

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

**September 30, 2019
Coyote Canyon Chapter House
Brimhall Nizhoni**

**October 1, 2019
Rock Springs Chapter House
Rock Springs**

**October 2, 2019
Fire Rock Casino
Church Rock**

The fifth meeting of the Indian Affairs Committee (IAC) was called to order by Representative D. Wonda Johnson on September 30, 2019 at 10:28 a.m. at the Coyote Canyon Chapter House in Brimhall Nizhoni.

Present

Sen. Shannon D. Pinto, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Anthony Allison
Rep. Kelly K. Fajardo (9/30, 10/2)
Rep. D. Wonda Johnson
Sen. Nancy Rodriguez
Sen. Benny Shendo, Jr. (9/30)
Rep. Martin R. Zamora

Absent

Rep. Georgene Louis, Co-Chair
Rep. Zachary J. Cook
Rep. Derrick J. Lente
Sen. Richard C. Martinez
Sen. Mark Moores
Sen. Cliff R. Pirtle
Sen. William E. Sharer
Sen. William P. Soules

Advisory Members

Rep. Abbas Akhil (10/2)
Rep. Gail Chasey (10/2)
Rep. Patricia A. Lundstrom (10/1)
Sen. George K. Munoz (10/1)
Sen. Gabriel Ramos (9/30, 10/1)
Rep. Patricia Roybal Caballero (10/1)
Sen. Clemente "Memé" Sanchez (10/2)

Rep. Doreen Y. Gallegos
Rep. Harry Garcia
Sen. Stuart Ingle
Rep. Melanie A. Stansbury
Rep. Elizabeth "Liz" Thomson
Rep. Linda M. Trujillo

(Attendance dates are noted for members not present for 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 and on the website at www.nmlegis.gov.

Monday, September 30 — Coyote Canyon Chapter House

Welcome and Status Update from the Coyote Canyon Chapter

Senator Pinto welcomed the committee and members of the audience and asked committee members, staff and guests to introduce themselves.

Harrison Plummer, president, Coyote Canyon Chapter; Sherylene Yazzie, vice president, Coyote Canyon Chapter; and Sharon Warren, secretary/treasurer, Coyote Canyon Chapter, welcomed the committee and discussed various community projects, including nearly completed renovations to the senior center.

Responding to questions from the committee, President Plummer stated that there is no health center branch at the Coyote Canyon Chapter, so residents must travel to surrounding communities for health care. He shared that the senior center opened about 35 years ago and now serves over 300 senior citizens.

Report on the Native American Culturally Relevant Residency Program at Rehoboth McKinley Christian Health Care Services (Rehoboth) Hospital

Dr. Valory Wangler, M.D., chief medical officer and program director, Family Medicine Residency, Rehoboth Hospital, discussed the creation of the Family Medicine Residency Program that focuses on rural and Native American health at the Rehoboth Hospital in Gallup. Citing a shortage of health care providers in rural areas, three-month wait times at the Rehoboth Hospital and health disparities impacting Native American communities, Dr. Wangler said that this program will seek to provide medical education for cross-cultural care of Native American patients and to encourage residents to continue to serve Native American and rural communities. She outlined details of the residency program, addressed the accreditation time line, planning approach and next steps and highlighted existing residency programs with similar objectives across the United States. She shared that recruitment of residents will begin in 2020, with plans to enroll the first cohort in 2021.

Responding to questions from committee members, Dr. Wangler stated that:

- residents in specialized fields require the resources of major medical centers, but primary care and family medicine are ideal programs for a rural hospital;
- some patients receive transportation services through Medicare or Medicaid;
- the residency program will include public education and outreach on preventive care to help improve the health of the community and reduce the need for hospital visits;
- the program will provide residents with broad exposure to family medicine;
- a lack of access to education and jobs causes people to leave rural communities;
- primary care physicians are often overwhelmed because they provide general care as well as referrals to speciality doctors; and
- the residency program received seed money from the state but will need recurring funding.

Update on Broadband Access on Tribal Land

Catherine Nicolaou, manager, External Affairs, Sacred Wind Communications (SWC), and Shaun Cooper, technologies manager, SWC, discussed the history, mission and ongoing projects of SWC, a locally owned telecommunications company that provides telephone and broadband access to rural and tribal communities in New Mexico. SWC's mission is to serve the underserved, Ms. Nicolaou said. Since SWC took over the service territory, a majority of customers now have access to enhanced 911 services and some of the fastest internet speeds in the region, she said. She explained that providing broadband on tribal lands is challenging because of the large service area, dispersed population and high poverty rates.

Ms. Nicolaou discussed upcoming projects and the mix of technologies used to expand broadband coverage to more rural and tribal communities. She mentioned the benefits and opportunities that broadband provides to families, such as allowing children to do schoolwork from home. She cited some of the funding sources that allow SWC to expand services to more households, such as the Federal Communications Commission's Connect America Fund, and noted that accurate mapping and census data greatly affect access to funding. She suggested that New Mexico create a statewide plan to address overly restrictive regulations and definitions and to improve the counting process for the upcoming census.

Responding to questions from the committee, Ms. Nicolaou and Mr. Cooper stated that:

- telecommunications providers can use existing fixed wireless networks to expand broadband access to rural communities;
- nearly 70 percent of SWC employees are Native American, and many of the service representatives speak Navajo, which allows them to better assist and educate customers on services and eligibility for federal subsidies;
- SWC can enter into infrastructure cost-share programs with municipalities that are interested in becoming autonomous telecommunications providers;
- SWC service representatives will evaluate each individual household to determine specific telecommunications needs;

- SWC has met with representatives from the United States Census Bureau to ensure that tribal members are more accurately counted in the upcoming census;
- SWC also receives funding for rural broadband expansion through the State Rural Universal Service Fund; and
- SWC is interested in helping customers without access to electricity obtain solar units for their homes to allow for expansion of telecommunications service.

Updates from the Coyote Canyon Rehabilitation Center (CCRC)

Angelee James, acting executive director, CCRC, and Yvette Sandoval, quality assurance and compliance officer, CCRC, discussed the history, services and funding sources of the CCRC, a nonprofit organization that provides services to people with intellectual and developmental disabilities. They shared that the CCRC provides a wide range of services, including supported living services, customized in-home supports, community supports and community integrated employment opportunities for adults with developmental disabilities.

Ms. James highlighted some of the employment training programs available to individuals at the CCRC, provided a breakdown of federal and state funding sources and discussed regulatory issues that hinder funding and infrastructure improvements. She outlined funding requests for technology upgrades, additional office space and residential units, reconstruction of the parking lot and other infrastructure renovation projects necessary to comply with standards under the federal Americans with Disabilities Act of 1990. These funding requests are phased out over the next few years, and there are plans to request over \$3.6 million for phases one, two and three.

Responding to questions from the committee, Ms. James and Ms. Sandoval stated that there is currently a wait list of over 5,000 people for the Medicaid developmental disabilities waiver program, with some individuals having been on the wait list for 10 or more years. The presenters shared that the CCRC currently provides services to 61 individuals, one-half of which are funded by the state under developmental disabilities waivers and the other one-half of which are funded by the Navajo Nation. Regarding potential violations of the Anti-Donation Clause of the Constitution of New Mexico, Ms. Sandoval said that the CCRC leases buildings from the Navajo Nation and has tried to designate the Navajo Nation or McKinley County as fiscal agent to avoid any Anti-Donation Clause violations.

Committee members recommended that the CCRC look into alternate funding sources, such as the Tribal Infrastructure Fund (TIF), to be "shovel ready" before applying for other funds and to coordinate meetings between different chapters to collaborate on funding request packages.

Public Comment

Comments from members of the public included:

- that the state should protect funding for public charter schools, which lost funding as a result of the *Yazzie/Martinez v. State of New Mexico* case remedies;
- that rejections of TIF applications are not explained to applicants and therefore do not allow tribes to adjust their requests; and
- that many Navajo chapters are in need of funds for road construction and maintenance, street lights and public safety improvements.

Jonathan Nez, president, Navajo Nation, discussed the Navajo Nation priority plan that coordinates funding requests by chapters into one proposal and includes a Medicaid feasibility study, a solar facility project, assisted living facilities and student loan forgiveness. He stated that the Navajo Nation is seeking true economic independence by developing products that can be sold to the state or federal government.

Recess

The committee recessed at 4:14 p.m.

Tuesday, October 1 — Rock Springs Chapter House

Welcome and Status Update from the Rock Springs Chapter

Senator Pinto reconvened the meeting at 10:16 a.m. at the Rock Springs Chapter House and asked committee members, staff and guests to introduce themselves.

Eleanore Jones, president, Rock Springs Chapter, welcomed committee members to the first IAC meeting hosted at the Rock Springs Chapter House and introduced staff members and representatives from the chapter. Brenda Jesus, community service coordinator, Rock Springs Chapter, discussed various projects that have been funded by the state, such as road maintenance, infrastructure, landscaping and chapter house renovations. She shared that the planning and design of a new meeting hall is complete and that the new space will better accommodate chapter meetings.

Update on the Energy Transition Act (ETA)

William McCamley, secretary, Workforce Solutions Department (WSD), and Nadine Padilla, deputy secretary, Indian Affairs Department (IAD), discussed the implementation of the ETA, which increases renewable portfolio standards statewide to require that investor-owned utilities transition to 100 percent zero carbon resources by 2045. Additionally, the ETA allocates multiple funding sources to help impacted communities plan and diversify the economy in order to mitigate job losses. Secretary McCamley explained the community advisory process mandated by the ETA, which requires the IAD, the WSD and the Economic Development Department to hold three community meetings to get public input on how to best focus funds on targeted areas for diversification and growth in affected communities.

Ms. Padilla discussed the tribal outreach goals of the IAD throughout implementation of the ETA, which include strengthening state-tribal collaboration through meaningful policy outcomes; promoting transparency and effective communication with communities; and encouraging tribal communities to lead this transition and create a culturally appropriate energy economy. She mentioned outreach efforts to affected Navajo chapters prior to the first community meeting and provided a time line of the community meetings, stating that the first meeting will focus on policy specifics, the second meeting will focus on community input and the third meeting will outline specific projects to fund.

In response to questions from the committee, Secretary McCamley and Ms. Padilla stated that:

- the ETA allocates up to \$20 million to Public Service Company of New Mexico (PNM) or other qualifying generating facilities for severance and job training for affected workers;
- PNM will negotiate individual severance and job training packages for each employee, and the WSD is waiting to receive demographic information on the workers who will be displaced by the ETA to determine how many will need retraining and how many are close to retirement;
- successful rural economies need broadband access and an airport with reliable commercial service;
- local communities must come together to determine strategies for economic diversification, and the state's role is to support those strategies;
- the Public Regulation Commission must authorize the issuance of energy transition bonds;
- the tax base for the Central Consolidated School District will be protected through the creation of replacement jobs, and teachers from the area will be included in the community advisory process; and
- San Juan Community College and Navajo Technical University will be included in the community advisory process.

Update on the Environmental Review Act (ERA) — 2019 House Bill (HB) 206

Judy Calman, senior attorney, New Mexico Wild (NMW), discussed the history of the efforts to pass the ERA, including the passage of Senate Memorial 94 (2018); stakeholder meetings with the agriculture and oil and gas industries, tribes, state agencies and other entities; and the attempt to introduce HB 206 this past session.

Ms. Calman noted that HB 206 has changed due to lessons learned from other states that have enacted similar laws, collaboration with the All Pueblo Council of Governors and input from stakeholders. She said that the ERA would implement rules similar to the National Environmental Policy Act (NEPA), such as requiring public input and environmental analysis of projects, but that it would not duplicate efforts. Debunking concerns that the ERA would result in excessive litigation, Ms. Calman emphasized that only a small percentage of NEPA decisions

have been challenged over the past decade. She said that NMW will continue to hold stakeholder meetings to improve the bill, with plans to reintroduce the ERA in 2021.

Aaron Sims, attorney, Chestnut Law Offices, P.A., Pueblo of Acoma, discussed the importance of tribal engagement in project decisions on state lands that affect the environment and noted that the ERA includes a provision requiring tribal consultation if a project is proposed to occur within 10 miles of tribal lands. He expressed strong support by the Pueblo of Acoma and noted that the All Pueblo Council of Governors passed a resolution in support of the ERA bill.

Responding to questions from committee members, Ms. Calman said that:

- to avoid duplication of regulatory requirements, the ERA exempts any mandates already required by the NEPA or for another permit;
- the ERA is necessary because the NEPA only applies to projects on federal lands or that are funded by a federal agency, but there is no uniform requirement for state agencies to conduct an environmental analysis of projects on state lands; and
- the ERA sets a minimum threshold of \$1 million for projects before requiring an environmental assessment and includes other exceptions brought forward by various stakeholders.

Update from the 24th Navajo Nation Council

The presentation was canceled due to a scheduling conflict.

Public Comment

Comments from members of the public included:

- workplace violations, including minimum wage violations, poor working conditions and discrimination, disproportionately impact Native Americans;
- the impact of mine closures are significant for those too young to retire but too old to be retrained for a new career;
- there is a need for legislative support for translators to inform workers in the Navajo language about their rights, as well as support for uranium mine cleanup and the transition to clean, renewable energy sources;
- there are existing obstacles for displaced miners and a need for more training for them to seek long-term professional employment;
- tribal communities continue to face struggles in dealing with the United States Environmental Protection Agency (EPA) regarding uranium cleanup; and
- concerns about funding for uranium and hydraulic fracturing cleanup, road maintenance and other issues that directly affect the Navajo Nation.

Recess

The committee recessed at 2:31 p.m.

Wednesday, October 2 — Fire Rock Casino, Church Rock

Welcome and Status Update from the Church Rock Chapter

Representative Johnson reconvened the meeting at 10:16 a.m. at the Fire Rock Casino in Church Rock and asked committee members, staff and guests to introduce themselves.

Johnny Henry, Jr., president, Church Rock Chapter, and Vera T. Morgan, community services coordinator, Church Rock Chapter, welcomed the committee and discussed various projects, including an economic development corridor, a new warehouse, water and power line extensions, road maintenance and street lighting, chapter renovations and construction of a gas station at the junction of New Mexico State Roads 118 and 566.

Edmund Yazzie, council delegate, 22nd Navajo Nation Council, thanked the committee for assistance on recent projects. He requested the committee's help in obtaining the necessary right-of-way permits from the Department of Transportation (DOT) for a state road to allow access to the new gas station. He also requested help on creating a cross-commission to allow local sheriffs to work with tribal law enforcement to expand jurisdiction.

Responding to questions from the committee, President Henry, Mr. Yazzie and Ms. Morgan stated that:

- funding for the power line extension project came from leftover TIF funds to provide power to nearly 200 homes in the Church Rock Chapter;
- a cross-commission of local and tribal law enforcement should be enacted;
- the DOT has not been responsive to complaints regarding safety issues on New Mexico Highway 566, and the Church Rock Chapter is still waiting on right-of-way approval for driveways off New Mexico State Roads 118 and 566 to allow access to the chapter's new gas station that is nearly complete; and
- to avoid delays in funding, McKinley County would serve as a better fiscal agent for capital outlay funding for the chapters than the Navajo Nation.

Update on Alcohol and Substance Abuse Counseling Licenses

Tyrone Kay, licensed substance abuse associate (L.S.A.A.), McKinley County Detention Center and DWI Programs, and Representative Johnson discussed legislation regarding professional licensure for alcohol and drug abuse counseling. Representative Johnson introduced HB 235 (2019) this past session with Representative Tomás E. Salazar, which passed the house but did not pass the senate before the end of the session. This bill would have amended a section of the Counseling and Therapy Practice Act to include human services and family services as acceptable fields of education and experience to meet licensure requirements.

Mr. Kay briefly discussed his personal history and experience with substance abuse and sobriety, which led to his desire to help others suffering from addiction. He noted the many hurdles that he faced in obtaining his license and shared his goal of simplifying this process for

future applicants. Representative Johnson stated that had HB 235 passed, it would have allowed students at the University of New Mexico (UNM)-Gallup and UNM-Grants to finish their degrees at the branch campuses rather than taking their last few required courses at the main campus in Albuquerque.

Responding to a question from a committee member regarding the necessity of a statutory amendment rather than a simple rule change by UNM, Representative Johnson stated that administration from UNM-Gallup indicated that changes to the statute were necessary for certain degrees to meet the requirements for licensure under the Counseling and Therapy Practice Act.

Report on Education and Training Program to Meet Demand for Uranium Mine Cleanup

Susan Gordon, coordinator, Multicultural Alliance for a Safe Environment; Jeff Mitchell, director, UNM Bureau of Business and Economic Research (BBER); and Rose Rohrer, research scientist, BBER, discussed the importance and progress of the BBER uranium mine remediation study. Ms. Gordon began by discussing the funding that has been allocated through the EPA Superfund program and noted that only a small amount of these funds have been spent, which presents the opportunity for cleanup efforts to provide jobs and economic growth for impacted communities. She mentioned that Representative Johnson sponsored HB 233 (2019), which would have appropriated money from the General Fund for a study of the education and training programs needed to address uranium mine site cleanup in New Mexico.

Mr. Mitchell described cleanup efforts as a huge, decades-long project with significant environmental and economic implications. He shared that more than one-half of the identified uranium mining sites in New Mexico show no evidence of reclamation efforts and that most of the sites are located on or near Navajo Nation lands. Ms. Rohrer discussed the process of gathering information from the various entities that are collaborating on uranium mine remediation. She provided a time line of the different components of the study, which include an inventory of uranium mines in the state, an economic impact analysis and a workforce gap analysis.

Noting that the demand for environmental remediation is growing rapidly, Ms. Rohrer said that this presents an additional economic opportunity for New Mexico to become a leader in the field. She highlighted the need for state action to ensure that New Mexico and Native American communities benefit economically from the cleanup of uranium mines and suggested potential future actions, such as the development of workforce training and placement and retention programs; better coordination among entities on cleanup efforts; and a study on the cost of continued health and economic impacts of uranium exposure to workers and surrounding communities.

Responding to questions from the committee, the panelists stated that:

- the UNM Health Sciences Center is a partner in the study;

- part of the delay in cleanup efforts is due to the evaluations required by the EPA and the permitting process required by the United States Nuclear Regulatory Commission, as well as disagreements among entities on how to deal with mine tailings;
- a major priority of cleanup efforts is to protect ground water from contamination;
- extreme weather events and mine degradation complicate cleanup efforts;
- the money that has been allocated for remediation cannot be used for victim compensation, but additional funds should be made available for compensation;
- the Navajo Nation has a law preventing any additional uranium mining or transport of uranium on Navajo Nation lands;
- the objective of the study is to identify potential employment opportunities and the necessary training required to prepare the local workforce; and
- when companies reach settlements for remediation operations, there is often no public input, and the company can sue the federal government for reimbursement after remediation is complete, which is ultimately paid with taxpayer money.

Public Comment

Comments from members of the public included:

- elder members of impacted Native American communities are trying to educate and engage youth about the environment and the effects of uranium mining operations, and the state should assist in these efforts by funding outreach programs;
- personal and family experiences in dealing with health impacts from uranium mining operations, such as pulmonary fibrosis, cancer and respiratory diseases;
- there are often no warning signs or fencing around contaminated areas, so people and livestock are often unknowingly exposed to radiation;
- vegetation is also contaminated by radiation and jeopardizes the ability of Native American communities to maintain their cultural practices;
- the federal government has largely ignored Native American communities impacted by uranium mining and spills, which have already affected several generations; and
- job opportunities for Native American youth and community members are limited.

Adjournment

There being no further business before the committee, the fifth meeting of the IAC for the 2019 interim adjourned at 1:16 p.m.