commissioners that this would be an ongoing study over the next couple of years.

At 12:20 pm the Commission recessed for lunch.

The meeting reconvened at 1:30 pm. Commissioners began reviewing SDCL 33-16.

SDCL 33-16-1 - Veteran defined – Commissioners spent considerable time discussing the definition of a veteran from a generic standpoint to the broader sense of defining wartime veteran and peacetime veteran. After considerable discussion, the Commission agreed to amend this statute to be entitled Wartime Veteran and that the word wartime be inserted in the second line before the word veteran. The Commission also unanimously agreed that a new section be added to define veteran and a new section to define selected reserve.

SDCL 33-16-2 - Division aid to servicemen, veterans, and families – Commission agreed to remove the word “war” from the fourth line of the statute

SDCL 33-16-2.1 - Department as division within Department of Military and Veterans Affairs - Functions performed by department – Commission had no changes for this statute.

SDCL 33-16-3 - Office space for division – Commission had no changes for this statute.

SDCL 33-16-4 - Veterans' Commission – Composition - Terms of office – Vacancies - Chairman and vice-chairman – Commission had no changes for this statute.

SDCL 33-16-4.1 - Direction and supervision by Division of Veterans Affairs - Independent functions retained by commission – The Commission reviewed this statute and determined this statute would need to be reviewed in conjunction with a few other statutes.

SDCL 33-16-5 - Repealed

SDCL 33-16-6 - Meetings of commission - Commission had no changes for this statute.

SDCL 33-16-7 - Compensation of commissioners - Travel expenses - Commission had no changes for this statute.

SDCL 33-16-7.1 - Rules promulgated by commission - The Commission reviewed this statute and determined this statute would need to be reviewed in conjunction with a review of rules at a later time.

SDCL 33-16-8 - Director of veterans affairs division - Nomination by commission - Appointment and service - The Commission reviewed this statute and determined this statute would need to be reviewed in conjunction with other statutes and that future discussions should focus on whether this should be inclusive of wartime veteran.

SDCL 33-16-9 - Bond of director – Commission felt that this should be updated to the level equal to the bonding on all other state employees. Hubbard directed staff to obtain this information and present it at the next meeting.

SDCL 33-16-10 – Repealed

SDCL 33-16-11 - Office and personnel - Compensation of personnel – Commission recommended that the last line should be changed from “veterans administration” to “U.S. Department of Veterans Affairs.”

SDCL 33-16-12 - Annual report on division activities - Commission had no changes for this statute.

SDCL 33-16-13 - Qualifications of employees – Duties - Commission had no changes for this statute.

SDCL 33-16-14 - Representation of veterans as duty of division – Commission recommended that the words “selected reserve or dependents” be added after the word veteran in the second line and that the word “wartime” be stricken from in front of the word service.

SDCL 33-16-15 – Repealed

SDCL 33-16-16 - Rights of disabled veterans protected by division - Commission had no changes for this statute.

SDCL 33-16-17 - Burial of veterans by division - Commission had no changes for this statute.

SDCL 33-16-18 - Veterans' benefits secured by Division--Schools of instruction for county service officers – Expenses – Commission recommended that the words “selected reserves” be added after the word veteran in the fourth line.

SDCL 33-16-19 - Conservator for minor or incompetent person designated by division - Commitment or release of veterans - Commission recommended this statute be repealed.

SDCL 33-16-20 - Benefits secured to veterans by division - Commission recommended this statute be repealed.

Chairman Hubbard called on representatives from the South Dakota American Legion to make their presentation to the Commission. State Commander Martens thanked the Commission for the opportunity to attend the meeting and thanked the Commission for their undertaking the review of the statutes. Commander Martens then introduced State Adjutant Denny Brenden. Brenden reviewed the four legislative issues that the American Legion supports. The four issues Brenden highlighted were as follows: a feasibility study be done with regard to separating the Division and the Department, all discharges for Division

Director, employees and CTVSO be honorable, a feasibility study be conducted with regard to a state veterans home and a state cemetery on the eastern side of the state, and preference for hiring veterans.

Brenden noted that they have tried to secure data from the State with regard to the number of veterans employed by the state but have not been successful in securing that information.

Brenden noted that the legislation dealing with honorable discharges was not directed at George Summerside. Brenden noted that this was not a personal attack on George but that we need to have an honorable man serving in this position.

Brenden announced that the American Legion legislative reception is scheduled to be held on February 2, at 5:30 pm at Pierre American Legion Post #8 and that the VFW Legislative Reception will be held February 8 at the Pierre VFW Hall.

The Commissioners thanked Martens and Brenden for attending the meeting and for sharing their legislative agenda.

The Commission then continued with their review of South Dakota statutes.

SDCL 33-16-21 - Assistant attorney general assigned to division – The Commission recommended that the word “war” be stricken out of the third line.

SDCL 33-16-22 - Investigative authority of division - Access to records - Commission had no changes for this statute.

SDCL 33-16-23 - Division records as confidential – Exceptions – Commission discussed penalty aspects for this action. Commission had no changes for this statute at this time.

SDCL 33-16-24 - County veterans' service officer--Approval by director of veterans affairs – Tenure – The Commission recommended removing these two sentences from the statute “The county veteran's service officer's first appointment ends on the first Monday in January of the second year subsequent to the year of the appointment. The county veteran's service officer may be reappointed for terms of four years for each term.” The Commission further recommended that the word “appointment” be changed to “employment”.

SDCL 33-16-25 - County commissioners to assist service officer - Commission had no changes for this statute.

SDCL 33-16-26 - Duties of county veterans' service officer - Supervision by state division - Commission had no changes for this statute at this time but thought that in the future we consider administrative rules.

SDCL 33-16-27 - Qualifications of county veterans' officer – Commission recommended deleting everything after the “United States” in line three of the statute.

SDCL 33-16-27.1 - Training program for county veterans service officers - Attendance and testing - Certification of compliance – Commission recommended removing the word “appointment” in line nine of the statute and inserting “continued employment”.

SDCL 33-16-27.2 - Training program for county veterans' service officers – Rules - Commission had no changes for this statute.

SDCL 33-16-28 - Salary and expenses of county service officer - Office space and equipment - Commission had no changes for this statute.

SDCL 33-16-28.1 - Tribal veterans' service officers – Commission questioned if the phrase “Indian Tribe” was politically correct.

SDCL 33-16-28.2 - Salary reimbursement and services for Indian tribes and service officers - Tribes responsible for financial obligations - Commission questioned if the phrase “Indian Tribe” was politically correct.

SDCL 33-16-28.3 - State aid for salaries of county service officers - Maximum reimbursement - Commission had no changes for this statute.

SDCL 33-16-28.4 - Basic salary schedule for county service officers - Commission had no changes for this statute.

SDCL 33-16-28.5 - Training of county officer required for state reimbursement - Commission had no changes for this statute.

SDCL 33-16-29 - Construction of chapter - Commission had no changes for this statute.

SDCL 33-17-1 - Veteran defined - After considerable discussion, the Commission agreed to amend this statute to be entitled Wartime Veteran and that the word “wartime” be inserted in the second line before the word “veteran”. The Commission also unanimously agreed that a new section be added to define veteran. Also in Section 2 of this statute, capitalize the word “Reserve”.

SDCL 33-17-2 - Periods of service qualifying for veterans' benefits - Commission recommended that the title be changed from “Periods of service qualifying for veterans' benefits” to “Qualifications for wartime veterans' benefits.” The Commission also recommended that in the last paragraph of SDCL 33-17-2 that “Reserve” and “Veterans Commission” be capitalized.

SDCL 33-17-2.1 - Benefits extended to veterans serving since 1955 – Commission recommended that the dates “April 1,1973” be changed to “May 7, 1975” and that the word “Reserve” be capitalized.

SDCL 33-17-3-Veterans affairs division special revenue fund established - Commission had no changes for this statute.

SDCL 33-17-4 – Repealed

SDCL 33-17-5 - Repealed.

The Commission recessed at 5:00 pm.

The meeting reconvened at 8:30 am on Thursday, December 10, 2009. Chairman Hubbard called the meeting to order and requested roll call be taken. Roll call indicated a quorum was present. Commissioners present were: Mike Birnbaum, Wade Hubbard, John Noyes and Bill Locken. Commissioners absent were: Gene Murphy and Don Loudner.

Chairman Hubbard led the Commission and staff in the “Pledge of Allegiance.”

Commissioners then decided to discuss statutes that focus on the director position. It was determined that the following statutes would need to be reviewed: SDCL 33-16-4.1, 33-16-8, 33-1-12, 1-46-7, 33-1-15 and 33-18-4. Commissioners spent considerable time discussing the concepts and intentions of these statutes. Commissioners discussed appointments, nomination, and the role of the Commission, The Commissioners were in consensus that SDCL 33-16-4.1 and SDCL 33-18.4 should mirror each other. The Commission then reviewed each of the six respective laws.

SDCL 1-46-7 - The head of the Division of Veterans Affairs is the director of veterans affairs – The Commission recommended that the statute be changed to read “The director shall be nominated as provided by SDCL 33-16-8. The director shall be appointed by the adjutant general to serve at the pleasure of the adjutant general.”

SDCL 33-16-4.1 - Direction and supervision by Division of Veterans Affairs - Independent functions retained by commission – The Commission recommended that the statute be changed to read “The Veterans Commission shall be administered with the assistance of the Division of Veterans' Affairs and the director thereof, but shall retain the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special budgetary functions (as defined in § 1-32-1) otherwise vested in it and shall exercise those functions independently of the director of veterans affairs.

SDCL 33-16-8 - Director of veterans affairs division - Nomination by commission-Appointment and service – The Commission recommended that the statute be

changed to read “There shall be a director of the Division of Veterans Affairs, who shall be the executive head of the division. The director shall be a citizen of the United States and of the State of South Dakota, and an honorably discharged wartime veteran. If the position of director becomes vacant, the Veterans commission shall provide to the adjutant general a minimum of two nominees but not more than five nominees for the position of director. At the adjutant general’s discretion, the adjutant general may consider one or more additional candidates for the position of director. The adjutant general shall appoint a nominee or a candidate to the position of director at the adjutant general’s discretion”.

SDCL 33-18-4 - Local management of home by superintendent--Nominees-- Duties--Qualifications of superintendent – The Commission recommended that the statute be changed to read “The Department of Military and Veterans Affairs shall provide for the local management of the State Veterans' Home by the appointment of a superintendent. The Veterans' Commission shall provide to the adjutant general a minimum of two nominees but not more than five nominees for appointment to the position of superintendent. At the adjutant general’s discretion, the adjutant general may consider one or more additional candidates for the position of superintendent. The adjutant general shall appoint a nominee or a candidate to the position of superintendent at the adjutant general’s discretion. The superintendent shall be the executive head of the veterans' home. The superintendent shall be a citizen of the United States, a resident of South Dakota and an honorably discharged veteran as defined in § 33-17-1”.

SDCL 33-1-12 – Adjutant general as general supervisor of department - Staff assistants - Commission had no changes for this statute.

SDCL 33-1-15 – Officers and appointees – Clerical and other employees – Salaries - Commission had no changes for this statute.

Review of Department Legislative Proposals – Chairman Hubbard called on Deputy Secretary Steve Harding. Secretary Harding commended the Commission for the review process they are undertaking with regard to SDCL. Harding noted that we all need to work together to ensure that we continue to focus on the veterans. Harding reported that at this time the Department has one bill that will be introduced. The bill extends the timeframe to June 2012 for monies to be utilized for construction at the Watertown Armory.

Review of Division Legislative Proposal and Budget – Chairman Hubbard called on Acting Director Summerside. Summerside reviewed the proposed budget for the Division for 2011 budget year. Summerside noted that the Division is considering legislation to revise the Gold Star License Plate.

Review of Veteran Organization’s Legislative Proposals – Chairman Hubbard noted that the American Legion had made their presentation the first day of the meeting. Chairman Hubbard noted that although all veteran organizations and auxiliaries had been extended an invitation to attend the meeting and brief the Commission on their legislative agenda, no other groups were in attendance.

Chairman Hubbard noted that the DAV 2010 legislative proposals had been provided in written report. Chairman Hubbard noted that all veteran organization's legislation would be discussed during an upcoming conference call.

Chairman Hubbard noted that he would be in contact with Paul Evenson to determine a date to recognize Paul for his tenure on the Commission.

New Business – Review of Legislative Activity and Lobbying Policy – Chairman Hubbard opened the floor for discussion on the Commission's lobbying policy and procedures. After considerable discussion a motion was made by Commissioner Birnbaum, seconded by Commissioner Locken, that Commission members be authorized to lobby for the Commission's respective position. A roll call vote was taken:

John Noyes (aye)
Mike Birnbaum (aye)
Wade Hubbard (aye)
Bill Locken (aye)

Motion carried.

A motion was made by Commissioner Locken, seconded by Commissioner Noyes, that the Commission be limited to lobby only on topics and positions that have been approved by the majority of the Commission. A roll call vote was taken:

John Noyes (aye)
Mike Birnbaum (aye)
Wade Hubbard (aye)
Bill Locken (aye)

Motion carried.

Chairman Hubbard noted that he would call for a teleconference call for the Commissioners to determine positions on legislative issues before anyone would be authorized or asked to testify. Chairman Hubbard would make the determination on who would be called to testify on behalf of the Commission.

Consideration of SAA Letter of Funding Support – Chairman Hubbard called on Acting Director Summerside to review the intent of the proposed letter to the Congressional delegation. After Summerside's review a motion was made by Commissioner Locken, seconded by Commissioner Noyes to authorize Chairman Hubbard to sign the draft letters to Senator Johnson and Congresswoman Herseth Sandlin. Motion carried.

Consideration of Future Meeting Dates – Chairman Hubbard opened the floor for discussion on 2010 Commission meeting dates. Chairman Hubbard noted that with two commissioners absent, he would prefer that the Commission only set the date for the Jan/Feb meeting at this time and that the remaining dates for 2010 be set at the next meeting. After considerable discussion, the Commission selected the dates of February 8-9, 2010, for their next Commission meeting.

Chairman Hubbard noted that the next agenda will include continued review of SDCL and 2010 commission meeting dates.

A motion was made by Commissioner Birnbaum, seconded by Commissioner Noyes, to adjourn. Motion carried and the meeting adjourned at 12:00 noon.

Wade Hubbard, Chairman

Guests in attendance for all or part of the meeting were: Bob Voeltz, Rod Martens, Denny Brenden

Staff in attendance for all or part of the meeting were: Steve Harding, George Summerside, Larry Person and Audry Ricketts.