



TRIBAL AND STATE RELATIONS COMMITTEE

Tuesday and Wednesday, August 9-10, 2022
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Rich Wardner, Chairman, called the meeting to order at 8:32 a.m.

Members present: Senators Rich Wardner and Joan Heckaman; Representatives Joshua A. Boschee and Terry B. Jones

Members absent: Representative Chet Pollert; Senators Jessica Bell and Dave Oehlke

Others present: Mark Fox, Chairman, Three Affiliated Tribes of the Fort Berthold Reservation; Janet Alkire, Chairwoman, Standing Rock Sioux Tribe; Brad Hawk, Indian Affairs Commission
See [Appendix A](#) for additional persons present.

It was moved by Representative Boschee, seconded by Senator Heckaman, and carried on a voice vote that the minutes of the April 6-8, 2022, meeting be approved as distributed.

UNITED TRIBES TECHNICAL COLLEGE

Mr. Leander McDonald, President, United Tribes Technical College, provided testimony ([Appendix B](#)) regarding the college's programs and services. He noted:

- Enrollment at the college averages between 300 and 400 students, 7 percent of students are nonnative, and the majority are from North Dakota.
- The college's primary challenge is breaking down the stigma of education which resulted from the boarding school era, and, in response, the college has placed an emphasis on incorporating culture.

TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS Gaming and Electronic Pull-Tab Devices

Ms. Deborah McDaniel, Director, Gaming Division, Attorney General's office, provided testimony ([Appendix C](#)) regarding the growth of charitable gaming and electronic pull-tab devices. She noted:

- Over 250 charitable organizations operate over 4,200 electronic pull-tab devices at over 700 sites in over 275 cities in all counties throughout the state, except Sioux County.
- Over \$43 million in gaming taxes is estimated to be collected during the 2021-2023 biennium.

Ms. Alysia LaCounte, General Counsel, Turtle Mountain Band of Chippewa Indians, noted tribal casino revenue has decreased by 15 percent, in part due to the COVID-19 pandemic and the implementation of electronic pull-tab devices.

Education

Dr. Donna Brown, President, Turtle Mountain Community College, provided testimony ([Appendix D](#)) regarding the college's programs and services. She noted:

- Half of the offered programs are career and technical programs, and the other half are academic programs.
- The commercial drivers license and heavy equipment operating programs are the most popular.
- The college is under accreditation review for its first master program.

In response to questions from committee members, Dr. Brown noted:

- Most of the college's funding is derived from federal funds, and approximately one-third to one-half of the faculty are supported by grant funding.

- The college recently proposed and passed a tuition increase because tuition had not increased for 16 years.
- The college does not have any debt, but is considering applying for a loan from the United States Department of Agriculture (USDA) to build a career and technical education building.

Ms. Brenda Zastoupil, Director of Financial Aid, North Dakota University System, provided testimony ([Appendix E](#)) regarding the North Dakota Indian Scholarship. She noted:

- The scholarship provides funds to approximately 270 students each year.
- Recommendations for amending the statute authorizing the scholarship were proposed to the interim Higher Education Committee, and the recommendations will be introduced during the upcoming legislative session to update and clarify the language.
- Since 2015, the scholarship amount is limited to \$2,000 per student, but the amount awarded per student has been reduced to accommodate a larger number of qualifying students.

In response to questions from committee members, Ms. Zastoupil noted:

- The North Dakota Indian Scholarship Board is comprised of three members: the executive director of the Indian Affairs Commission, the commissioner of higher education or the commissioner's designee, and a Native American appointed by the governor.
- Students who have previously applied for the scholarship are encouraged to reapply during the annual application process.
- The scholarship fund has not been increased since state agencies were required to cut budgets after 2016.

State-Tribal Relations Policy

Ms. Cynthia Monteau, Director, Tax Department, Three Affiliated Tribes of the Fort Berthold Reservation, provided testimony ([Appendix F](#)) regarding the implementation of a state-tribal relations policy. She noted:

- The state has no formalized or written policy on how to communicate and consult with tribes.
- The Legislative Assembly often looks to other states on how to implement policies, and Montana has a statutory state-tribal relations policy.
- Implementing a formal state-tribal relations policy would lay the foundation for improved communication and would ensure consultation and tribal input occurs.

Mr. Hawk noted he has witnessed an increased amount of interaction between the state and tribes during his tenure with the Indian Affairs Commission, and he is supportive of the idea of formalizing a policy to lay the groundwork for future governors and leaders.

Health Care

Ms. LaCounte noted:

- It is difficult to find professional medical staff due to the remote nature of the reservation, and there is a severe shortage of licensed addiction counselors and dentists to serve the tribal community.
- The hospital serves 15,000 people and provides eye care, dental care, and health care.
- Ten percent of the tribe's population is diabetic.

Ms. Krissie Guerard, State Department of Health, provided testimony regarding tribal health liaisons. She noted:

- The state department of health hired four tribal health liaisons, three of whom are tribal members.
- The liaisons help transmit information from the department to the tribes and identify gaps in services.

Other Tribal Issues

Ms. LaCounte provided testimony ([Appendix G](#)) regarding strides the tribe is making in economic development and social programs, forming partnerships with local government and businesses, and developing government infrastructure.

THREE AFFILIATED TRIBES OF THE FORT BERTHOLD RESERVATION

Gaming and Electronic Pull-Tab Devices

Ms. McDaniel provided testimony regarding charitable gaming and electronic pull-tab devices. She noted:

- Electronic pull-tab devices account for 86 percent of the gaming activity in the state.

- When the Legislative Assembly authorized electronic pull-tab devices in 2017, the Attorney General's office submitted testimony requesting more direction regarding regulation of the devices, but the legislation passed without further clarification.
- Because the regulation of electronic pull-tab devices was not clarified sufficiently in statute, the former Attorney General had to establish parameters regarding the operation of electronic pull-tab devices, including what type of device constituted an electronic pull-tab device, what sites the devices would be allowed in, and how many devices could operate per site.

In response to question from committee members, Ms. McDaniel noted:

- The former Attorney General did not approve electronic pull-tab devices in the form of tablets due to increased concerns with regulating such devices.
- Unlike tribal casinos that are closely regulated and monitored with detailed reporting and surveillance, most charitable organizations do not have employees onsite at approved gaming locations. Instead, those organizations rely on bar owners and employees to regulate the games.
- If the Legislative Assembly expands charitable gaming, more resources and full-time employees will be required for regulation.

Chairman Fox noted:

- There is a limited number of individuals who have the disposable income to play games of chance, and the total amount that can be spent on gaming is finite.
- Tribes are concerned with the expansion of gaming because tribal casinos' revenues are being impacted.
- More stringent regulations should be imposed on charitable gaming to protect against crime.

Ms. Monteau noted only a few charities control the vast majority of charitable gaming revenue, and one device manufacturer maintains 65 percent of the market in the state.

Education

Mr. Robert "BJ" Rainbow, Vice President of Academics, Nueta, Hidatsa, Sahnish College, provided testimony ([Appendix H](#)) regarding the college's programs and services.

Ms. Zastoupil provided testimony regarding the North Dakota Indian Scholarship and noted the scholarship also is available for students enrolled in tribal colleges in the state.

State-Tribal Relations Policy

Ms. Monteau provided testimony regarding the implementation of a state-tribal relations policy. She noted timely and meaningful consultation with tribes is necessary so the tribe can make informed decisions.

Health Care

Chairman Fox provided testimony regarding tribal health care issues. He noted:

- The tribe pays \$40 million per year to provide health insurance for qualifying tribal members, and 7,000 members are enrolled.
- Tribal members experience health disparities. Diabetes is one medical condition the tribe has prioritized addressing, and the tribe recently celebrated the grand opening of a diabetes center.
- The tribe also is prioritizing substance abuse treatment services for its members, including building sobriety living centers, and the majority of tribal members who have received treatment do not relapse.

Taxation Issues

Chairman Fox noted the tribe is interested in jointly regulating and taxing alcohol sales on the reservation. He noted:

- There is a disagreement between the tribe and alcohol wholesalers regarding the interpretation of a tribal ordinance.
- The tribe needs the tax revenue from alcohol sales to address the negative impacts of alcohol use on the reservation.
- The tribe would require a larger split of the tax revenue before the tribe would enter an alcohol tax agreement with the state.

SPIRIT LAKE TRIBE

Gaming and Electronic Pull-Tab Devices

Ms. McDaniel provided testimony regarding charitable gaming and electronic pull-tab devices. She noted electronic pull-tab devices are audited, but it is difficult to review the reports when over 4,000 devices are operating throughout the state.

Ms. Collette Brown, Executive Director, Gaming Commission, Spirit Lake Tribe, noted the tribes have offered suggestions for increased regulation of charitable gaming, including applying similar regulations to those tribal casinos are required to follow.

Education

Dr. Cynthia Lindquist, President, Cankdeska Cikana Community College, provided testimony ([Appendix I](#)) regarding the college's programs and services. She noted:

- The college's enrollment numbers are increasing.
- The five tribal colleges have been negotiating with corporate entities to establish a registered apprenticeship program to be launched in January 2023.
- The corporate entities will be contributing \$14 million to the initiative, and she requested the state contribute \$6 million.

In response to questions from committee members, Dr. Lindquist noted the colleges have not contacted the Department of Commerce or USDA for resources or support regarding the apprenticeship initiative.

State-Tribal Relations Policy

Ms. Monteau provided testimony regarding the implementation of a state-tribal relations policy. She noted her proposed policy brings decision makers to the table and recognizes the unique sovereign nature of the tribes.

Chairman Wardner noted the first step to improve state-tribal relations is to statutorily require legislative leadership to serve on the Tribal and State Relations Committee and authorize the committee to meet during the legislative session if necessary.

STANDING ROCK SIOUX TRIBE

Gaming and Electronic Pull-Tab Devices

Ms. McDaniel provided testimony regarding charitable gaming and electronic pull-tab devices. She noted:

- The Attorney General can suspend gaming activity or impose monetary fines against persons that commit gaming violations.
- There are approximately 10 to 12 gaming violations per month.
- Some gaming violations have resulted in criminal prosecutions.

Chairwoman Alkire noted the tribes are transparent with tribal gaming and the regulations that are followed. She noted the tribes want an even playing field regarding gaming activities.

Education

Dr. Laurel Vermillion, President, Sitting Bull College, provided testimony ([Appendix J](#)) regarding the college's programs and services. She noted:

- The college's enrollment numbers dipped during the COVID-19 pandemic when the college switched to remote learning, but the college is returning to in-person instruction.
- The college does not have a cafeteria, auditorium, or a wellness center, but college representatives are working with individuals from the USDA to obtain resources to address some of those needs.

In response to a question from a committee member, Dr. Vermillion noted a lack of internet access and accessibility to appropriate technology and devices is a concern for some students and the tribal community.

In response to a question from Chairwoman Alkire, Chairman Wardner noted some legislators have not prioritized providing financial support to tribal colleges due to a sentiment that the Legislative Assembly already funds 11 institutions across the state and tribal colleges have access to federal funding.

State-Tribal Relations Policy

Ms. Monteau provided testimony regarding the implementation of a state-tribal relations policy. She noted a formal policy would help bridge the communication gap between the state and tribes.

Chairwoman Alkire noted tribes are similar, but unique, and a formal state-tribal relations policy would help ensure continuity.

Health Care

Chairwoman Alkire noted health care is chronically underfunded, tribal members have to travel significant distances to receive care and services, and building a new medical campus is a priority for her administration.

Ms. Guerard noted the tribal health liaisons were created as a pilot program funded by COVID-19 relief funding, but the department recently applied for a grant to fund the positions until 2027.

Taxation Issues

Ms. Carol Kelly, Director, Tax Department, Standing Rock Sioux Tribe, noted the tribe would like to address the collection of online sales tax from tribal members on the reservation. She noted the tribe may be interested in negotiating a sales and use tax agreement with the state to capture that tax revenue.

Ms. Shannon Fleischer, Associate Director, Tax Department, noted legislation was enacted in 2019 to allow for state-tribal sale and use tax agreements, and if the tribe seeks changes to the legislation, the changes could be addressed during the upcoming legislative session.

Other Issues

Ms. Wilberta Red Tomahawk, District Representative, Standing Rock Sioux Tribe, noted road maintenance and upkeep is an area of concern for the tribe.

REPORT

Mr. Shawn Peterson, Juvenile Court, provided a report ([Appendix K](#)) on the status, effectiveness, performance, and sustainability of the memorandum of understanding established under North Dakota Century Code Section 27-20.4-27.

Judge Joseph Vetsch, Chief Judge, Spirit Lake Nation, provided information relating to the sustainability of the tribal juvenile services cooperative agreements. He noted:

- Staff turnover is an issue for the tribal court and Spirit Lake Social Services, but the state and county counterparts are instrumental in mentoring tribal staff.
- He will continue to voice his support for the legislation and program.

In response to a question from a committee member, Judge Vetsch noted the majority of tribal youth are placed at the Standing Rock Youth Correctional Facility if incarceration is required.

COMMITTEE DISCUSSION

It was moved by Senator Heckaman, seconded by Representative Jones, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and present the report to the Legislative Management.

It was moved by Senator Heckaman, seconded by Representative Jones, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Wardner adjourned the committee sine die at 4:17 p.m.

Jill Grossman
Counsel

ATTACH:11