

Flandreau Santee Sioux Tribe

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March 19, 2020

Sent Via Facsimile and First Class Mail

The Honorable Congressman Tom Cole
Co-Chair
Native American Caucus
2207 Rayburn HOB
Washington, DC 20515
(202) 225-3512

Re: Economic Stimulus for Tribal Gaming Industry in Response to COVID-19

Dear Congressman Cole:

The Flandreau Santee Sioux Tribe (the “Tribe”) respectfully requests consideration for stimulus funding for both the tribal government itself, and its Indian Gaming Regulatory Act (“IGRA”)-regulated gaming facility, the Royal River Casino and Hotel (“Casino”), both of which are experiencing substantial hardships during the COVID-19 pandemic.

The nature of COVID-19 is unprecedented in Indian Country, and the Tribe has never had to consider closing its facility due to widespread communicable disease. IGRA sets safety standards for gaming facilities, and requires that the “operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety⁵.” Since it opened in 1991, the Casino has consistently provided a safe environment for its patrons to enjoy, and its personnel to work. With around 400 employees, the Tribe is one of the largest employers in its community, and a layoff of employees would be devastating to the community as a whole. The COVID-19 virus now threatens this environment.

With the closure of a majority of the gaming establishments across the country, the Tribe is faced with closing its facility, limiting hours of operation, and additional costs to ensure that its patrons and personnel are safe. To date, the Casino has cancelled all entertainment, has increased cleaning and sanitizing efforts, has instituted human recourse programming for COVID-19-effected employees, has suspended some of its food and beverage services, and has assembled a task force to actively monitor COVID-19 developments. Please keep in mind that the revenues generated from the facility provide important programming to tribal members, funds the gap from underfunded federal programs, and represents at large portion of the Tribe’s total budget.

⁵ See: 25 U.S.C. § 2710(b)(2)(E), 25 U.S.C. § 2710(d)(1)(A)(ii), and 25 CFR Part 559.

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The Tribe therefore asks that any stimulus funding made available to the gaming and hospitality industries also be made equally available to the Tribe's gaming facility. The Tribe, much like others in the gaming industry, have debt obligations for facility updates and renovations, and servicing that debt will also be challenging during this pandemic. **The Tribe supports the March 17, 2020 Memorandum from the Chairman Ernest Stevens, Jr. of the National Indian Gaming Association (attached), and hereby adopts its recommendations.**

As the Congress considers emergency legislation to assist small businesses, please remember that the Tribe operates a number commercial enterprises, some of which have separate federal tax identification numbers and some of which do not. In order to ensure that tribal owned businesses and their employees are not unintentionally left out of the small business assistance that the Congress is considering, the implores you to include language similar to the following in the definition of a small business: "Notwithstanding any law to the contrary, for purposes of this statute, the term Small Business shall include all commercial entities owned and operated by a federally recognized Indian tribe or one of its tribal entities."

Congressman, tribes across the United States employ tens of thousands of individuals in their commercial businesses, in fact, a number of those tribes are the largest employers in their counties. These are jobs that our economy cannot afford to lose.

The need for immediate action is dire to support the primary economic driver in Indian Country, and the Tribe therefore appreciates your consideration of this letter. Questions or comments regarding this letter may directed to Seth Pearman, Attorney General for the Flandreau Santee Sioux Tribe at Seth.Pearman@fsst.org, and Patty Marks, Fredericks Peebles & Patterson, LLP, Washington, D.C. Counsel to the Tribe at pmarks@ndnlaw.com.

Sincerely,



Anthony Reider
Tribal President

Attachment



NATIONAL INDIAN GAMING ASSOCIATION

Rebuilding Communities Through Indian Self-Reliance

From: Ernest L. Stevens Jr., Chairman
To: House of Representatives Native American Caucus
(Attn: Rep. Deb Haaland and Rep. Tom Cole)
Date: March 17, 2020
Re: Tribal Government Gaming Industry Must be Included in any COVID-19
Economic Stimulus

Representatives Haaland and Cole:

Due to the unprecedented nature of this nationwide crisis, tribal governments seek the following provisions to stem the financial crisis that will soon impact much of Indian Country and to help address shortfalls in essential tribal government programs and services in light of this unprecedented pandemic:

1. **NATIONAL EMERGENCY TRIBAL ECONOMIC RELIEF GRANTS:** Like state and local governments, tribal government budgets will be stressed, and many will be unable to provide basic health, education, public safety, food assistance, and other critical needs to our communities. To help address significant shortfalls in tribal government revenue, and to avoid cuts in provision of these basic services, we urge Congress to provide Tribal Governments with no less than \$18 billion in direct federal aid over the next six (6) months (180 days).

2. **NATIONAL LOAN ASSISTANCE:** Indian Country urges Congress to enact legislation that will enforce a temporary 26-week restructuring on all loans and suspended interest rate accrual on loans with tribal governments and tribal government-owned entities.

Accomplishing this goal will require statutory and regulatory changes that require banks to restructure debts with tribal governments and tribal-government-owned entities that have implemented closures due to COVID-19. The suspension of loan payments and interest accrual should apply to all entities owned and operated by a federally recognized tribe that has closed an operation to protect the public health and stop the spread of COVID-19. Congress must also limit the ability of banks and lending institutions from re-classification of tribal government or tribal government-owned entity loans for the duration of enterprise closures and to provide tribal government economies sufficient time to recover. Additional incentives should be provided to require lenders to help tribal governments through liquidity/survival issues by extending additional credit during shutdowns implemented due to COVID-19.

Banks and lenders will not lose out on contractual agreements. Instead, agreements with tribal governments and tribal government-owned entities will be temporarily paused to help all Americans through the pandemic.



NATIONAL INDIAN GAMING ASSOCIATION

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3. NATIONAL EMERGENCY LOANS: Tribal Governments and/or their enterprises should have equal access to 0% loans and/or grant programs at the Department of Treasury for all impacted businesses to ensure that our tribal governments and enterprises are able to continue essential operations and fully re-open at the end of the shutdown.
4. TRIBAL GOVERNMENT EMPLOYEE BENEFITS: Tribal Government Gaming employees should be eligible for extended federal unemployment benefits on par with others impacted by the coronavirus.
5. TREATMENT AS STATES: Tribal Governments should be included along with State and local governments in any State Fiscal Stabilization Fund or other National Emergency Aid to state, local and territorial government Programs.

Through Indian gaming, Tribal governments generate 700,000 indirect and direct jobs, with an aggregate of over 2,100,000 ancillary jobs. Tribal governments nationwide have declared public health and safety emergencies, closing government-owned enterprises. Many tribes are also cooperating with state governors nationwide to help stop community spread of the coronavirus. Indeed, with the unprecedented challenges the COVID-19 virus is presenting, our Tribal Governments and Enterprises are cooperating on an unprecedented basis.

The National Indian Gaming Association, representing 184 Tribal Nations is also doing our part to protect public health and safety. Tribal government-owned casinos are taking extraordinary precautionary measures, including temporary closures to help stem the spread of the disease. Tribal governments are working openly and cooperatively with their respective State Governors. State emergency declarations are not applicable to Indian reservations and territory, yet our Tribal Nations are engaged in a strong government-to-government relationship with our States to protect public health and welfare.

Indian gaming facilities are often the sole tribal source of government revenue for tribal government treasuries. Unlike state and local governments, tribal governments generally have little or no tax base to generate governmental revenue. As a job generator in the United States economy, the vast majority of Indian gaming employees are non-Indian and drawn from our local communities. Providing the means for Tribal Governments to continue paying all employees' salaries and benefits will immensely help this Country recover economically from this downturn. This will assist our local and county governments as well.

Indian gaming facility closures will deeply impact tribal government treasuries, forcing some tribes to cut back on the provision of essential government services, including community health, education, public safety and social services. However, at the same time - many tribal governments and tribal government-owned enterprises will face financial pressures and potential defaults due to the lack of government revenue at least in the short term-six month window (180 days).



NATIONAL INDIAN GAMING ASSOCIATION

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As noted above, tribal government treasuries will be deeply impacted - and as Congress works to stabilize state and local government budgets, tribal government budgets must be equally included in any state and local government fiscal stabilization funding. Enacting these emergency provisions will preserve the status of Indian Gaming as the 12th largest private employer in the Country.

Sincerely,

Ernest L. Stevens, Jr.
Chairman