

**MINUTES
of the
THIRD MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 1, 2019
Pueblo of Laguna
Laguna Middle School
51 Rodeo Drive
Laguna**

**August 2, 2019
Pueblo of Acoma
Sky City Cultural Center and Haak'u Museum
Haaku Road
Acoma Pueblo**

The third meeting of the Indian Affairs Committee (IAC) was called to order by Representative Georgene Louis, co-chair, on August 1, 2019 at 10:19 a.m. at the Laguna Middle School in the Pueblo of Laguna.

Present

Rep. Georgene Louis, Co-Chair
Sen. Shannon D. Pinto, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Kelly K. Fajardo
Rep. D. Wonda Johnson
Rep. Derrick J. Lente (8/1)
Sen. Cliff R. Pirtle
Sen. Nancy Rodriguez (8/1)
Sen. William E. Sharer
Sen. Benny Shendo, Jr. (8/1)
Rep. Martin R. Zamora

Advisory Members

Rep. Gail Chasey
Sen. Carlos R. Cisneros (8/1)
Rep. Harry Garcia
Sen. Gabriel Ramos
Rep. Patricia Roybal Caballero
Sen. Clemente "Memé" Sanchez
Rep. Elizabeth "Liz" Thomson (8/1)

Guest Legislator

Sen. Linda M. Lopez (8/1)

Absent

Rep. Anthony Allison
Rep. Zachary J. Cook
Sen. Richard C. Martinez
Sen. Mark Moores
Sen. William P. Soules

Rep. Abbas Akhil
Rep. Doreen Y. Gallegos
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Sen. George K. Munoz
Rep. Melanie A. Stansbury
Rep. Linda M. Trujillo

(Attendance dates are noted for members who did not attend the entire meeting.)

Staff

Lenaya Montoya, Staff Attorney, Legislative Council Service (LCS)

Randall Cherry, Staff Attorney, LCS

Sara Wiedmaier, Research Assistant, LCS

Shannon Rodriguez, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, August 1 — Pueblo of Laguna

Welcome and Status Update

Representative Louis welcomed the committee and invited members and staff to introduce themselves. Committee members recognized the newest member and co-chair, Senator Shannon D. Pinto, and welcomed her to the IAC.

Wilfred Herrera, Jr., governor, Pueblo of Laguna, welcomed the committee and extended the gratitude of the pueblo to the legislature. Governor Herrera discussed various issues and ongoing projects, such as the Indigenous New Mexico Curriculum Initiative, which is ready to be piloted, and the Language and Culture programs at the Pueblo of Santa Ana. He stated that despite the uncertainty surrounding the position of the secretary of public education, it is crucial to continue to develop a plan for satisfying requirements under the state's Indian Education Act (IEA), and he shared that the All Pueblo Council of Governors is developing a framework to sustain quality education for all New Mexico students, as mandated by the *Yazzie/Martinez v. State of New Mexico* (*Yazzie*) lawsuit and the IEA. Governor Herrera concluded by inviting committee members to attend the Pueblo of Laguna feast day in September.

Responding to questions from the committee, Governor Herrera said that the Pueblo of Laguna has met with a state government representative to ensure that federal impact aid funding is divided equitably among all school districts. He added that rural and Native American populations are involved in *Yazzie* lawsuit solutions.

Update on *Yazzie*

Preston Sanchez, staff attorney, New Mexico Center on Law and Poverty, updated the committee on the *Yazzie* lawsuit. He discussed the 2018 ruling, resulting 2019 legislation and preparations for the 2020 legislative session. In *Yazzie*, Judge Sarah M. Singleton ruled that the state failed to provide a sufficient education for all students as guaranteed by the Constitution of New Mexico, but Mr. Sanchez said that, at the time, "sufficient education" was not defined. Mr. Sanchez provided a list of comprehensive programs and services intended to address educational funding discrepancies, including culturally and linguistically responsive programs, early

childhood education, extended learning and after-school programs, career readiness and college preparatory courses and transportation. Mr. Sanchez said that, statewide, schools lack resources, including funding, teachers and programs, but this issue is most prevalent in rural school districts and on tribal lands.

Mr. Sanchez said that the IEA is a key piece of the *Yazzie* lawsuit. Judge Singleton cited the state's failure to comply with laws such as the IEA, which has resulted in an inadequate education system. The IEA mandates that the state ensure culturally relevant learning environments and instructional materials, maintenance of Native American languages, government-to-government collaboration and tribal approval of curricula to prepare Native American students for college and career opportunities and to serve within their tribal communities. Mr. Sanchez discussed court findings that show that the Public Education Department (PED) lacks the capacity to address the needs of tribal communities, and he summarized the judge's ruling with four main points: 1) New Mexico students have a constitutional right to a sufficient education to be college and career ready; 2) the state has violated the rights of at-risk students in particular; 3) the state must provide a multicultural education framework, comprehensive programs and resources; and 4) the state must comply with constitutional requirements by April 2019.

Mr. Sanchez discussed some of the outcomes of the 2019 legislative session, such as increased funding for public education, teacher and staff salaries, extended learning programs and the K-5 Plus program, as well as an increase to the at-risk factor index. He said that despite an increase in teacher salaries, the state is still not competitive with surrounding states and will need to find new ways to attract teachers to the profession. He then addressed other issues regarding the lawsuit, including community engagement; a focus on at-risk populations; the expansion of bilingual education programs; and the limited window for school districts to apply for extended learning and K-5 Plus funding. Mr. Sanchez also discussed the *Yazzie* lawsuit remedy platform, community summits and the Transform Education New Mexico platform. He highlighted 2019 House Bill (HB) 250, which amends the IEA to create a needs assessment tool for students to help schools identify the academic, home and community support needed to help Native American students succeed. He concluded with a request to the IAC to work with tribal leaders on a legislative package based on shared governance of public education.

Responding to questions from the committee, Mr. Sanchez said that:

- the New Mexico Center on Law and Poverty is confident that the new judge, First Judicial District Court Judge Matthew Wilson, who was appointed to the case after the passing of Judge Singleton, will concur with the initial ruling;
- the New Mexico Center on Law and Poverty is working with the PED to ensure that school districts are complying with court orders and amendments to the IEA enacted by HB 250;
- HB 250 included increased funding to school districts for educational assistants;
- the New Mexico Center on Law and Poverty supports a universal pre-kindergarten program;

- additional funding or revenue streams are needed to implement the *Yazzie* lawsuit remedy platform in all Native American student school districts;
- funding for public education from the 2019 session was underutilized because many school districts did not apply in time;
- English language learners are often placed in remedial literacy courses;
- amendments to the IEA will serve as a template for other acts, such as the Hispanic Education Act;
- cultural and historical contexts must be considered when implementing curricula because there is a very diverse student population across the state, which makes a uniform approach to education difficult;
- extended learning opportunities for Native American students are limited by wireless internet access availability and would improve if the state were to build out broadband infrastructure;
- English language learner programs need teachers with some knowledge of the second language learning process, but the teachers do not necessarily have to be bilingual;
- school materials cost roughly \$100 to \$150 per student, but a more in-depth analysis is needed to determine what materials are currently needed; and
- it is important for the state to take action on the findings of the *Yazzie* lawsuit.

Update from the Native American Community Academy (NACA)-Inspired Schools Network

Anpao Duta Flying Earth, acting executive director, NACA-Inspired Schools Network, discussed incorporation of indigenous education, relevant legislation from the 2019 legislative session and the outcomes of students that attend the NACA. The NACA is a tuition-free public charter school serving students in kindergarten through twelfth grade and is the first Albuquerque Public School District collaborative charter in New Mexico, which brings together the traditions of Native American communities and a rigorous, modern approach to college preparatory education.

Mr. Flying Earth noted that great strides were made in this year's legislative session with Senate Bill 329 (2019), which requires the PED to consult with tribes prior to opening or closing a public school on tribal land, and HB 250, which requires a needs assessment to determine how to best improve educational outcomes for Native American students and close the achievement gap. He compared Native American student performance and graduation rates to other New Mexico public school district and Albuquerque Public School District students before and after attending the NACA. He emphasized that Native American students were underperforming compared to other groups upon entering the NACA in sixth grade but were outperforming their peers by eleventh grade and graduating at a higher rate. He said that this is largely attributable to the students' seeing themselves and their traditions in the curriculum and their teachers.

Mr. Flying Earth highlighted other community schools and learning centers across the state that are part of the NACA-Inspired Schools Network and provided the methodology behind incorporating indigenous education through curriculum, instruction, assessment and professional development that integrate indigenous perspectives. He said that the network focuses on social-emotional learning, relevance and excellence and has been an example to other states for

transforming those states' schools. He addressed remaining obstacles to ensuring that Native American students are ready for college, career and life and suggested strategies, such as investing in culturally responsive teaching and alternative teacher preparation pathways to recruit more indigenous educators, expanding indigenous language programs and integrating holistic wellness. He suggested creating an indigenous education transformation zone in which tribal communities could work collaboratively with the state government to access fellowships and training for educators, create school support teams and implement a community-based system for accountability. He said that this would require additional funding from the state for school districts with significant Native American student populations and public schools on tribal lands.

Responding to questions and comments from the committee, Mr. Flying Earth said that:

- the NACA welcomes teachers of all backgrounds if they are committed to the students, follow the curriculum and meet the necessary criteria; currently, the school has a mix one-half Native American and one-half non-Native American teachers and administrators;
- school districts are now more supportive of NACA-inspired schools than initially;
- teacher and administrator retention is still a major issue for the network;
- the NACA-Inspired Schools Network tracks students post-graduation but could do a better job and is looking for grant money to provide mentors for juniors and seniors to develop next-step plans;
- to be more culturally relevant, middle school curricula focus on self-discovery and preserving or expanding tribal enrollment; all students begin by learning "the story of the wind", which teaches the students about their roots and the importance of speech as the embodiment of respect for self and others and how they represent their community;
- the network is looking into incorporating pre-kindergarten in the future; and
- the NACA student-teacher ratio is approximately 23:1.

Report from the PED on Implementation of the IEA and Impact Aid Funding

Kara Bobroff, acting secretary, PED, discussed the current mission, vision and goals of the department. She emphasized the importance of a holistic approach and the role of educators, family and community in preparing all students across New Mexico for college, careers and life. She said that the PED's vision is to provide students from pre-kindergarten to post-secondary level with a culturally and linguistically responsive education that meets all social, emotional and academic needs. She listed the core values and priorities of the PED and noted some current initiatives to address the issues presented in the *Yazzie* lawsuit, such as indigenous and rural education initiatives; bilingual multicultural education programs and support for academic interventions; special education; and social and emotional learning. She said that the increase in teacher salaries was a good first step, but she suggested other strategies to improve the educational ecosystem, including teacher residencies, grow your own educators programs and extra support and mentorship for new teachers.

To meet the department's goal of closing the education gap, Acting Secretary Bobroff suggested extended learning time, after-school and summer enrichment programs, community schooling, equitable instructional materials, breakfast for elementary school students and comprehensive support for struggling schools. She listed other avenues to improve student success, such as college and career readiness; dual credit and advanced placement courses; science, technology, engineering, arts and mathematics programs; and universal pre-kindergarten.

Acting Secretary Bobroff detailed the role of the PED's Indian Education Division (IED). The IED provides support to public school districts and charter schools for government-to-government meetings and tribal consultation, Native American policies and procedures, an indigenous education curriculum and tribal language programs. She discussed some of the amendments made to the IEA by HB 250, such as prioritizing needs based on assessments and budget and providing culturally relevant activities, professional development and other programs and services.

Acting Secretary Bobroff provided the committee with an overview of federal impact aid funding, which she said is intended to compensate local educational agencies that operate with less local revenue for capital expenditures because they are located on federal lands and are thereby exempt from local property taxes. She provided an overview of the state equalization guarantee, a formulaic approach to allocating funds to school districts based on the specific configuration of students and programs and the revenue generated from impact aid funds. Noting that the state has 22 eligible school districts, she shared that New Mexico receives substantial impact aid funding because of the high number of federal military installations, Indian reservations and other federal public domains.

Acting Secretary Bobroff provided a breakdown of student participation in Native American language programs over the past few years, such as programs in Keres, Tewa, Zuni and Diné. She listed the requirements for an approved Native American language revitalization program under the Bilingual Multicultural Education Act. She said that teachers need more support and professional development to provide a culturally and linguistically relevant classroom and learning environment. She discussed the IEA and the Indigenous New Mexico Education Curriculum Initiative and emphasized the need for comprehensive transformation.

In response to questions and comments from the committee, Acting Secretary Bobroff said that:

- implementation of K-5 Plus programs would have been more successful if public school districts had been given more time to apply for program funding;
- in order to recruit new teachers, the PED is working with the Higher Education Department (HED) and other institutions to provide classroom exposure for students and to fund grow your own teachers courses, alternative licensing and teacher residency programs;
- the PED has applied to receive funds for teacher interventions;

- the secretary of public education can be contacted about individual requirements for teacher recertifications upon a person returning to the profession;
- in order to evaluate school districts, as required by the *Yazzie* court order, the IEA and the Bilingual Multicultural Education Act, the PED asks school districts about compliance with requirements for at-risk students and then identifies schools that are performing well to set a standard for other schools to meet; and
- the PED is developing equity councils and localized district plans in coordination with the HED and tribal education departments.

Public Comment

A community member addressed the committee regarding impact aid funds, stating that in 2000, there was a "teachorage" program that housed teachers and that impact aid funding should be used to help attract and retain teachers. She also mentioned the need for infrastructure and building improvements for schools on tribal land.

Recess

The committee recessed at 4:08 p.m.

Friday, August 2 — Pueblo of Acoma

Reconvene

Representative Louis reconvened the meeting at 9:17 a.m. and invited committee members and staff to introduce themselves.

Welcome and Status Update

Brian D. Vallo, governor, Pueblo of Acoma, welcomed the committee and introduced Mark Thompson, lieutenant governor, Pueblo of Acoma. Governor Vallo provided a brief history of the Pueblo of Acoma, noting that the Pueblo of Acoma is the oldest continuously inhabited pueblo in the United States. He said that one of his main goals as the governor of the Pueblo of Acoma is to strengthen state and tribal relations.

Governor Vallo stated that tribes are becoming economic leaders because of tribally owned industries and that, ultimately, the pueblo wants to be economically self-sufficient. He discussed the role of the Tribal Infrastructure Fund (TIF) in economic, cultural and workforce development on the reservation and emphasized the need for funding the TIF to address factors such as a lack of housing, specialized employment opportunities and human resources. He stated that his goal is to expand opportunities for the pueblo. Regarding education, Governor Vallo mentioned that the Bureau of Indian Education provides funding to operate the school and recruit teachers and staff. He stressed the importance of revitalizing the Keres language to preserve the history of the pueblo.

Responding to questions from the committee, Governor Vallo and Lieutenant Governor Thompson discussed impact aid funding. Lieutenant Governor Thompson stated that impact aid funding consists of four parts: 1) basic aid to pay for students' costs but not for infrastructure; 2) property tax replacement; 3) construction funding; and 4) special education funding. He said

that the state should not remove impact aid from the funding formula but should instead assist in holding school districts accountable and ensuring that all students respond to the impact aid survey. He stated that because impact aid requires that one form is completed for each student, some school districts are not optimizing their potential for impact aid funding and, therefore, money is being left on the table.

Lieutenant Governor Thompson mentioned that Native American policies and procedures documents need to be signed each year, signifying that the school district has collaborated with the tribe. However, the Pueblo of Acoma did not sign that document in 2018 as a symbolic act to encourage the school district to engage in meaningful collaboration.

Update on Storefront Loan Industry Reform and Regulations

Ona Porter, president and chief executive officer, Prosperity Works, and chair, New Mexico Fair Lending Coalition; Karen Meyers, director, Consumer Financial Protection Initiative, City of Albuquerque; and Lindsay Cutler, staff attorney, New Mexico Center on Law and Poverty, updated the committee on the storefront loan industry.

Ms. Meyers began by stating that the intent of HB 150 (2019), Installment and Small Loan Changes, was to protect New Mexico borrowers by ensuring accountability and transparency in the storefront lending industry. She assured the committee that data is being collected and that the City of Albuquerque is working to inform New Mexico residents about how these changes impact borrowers. She shared that in 2018, the total percentage of installment loans that were 10 or more days past due was about 35 percent, the total percentage of finance charges collected was about 30 percent and the total percentage of bad debt expenses was about 15 percent. Ms. Meyers added that 19,543 refund anticipation loans were made in 2018. Refund anticipation loans use tax refunds as collateral and incur extremely high interest rates, benefiting lenders and harming borrowers, she said.

Ms. Meyers mentioned that there is a high incidence of refinancing, which means people are staying in debt for longer periods of time. She said that if a loan gets refinanced, the borrower has to pay an acquisition fee to get the new loan and that this new fee is added on top of the interest already being charged. She compared this to car title loans of the past with 30-day terms, which forced borrowers to refinance the loan every 30 days until it was paid off.

Ms. Cutler stated that there is a disproportionate number of small-loan lenders near Native American reservations, citing that 64 percent of New Mexico's small-loan lenders are located within 15 miles of Native American lands and that Native American lands account for less than 10 percent of state lands. She added that these types of lending companies move into communities that lack mainstream community services, where accessible small loans can be an attractive short-term solution. For example, in Gallup, which is outside of the Navajo Nation, there is one small-loan lender for every 525 people. She explained to the committee that small-loan lenders offer high-cost loans with very long terms, where interest and fees make up nearly one-half of the debt; consequently, these predatory loan terms perpetuate a cycle of debt and poverty. Ms. Cutler discussed the impact that refund anticipation loans have on New Mexico residents, especially during tax season when more than 80,000 New Mexicans borrow against

this type of loan. She said that 38 percent of borrowers were unable to make timely payments on these loans from small-loan companies.

In response to questions from the committee, Ms. Meyers noted that there is no limit on how often a loan can be refinanced and that the number of times a loan is refinanced varies from consumer to consumer. She added that a regulatory change is needed to require lenders to ask borrowers about their expenses in addition to their income, as is done for mortgage loans, where any debts a borrower has affect how much the borrower can borrow.

Ms. Meyers stated that under the federal Truth in Lending Act, credit terms of a loan are required to be disclosed; however, sometimes people do not really understand those disclosures, or they rush to sign a contract before understanding the terms. A committee member stated that there should be more focus on financial literacy and more regulation to prevent current practices, such as the practice in electronic document completion that currently takes the borrower directly to the signature line without requiring the borrower to first read and understand the document.

Update from the Tribal Planners Roundtable

Amanda J. Montoya, Ph.D., executive director, Chamiza Foundation; Sharon Hausam, Ph.D., A.I.C.P., planning program manager, Pueblo of Laguna; and Raymond Concho, Jr., former lieutenant governor, Pueblo of Acoma, discussed the importance of tribal planning.

Dr. Hausam explained to the committee how the role of a tribal planner is different from that of a city planner, since city planners usually concentrate on urban designs. She discussed the role of planning and community development, in which community input is used as guidance for future leaders and as a tool for informed decision making. Dr. Montoya described the role of indigenous planning as a means to use culture and identity to inform community development, support funding applications and reinforce legal positions.

Dr. Hausam noted that the New Mexico Tribal Planners' Roundtable of the Indigenous Design and Planning Institute at the University of New Mexico is a venue to discuss future plans, community development and project management while addressing the unique problems and differences in planning on Native American lands. Mr. Concho added that tribal planning should not be just about renovating existing buildings but also expanding infrastructure as a means of bringing people back to the community. Dr. Montoya stated that the New Mexico Tribal Planners' Roundtable receives input from several pueblos and has hosted presentations regarding New Mexico's capital outlay process and allocations, the federally funded Safe Routes to School program, the TIF and United States Census Bureau issues and concerns. She discussed the challenges of coordinating with federal and state agencies, especially when it comes to funding.

In response to a question from a committee member, Dr. Hausam stated that the planning process begins with tribal input on what the tribe wants to see happen, then information gets compiled, after which the planning decisions are made.

Adjournment

There being no further business before the committee, the IAC adjourned at 1:23 p.m.