February 13, 2023

Nevada Indian Commission
Executive Director Report

BUDGET

Nevada Indian Commission - 2600
FY2023 Starting Balance = $ 359,532
Current balance = $ 146,771

Stewart Indian School Cultural Center - 2601
FY2023 Starting Balance = $ 304,789
Current Balance = $ 123,730

Gift Fund
FY2023 Starting Balance = $ 163,801
Current balance = $ 84,005

Totals as of 01/24/22 - The funding for NIC budget account 2600 is 75% General Fund and 25% Transfer from Tourism. The funding for SISCC&M budget account 2601 is 38% General Fund and 62% Transfer from Tourism.

TRANSITION TO NEW ADMINISTRATION

• On January 17, I received note of congratulations from Nevada Governor Joe Lombardo’s Chief of Staff Ben Kieckhefer on my continued appointment as executive director of the NIC. Submitted requested information including: NIC org chart, job vacancies, and bill draft requests; awaiting liaison reporting matrix which will identify who I will report to within the Office of the Governor

NATIVE VOTE

• In recognition of work with the Secretary of State’s office and Tribal communities to enhance voter participation, access, and education, NIC Executive Director Stacey Montooth was awarded the National Association of Secretaries of State Medallion Award by Nevada Secretary of State Barbara Cegavske.

• Secured commitment that All Voting Is Local will partner with the NIC including providing financial support for travel, accommodations, and meals for leadership and participants for Nevada Tribes Legislative Day on Tuesday, February 14.

AMERICAN RESCUE PLAN ACT (ARPA)

• October 20, 2022, the Nevada Legislature’s Interim Finance Committee (IFC) unanimously approved the transfer of $20 million of the Governor’s Recovery Funds (State ARPA) for the NIC to be sub granted to our Tribal Nations.

• We conferred with NDTA regarding the sub grant processes, and we developed and disseminated (US Post and email) a two-page grant application to our 28 Tribal Nations.

US SECRETARY OF INTERIOR INITIATIVE INTO INDIAN BOARDING SCHOOLS

• We remain engaged with, and distribute information through social media, in public meetings, and in leadership meetings regarding the Secretary’s “Road to Healing” Tour during which Department of Interior officials are documenting abuse in federal Indian boarding schools. Two more events took place in late February at the Gila River Nation and the Navajo Nation.

INDIAN EDUCATION

• During ITCN Conference, surveys were distributed and collected from stakeholders regarding the draft Indian Education Advisory Committee (IEAC) Strategic Plan.
STAFFING

• January 23, Sarina Nez promoted to Program Officer I
• Health Specialist position closed January 25; Two applications received
• Administrative Assistant search underway

STANDING MEETINGS

* Governor’s Cabinet (last on December 19)
* Weekly meeting with Governor’s Office Liaison Tim Robb (discontinued after December 16)
* National Delegation Staffers (Senator Catherine Cortez-Mastos and Senator Jacky Rosen)
* Inter-Tribal Council of Nevada (last on December 12)
* University of Nevada Indigenous Relations Advisory Committee (December 2)
* Tribal Health Directors (November 10)
* Nevada Tribal Emergency Coordinating Council (November 2)
* Nevada Department of Health and Human Resources Tribal Consultation (November 2)
* Nevada Joint Military Affairs Committee Meeting (October 12)
* Governors’ Interstate Indian Council (December 4)
* Executive Directors Meeting: NIC, ITCN, UNR (January 11, ppd, February 25)
* Justice40 Initiative (discontinued after November 15)
* Subcabinet on Infrastructure (discontinued after November 17)

MEDIA

December 19 — Sourced interview for Miles Brady of KNPR Las Vegas regarding ICWA

January 21 — Sourced interviews for Jessica Hill of Las Vegas Review-Journal regarding 2023 Legislative Session

PRESENTATIONS / WELCOMES

October 26 — Dr. Caesar Andrew’s University of Nevada investigative journalism class:
“What’s the state of justice like for Native Americans? What’s working well/better? What’s not?”

November 29-30 — National Caucus of Native American State Legislators
“Collaboration; How the NIC moves Indigenous Issues”

December 7 — Nevada Clerks / County Registrars Convention
“What are the challenges to vote in Indian Country”

December 9 — Inter-Tribal Council of Nevada Convention, led by Commissioner Staci Emm
“Nevada Tribes Water Rights”

December 10 — Nevada Digital Government Summit
“How ‘High Speed NV’ will close the digital divide for Tribal nations”

January 6 — Welcome and Indian boarding school Discussion
Elders, leaders, and youth from the Burns Paiute Tribe with special guest Dresslerville Community Council Chair Patrick Burtt

January 19 — U.S. Department of Labor, Women’s Bureau – Western Region
“Virtual Equity Series: American Indian Women in the Workplace”
OTHER HIGHLIGHTS / ONGOING PROJECTS

• Organized Virtual Strategy meetings regarding Harvard Peabody Museum’s hair samples from boarding school students including 23 from the then Carson Industrial School aka Stewart
• Continued exploration of AIANTA establishing training center via December 16 meeting with AIANTA CEO Sherry Rupert; December 23 follow up meeting with Rupert and Red Rock Strategies VP of Public Policy Jeff Kaye
• January 11, January 18 work sessions with NIC Chair Kostan Lathouris to incorporate feedback into Consultation Policy

OTHER OUTREACH

October 27 — Collaborated with Battle Born Progress connecting voting professionals with our Tribal poll workers regarding rights and safety of election volunteers

November — Daily social media / website features of Native American leaders to celebrate American Indian Heritage Month; Requested, drafted Governor’s Proclamation for month long celebration of the first people of what is now the State of Nevada

November 10 — Attended, networked at the Pyramid Lake Museum virtual reality display of a basket collection managed by the University of Nevada curated by UNR Libraries, the Anthropology Research Museum, the Nevada Historical Society, the Nevada State Museum and Pyramid Lake Museum Director Billie Jean Guerrero

November 11 — After construction disturbances at the Stewart campus, attended meeting with Washoe County Manager and staff to review and confirm standard operating procedures of the Washoe County Regional Medical Examiner’s Office

November 18-19 — Provided support for Stewart Father’s Day Holiday Craft Fair

December 14 — Attended Ribbon Cutting Celebration for Spaghetti Bowl Express which included formal remarks by Reno-Sparks Indian Colony Chairman Arlan D. Melendez and cultural performance by Tribal members impacted by the largest road construction project in Northern Nevada

January 11 — Attended meeting with Nevada Urban Indians regarding mutual support MOU

January 18 — Organized meeting regarding Silver State Health Insurance Exchange and Tribal sponsorship for coverage
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| 7044 EXCESS PRINT CHARGES-COPIERS           | PV 101 00001981922 | 01/31/23   | 1.54       | -233.79      |              |            |
| 7045 STATE PRINTING CHARGES                 |                 |            |            |              |              |            |
| 7050 EMPLOYEE BOND INSURANCE                |                 |            |            |              |              |            |
| 7051 PROPERTY & CONTENT INSURANCE           |                 |            |            |              |              |            |
| 7054 AG TORT CLAIM ASSESSMENT               |                 |            |            |              |              |            |
| 7060 CONTRACTS                              |                 |            |            |              |              |            |
| 7100 STATE OWNED ELG RNT-B&G                |                 |            |            |              |              |            |
| 7250 POSTAGE - STATE MAILROOM               | JV 079 BOMA29356 | 01/27/23   | -3.10      | -165.35      |              |            |
| 7286 MAILSTOP - STATE MAILROOM              |                 |            |            |              |              |            |
| 7289 RITS PHONE LINC AND VOICEMAIL          |                 |            |            |              |              |            |
| 7290 PHONE, FAX, COMMUNICATION LINC         |                 |            |            |              |              |            |
| 7296 RITS LONG DISTANCE CHARGES             |                 |            |            |              |              |            |
| 7430 PROFESSIONAL SERVICES                  |                 |            |            |              |              |            |
| 7590 OPERATING LEASE PAYMENTS               | PV 101 00001981922 | 01/31/23   | -103.48    | -724.36      |              |            |
| SUB TOTAL                                    |                 |            | -105.04    | -14,399.49   | 43,296.00    | 28,896.51  |
| ENCUMBRANCE TOTAL                           |                 |            | 0.00       | 0.00         |              |            |
| PESSCUMBRANCE TOTAL                         |                 |            | 0.00       | 0.00         |              |            |
| TOTAL                                        |                 |            | -105.04    | -14,399.49   | 43,296.00    | 28,896.51  |

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| ENCUMBRANCE TOTAL                           |                 |            | 0.00       | 0.00         |              |            |
| PESSCUMBRANCE TOTAL                         |                 |            | 0.00       | 0.00         |              |            |
| TOTAL                                        |                 |            | 0.00       | 0.00         | 4,500.00     | 4,500.00   |

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**STATE OF NEVADA**

**REPORT ID:** RSW001  **BUDGET STATUS REPORT**  **PAGE:** 541

**FROM DATE:** 01/21/2023  **TO DATE:** 01/31/2023  **RUN DATE:** 01/31/2023  **RUN TIME:** 18:36:42

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**82 DHF HF COST ALLOCATION**

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**85 ARPA GRANTS TO TRIBES RESERVE**

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04 OPERATING

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7050 EMPLOYEE BOND INSURANCE -6.00
7051 PROPERTY & CONTENT INSURANCE -1,247.00
7054 AG TORT CLAIM ASSESSMENT -170.58
7100 STATE OWNED BLDG RNT-B&G -19,576.75
7285 POSTAGE - STATE MAILROOM -141.17
7289 BITS PHONE LINE AND VOICEMAIL -218.70
7296 BITS LONG DISTANCE CHARGES -14.97
7301 MEMBERSHIP DUES -933.00
7302 REGISTRATION FEES -375.00
7980 OPERATING LEASE PAYMENTS PV 101 00001980554 01/24/23 -179.76 -1,078.56

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08 EXHIBITS

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7430 PROFESSIONAL SERVICES -9.99 -1,500.00

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09 COLLECTIONS

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7302 REGISTRATION FEES -400.00
7430 PROFESSIONAL SERVICES -990.00

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**Education and Interpretation**

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Great Basin Native Artists Gallery


Outreach

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**BA 2601**

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**BA 3286**  
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- $54,431.49 donations via check and purchases
- $7,563.95 gift shop sales via check
- Total: $61,995.44

**SISCCM Petty Cash and Change Account (authorized by NRS 233A.300)**

- Balance: $911.29
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AMBER Alert in Indian Country:
Ashlynne Mike AIIC Act of 2018

This training is brought to you by:
The U.S. Department of Justice (2013)
Office of Juvenile Justice and Delinquency Prevention (OJJDP)

Disclaimer
This project is supported by Grant #2017-MC-FX- K003 awarded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect those of the Department of Justice.
Objectives

- Examine the Ashlynne Mike Indian Country Act of 2018
- Review State/Tribal Implementation Goals and Objectives
- Identify resources available to Tribal AMBER Alert Coordinating partners

AMBER Alert Training & Technical Assistance Program

Mission
To safely recover missing, endangered, or abducted children through the coordinated efforts of law enforcement, media, transportation, and other partners by using training and technology to enhance response capacities and capabilities and increase public participation.
The AMBER Alert plans created through the PROTECT Act formed a nationwide plan that allowed law enforcement agencies across the country to alert the public when a child was abducted. These AMBER Alert plans, in some cases, did not extend to tribal communities.

Ashlynne Mike

- Abducted on May 2, 2016
- 11 years old
- Challenged the country to improve response procedures for children who have gone missing and/or are abducted within tribal boundaries.

Ashlynne Mike AMBER Alert in Indian Country of 2018

- Signed into law on April 13, 2018
- Report to Congress includes an assessment of readiness, education and training needs of tribal nations for an AMBER Alert protocol
- To access the full report, visit www.amber-ic.org
Slide 9

Goals of State/Tribal Implementation Meeting

- To broaden the scope of AMBER Alert education and training for tribal nations
- Support collaborative efforts while addressing obstacles and challenges within tribal communities
- Develop a response plan to missing children and child abduction incidents
- Encourage communication and planning throughout the community through the development of an AMBER Alert plan

Slide 10

The Plan supports a Community Response

- Tribal Leadership
- Fire Department
- Tribal Department of Transportation
- Education Department
- Community members
- State AMBER Alert Coordinator and Partners

Slide 11

Implementing AMBER Alert in Indian Country Tribal/State Meeting Agenda

- Best practices for collaborating with the state or regional AMBER Alert program
- Examine the specific requirements for requesting issuance of an AMBER Alert
- Assess various child abduction tabletop scenarios
- Develop an action plan for implementing the AMBER Alert program in their community
AMBER Alert Plan

Slide 13

AMBER Alert in Indian Country (AIIC) Associates

- Associates are assigned states and tribal nations for outreach.
- Associates participate in the State/Implementation Meetings.
- Associates conduct follow up with tribes throughout the implementation phases.

Next Steps

Slide 14

**State AMBER Alert Coordinators**

- Connect with our AIIC team and associates
- Plan a team approach with tribal outreach
- Goal is to educate and form partnership with the tribes.
- State/Tribal Implementation Meeting

**Tribal Leadership / Tribal Law Enforcement Representative**

- Connect with our AIIC team and associates
- Introduction to the State AMBER Alert Coordinators and other partners
- State/Tribal Implementation Meeting
These training materials are the work product of Fox Valley Technical College (FVTC) and the National Criminal Justice Training Center (NCJTC), and are co-owned with the Department of Justice, Office of Juvenile Justice and Delinquency Program (OJJDP). Any use, reuse or dissemination of this material is strictly prohibited without express permission from both FVTC/NCJTC and OJJDP.

Thank you for your participation!

For assistance, please contact us:

AMBER ALERT and the National Center for Missing & Exploited Children (NCMEC)

For Shield details, please contact the AMBER Alert Coordinator in your state.
INDIGENOUS PRAYER RUN

Hoover Dam  Glen Canyon Dam

MARCH 11-15, 2023

All Indigenous runners welcome!

Find us on Instagram and Facebook:
@INDIGENOUSPRAYERUNALLIANCE

For more information email: waterprayer.run@gmail.com
The Nevada System of Higher Education

Board of Regents
Mrs. Cathy McAdoo, Chair
Ms. Amy J. Carvalho, Vice Chair
Mr. Joseph C. Arrascada
Mr. Patrick J. Boylan
Mr. Byron Brooks
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Mr. Robert Kilroy, Chief of Staff and General Counsel

Officers of the Nevada System of Higher Education
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Dr. DeRionne Pollard, President
Nevada State College
Ms. Joyce M. Helens, President
Great Basin College
Dr. J. Kyle Dalpe, President
Western Nevada College

Mr. Brian Sandoval, President
University of Nevada, Reno
Dr. Federico Zaragoza, President
College of Southern Nevada
Dr. Karin M. Hilgersom, President
Truckee Meadows Community College
Dr. Kumud Acharya, President
Desert Research Institute
In 2021, the Nevada State Legislature enacted Assembly Bill 262 (Chapter 349, Statutes of Nevada 2021) requiring the Board of Regents to grant a waiver of the base registration fee, laboratory fees, and all other mandatory fees associated with enrollment for an eligible Native American student who is a member of a federally recognized Indian tribe or nation, all or part of which is located within the boundaries of Nevada, or is certified by the enrollment department of a tribe or nation or the Bureau of Indian Affairs as being a descendant of an enrolled member of such a tribe or nation, all or part of which is located within the boundaries of Nevada. Additional eligibility requirements include enrollment in a school within the Nevada System of Higher Education (NSHE); being a resident of the State for not less than one year; maintaining a 2.0 grade point average (GPA); and completing the Free Application for Federal Student Aid (FAFSA).

This report is written to satisfy the reporting requirements outlined in Nevada Revised Statute 396.54495. Accordingly, information is provided on the number of students that qualified for the NSHE Native American Fee Waiver, and the “total funding made available for the waiver.” There is no pool of money supporting this waiver. Instead, the total value of student fees waived by NSHE institutions as part of the NSHE Native American Fee Waiver is reported. Henceforth, this report will be issued annually.

**Program Eligibility**

**Institutional Eligibility**

Eligible institutions include the NSHE universities, state college, and community colleges:

- University of Nevada, Las Vegas
- University of Nevada, Reno
- Nevada State College
- College of Southern Nevada
- Great Basin College
- Truckee Meadows Community College
- Western Nevada College

**Student Eligibility**

In order to be eligible for the Native American fee waiver, a student must:

- Be a member of a federally recognized Indian tribe or nation, all or part of which is located within the boundaries of this State, or who is certified by the enrollment department of such a tribe or nation or by the Bureau of Indian Affairs as being a descendant of an enrolled member of such a tribe or nation, all or part of which is located within the boundaries of this State, regardless of membership status;
- Be enrolled at an NSHE institution;
- Be a resident of Nevada for not less than 1 year;
- Have maintained at least a 2.0 grade point average, on a 4.0 scale, each semester or the equivalent of a 2.0 grade point average if a different scale is used; and
- Have completed the Free Application for Federal Student Aid.
Residency Requirement

It is important to note that the residency requirement for the Native American Fee Waiver, as defined in AB 262, is stated specifically as “has been a resident of this State for not less than one year.” This is different from most other fee waiver programs such as the National Guard fee waiver, which are tied to NRS 396.540, that defines “bona fide resident” and recognizes the Board of Regents’ authority to establish policies, provided that the policies do not conflict with NRS. Under Board policy, residency for tuition purposes includes a provision (Handbook, Title 4, Chapter 15, Section 3) exempting from non-resident tuition, “…members of federally recognized Native American tribes, who do not otherwise qualify as Nevada residents, and who currently reside on tribal lands located wholly or partially within the boundaries of the state of Nevada.” This lack of alignment effectively excludes from waiver eligibility Native American students who are residing on tribal lands that are located partially in Nevada, but who are not actually living in Nevada and who otherwise qualify as residents for tuition purposes, such as students residing in Woodfords, California.

Cost

The Native American fee waiver is equal to the amount of the base registration fee and all other mandatory fees charged to the student less any federal educational benefits. Federal educational benefits include but are not limited to the Pell Grant, Federal Supplemental Educational Opportunity Grant (FSEOG), TEACH Grant, and veterans education benefits. There is no dedicated funding source supporting this fee waiver. Rather, a fee waiver results in forgone revenue for the granting institution.

It is important to understand that the Native American Fee Waiver is more expansive than most other fee waivers established in NRS or Board Policy in that it is not only applicable to students enrolled in undergraduate or graduate programs but may also be used to pay for professional programs (law, medical, dental). Further, in addition to waiving the base registration fee and laboratory fees, Nevada Revised Statute 396.5449 requires that “any other mandatory” fees also be waived. These waiver provisions could greatly increase the foregone revenue by institutions in future years.

Fee Waiver Recipients and Foregone Revenue

At all NSHE institutions combined, 140 students had $457,449 in fees waived during Academic Year 2021-22 (Tables 1 and 2). During the same award year, an additional 24 students qualified for the waiver but had fees paid by federal education benefits and therefore did not have fees waived under this program.

<table>
<thead>
<tr>
<th>Table 1: Number of Recipients by Institution</th>
<th>2021-22</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNLV</td>
<td>10</td>
</tr>
<tr>
<td>UNR</td>
<td>73</td>
</tr>
<tr>
<td>NSC</td>
<td>1</td>
</tr>
<tr>
<td>CSN</td>
<td>4</td>
</tr>
<tr>
<td>GBC</td>
<td>18</td>
</tr>
<tr>
<td>TMCC</td>
<td>24</td>
</tr>
<tr>
<td>WNC</td>
<td>10</td>
</tr>
<tr>
<td>NSHE TOTAL</td>
<td>140</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2: Total Value Waived by Institution</th>
<th>2021-22</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNLV</td>
<td>$39,609.04</td>
</tr>
<tr>
<td>UNR</td>
<td>$330,655.13</td>
</tr>
<tr>
<td>NSC</td>
<td>$652.50</td>
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<tr>
<td>CSN</td>
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<tr>
<td>GBC</td>
<td>$26,626.13</td>
</tr>
<tr>
<td>TMCC</td>
<td>$30,044.63</td>
</tr>
<tr>
<td>WNC</td>
<td>$22,806.13</td>
</tr>
<tr>
<td>NSHE TOTAL</td>
<td>$457,449.06</td>
</tr>
</tbody>
</table>
Conclusion

Approved by the Nevada Legislature in late spring of 2021, the Native American Fee Waiver program was first implemented during Fall 2021. This left only a few months for NSHE System Administration, the institutions, and partners across the state to implement the program and get the word out to Native American students about this opportunity. Even with short notice, during the first year of implementation 140 students had $457,449 in fees waived and 24 additional students qualified for the waiver but had fees paid by federal education benefits and therefore did not have fees waived under this program. During 2021-22 more than one NSHE institution added additional staff and/or programs to provide wrap-around supports for Native American students. These efforts, along with growing awareness of the fee waiver program, will likely result in higher utilization in future years.
Appendix

Included are the relevant Nevada Revised Statutes and Board of Regents Handbook section.

Nevada Revised Statutes 396.5449-54495

NRS 396.5449  Waiver of fees for certain students who are Native American; eligibility; verification of status.

1. The Board of Regents shall grant a waiver of the payment of registration fees, laboratory fees and any other mandatory fees assessed each semester against a student who is Native American and demonstrates that the student:
   (a) Is a member of a federally recognized Indian tribe or nation, all or part of which is located within the boundaries of this State, or who is certified by the enrollment department of such a tribe or nation or by the Bureau of Indian Affairs as being a descendant of an enrolled member of such a tribe or nation, all or part of which is located within the boundaries of this State, regardless of membership status;
   (b) Is eligible for enrollment in a school within the System;
   (c) Has been a resident of this State for not less than 1 year;
   (d) Has maintained at least a 2.0 grade point average, on a 4.0 scale, each semester or the equivalent of a 2.0 grade point average if a different scale is used; and
   (e) Has completed the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090.

2. The amount of the waiver must be equal to:
   (a) If the student is entitled to receive any federal educational benefits for a semester, the balance of registration fees, laboratory fees and any other mandatory fees assessed against the student that remain unpaid after the student’s account has been credited with the full amount of the federal educational benefits to which the student is entitled for that semester; or
   (b) If the student is not entitled to receive any federal educational benefits for a semester, the full amount of the registration fees, laboratory fees and any other mandatory fees assessed against the student for that semester.

3. The waiver must be granted to a student who enrolls in any program offered by a school within the System, including, without limitation, a trade or vocational program, a graduate program or a professional program.

4. For the purpose of assessing fees and charges against a person to whom such a waiver is granted, the person shall be deemed to be a bona fide resident of this State.

5. The Board of Regents may request documentation confirming that the student is a member or descendant of a member of a federally recognized Indian tribe or nation, all or part of which is located within the boundaries of this State.

NRS 396.54495  Report on waiver of fees for certain students who are Native American.  The Board of Regents shall, on or before September 1 of each calendar year, prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Nevada Legislature that includes, without limitation, aggregated data for:

1. The number of students that qualify for a waiver of registration fees, laboratory fees and any other mandatory fees pursuant to NRS 396.5449.
Section 15. Fee Waivers for Native Americans
1. A Native American student who is a member of a federally recognized Indian tribe or nation, all or part of which is located within the boundaries of Nevada, or who is certified by the enrollment department of such a tribe or nation or by the Bureau of Indian Affairs as being a descendant of an enrolled member of such a tribe or nation, all or part of which is located within the boundaries of Nevada, regardless of membership status, shall be permitted to register for credit without registration fees, laboratory fees, and any other mandatory fees provided that the individual:
   a. Is admitted pursuant to Title 4, Chapter 16;
   b. Has been a resident of this State for not less than one year; and
   c. Completes the Free Application for Federal Student Aid (FAFSA)
2. This policy is applicable during Fall and Spring terms only.
3. State-supported academic credit-bearing courses that lead to a certificate, associate, baccalaureate, master’s, or professional degree including distance education courses, independent learning, and continuing education courses are eligible for the fee waiver. Self-supporting courses, including independent study and correspondence courses, are not eligible for waiver under this policy.
4. All mandatory student fees and special course fees are eligible for waiver under this policy.
5. A person to whom a fee waiver is awarded shall be deemed a bona fide resident of Nevada for tuition purposes.
6. To remain eligible for the fee waiver, the student must achieve at least a minimum 2.00 semester grade point average in order to maintain subsequent eligibility for the fee waiver.
7. The institution may request documentation confirming that the student is a member or descendant of a member of a federally recognized tribe or nation, all or part of which is located within the boundaries of Nevada.
8. The amount of the waiver must be equal to the amount of the registration fee and all other mandatory fees charged to the student, less any federal educational benefits received by the student, including but not limited to Pell Grant, Federal Supplemental Educational Opportunity Grant, TEACH Grant, and veterans educational benefits.
9. On or before September 1 of each year, the Chancellor’s Office shall prepare a report that includes the number of students that received the waiver pursuant to this section and the aggregate dollar amount waived by institution. The report will include any funding received to off-set the waiver from gifts, grants, donations, and federal sources. Issuing of the waiver is not contingent on the receipt of funds to support the waiver. The report will be transmitted to the Board of Regents and director of the Legislative Counsel Bureau.
NEVADA INDIAN COMMISSION
POLICY TO PROMOTE COLLABORATION BETWEEN STATE AGENCIES AND INDIAN TRIBES

Section I. Background

A. Federally recognized tribes have inherent sovereignty and maintain a government-to-government relationship with the U.S. government, based on the U.S. Constitution, federal treaties, statutes, executive orders, and policies. The U.S. government also has a trust responsibility to federally recognized tribes. Federal agencies help to fulfill the government-to-government relationship and trust responsibility to tribes through meaningful consultation with federally recognized tribes.

B. Generally, numerous barriers have existed to effective tribal-state relations, which may be based on outdated and inaccurate perceptions of tribes by non-Indian communities, the lack of understanding of tribal governments and their sovereignty, faulty assumptions regarding tribal governmental capacity, or even tribal government hesitation to form working relationships with state governments because of the tribes' constitutional and direct relationship with the U.S. government. See Susan Johnson, et al., GOVERNMENT TO GOVERNMENT: MODELS OF COOPERATION BETWEEN STATES AND TRIBES (2nd ed. 2009). Nonetheless, there are many good reasons to strive for cooperation between tribal and state governments, including mutual interests and similar governmental goals to use resources effectively and efficiently, to provide comprehensive services and a safe environment for citizens, to protect natural environments, and to sustain healthy economies. See id.

C. On June 8, 2019, the Governor of the State of Nevada (“State”), Steve Sisolak approved Assembly Bill 264, “An ACT relating to governmental administration; requiring the Nevada Indian Commission to implement a policy that promotes collaboration between a state agency and Indian tribes; requiring the Governor to meet with the leaders of Indian tribes; requiring certain employees of state agencies to receive certain training; and providing other matters properly relating thereto” (hereinafter “AB 264”) into law.

D. Modeled after 2009 legislation passed in New Mexico, AB 264 aims to increase collaboration between the federally recognized tribes, bands, and colonies located within Nevada (hereinafter, collectively, “Tribes”) and state agencies (hereinafter, collectively, “State Agencies”) that are often charged with developing wide-ranging policies, agreements, and procedures.

E. AB 264 seeks to facilitate a dialogue in decision-making while respecting tribal sovereignty.

F. AB 264 charges the Nevada Indian Commission (hereinafter “Commission”) with drafting a consultation policy (hereinafter “Policy”) that promotes effective communication and collaboration, positive government-to-government relations, and cultural competency. Although the Commission already serves as an intermediary for tribal-state relations, it does not speak for the Tribes.

G. A formal policy that establishes a consultation framework would improve the relationships between the Tribes and the State Agencies because it could be utilized by both the Tribes and the State Agencies to clarify what consultation entails and to provide guidance on what types
of activities require formal tribal consultation. The formal policy could also ensure that there is appropriate training and mechanisms for maintaining relationships between the Tribes and the State Agencies.

March 14, 2020, the Nevada Indian Commission sent letters to Tribes, Bands, Colonies, and Nevada Department heads asking for feedback on what such policy should contain. On January 26, 2021, the Nevada Indian Commission again sent letters asking for feedback on the first draft of the policy.

Section II. Purpose

Through this Policy, the Commission seeks to foster and facilitate positive and effective government-to-government relations between the Tribes and the State Agencies. The purpose of this Policy is to develop, improve, or maintain partnerships with the Tribes by using agreed-upon processes when the State Agencies develop, change, or implement policies, programs, or services that directly affect the Tribes.

Section III. Principles

A. Recognize and Respect Sovereignty. The State and Tribes are sovereign governments. As sovereign governments recognized by the United States, the Tribes have the right to make and be governed by their own respective laws, unless and until the United States Congress ordains otherwise. The recognition and respect of sovereignty is the basis for government-to-government relations and this Policy. Sovereignty must be respected and recognized in government-to-government consultation, communication, and collaboration between the Tribes and the State Agencies. The State is not a party to but recognizes and acknowledges the unique and important trust responsibility of the U.S. government to the Tribes. The State also recognizes that state law has no force in Indian country, unless and until the United States Congress ordains otherwise.

B. Government-to-Government Relations. The State Agencies recognize the importance of collaboration, communication, and cooperation with the Tribes. The State Agencies further recognize that the State Agencies’ actions, policies, programs, and/or services (including, but not necessarily limited to, all proposed plans, policies, rulemakings, permitting actions, or other aspects of programmatic actions) (hereinafter, collectively, “State Agency Actions”) may directly or indirectly affect the Tribes. Accordingly, the State Agencies recognize the value of dialogue between the Tribes and the State Agencies with specific regard to State Agency Actions. To the extent that a Tribe has political subdivisions that are not independently federally recognized, those political subdivisions must not be treated as representing the Tribe in government-to-government relations unless the Tribe, pursuant to the Tribe’s respective laws, has designated the political subdivision as its delegated authority for general or specific government-to-government relations with a State Agency.

C. Efficiently Addressing Tribal Issues and Concerns. The State Agencies recognize the value of the Tribes’ input regarding State Agency Actions. Thus, it is important that Tribes’ interests are reviewed and considered by the State Agencies early on and throughout the development process of State Agency Actions.

Commented [SN4]: Positive government-to-government relations are incredibly important to this effort. It is also critical that such relations be effective. Therefore, NDCNR recommends inserting “effective,” so the purpose states, “Through this Policy, the Commission seeks to foster and facilitate positive and effective government relations . . .” NDCNR also recommends defining “directly affect” to ensure a mutually shared understanding of its meaning.

Commented [KL8R7]: I agree that we should define “sovereignty”.

Deleted: Agencies

Commented [SN7]: ITCH the word “sovereignty” is not defined. A quick definition would be, “the right for tribes to make their own laws and be governed by them.” But that

Commented [KL10R9]: Agree. The requested change has been incorporated into the draft.

Commented [SN11]: Recognizing the importance of collaboration, communication, and cooperation with the Tribes, NDCNR is concerned about the baseline standard. We would need to review any

Commented [KL12R11]: This is a valid concern and something that Tribes should keep in mind as well [there

Commented [SN13]: The Silver State Health Exchange would like to request that the policy does not supersede

Commented [SN14]: The DHHS would like to ask the policy to indicate that it does not supersede other specific agreements regarding consultation with the tribes, including

Commented [KL15R14]: The Policy should be the baseline standard. We would need to review any

Commented [KL16]: This language is added to try and address a comment from NIC Commissioner Emm.

Commented [SN17]: NDCNR recommends amending the last sentence to state, “The State Agencies recognize that Tribes should define

Commented [KL18R17]: Without further clarification, I tend to disagree with the NDCNR’s recommendation...
D. **Collaboration and Mutual Resolution.** The State Agencies recognize that good faith, mutual respect, and trust are fundamental to meaningful collaboration and communication policies. As they arise, the State Agencies shall strive to address and mutually resolve concerns with impacted Tribes.

E. **Communication and Positive Relations.** The State Agencies shall strive to promote positive government-to-government relations with the Tribes by: (1) interacting with Tribes in a spirit of mutual respect; (2) seeking to understand each of the Tribe’s perspectives, with recognition that each of the Tribes are separate unique sovereign governments; (3) facilitating and engaging in communication, understanding, and appropriate dispute resolution with the Tribes; and (4) working through the government-to-government process to attempt to achieve a mutually-satisfactory outcome or towards a shared vision in areas of mutual interest.

F. **Informal Communication.** The State Agencies recognize that formal consultation may not be required in all situations or interactions, and that informal communications can help achieve the goals of this policy. The State Agencies may seek to communicate with and/or respond to the Tribes outside the consultation process. These communications do not negate the authority of the State Agencies and the Tribes to pursue formal consultation.

G. **Confidentiality.** The State Agencies will protect and exhibit a high degree of respect and sensitivity regarding confidential information provided by the Tribes and shall ensure confidentiality to the extent provided by applicable law.

H. **Distinctive Needs of American Indians/Alaska Natives.** The State Agencies shall strive to ensure, with the Tribes, the accountability of resources, including a fair and equitable allocation of resources to address health disparities. The State Agencies recognize that a community-based and culturally appropriate approach to health, human, and essential service is vital to maintain and preserve American Indian/Alaska Native cultures.

I. **Health Care Delivery and Access.** The State Agencies shall work collaboratively with the Tribes to ensure adequate and quality health service delivery in the Tribes’ communities, as well as with individual American Indians/Alaska Natives in urban areas or otherwise outside the ‘Tribes’ communities.

J. **Economic Development Access.** The State Agencies shall inform the Tribes of opportunities related to economic development and will provide resources and assistance to enhance the development of the Tribes’ communities.

K. **Establishing Partnerships.** In order to maximize the use of limited resources, and in areas of mutual interests and/or concerns, the State Agencies seek partnerships with the Tribes and other interested entities, including academic institutions and Indian organizations. The State Agencies encourage the Tribes to actively engage in advocacy for state and federal funding for tribal programs and services to benefit all of the State’s American Indians/Alaska Natives.

L. **Intergovernmental Coordination and Collaboration.**

1. **Interacting with Federal Agencies:** The State Agencies recognize that the State and the Tribes may have issues of mutual concern where it would be beneficial to coordinate
with and involve federal agencies that provide services and funding to the State Agencies and the Tribes.

2. Administration of Similar Programs: The State Agencies recognize that under federal tribal self-governance and self-determination laws, the Tribes are authorized to administer their own programs and services which were previously administered by other entities. Although the State Agencies’ or the Tribes’ programs may have their own federally approved plans and mandates, the State Agencies shall strive to work in cooperation and have open communications with the Tribes through a two-way dialogue concerning these program areas.

M. Cultural and Linguistic Competency: The State Agencies shall strive for their programmatic actions to be culturally relevant and developed and implemented with cultural and linguistic competence.

Section IV. Definitions

The following definitions shall apply to this Policy:

A. “American Indian/Alaska Native” means individuals who are members of any Indian Tribe; individuals who would meet the definition of “Indian” pursuant to 18 U.S.C. § 1153; or individuals who have been deemed eligible for services and programs provided to American Indians/Alaska Natives by the U.S. public health service, the Bureau of Indian Affairs, or other federal programs.

B. “Collaboration” means a recursive process in which two or more parties work together to achieve a common set of goals. Collaboration may occur between the State Agencies and the Tribes, their respective agents or subdivisions, and may involve Indian organizations, if needed. Collaboration is the timely communication and joint effort that lays the groundwork for mutually beneficial relations, including identifying issues and problems, generating improvements and solutions, and providing follow-up as needed.

C. “Communication” means the verbal, electronic, or written exchange of information between the State Agencies and the Tribes.

D. “Consensus” means what is reached when a decision or outcome is mutually satisfactory to the State Agencies and the Tribes affected and adequately addresses the concerns of those affected. The State Agencies shall endeavor to conduct deliberations with the Tribes in good faith and in accordance with the processes outlined in this Policy. Within this process, it is understood that consensus, while a goal, may not always be achieved.

E. “Consultation” means that process that operates as an enhanced form of communication that emphasizes trust and respect. It is a decision-making method for reaching agreement through a participatory process that involves the State Agencies and the Tribes through their official representatives; actively solicits input and participation by the State Agencies and the Tribes; and encourages cooperation in reaching agreement on the best possible decision for those affected. It is a shared responsibility that allows an open, timely, and free exchange of
information and opinion among parties that, in turn, may lead to mutual understanding and comprehension.

F. “Cultural Competence” means the ability to interact effectively with people of different cultures. Cultural competence comprises four (4) components: (1) awareness of one’s own cultural worldview; (2) appreciation of cultural differences; (3) knowledge of different cultural practices and worldviews; and (4) honing cross-cultural skills. Developing cultural competence improves one’s ability to understand, communicate with, and effectively interact with people across cultures. In the context of consultation, this includes understanding of the general history of both the Federal and State’s relationship with Tribes; the treaty rights of Tribes; the culture and history of Tribes and their members; and existing consultation policies of the Tribe(s), as well as Tribal government structures, and decision-making processes.

G. “Culturally Relevant” describes a condition where programs or services are provided according to the recipient’s cultural backgrounds.

H. “Indian country” means Indian country as defined by 18 U.S.C. § 1151.

I. “Indian Organizations” means those organizations that are predominately operated by American Indians/Alaska Natives, that represent or provide services to American Indians and/or Alaska Natives living on and/or off tribal lands and/or in urban areas.

J. “Indian Tribe” or “Tribe” means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the U.S. Department of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 479a.

K. “Linguistic Competency” refers to one’s capacity to communicate effectively and convey information in a manner that is easily understood by culturally diverse audiences including but not limited to using culturally appropriate terminology (e.g., using indigenous names of places and people) and avoiding offensive terminology.

L. “Participation” describes an ongoing activity that allows interested parties to engage one another through negotiation, compromise, and problem solving to reach a desired outcome.

M. “State Agency” means an agency, bureau board, commission, department, or division of the Executive Department of State Government.

N. “State Agency Action with Tribal Implications” means any State Agency regulation, rulemaking, policy, guidance, legislative proposal, plan, programmatic or operational activity, or grant or funding formula changes that may have a substantial direct effect on a Tribe in matters including, but not limited to:

1. Tribal cultural practices; lands, treaty rights; resources; ancestral lands; sacred sites, including sites that are submerged; and lands Tribes were removed from, or access to traditional areas of cultural or religious importance on State managed lands and waters.

2. The ability of a Tribe to govern or provide services to its members.

Commented [SN45]: ITCN The definition for “consultation” in the Definition section of the draft policy is vague. I suggest looking at and using the State of California Gov. Code, § 65352.4. definition of consultation: “[T]he meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American Tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the Tribes’ potential needs for confidentiality with respect to places that have traditional Tribal cultural significance.”

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Commented [SN46]: G & J ITCN Although admirable objectives, I believe these as not viable and impractical. It may take quite a bit of funding and time to meet these objectives, and then staff attrition would require retraining of new staff.

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Commented [SN45]: ITCN The definition for “consultation” in the Definition section of the draft policy is vague. I suggest looking at and using the State of California Gov. Code, § 65352.4. definition of consultation: “[T]he meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American Tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the Tribes’ potential needs for confidentiality with respect to places that have traditional Tribal cultural significance.”

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Commented [KL47]: How do we address massacre sites? Recommended that we look to see if there’s language in the Antiquities Act that we can borrow.

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The State Agencies recognize the unique sovereign status of the Tribes. To promote effective practices of the State Agencies, and also maximize the Tribes’ participation through an individual protocol. Such protocols shall provide efficiency and transparency in the implementation of this Policy; serve as a contact person who shall maintain ongoing communication between the State Agency and the affected Tribes; and ensure that training is provided to the staff of the State Agency pursuant to AB 264.

Section V. Protocol

When working with tribal governments, it is important to understand the unique relationship between American Indians and the U.S. government. It is a political relationship, not race based. Under federal law, tribal governments are sovereign governments with recognized powers of self-government. The status of tribes as governments means that tribes possess the inherent right to develop their own forms of government, to determine their own citizenship, to make their own laws, and to be governed by their own laws in their own judicial systems. The State is home to twenty-seven (27) federally recognized tribal governments, each with its own history, culture, and language. Although there may sometimes be commonalities or similarities amongst the tribal governments, each one is a distinct sovereign government. Thus, it is important not to assume that one tribe or one leader speaks for all.

This Policy’s guidelines are meant to establish uniform practices and common standards, which all the State Agencies shall use except when otherwise agreed to in writing by a State Agency and a Tribe, through an individual protocol. Such protocols shall provide efficiency and transparency in the practices of the State Agencies, and also maximize the Tribes’ participation.

The State Agencies recognize the unique sovereign status of the Tribes. To promote effective communication and collaboration between the State Agencies and the Tribes relating to this Policy,
the State Agencies shall endeavor to understand the protocols for interacting with each Tribe. The individual protocol between a State Agency and a Tribe shall provide the framework for maintaining a government-to-government relationship. As protocol relationships are developed, they will be reported and provided to the Commission.

An individual protocol may identify both a State Agency’s and the Tribe’s authorized representative(s) and/or key personnel; background and preparation required, including planning documents and/or any of the Tribe’s cultural, historical, and governance information; appropriate methods of maintaining communications; activities that the Tribe wants to receive notice about; time frames for responding to communications; exchange of research and technical assistance; frequency and logistics of meetings, including meeting documentation and follow-up; dispute resolution processes; how to modify or amend an individual protocol; duration of a protocol; and any other pertinent consideration.

Section VI. General Provisions

A. Collaboration and Communication. To promote effective collaboration and communication between the State Agencies and the Tribes relating to this Policy, and to promote cultural competence, the State Agencies will utilize, as appropriate tribal liaisons, tribal advisory bodies, work groups, and informal communication.

1. The State Agencies shall make a good-faith effort to review all State Agency Actions that may have impacts on tribal resources and determine whether tribal consultation or collaboration may assist in the State Agency Actions. If a State Agency Action may impact tribal resources, the State Agencies shall notify the relevant Tribal Government and inquire whether tribal consultation should occur. The Tribes have the discretion whether to engage in the consultation process. Consultation will be initiated by formal written notification/request.

2. The Role of State Agency Tribal Liaisons. To promote tribal-state interactions, enhance communication, and resolve potential issues concerning the delivery of the State Agencies’ services to American Indians/Alaska Natives, SATLs will work with the Tribes’ officials and the State Agencies’ staff and their programs to develop policies or implement program changes. SATLs communicate with the Tribes’ officials through both formal and informal methods of communication to assess:

   a. Issues or areas of tribal interest relating to the State Agencies’ policies, programs, and/or services; and
   b. Tribal interest in pursuing collaborative or cooperative opportunities with the State Agencies; and
   c. The State Agencies’ promotion of cultural competence in its development or maintenance of policies, programs, and/or services.

3. The Role of Tribal Advisory Bodies. The State Agencies may solicit advice and recommendations from duly appointed advisory organizations or committees to collaborate with the Tribes regarding matters of policy development prior to engaging...
in consultation, as contained in this Policy. The State Agencies may convene such advisory organizations/committees to provide advice and recommendations on departmental policies, programs, and/or service matters that have tribal impacts. Input derived from such activities is not defined as this Policy's consultation process.

4. **The Role of Work Groups.** The State Agencies' heads, in consultation with recognized officials from the Tribes, may appoint an agency-tribal work group to develop recommendations and provide input on the State Agencies' policies, programs, and/or services as they might impact the Tribes and American Indians/Alaska Natives. The State Agencies or the work group may develop procedures for the organization and implementation of work group functions.

5. **Informal Communication with the Tribes.** The State Agencies recognize that consultation meetings may not be required in all situations or interactions involving Tribal-State relations. The State Agencies recognize that the Tribes' officials may communicate with appropriate State Agency employees outside the consultation process, including with SATLs and program managers, in order to ensure programs and services are delivered to their constituents. While less formal mechanisms of communication may be more effective at times, this does not negate the State Agencies' or the Tribes' ability to pursue formal consultation on a particular issue or policy.

6. **Informal Communication with the Indian Organizations.** The Tribal-State relationship is based on a government-to-government relationship. However, Indian organizations, such as those representing or providing services to urban and/or off-reservation American Indian/Alaska Natives, serve to benefit and assist the State as well. Through this Policy, the State Agencies recognize that it may solicit recommendations, or otherwise collaborate and communicate with these organizations.

8. **Consultation.** Consultation shall be between the respective decisionmakers of the State Agencies and the Tribes, or their delegated representatives who possess authority to represent the respective interest during consultation.

1. **Applicability.** Tribal consultation is most effective and meaningful when conducted before taking action. Consider stressing this important point (SOS) that directly affects the Tribes and American Indians/Alaska Natives. The State Agencies acknowledge that a best-case scenario may not always exist, and that the State Agencies and the Tribes may not have sufficient time or resources to fully consult on a relevant issue. If a process appropriate for consultation has not already begun, through this Policy, the State Agencies shall seek to initiate consultation as soon as possible thereafter.

2. **Focus.** The principle focus for government-to-government consultation is with the Tribes through their authorized officials. Nothing herein shall restrict or prohibit the ability or willingness of the Tribes’ officials and the State Agencies’ decisionmakers to meet directly on matters that require direct consultation. The State Agencies recognize that the principle of intergovernmental collaboration, communication, and cooperation is a first step in government-to-government consultation and is in accordance with this Policy.
3. Areas of Consultation. The State Agencies, through reviewing proposed State Agency Action(s), recognize the need to assess whether such actions directly affects (DCNR) the Tribes and/or American Indians/Alaska Natives, as well as whether consultation should be implemented prior to making its decision or implementing its action. To such ends, the State Agencies shall strive to notify relevant officials from the Tribes and pursue government-to-government consultation, provided that the Tribes’ officials also have the discretion to decide whether to pursue and/or engage in the consultation process. The State Agencies will work with each other, where appropriate, to avoid duplicative consultations.

4. Initial Planning Stage

a. When considering a State Agency Action that may have may directly affect the Tribes (DCNR), the State Agency shall notify the appropriate Tribe of the opportunity to consult pursuant to this Policy. The State Agency shall strive to ensure that a notice is given at least thirty (30)-days prior to scheduling a consultation. If exceptional circumstances prevent notice within the thirty (30)-days of the consultation, an explanation for the abbreviated notification shall be provided in the invitation letter. A Tribe may request an extension for timeliness associated with this Policy.

b. Adequate notice entails providing a written description of the topic(s) to be discussed, the scope of the proposed action under consideration, the purpose of the action under consideration, the action proponent, a timeline of the process, possible outcomes, and the State Agencies that will participate in the consultation and the development and implementation of the action under consideration. Notification of a consultation should include sufficient detail of the topic to allow the Tribes an opportunity to fully engage in the consultation. The notice shall also give the Tribes the opportunity to provide feedback prior to the consultation, including any request for technical assistance or request for clarification of how the consultation process conforms to this Policy.

c. A Tribe may request that a State Agency initiate consultation when the Tribe believes that the State Agency is considering a State Agency Action with tribal implications. Requests should be made in writing to the State Agency and should describe the specific State Agency Action with tribal implications.

d. If a State Agency initiates consultation with a Tribe but does not receive a response, the State Agency shall make reasonable and periodic efforts to repeat the invitation and, whenever feasible, should allow a Tribe to join an ongoing consultation. These efforts of engagement shall be appropriately documented.

5. Proposal Development Stage
a. The State Agencies shall develop an individual protocol with the Tribes that maximizes the opportunity for timely input from the Tribes and is consistent with both the State Agencies' and the Tribes' schedules. The State Agencies shall solicit the views of the affected Tribes regarding the process timeline to consult on a State Agency Action with tribal implications. The State Agencies shall work with the Tribe to structure a process, to the extent feasible, that considers specific tribal structures, traditional needs, and schedules of the Tribes. The State Agencies shall make all reasonable efforts to comply with the expressed views of the affected Tribes regarding the process timelines, taking into account the level of impact, the scope, and the complexity of the issues involved in the State Agency Action with tribal implications, along with other factors driving the schedule. The process will be open and transparent. When the matter under consultation involves confidential or culturally sensitive information, the State Agencies shall work with the Tribes to develop a consultation process that addresses the sensitivity of the information to the extent permitted by applicable law. If litigation or legal requirements impact a State Agency’s schedule for conducting consultation, the State Agency shall explain these constraints to the Tribe. If the State Agencies determine that an applicable law expressly prohibits continued discussion at a specified point in the decision-making process, the State Agencies shall so inform the Tribes at the earliest opportunity in the process.

b. The State Agencies, in order to engage in consultation, may utilize duly appointed work groups or the State Agency decisionmaker or a duly appointed representative may meet directly with the Tribes’ officials, or set forth other means of consulting with impacted Tribes as the situation warrants.

c. The State Agencies shall make a good faith effort to invite for consultation all perceived impacted Tribes. If multiple Tribes are impacted, the State Agencies shall have a duty to consult with each Tribe individually, unless the Tribes agree to consult together. Nor shall any public meeting constitute consultation with a Tribe unless that Tribe consents to such as part of a written executed protocol between the State Agency and the Tribe.


a. The State Agencies may consider implementing a post-consultation review process where it is consistent with law. The State Agencies may invite feedback from the Tribes of the consultation process and shall also consider the need for training or technical assistance concerning the final State Agency Action.

b. The State Agencies must timely disclose to the affected Tribe(s) the outcome of the consultation and decisions made as a result of consultation. To the extent permitted by applicable law, the State Agencies must seek to ensure that information designated as sensitive by a Tribal government is not shared.
publicly disclosed. State Agencies must obtain advance informed consent from Tribes for the use of sensitive information provided by the Tribe, and must inform the Tribe that certain laws may require disclosure of such information.

7. Limitations on Consultation.

a. This Policy shall not diminish any administrative or legal remedies otherwise available by law to the State Agencies or the Tribes.

b. This Policy does not prevent the State Agencies and the Tribes from entering into memoranda of understanding, intergovernmental agreements, joint powers agreements, professional services contracts, or other established administrative procedures and practices mandated by federal, state, or tribal laws and regulations.

c. The State Agencies retain final decision-making authority with respect to actions undertaken by the State Agencies and within the State Agencies' respective jurisdiction. In no way should this Policy impede the State Agencies' ability to manage their operations.

d. Consultation with the Tribes is uniquely a government-to-government process with two main goals: (1) to reach consensus in decision-making; and (2) whether or not consensus is reached, to afford any party the opportunity to issue a dissenting opinion for the record, and more importantly to have honored each other's sovereignty.

e. (Dept of Conservation and Natural Resources addition. See note.)

Section VII. Reporting

On or before July 1st of each year, each State Agency that communicates with a Tribe on a regular basis shall submit a report to the Commission on the activities of the State Agency pursuant to AB 264 and this Policy. A report shall include, at a minimum:

A. The name and contact information of each person in the State Agency who is responsible for development and implementing programs of the State Agency that directly affect the Tribes;

B. Any actions taken or planned by the State Agency to carry out this Policy;

C. A certification by the Division of Human Resource Management of the Department of Administration of the number of managers and employees of the State Agency who have completed the training required pursuant to AB 264;

D. A description of current and planned programs and services provided to or directly affecting the Tribes and the amount of funding for each program; and

Commented [SN85]: NDCNR shares the intent of the consultation goals, but is concerned regarding the sheer volume of permit decisions (thousands) that could be subject to a process of outreach and consultation. The goal of reaching consensus on nondiscretionary permit actions can present a challenge for divisions and programs that must make decisions in accordance with statutes and regulations that are not subject to consensus.

Commented [SN86]: Section VI.B.7.e. NDCNR recommends adding the following subsection, “This policy does not prevent the State Agencies and the Tribes from continuing to engage in informal communication and fostering already established positive and effective relationships.”

Commented [KL87]: Look to new federal policies. Perhaps also require that reporting be cc'd to NIC (for similar reasons as those stated for adequate notice).

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Commented [SN88]: For clarity, NDCNR recommends defining “regular basis.”

Commented [SN89]: Has this training been developed and available to the agencies (Scott Anderson SOS) NIC In process. Not yet.

Commented [SN90]: Silver Health Exchange would like to be notified when the trainings are completed and ready to be taken.
E. A description of the method the State Agency established for notifying employees of the State Agency of the provisions of AB 264.

F. Records of each consultation process that includes a summary of Tribal input received, a general explanation of how Tribal input influenced or was incorporated into the State Agency action; and, if relevant, the general reasoning for why Tribal suggestions were not incorporated into the State Agency action or why consensus could not be attained.

Section VIII. Dissemination of Policy

Upon adopting this Policy, the Commission shall determine the appropriate method to distribute the Policy to all the State Agencies and the Tribes.

Section IX. Amendments and Review of Policy

The Commission will meet periodically with the State Agencies and the Tribes to evaluate the effectiveness of this Policy, including the State Agencies’ promotion of cultural competence. This Policy is a working document and may be revised as needed.

Section X. Effective Date

This Policy shall become effective upon the date signed by the Commission.

Section XI. Sovereign Immunity

This Policy shall not be construed to waive the sovereign immunity of the State of Nevada or any Tribe, or to create a right of action by or against the State of Nevada or any Tribe, or any State or Tribal official, for failing to comply with this Policy.

Section XI. Closing Statement/Signatures

The Commission hereby adopts this Policy.

Commented [SN91]: NDOT If possible, it would be ideal if additional clarification could be outlined regarding the types of activities that should be reported (e.g. formal communications only). As we regularly communicate with the Tribes on a variety of matters, it would be helpful to have guidance on whether we need to a) report all interactions or b) only those of significance related to a significant action or decision. Additional information on the required training is needed. For instance, what will be included, when and how will it be offered, and who will be required to take it. We realize some of this is in AB 264, but it would be helpful if this information is repeated. We would recommend, at a minimum, that the training include, but not be limited to: a) history and application of AB 264 and this policy; b) cultural and linguistic competence; c) types, use and examples of communication, coordination, and consultation; and d) developing protocols.

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Commented [SN92]: NDOT We recommend that a minimum review timeline is identified in the Policy (e.g. every 2 years). This would not require amending at that time, but will provide a specific timeframe when the State Agencies and Tribes review the policy and ensure it still meets the intent and needs of all. NDOT is interested in any feedback from Tribal Governments with regard to this Policy.

Commented [SN93]: SOS question: How is this accomplished? Is this through the generalized training? Is there other guidance relating to cultural competence? What does the “promotion of cultural competence” mean? (Scott Anderson, SOS)

Commented [SN94]: SOS question: Has this policy been reviewed by the Commission’s DAG? (Scott Anderson) NIC, yes.

Commented [SN95]: SOS: Please ensure that the policy has been reviewed by counsel for form and content.

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