

Senate Executive Departments and Administration Committee

Kevin Condict 271-7875

HB 1474, relative to the commission on Native American affairs.

Hearing Date: April 24, 2024

Time Opened: 9:30 a.m.

Time Closed: 10:03 a.m.

Members of the Committee Present: Senators Pearl, Gendreau and Altschiller

Members of the Committee Absent : Senators Perkins Kwoka and Carson

Bill Analysis: This bill amends the procedures and duties of the commission on Native American affairs.

Sponsors:

Rep. P. Schmidt

Rep. S. Gould

Rep. Grote

Rep. Toll

Rep. Bordes

Rep. Wheeler

Who supports the bill: In total, **12** individuals signed in in support of HB 1474. The full sign in sheets are available upon request to the Legislative Aide, Kevin Condict (kevin.condict@leg.state.nh.us).

Who opposes the bill: Julie Smith.

Who is neutral on the bill: Sen. David Watters, Rep. Peter Schmidt, and Rep. Sherry Gould.

Summary of testimony presented:

Representative Peter Schmidt, Strafford 14

- Rep. Schmidt introduced House Bill 1474.
- Rep. Schmidt explained he brought this bill because the Commission on Native American Affairs has been handicapped for quite some time due to quorum issues.
- Rep. Schmidt pointed to lines 17 and 18, which changes quorum requirement from nine members to fifty percent of appointed members plus one additional member.

- Rep. Schmidt explained there are three or four slots on the commission that are unfilled at the moment, and no one has been appointed to fill those slots for some time. Therefore, they are often without a quorum and, therefore, cannot act.
- Rep. Schmidt said the bill makes other changes where current statute is out of sync with federal law.
- Sen. Pearl asked if Rep. Schmidt is familiar with the language of the proposed amendment the committee received from Sen. Watters.
 - o Rep. Schmidt said he just heard of the amendment, and to his understanding it corrects a deletion included in the bill.

Senator David Watters, Senate District 4

- Sen. Watters said he is neutral on the bill. He agreed that changes are needed regarding the quorum issues that the commission has experienced.
- Sen. Watters explained the bill makes one change he does not agree with.
- Sen. Watters said he is the last cosponsor of the bill which created the commission. He said the commission has done good work but needs changes.
- Sen. Watters pointed to page 2, section 3 starting on line 13. He explained when the bill that created the commission was crafted, that language was included to address the crafts issue. He explained it reflected a country wide issue that was prevalent at the time with the proliferation of non-native crafts produced overseas and labeled as native crafts. He said the language recognized that there is an extraordinary craft tradition within indigenous groups in New Hampshire.
- Sen. Watters said his amendment simply restores that language. He explained there were concerns in the House that the Attorney General (AG) had concerns over the language, but said he has surveyed the AG's office, and they have no recollection of being contact regarding the subject.

Representative Sherry Gould, Merrimack 8

- Rep. Gould said removing the Indian Arts and Crafts Act from the bill is an area of concern for New Hampshire citizens who are enrolled in the Abenaki tribes. She explained there are recognized Abenaki tribes in the state. These tribes were originally recognized by Vermont to protect the sale of Indian arts and crafts. She said that because there is no path to recognition in New Hampshire, many had no choice but to enroll in a Vermont recognized tribe.
- Rep. Gould said that if they did not enroll in a Vermont recognized tribe, it would be illegal for them to sell their crafts. She is a basket maker and had to enroll in a Vermont recognized tribe to sell her baskets.
- Rep. Gould said the Indian Arts and Craft Act lays out the definition of who is legally Native American to be covered under the act.

- Rep. Gould explained Vermont made mistakes when they recognized the Abenaki in a generic manner without specificity. She said there are certain provisions under the Indian Arts and Crafts Act that states must go through when they do recognition. If New Hampshire decides to pursue recognition at any point in the future, it will be important that the information be included in this bill.
- Rep. Gould stated that it is important to set things up for the future once the original cosponsors of the bill that created the Native American commission are gone.
- Rep. Gould spoke with Deputy Attorney General James Boffetti regarding the bill. She inquired about citations of the Indian Arts and Crafts Act being out of sync. She asked him if he was aware of concerns about New Hampshire statutes having citations to federal law in terms of if federal law changes citations may become outdated. She said Mr. Boffetti couldn't imagine anyone in the AG's office opine on the matter, but he would survey the attorneys. None of them were aware of this issue, and neither was the Legal Action Committee. She said there was no opinion that was opposed to the language staying in statute.
- Rep. Gould reiterated that quorum is the most important issue for the commission. She said there are applicants waiting for the Governor to appoint commission members.
- Rep. Gould explained she had hoped the study committee that would have been created by HB 1252 would have looked at the issues.

Anne Jennison, Commission on Native American Affairs

- Ms. Jennison said she is the current Chair of the Commission on Native American Affairs.
- Ms. Jennison explained this bill was originally drafted at the request of the commission. The final text was unanimously approved by the commission.
- Ms. Jennison read her written testimony, which was submitted to the committee.
- Ms. Jennison stated that the quorum requirement has plagued the functioning of the commission for years. She believed the new quorum proposal will address that issue.
- Ms. Jennison said the commission was not consulted on the proposed amendment. She expressed confusion as to why the federal Indian Arts and Crafts Act is included in the bill. She said that it is already federal law and state law cannot override it. She said the commission would defer to whatever federal law is.
- Ms. Jennison said the commission's function in the state is to work with various individuals and organizations to address their needs.

Denise and Paul Pouliot, Cowasuck Band, Pennacook-Abenaki

- Ms. Pouliot explained she is the head female speaker for the Cowasuck Band of the Pennacook-Abenaki.
- Ms. Pouliot said she was the sculptor of the bill; she had conversations with stakeholders and the DOJ prior to drafting the bill.
- Ms. Pouliot pointed to Section F of the bill. She explained tribal organizations were trying to stack the commission for their own benefit. Section F limits membership to a single member from each indigenous group.
- Ms. Pouliot said the Department of Historical Resources requested a University of New Hampshire member on the commission.
- Ms. Pouliot stated Section 4 of the bill addresses the quorum issue.
- Ms. Pouliot explained the bill changes the title from “Chairman” to “Chairperson” and adds the position of “Vice Chairperson.” She said the positions of treasurer and secretary were removed because they are already being done by the state.
- Ms. Pouliot pointed to Section B, and said the commission is there to comment and assist with policies, but it does not do the work of state agencies.
- Ms. Pouliot explained the language under number 1 was repealed because the commission is not vetted to do any of the services listed.
- Ms. Pouliot said Section 3 deals with the Indian Arts and Crafts act. She said the reason that was moved is because it is already federal law.
- Ms. Pouliot said the language in Section 11 was removed because the federal government has the authority to grant tribal status.
- Mr. Pouliot said the Indian Arts and Crafts Act is a commerce act. It is not a cultural one. He said it was meant to protect southern border tribes from cheap knock offs.
- Mr. Pouliot said states can step in. He said when Vermont recognized tribes, they protected tribes that are known for their arts and crafts and replicating the statute in New Hampshire would have no bearing, because the tribes are already recognized by Vermont.
- Mr. Pouliot said it is a slippery slope, and the state is not in the business of recognizing individuals for their arts and crafts.
- Sen. Pearl asked if the amendment is redundant.
 - o Mr. Pouliot said it is.
- Mr. Pouliot stated a lot of effort went into crafting the bill, and he encouraged the commission to pass the original version of the bill.
- Sen. Pearl asked, if the original version is passed, could the commission deal with the Indian Arts and Crafts Act issues.
 - o Mr. Pouliot said that is correct.