

# INDIAN AFFAIRS COMMITTEE

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NEW MEXICO STATE LEGISLATURE

2004

## INTERIM REPORT



*December 2004*

*New Mexico Legislative Council Service  
411 State Capitol  
Santa Fe, NM 87505*

**INDIAN AFFAIRS COMMITTEE  
2004 INTERIM  
SUMMARY**

At its initial meeting of the 2004 interim, the Indian Affairs Committee (IAC) identified five areas upon which it intended to focus during the 2004 interim: 1) education for Native American students; 2) reorganization of the Indian Affairs Department and the Aging and Long-Term Services Department; 3) rural economic development; 4) discrimination against Native Americans; and 5) capital outlay processes. Following its traditional scheduling procedure, the IAC scheduled many of its meetings to be held at chapters of the Navajo Nation, the pueblos and Indian-related institutions. IAC meetings were conducted at the following locations in addition to the State Capitol: the Sanostee, Shiprock and Twin Lakes chapters of the Navajo Nation; the pueblos of Isleta, Jemez and Santa Clara; San Juan College West in Kirtland; Southwestern Indian Polytechnic Institute in Albuquerque; the Institute for American Indian Arts in Santa Fe; and the McKinley County Courthouse in Gallup. At each meeting located at a chapter house or pueblo, the committee began its meeting with a presentation by the chapter president or pueblo governor on matters of local concern.

At its initial interim meeting in May held at the State Capitol, the IAC heard a proposal from the Institute of American Indian Arts regarding the development of a Center for Lifelong Education, Research and Cultural Exchange for Indigenous Peoples. Benny Shendo, Jr., secretary-designate of the new Indian Affairs Department, introduced himself and his staff to the committee and outlined his plans for the department over the coming year. Topics that were emphasized were the role of the department in administering capital outlay projects for tribal entities and plans for improving that process and reducing the backlog of funded but incomplete projects. The committee reviewed the results of legislation it had endorsed for the 2004 legislative session and planned its work and meeting schedule for the 2004 interim.

The second interim meeting of the IAC was held in the northwest area of the state at the Sanostee and Shiprock chapters of the Navajo Nation and at San Juan College West in Kirtland. Michelle Brown-Yazzie, deputy secretary-designate of the Indian Affairs Department, and Robert Apodaca, director of the Capital Projects Unit of the Department of Finance and Administration, presented an in-depth review of the status of capital outlay projects being administered through the Indian Affairs Department and plans for the capital outlay process for the upcoming legislative session. Michelle Lujan Grisham, secretary of the Aging and Long-Term Services Department, and members of her staff led an extensive discussion on issues related to providing services to Native American elderly, including capital outlay projects, Indian health and the coordination of activities by the Indian Area Agency on Aging and the Navajo Area Agency on Aging. Representatives of two of the state's rural electric cooperatives and the Navajo Tribal Utility Authority discussed problems involved with extending utility lines to remote residences on tribal lands. State Engineer John D'Antonio led a briefing on the status of proposed settlements of water rights litigation, including the *Aamodt* lawsuit and Navajo Nation water rights in the San Juan River basin. In the area of civil rights, Farmington Police Chief Michael Burridge advised the committee of efforts his department has made to address concerns expressed earlier in the year at a hearing conducted by the U.S. Commission on Civil

Rights. The committee also heard updates on the proposed joint state-tribal road yard project in McKinley and Cibola counties, payments to Native Americans under the federal Radiation Exposure Compensation Act, the proposed Hogback Bridge over the San Juan River connecting Navajo Highway 368 with State Highway 64 and the Enhancement Initiative for the NMSU Agricultural Science Center in Farmington.

The third interim meeting of the IAC was held in the central area of the state at the pueblos of Isleta and Jemez and at the Southwestern Indian Polytechnic Institute in Albuquerque. The principal topic of this meeting was health care for Native Americans. A panel of physicians and health care professionals reviewed and commented upon a recent draft report released by the U.S. Commission on Civil Rights entitled "Broken Promises: Evaluating the Native American Health Care System". Issues related to the provision of health care services by the Indian Health Service (IHS) were addressed by a panel including the director of the Albuquerque Area IHS. Critical concerns included the continuing insufficient funding of the IHS by the federal government and the turnover of staff at IHS facilities. Patricia Montoya, outgoing secretary of the Department of Health, discussed the state of the health of the Native American population in New Mexico and a proposed health initiative to be implemented by the department in the future. The IAC also heard presentations on a proposed festival for indigenous authors from around the world who write in their native languages, a new report from New Mexico Voices for Children on the impact of state taxes and budget policies on New Mexico children, the status of Native American youth incarcerated in juvenile corrections institutions, the proposed extension of Paseo del Norte in Albuquerque, the USDA Tribal Extension Initiative and the status of the Jemez State Monument.

The fourth interim meeting of the IAC was held in the Gallup area at the new McKinley County Courthouse and at the Twin Lakes Chapter of the Navajo Nation. The focus of the first day of this meeting was rural economic development. Local representatives of the business community discussed the merger of the Gallup Chamber of Commerce and the McKinley Development Foundation and projects that group was undertaking. Additional topics included the need for active enforcement of the state Indian Arts and Crafts Sales Act, the first Native American-accredited veterinary medicine program and clinic, the new proposed IHS health care facility and the proposed Rural School Leadership Academy. Representatives of the city of Gallup discussed their "Adventure Gallup" economic development initiative and the "ProActive Host" customer service training program for hospitality employees. Ernest Becenti, McKinley County commissioner, discussed efforts the county was making to coordinate comprehensive planning efforts with tribal entities. Representatives of the Northwest New Mexico Community Development Corporation presented various programs the agency is undertaking to foster rural economic development. Alan Begay, executive director of the Navajo Nation Economic Development Department, explained economic development problems faced by the Navajo Nation and presented examples of successes from the recent past. The day concluded with a roundtable discussion including all of the presenters. The second day of the meeting began with a lengthy discussion regarding the Gallup-McKinley County Public Schools, including bilingual education, cultural education and student retention. Other topics discussed at this meeting included the status of future ownership of lands taken for use by the Pittsburgh and Midway Coal

Mining Company for the so-called McKinley North Mine and reclamation efforts for that mining area as mining operations cease, alcohol rehabilitation and food bank services in the Gallup area, predatory lending and proposed legislation for the 2005 session regarding the payday loan industry, the Gallup Center for Independent Living and the history of efforts to test homes in Indian Country for radioactive materials.

The fifth interim meeting of the IAC was held at the Institute for American Indian Arts in Santa Fe, the Pueblo of Santa Clara and at the State Capitol. The first day of the meeting concentrated on Native American education issues and featured presentations by a panel including Indian Affairs Department Secretary-Designate Benny Shendo, Jr., Public Education Department Deputy Secretary Penny Bird, Indian Education Advisory Committee Chair Donovan Gomez and UNM Institute for Indian Education Director Dr. Joseph Suina. The panel discussed a draft memorandum of understanding directed at supporting the initiatives of the Indian Education Act. A second major topic of discussion at that meeting was the problems encountered by the state, the Navajo Nation and the Pueblo of Zuni regarding the release of federal funds targeted for Temporary Assistance to Needy Families. On the second day of the meeting, Bureau of Elections Director Denise Lamb and members of her staff briefed the committee on problems within Indian Country regarding the 2004 presidential and state elections. Economic Development Secretary Rick Homans briefed the committee on the department's recent accomplishments in economic development, and specifically commented on efforts regarding economic development on tribal lands. Other topics considered in the course of this meeting included bringing the Inter-Tribal Ceremonial Office back under the auspices of state government, a report on the well-being of Native American children prepared by New Mexico Voices for Children, the Native American web site under development by the State Library Division, the E-mercado internet project sponsored by the Albuquerque Hispano Chamber of Commerce, the ongoing effort to update the New Mexico Children's Code and Native American participation in Medicaid and health maintenance organizations.

The sixth and final interim meeting of the IAC was held at the State Capitol in November. The first day of the meeting consisted of presentations by various interest groups and tribal entities regarding requests for capital outlay appropriations and for specific substantive legislative proposals. Representatives from the Indian Affairs Department, the Department of Finance and Administration and the Legislative Council Service briefed the committee on the present status of approved capital outlay projects being administered through the Indian Affairs Department and procedures that will be used for capital outlay requests for the upcoming legislative session. On the second day of the meeting, the committee considered and voted on a variety of initiatives for the 2005 legislative session, including substantive legislation, memorials, appropriations and capital outlay requests. The results of this discussion are detailed in the minutes for that meeting.

During the course of the interim, the IAC requested and received the approval of the Legislative Council to hold a special meeting to discuss with the state's congressional delegation issues specifically related to the Indian Health Service and the Bureau of Indian Affairs. The November meeting was to be held at the University of New Mexico in Albuquerque and hosted

by the UNM President's Office. Although scheduled to be held during a congressional recess, obligations related to the November election resulted in limited attendance by the delegation and the meeting was canceled. The committee hopes to reschedule a similar meeting during the next interim as there are numerous areas where federal legislation and policy significantly impact the day-to-day lives of Native Americans in New Mexico.

**2004 APPROVED**  
**WORK PLAN, MEETING SCHEDULE AND BUDGET**  
**for the**  
**INDIAN AFFAIRS COMMITTEE**

**Membership**

Rep. James Roger Madalena, Co-chair  
Sen. Leonard Tsosie, Co-chair  
Sen. Rod Adair  
Rep. Ray Begaye  
Rep. Irvin Harrison  
Rep. Patricia A. Lundstrom  
Sen. Raymond Kysar

Sen. John Pinto  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez  
Rep. Don Tripp  
Rep. Avon W. Wilson  
Rep. Teresa A. Zanetti

**Advisory Members**

Sen. Ben D. Altamirano  
Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Rep. Fred Luna  
Sen. Richard C. Martinez

Rep. Debbie A. Rodella  
Rep. Nick L. Salazar  
Sen. William E. Sharer  
Rep. James G. Taylor  
Rep. W. C. "Dub" Williams

**I. WORK PLAN**

The Indian affairs committee has existed since 1989 as a result of post-session New Mexico legislative council action each year.

A. The Indian affairs committee proposes to explore and discuss the following topics during the 2004 interim:

1. education for Native American students, including the implementation of current laws, public education department outreach programs and an update on problem schools;
2. reorganization of the Indian affairs department and the aging and long-term services department, including performance measures and outreach programs;
3. rural economic development, including coordinating and monitoring the development of projects in the Navajo Nation;
4. discrimination against Native Americans, including legal services, motor vehicle and education issues; and
5. capital outlay, including reviewing a process for accounting for projects, tracking funds and streamlining, planning and assessing projects.

B. The committee will coordinate, as needed, with other committees regarding presentations of subject matter of common concern.

**II. MEETING SCHEDULE AND BUDGET**

<u>DATE</u>	<u>LOCATION</u>	<u>BUDGET</u>
May 26	Santa Fe	\$3,460.25
July 7-9	Farmington	7,356.75
August 3-5	Albuquerque	6,954.75
September 14-16	Gallup	6,962.25
October 26-28	Santa Fe/Taos	7,918.13
November 9-10	Santa Fe	<u>5,358.25</u>

TOTAL BUDGET

\*\$38,010.38

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\*The above total does not reflect the budget required for advisory members of  
 \$27,889.76  
 paid from a different fund.

**Revised: May 18, 2004**

**TENTATIVE AGENDA**  
**for the**  
**INDIAN AFFAIRS COMMITTEE**

**May 26**  
**Room 321, State Capitol**  
**Santa Fe**

**Wednesday, May 26**

- 10:00 a.m.    CALL TO ORDER
- 10:05 a.m.    INSTITUTE OF AMERICAN INDIAN ARTS — OVERVIEW  
                  —Della Warrior, President
- 11:00 a.m.    2004 LEGISLATION — SUMMARY  
                  —Leslie Schaar, Staff Attorney, Legislative Council Service (LCS)
- 11:30 a.m.    WORK PLAN AND MEETING SCHEDULE DEVELOPMENT  
                  —Leslie Schaar, Staff Attorney, LCS  
                  —Chase Van Gorder, Staff Attorney, LCS
- 12:30 p.m.    LUNCH
- 2:00 p.m.    INDIAN AFFAIRS DEPARTMENT — UPDATE  
                  —Bennie Shendo, Secretary-Designate, Indian Affairs Department
- 3:30 p.m.    ADJOURN

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

**May 26, 2004  
State Capitol, Room 321  
Santa Fe**

The first meeting of the Indian Affairs Committee for the 2004 interim was called to order by Representative James Roger Madalena, co-chair, on Wednesday, May 26, 2004, at 10:18 a.m. in Room 321 of the State Capitol in Santa Fe.

**PRESENT**

Rep. James Roger Madalena, Co-chair  
Sen. Rod Adair  
Rep. Ray Begaye  
Rep. Irvin Harrison  
Rep. Patricia A. Lundstrom  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez

**Advisory Members**

Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella  
Rep. Nick L. Salazar  
Sen. William E. Sharer

**Staff**

Leslie Schaar  
Charles H. Van Gorder

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

**ABSENT**

Sen. Leonard Tsosie, Co-chair  
Sen. Raymond Kysar  
Sen. John Pinto  
Rep. Don Tripp  
Rep. Avon W. Wilson  
Rep. Teresa A. Zanetti

Sen. Ben D. Altamirano  
Rep. Fred Luna  
Rep. James G. Taylor  
Rep. W. C. "Dub" Williams

## **INSTITUTE OF AMERICAN INDIAN ARTS**

Della Warrior, president of the Institute of American Indian Arts, introduced the institute's proposal for the development of a Center for Lifelong Education, Research and Cultural Exchange for Indigenous Peoples. The proposed center is to be located on land owned by the institute on A Van U Po Road in Santa Fe. The cost of the proposed center is estimated at \$60 million. The W.K. Kellogg Foundation has given a \$10 million grant pending receipt of matching funds on a 2:1 basis. (The foundation has also provided a \$2 million planning grant.) The institute is seeking the remaining \$50 million in funding from the following sources: \$8 million from the federal government (\$4 million already committed), \$6 million from American Indian tribes and \$6 million from the state of New Mexico (\$770,000 already committed). Governor Richardson committed \$2 million from his capital outlay fund over a two-year period, \$500,000 of which was committed during the last legislative session. Legislators committed \$700,000 in individual capital outlay requests during the past session, of which \$432,000 was vetoed by the governor.

Paul Fragua, the institute's architect, gave a Powerpoint presentation — including a simulated visual fly-over — that outlined the architectural plans for the proposed center and its campus. Emphasis was placed on the passive solar energy and extensive water recycling elements of the planned facility, which elements will result in a 60 percent saving in energy and water consumption.

Following Mr. Fragua's presentation, Ms. Warrior requested that the committee write a letter to the governor supporting the proposed center, provide advocacy and leadership for the institute's fund-raising efforts and meet with the governor to solicit his full support for the proposed center. After questions and discussion by committee members, Representative Begaye moved that the committee write a letter to the governor expressing the committee's support for the proposed center, and that similar letters of support be provided to any potential federal or private sources of funding. The motion was seconded by Senator Rainaldi and was passed unanimously by the committee.

## **SUMMARY OF 2004 LEGISLATION**

Leslie Schaar, staff attorney, Legislative Council Service, reviewed what happened to the legislation endorsed by the committee during the 2004 legislative session:

House Bill 156	Contained in House Bill 2
House Bill 157	
House Bill 179	Passed House
House Bill 296	
House Joint Memorial 12	Passed House
House Joint Memorial 18	Signed
House Joint Memorial 22	Passed House
Senate Bill 350	Contained in House Bill 2
Senate Bill 351	Contained in House Bill 2
Senate Joint Memorial 36	Passed Senate

## **DEVELOPMENT OF WORK PLAN AND MEETING SCHEDULE**

Ms. Schaar presented recommendations made by Senator Tsosie for several theme-based meetings of the committee during the interim. Following a discussion among committee members, the following meeting dates, locations and topics were agreed upon:

**June 24-25: State Capitol - Santa Fe**

Aging and Long-Term Services Department; capital outlay and analysis of reverted projects (Indian Affairs Department); natural resources — discussion of *Aamodt* settlement (Office of the State Engineer); exchange with tribes and pueblos of motor vehicle information (Motor Vehicle Division).

**July 7-9: Farmington/Shiprock Area**

Civil rights discrimination.

**August 3-5: Albuquerque Area**

Status of Native American HMO; juvenile corrections; Petroglyph monument; secession from Bernalillo County to Valencia County; possibly meet at Isleta Pueblo and Southwestern Indian Polytechnic Institute.

**September 14-16: Gallup Area**

Rural economic development; education; alcohol issues - House Joint Memorial 80 (Gallup mayor); possibly meet at UNM branch campus.

**October 26-28: Santa Fe Area**

Possibly meet at San Juan Pueblo, Taos Pueblo and Institute for American Indian Arts.

**November 9-10: State Capitol - Santa Fe**

Discussion of procedures for capital outlay requests and legislation to be endorsed by the committee.

**INDIAN AFFAIRS DEPARTMENT**

Secretary-designate Benny Shendo, Jr. of the Indian Affairs Department introduced himself to the committee and gave a brief history of his personal and professional background. He introduced the department's current staff, announced the recent appointment of G. Michelle Brown-Yazzie as deputy secretary and indicated that the position of department general counsel should be filled in the near future. Secretary-designate Shendo recognized the importance of the capital outlay process to the department, as \$20 million in capital funds go through the department annually. He is committed to making the capital outlay process more efficient, including improving educational levels for the capital outlay process at the local level. Secretary-designate Shendo discussed the various special projects that are funded through the department and ways in which the department seeks to reach out to and communicate with the state's tribes and pueblos. Policy initiatives that the department is currently pursuing include the

New Mexico Behavioral Health Purchasing Cooperative, repatriation and sacred places protection issues, homeland security and the Leadership Institute. Finally, Secretary-designate Shendo recognized the efforts of Derrith Watchman-Moore on behalf of the department and the state's Indian citizens and announced plans for a symposium to be held at the University of New Mexico to recognize and honor legislators and tribal leaders who have been "visionaries" and have worked for the benefit of Indian citizens and Indian communities of New Mexico.

Members of the committee questioned Secretary-designate Shendo on various topics of concern and commented on issues that they felt were important regarding Indian affairs. The secretary-designate was requested to try and have a department representative present at all future meetings of the committee.

### **OTHER BUSINESS**

There was no other business brought before the committee.

### **ADJOURNMENT**

Representative Madalena adjourned the meeting at 3:22 p.m.

**TENTATIVE AGENDA**  
**for the**  
**INDIAN AFFAIRS COMMITTEE**

**July 7, 2004 - Sanostee Chapter House**  
**July 8, 2004 - Shiprock Chapter House**  
**July 9, 2004 - San Juan College West, Rooms 111 & 112, Kirtland**

**Wednesday, July 7 - Sanostee Chapter House, Navajo Nation**

- 10:00 a.m.        CALL TO ORDER
- 10:05 a.m.        SANOSTEE CHAPTER, NAVAJO NATION — STATUS UPDATE  
—Emil Benally, Jr., Chapter President  
—Jerry Bodie, Chapter Delegate to Navajo Nation Council  
—Mae Rose Wolfe, Community Services Coordinator
- 11:00 a.m.        INDIAN AFFAIRS DEPARTMENT AND DEPARTMENT OF  
FINANCE & ADMINISTRATION — CAPITAL OUTLAY  
DISCUSSION  
—G. Michelle Brown-Yazzie, Deputy Secretary-Designate, Indian Affairs  
Department  
—Robert Apodaca, Director, Capital Projects Division, Department of  
Finance & Administration
- 12:30 p.m.        LUNCH
- 1:30 p.m.        ROAD YARD PROJECT — UPDATE  
—Larry Maynard, District Engineer, District VI, Department of  
Transportation
- 2:30 p.m.        DELIVERY OF RURAL ELECTRIC SERVICE  
—Bruce Pritchard, Supervisor, Engineering Department, Continental  
Divide Electric Cooperative  
—Elmer Morales, Cuba District Engineer, Jemez Mountains Electric  
Cooperative, Inc.  
—Rex Kontz, Deputy General Manager, Navajo Tribal Utility Authority  
—Ken Craig, Manager, Engineering Division, Navajo Tribal Utility  
Authority  
—Eugene John, Manager, Shiprock District Office, Navajo Tribal Utility  
Authority
- 4:00 p.m.        RECESS

**Thursday, July 8 - Shiprock Chapter, Navajo Nation**

- 9:30 a.m. SHIPROCK CHAPTER, NAVAJO NATION — STATUS UPDATE  
 —Duane H. Yazzie, Chapter President  
 —Wallace Charley, Pete Ken Atcitty and Richard T. Begaye, Chapter Delegates to Navajo Nation Council  
 —Peter Deswood, Jr., Chapter Community Service Coordinator
- 10:30 a.m. TESTING OF HOMES BUILT WITH RADIOACTIVE MATERIALS  
 —Michael Taylor, Radon Outreach Coordinator, Department of Environment
- 11:15 a.m. NAVAJO URANIUM RADIATION VICTIMS COMMITTEE — UPDATE  
 —Phillip Harrison, Liaison, Navajo Uranium Radiation Victims Committee
- 12:00 noon LUNCH
- 1:00 p.m. AGING AND ELDERLY CARE ISSUES  
 —Michelle Lujan Grisham, Secretary, Aging & Long-Term Services Department  
 —Ray Espinoza, Area Agencies on Aging Director, Aging & Long-Term Services Department  
 —Lynne Anker-Unnever, Director, Division of Community Involvement Team, Aging & Long-Term Services Department  
 —Martha Lathi, Director, Shiprock Agency, Navajo Area Agency on Aging  
 —Murlee Hollowhorn, Director, Crownpoint Agency, Navajo Area Agency on Aging  
 —Iris Peterson, Director, Navajo Nation Division of Social Services  
 —Alta Bluehorse, Executive Director, Wauneka Life Care Centers, Inc.
- 3:00 p.m. SAN JUAN CHAPTER, NAVAJO NATION — UPDATE ON PROPOSED HOGBACK BRIDGE  
 —Robert C. Begay, President, San Juan Chapter, Navajo Nation  
 —Armando Armendariz, Bridge Engineer, District V, Department of Transportation
- 3:30 p.m. NMSU AGRICULTURAL SCIENCE CENTER — ENHANCEMENT INITIATIVE FOR CENTER  
 —Mick O'Neill, Superintendent, Assistant Professor, NMSU Agricultural Science Center, Farmington
- 4:00 p.m. RECESS

**Friday, July 9 - San Juan College West, Rooms 111 & 112, Kirtland**

- 9:00 a.m. WATER RIGHTS ISSUES — STATUS OF *AAMODT* SETTLEMENT,

ANIMAS AND SAN JUAN RIVER BASINS

—John D'Antonio, State Engineer and Secretary, Interstate Stream Commission

—Bidtah N. Becker, Water Rights Division, Navajo Nation Department of Justice

11:00 a.m.

CIVIL RIGHTS ISSUES

—Levon Henry, Executive Director, DNA Peoples Legal Services

—Michael Burrige, Police Chief, City of Farmington

—Herb Frazier, Bilingual Education Coordinator, Central Consolidated School District

—Patricia A. Lundstrom, Representative, New Mexico Legislature

1:00 p.m.

ADJOURN

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

**July 7, 2004, Sanostee, New Mexico  
July 8, 2004, Shiprock, New Mexico  
July 9, 2004, Kirtland, New Mexico**

The second meeting of the Indian Affairs Committee for the 2004 interim was called to order by Representative James Roger Madalena, co-chair, on Wednesday, July 7, 2004, at 10:58 a.m. in the Sanostee Chapter House, Sanostee, New Mexico. Representative Madalena asked Representative Ray Begaye to act as co-chair of the meetings in Sanostee and Shiprock.

**PRESENT**

Rep. James Roger Madalena, Co-Chair (7/7-8)  
Sen. Leonard Tsosie, Co-Chair (7/8-9)  
Sen. Rod Adair  
Rep. Ray Begaye  
Rep. Irvin Harrison (7/7-8)  
Rep. Patricia A. Lundstrom  
Sen. John Pinto  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez (7/7)  
Rep. Teresa A. Zanetti (7/8-9)

**ABSENT**

Sen. Raymond Kysar  
Rep. Don Tripp  
Rep. Avon W. Wilson

**Advisory Members**

Rep. Fred Luna (7/8)  
Sen. Richard C. Martinez  
Sen. William E. Sharer (7/9)

Sen. Ben D. Altamirano  
Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Rep. Debbie A. Rodella  
Rep. Nick L. Salazar  
Rep. James G. Taylor  
Rep. W. C. "Dub" Williams

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Leslie Schaar  
Charles H. Van Gorder

**Guests**

The guest lists are in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

**Wednesday - July 7, 2004**

**I. Sanostee Chapter — Status Update — Emil Benally, Jr., chapter president; Jerry Bodie, chapter delegate to the Navajo Nation Council; Mae Rose Wolfe, chapter community services coordinator.**

Chapter President Benally introduced the chapter to the committee by briefly describing its history, geography and population. He then reviewed problem areas being experienced by the chapter and its people, including a new chapter house, paving of roads, extending electrical service to those without running water, homelessness, native language instruction in the chapter's kindergarten through third grade school, a lack of telephone service, which adversely affects availability of emergency services, limited law enforcement and a lack of public restrooms. He noted that the chapter was working with the state on 13 different projects. He also indicated that a lack of water for the farmers within the community has given rise to a need for financial support for the possible construction of a dam.

Chapter Delegate Jerry Bodie noted that the Sanostee Chapter was geographically the largest chapter within the Shiprock Agency and had the second largest population. He described significant discrepancies between the census figures submitted by local enumerators and those published by the U.S. Census Bureau; these discrepancies have not been explained despite numerous inquiries on behalf of the chapter. Problem areas for the chapter noted by Mr. Bodie included inadequate housing, inability to obtain extensions of electrical and telephone service in remote areas, unpaved roads and related problems for school bus transportation, lack of school bus maintenance, deterioration of an elementary school building due to soil conditions and difficulty utilizing capital outlay appropriations due in part to requirements of the Navajo Nation.

Chapter Coordinator Wolfe discussed concerns of which she was aware, including a deteriorating multipurpose building (Veterans Memorial Building) and a senior center; a poor quality backhoe; lack of a post office, public safety building, medical facility and a place to store building materials; and a poor response time for law enforcement.

Following questions and discussion between chapter representatives and committee members, Senator Rainaldi suggested that it follow up with future meetings involving the state's congressional delegation, the Bureau of Indian Affairs (BIA), the Navajo Nation Capital Improvements Office and the Navajo Nation Council Transportation and Community Development Committee. Representative Lundstrum suggested that the Sanostee Chapter be utilized as a pilot project for improvements in the capital outlay process.

**II. Capital Outlay Discussion — G. Michelle Brown-Yazzie, deputy secretary-designate, Indian Affairs Department (IAD); Robert Apodaca, director, Capital Projects Division, Department of Finance and Administration (DFA).**

Deputy Secretary-Designate Brown-Yazzie introduced herself to the committee and summarized her background and experience prior to her recent appointment by Governor Richardson. She then went through a PowerPoint presentation that addressed the following issues: departmental staffing, problems regarding capital outlay projects administered by the department, the department's plan for improving the capital outlay process, working with tribes to create a 2005-09 Local Infrastructure Capital Improvement Plan, providing tribes with consistent technical assistance on an ongoing basis, establishing direct pay procedures and streamlining the joint powers agreement process. Ms. Brown-Yazzie also presented the IAD's Capital Outlay Projects Update.

Director Apodaca reviewed capital outlay projects that had been routed through the New Mexico Office of Indian Affairs. Since 1994, approximately \$27 million in capital projects had been appropriated, of which approximately \$13 million has not yet been spent. Mr. Apodaca then presented a PowerPoint presentation outlining the DFA's plans for managing capital projects, which include financial planning, priority setting, project management and monitoring and reporting. Mr. Apodaca also laid out the division's proposed capital outlay standards and the next steps to be taken in improving the capital planning process.

There was a wide-ranging discussion between the presenters and members of the committee regarding the capital outlay process and the status of past approved appropriations, which are now administered through the IAD. Issues raised by committee members included the necessity for joint powers agreements for every project, sub-area offices of the IAD, capital outlay training of tribal personnel and capital outlay staffing within the DFA.

During the course of those discussions, Representative Lundstrom moved that \$2 million be taken off the top of the total capital outlay amount in fiscal year 2005 for the purpose of providing professional services such as architectural and engineering services to help ensure the project readiness of the \$17+ million in approved capital outlay projects currently on the backlog list provided by the IAD. She noted that such assistance is critical to move the projects forward, and that the funds should go either to the IAD or the Capital Projects Division of the DFA. The motion was seconded by Representative Harrison and approved. Senator Rodriguez moved to recommend that the secretary of the IAD earmark specific back-logged capital outlay projects to specific IAD staff members for monitoring and follow-up, and that the secretary report back to the committee on the results of such follow-up efforts. The motion was seconded by Representative Lundstrom and approved.

Following the lunch break, Representative Begaye moved to approve the minutes of the Indian Affairs Committee meeting held on May 26, 2004. The motion was seconded by Senator Rodriguez and was passed unanimously.

**III. Road Yard Project — Larry Maynard, district engineer, District VI, Department of Transportation (DOT); Fernando Trujillo, assistant district engineer, District VI, DOT; Lisa Vega, technical support engineer, District VI, DOT.**

District Engineer Maynard presented background information regarding the so-called "Road Yard" project. The concept is to have the state and the Navajo Nation work together to develop shared highway maintenance storage yards. This would be an opportunity to share state resources with the Navajo Nation to permit the development of additional sites for the stockpiling of road maintenance materials and equipment, thereby permitting more timely maintenance operations. In 2003, the legislature appropriated \$600,000 toward the establishment of maintenance patrol yards and the purchase of equipment. A proposal has been presented to the Transportation Committee of the Navajo Nation and must now be presented to the Navajo Nation Council and the IAD. There is in place a memorandum of understanding between the DOT and the Navajo Nation providing for monthly meetings to implement this proposed project. The total requested funding for this project was originally \$4.1 million, of which \$600,000 has been appropriated. Follow-up questioning by committee members touched on the status of improvements to State Route 491 and the Jemez Pueblo highway bypass.

**IV. Delivery of Rural Electric Service — Bruce Pritchard, supervisor, Engineering Department, Continental Divide Electric Cooperative; Eugene John, manager, Shiprock District Office, Navajo Tribal Utility Authority (NTUA); Elizabeth Washburn, NTUA; Sharon John, NTUA.**

Mr. Pritchard began his presentation with a description of the service area of the Continental Divide Electric Cooperative, which serves approximately 7,220 square miles in west central New Mexico and approximately 24,810 meters. He then described the general process that needs to be followed to extend power lines in any given area, including the Eastern Agency of the Navajo Nation, the Ramah Chapter of the Navajo Nation and the Pueblos of Zuni, Acoma and Laguna. Mr. Pritchard then discussed an extensive list of problems facing those potential customers seeking an extension of electrical service in rural areas, including right-of-way acquisition, the BIA bureaucracy and compliance with the requirements of the National Environmental Protection Act, including environmental and archaeological surveys. Next Mr. Pritchard discussed with the committee his suggestions for improving the process to extend rural electrical service within Indian Country and solicited the committee's help in getting assistance from the state's congressional delegation to address these problems.

Eugene John, Elizabeth Washburn and Sharon John gave a PowerPoint presentation regarding the process by which a Navajo Nation chapter initiates a power line project with the NTUA. The process includes advance planning, a request for and performance of a feasibility study, timing, cost estimates, funding, right-of-way acquisition, house wiring, design of the main line and taps and construction.

**V. Burnham Chapter — Status Update — Veronica M. Begay, chapter community services coordinator.**

Chapter Coordinator Begay presented to the committee on behalf of the Burnham Chapter a list of "need areas", including the following: power line extensions, road improvements, water line extensions, water for livestock, improvement or new construction of homes and a new senior center, which has been approved but is not listed in approved projects for FY 2004.

Following the presentations by the Continental Divide Electrical Cooperative and the NTUA, Representative Begay expressed to the representatives present from the Sanostee Chapter the committee's appreciation for the chapter's hospitality in hosting the committee meeting and providing the committee with lunch. At 4:45 p.m., the meeting was recessed until 9:30 a.m. the following day at the Shiprock Chapter.

**Thursday, July 8, 2004**

The recessed second meeting of the Indian Affairs Committee for the 2004 interim was called back to order by Representative Ray Begay, acting co-chair, on Thursday, July 8, 2004, at 9:48 a.m. in the Shiprock Chapter House, Shiprock, New Mexico.

**I. Shiprock Chapter — Status Update — Duane H. Yazzie, chapter president; Pete Ken Atcitty, chapter delegate to the Navajo Nation Council; Peter Deswood, Jr., chapter community service coordinator.**

President Yazzie welcomed the committee to the Shiprock Chapter and briefed the committee regarding ongoing chapter activities. President Yazzie reviewed a listing of economic development projects. Many of the chapter's activities are focused on economic development, which has been on the upswing, but the focus is changing to community development rather than just economic development. The principal need of the chapter at this point is to update community infrastructure. Coordinator Deswood then reviewed development projects in the South Shiprock area. Council Delegate Atcitty identified two of his principal concerns: the need for additional law enforcement resources, including better coordination with the state police, and improvements to State Route 64 West where there have been right-of-way acquisition problems. The committee also heard from Mr. Romero Brown, who has experienced difficulty in getting support from the Economic Development Department for the development of a Days Inn/Denny's project to be located in Shiprock.

**II. Navajo Uranium Radiation Victims Committee — Phillip Harrison, liaison, Navajo Uranium Radiation Victims Committee.**

Phillip Harrison presented the committee with background information on the Radiation Exposure Compensation Act (RECA), including its original adoption by Congress in 1990 and subsequent amendment in 2000. He explained that there are problems with the legislation and that he has approached the state's congressional delegation regarding the need for another round of amendments to RECA. He has not yet received any response from the congressional delegation. Mr. Harrison explained that there appears to be a disproportionate number of Navajo claimants who have not been granted compensation, and that the delegation in Washington,

D.C., has not been helpful in rectifying this situation. There are currently 4,000 compensation claim cases filed in Shiprock, but there are only three caseworkers and only about 500 claims that have been approved. Mr. Harrison estimates that 5,000 claims still need to be filed. Following a discussion of the issues by committee members, including Representative Lundstrom, whose father suffered from radiation-related health problems, Senator Tsosie suggested that the committee draft a memorial on this topic requesting that Congress work to correct, as soon as possible, the problems regarding the implementation of RECA for Native Americans.

**III. Aging and Elderly Care Issues — Michelle Lujan Grisham, secretary, Aging and Long-Term Services Department (ALTSD); Lynne Anker-Unnever, director, Division of Community Involvement Team, ALTSD; Ray Espinoza, director, Area Agencies on Aging, ALTSD; David Baldrige, executive director, National Indian Council on Aging; LaVerne Wyaco, director, Navajo Aging Services Department; Murlee Hollowhorn, director, Crownpoint Agency, Navajo Area Agency on Aging (NAAA).**

Secretary Grisham introduced herself and the ALTSD staff who accompanied her to the meeting. She distributed to the committee copies of a monograph series dealing with Indian health issues and a notebook with statistical and program information regarding the NAAA and the Indian Area Agency on Aging (IAAA). Lynne Anker-Unnever and Ray Espinoza discussed ongoing activities with the NAAA and the IAAA, including capital outlay request training, implementation of a new financial reporting system, the new Twin Lakes Chapter Senior Center and the nature and extent of services provided to the elderly populations within the service areas of these two agencies. David Baldrige explained to the committee the development and application of Geographic Information System (GIS) mapping technology to the provision of services by the ALTSD. For example, by geographically mapping sectors of the population having specific age or health characteristics, better decisions can be made regarding where to site new facilities to serve that population. LaVerne Wyaco and Murlee Hollowhorn reviewed the services provided to the elderly populations in areas of the Navajo Nation.

During the subsequent discussion between the presenters and committee members, the following topics were discussed: delays in the expenditures of capital outlay appropriations; the siting of the new Twin Lakes Chapter Senior Center; the provision of traditional foods at senior centers; translation of committee discussions into traditional languages (Secretary Grisham indicated ALTSD would fund one-half the cost of a pilot project for instantaneous translation); the use of counties as fiscal agents for tribes in the capital outlay process; the lack of good cell phone service in rural areas; U.S. Postal Service facilities; employment of elders in education; statistics on Indian health problems; and urban Indian populations. Thomas Totachini, president of the Shiprock Senior Center, also commented on senior meals at the Shiprock Senior Center and the location of the Twin Lakes Senior Center. Sheri Watson, executive director of the San Juan Center for Independence, spoke regarding problems with the recent transition of care from that center to the Shiprock Senior Center. After a lengthy discussion, it was agreed that representatives of the center and ALTSD would get together outside of the committee meeting to air and resolve any problems related to that transition.

**IV. Elsie Natai**

The committee heard from Elsie Natai of the Red Rock Chapter, Navajo Nation. She has been trying for years, unsuccessfully, to get a power line extended 2.5 miles to her home. She explained to the committee how nothing has been done despite the fact that funds for the extension have been allocated and she requested the committee's help in getting the extension off the ground.

**V. Proposed Hogback Bridge — Update — Robert C. Begay, president, San Juan Chapter, Navajo Nation; Armando Armendariz, bridge engineer, District V, DOT.**

President Begay briefed the committee on the proposal to construct a bridge on Navajo Highway 368 over the San Juan River to connect that highway with State Highway 64. An initial report had been prepared in 1999 by Miller Engineering regarding the feasibility of the bridge. There had been a meeting with the BIA on June 3, 2004 to discuss this project, and a public hearing is scheduled for September 13. The total cost of the bridge is estimated at \$8 million, of which \$4.7 million has been committed by the BIA. Mr. Armendariz agreed with President Begay's description of the status of the project, and indicated that the state's involvement would be limited to the possible construction of an interchange, if warranted by traffic studies. Comments from the committee addressed insurance problems regarding the bridge and routing decisions. It was suggested that the committee may want to write a letter to Congress expressing its support for the proposed bridge.

**VI. NMSU Agricultural Science Center (ASC) — Mick O'Neill, superintendent, assistant professor, NMSU ASC, Farmington.**

Professor O'Neill explained to the committee the history of the NMSU ASC, which was established in Farmington in 1966. The center's purpose at the present time is applied agricultural research, and its primary client groups are the Navajo Agricultural Products Industry, small-scale Native American farmers, long-time area farmers and recently arrived urban immigrants. Current ASC research projects focus on crop improvement, weed control and irrigation/water management. Professor O'Neill then briefed the committee on the proposed enhancement initiative, which will include a nonrecurring capital outlay request in the amount of \$25,000 for a feasibility study and a recurring general fund request in the amount of \$360,000 per year. The initiative will provide for a horticulturalist and requisite support staff to be added to the ASC's staff. The horticulturalist will have teaching responsibilities at San Juan College and will fill a position at the ASC that was left vacant when the prior horticulturalist retired in 1992.

Jimmie BlueEyes, community services coordinator for the Upper Fruitland Chapter, Navajo Nation, commented upon the impact of the Navajo Indian Irrigation Project and the Navajo Agricultural Products Industry on small-scale subsistence farmers along the San Juan River. He and fellow farmers have received assistance and benefits as a result of the activities at the ASC.

Representative Begaye expressed to the representatives present from the Shiprock Chapter the committee's appreciation for the chapter's hospitality in hosting the committee meeting and providing the committee with lunch. The meeting was recessed at 5:15 p.m. until 9:00 a.m. the following day at the campus of San Juan College West in Kirtland, New Mexico.

## **Friday, July 9, 2004**

The recessed second meeting of the Indian Affairs Committee for the 2004 interim was called back to order by Senator Leonard Tsosie, co-chair, on Friday, July 9, 2004, at 9:40 a.m. at the campus of San Juan College West in Kirtland, New Mexico.

### **I. Water Rights Issues — John D'Antonio, state engineer and secretary, Interstate Stream Commission; John Whipple, commissioner, Interstate Stream Commission; D. L. Sanders, general counsel, Office of the State Engineer; Jason John, hydrologist, Navajo Nation Department of Water Resources, Water Management Branch; George Arthur, chairman, Natural Resources Committee, Navajo Nation Council.**

State Engineer John D'Antonio briefed the committee on the background and status of the proposed settlement of the *Aamodt* lawsuit regarding water rights. He distributed to the committee handouts, including a fact sheet on the proposed *Aamodt* settlement, questions and answers regarding a regional water system, water quality concerns, legal issues and hydrology, copies of which are in the meeting file. Mr. D'Antonio summarized the benefits of the proposed *Aamodt* as follows:

#### **Benefits for the Pueblos in the Nambe, Pojoaque and Tesuque Stream Systems:**

- 1) The proposed settlement agreement is intended to provide a regional water supply to the Pueblos of Nambe, Pojoaque, Tesuque and San Ildefonso in exchange for releasing claims to water that could otherwise potentially displace existing non-pueblo water users in the Rio Pojoaque Basin; and
- 2) The pueblos will have a secure water supply well into the twenty-first century.

#### **Benefits for the State of New Mexico:**

- 1) Water rights claims that have been languishing in court for decades will now be settled, ending the financial drain on state personnel and legal resources;
- 2) The proposed settlement agreement can be implemented within New Mexico's compact apportionment;
- 3) The proposed agreement will help Santa Fe County supply water to its residents; and
- 4) The proposed settlement recognizes existing and authorized uses of water within the rios Nambe, Pojoaque and Tesuque.

### Benefits for Non-pueblo Water Users in the Nambe, Pojoaque and Tesuque Stream Systems:

- 1) Years of uncertainty with respect to rios Nambe, Pojoaque and Tesuque water rights will now be settled. Since the pueblos' water rights will be quantified, non-pueblo water users can better plan their futures;
- 2) Imported water will decrease pressures on the existing aquifer;
- 3) Economic development among non-pueblo water users can proceed with more certainty; and
- 4) Non-pueblo water users are free from the expense of state lawsuits associated with settling water rights claims.

Following Mr. D'Antonio's presentation, the discussion with committee members included the status of the United States as a party to the litigation, representation of parties by the U.S. Department of Justice, payment of initial hook-up fees, the doctrine of prior appropriation, Indian water rights and the impact of domestic wells on surface waters.

After the discussion of the proposed *Aamodt* settlement, Mr. D'Antonio addressed the issue of Navajo Nation water rights in the San Juan River Basin in New Mexico. He reviewed the background of the dispute and the status of the proposed settlement. The major components of the proposed settlement include: adjudicate reserved senior priority rights for existing acreage under the Fruitland and Hogback projects; recognize and complete the Navajo Indian Irrigation Project (NIIP) as authorized by Congress in 1962; authorize and construct the Navajo-Gallup Water Supply Project to service the domestic needs of the Navajo Nation and the City of Gallup through 2060; and settlement of Navajo claims with allocation of about 23,000 acre-feet per year of new water and construction of the Navajo-Gallup Water Supply Project at a cost of \$600+ million. Mr. D'Antonio distributed copies of the *Executive Summary of the San Juan River Basin in New Mexico - Navajo Nation Water Rights Settlement*. He also mentioned that the Interstate Stream Commission will hold a public hearing in August concerning the proposed settlement.

Jason John then presented a PowerPoint presentation giving background information on Navajo-claimed water rights and usage in the San Juan and Colorado River Basins. The presentation also described the elements of the proposed settlement, including projected costs and a time line for completion. Chairman Arthur commented that the proposed settlement had been approved by the Natural Resources Committee of the Navajo Nation Council, and that he would soon be presenting the settlement to the Navajo Nation Council for its approval. A follow-up discussion with committee members included questions and comments regarding the location and timing of the proposed Gallup water project, the Texas lawsuit concerning Pecos River water rights, a mechanism to cut off users of junior water rights, if necessary, and water banking. A motion was made by Representative Lundstrom to recognize the efforts of the parties in the San Juan River Basin dispute in working out the proposed settlement, including the Navajo Nation and the Office of the State Engineer. There was no second to the motion.

**II. Civil Rights Issues — Michael Burrridge, chief of police, City of Farmington; Herb Frazier, bilingual education coordinator, Central Consolidated School District 22; Karen Dixon Blazer, consultant, Central Consolidated School District.**

Chief Burrridge presented the committee with copies of the information that had been presented to the New Mexico Advisory Committee to the U.S. Commission on Civil Rights at the hearing conducted in Farmington on April 30, 2004. He then addressed questions from the committee on topics such as the ratio of arrests of Native Americans, the number of Native Americans on the Farmington police force, steps the department is taking to recruit Native American officers, the lack of any rights of Farmington police officers to act on tribal lands, recent trends in arrest records in Farmington, the composition and duties of the Farmington Citizen Police Advisory Committee and education of police officers in cultural sensitivity. Chief Burrridge indicated that he would make himself available to the committee in the future if it wants to further discuss these matters.

Mr. Frazier presented a PowerPoint presentation to the committee regarding the recently completed development of a curriculum for the teaching of the Dine language within the Central Consolidated School District 22. In follow-up questions by the committee, Mr. Frazier and other representatives of the district discussed the use of funds dedicated to native language teaching, the use of elders in teaching within the district's schools, the number of teachers actually employed to teach the Navajo language within the schools, the lack of any contract with Dine College and performance standards for the teaching of native languages.

Harry Descheenie, Jr., President of the Gadii ahi (Cudeii) Chapter, Navajo Nation, then addressed the committee to give it an update on the disagreements between the administration of Central Consolidated School District 22, the district's Indian Education Committee and citizens in support of teaching of the Navajo language in district schools.

**III. Adjournment**

Senator Tsosie adjourned the meeting at 2:40 p.m. The next meeting of the Indian Affairs Committee will be held on August 3-5 in the Albuquerque area.

**TENTATIVE AGENDA**  
**for the**  
**INDIAN AFFAIRS COMMITTEE**

**August 3, 2004 - Pueblo of Isleta**  
**August 4, 2004 - Southwestern Indian Polytechnic Institute**  
**August 5, 2004 - Pueblo of Jemez**

**Tuesday, August 3 - Elderly Center, Pueblo of Isleta**

- 10:00 a.m. CALL TO ORDER
- 10:05 a.m. PUEBLO OF ISLETA — STATUS UPDATE  
—Alvino Lucero, Governor  
—Lawrence Lucero, First Lt. Governor  
—Emil Jojola, Second Lt. Governor
- 11:00 a.m. NATIVE NATIONS' NATIVE VOICES — UPDATE  
—Gordon Bronitsky
- 11:30 a.m. NEW MEXICO VOICES FOR CHILDREN — REPORT ON IMPACT OF  
STATE TAX AND BUDGET POLICIES  
—Bill Jordan, Deputy Director, New Mexico Voices for Children  
—Kelly O'Donnell, Research Director, New Mexico Voices for Children  
—Lynn Wilson, Director for Native American School-Based Health Center  
Project  
—Dee Apache, New Mexico Voices for Children
- 1:00 p.m. LUNCH
- 2:00 p.m. JUVENILE CORRECTIONS INSTITUTIONS — CULTURAL SENSITIVITY  
—Ada Pecos Melton, President, American Indian Development Associates  
—Yolandra Toya, M.D., UNM School of Medicine  
—Warren Leboeuf, Detention Specialist, Bureau of Indian Affairs (Invited)  
—Ken Martinez, Ph.D., Director, Children's Behavioral Health, Children, Youth  
& Families Department (CYFD)
- 4:00 p.m. RECESS

**Wednesday, August 4 - Southwestern Indian Polytechnic Institute**

- 9:00 a.m. PASEO DEL NORTE EXTENSION, ALBUQUERQUE — UPDATE  
— Mayor's office, City of Albuquerque (invited)  
—Laurie Weahkee, Community Organizer, SAGE Council
- 10:00 a.m. NATIVE AMERICAN HEALTH CARE DISPARITIES  
—Gayle Dine'Chacon, M.D., Director, Center for Native American Health

—Ron Lujan, M.D.  
—Mike Trujillo, M.D., University of New Mexico School of Medicine  
—Linda Son-Stone, Executive Director, First Nations Community HealthSource

- 11:30 a.m. INDIAN HEALTH SERVICE FUNDING & 638 CONTRACTS  
—Jim Toya, Director, Albuquerque Area, Indian Health Service  
—Patricia Y. Olson, Navajo Area, Indian Health Service  
—Richard Bowman, Vice Chairperson, Navajo Area Health Board
- 1:00 p.m. LUNCH
- 2:00 p.m. DEPARTMENT OF HEALTH — UPDATE ON NATIVE AMERICAN HEALTH ISSUES  
—Patricia T. Montoya, Secretary, Department of Health  
—Joyce Naseyowma-Chalan, Director, Public Health Division, Department of Health
- 3:00 p.m. INDIAN PARTICIPATION IN MEDICAID/HEALTH MAINTENANCE ORGANIZATIONS  
—Liz Stefanics, Deputy Secretary, Human Services Department  
—Carolyn Ingram, Director, Medical Assistance Division, Human Services Department  
—Ron Lujan, M.D.  
—Mary Eden, Medicaid Executive Director, Presbyterian Health Plan  
—Mark Padilla, Compliance Officer, Molina Healthcare  
—Karen Redman, Medicaid Manager, Lovelace Health Plan
- 4:00 p.m. RECESS

**Thursday, August 5 - Walatowa Visitor Center, Pueblo of Jemez**

- 10:00 a.m. PUEBLO OF JEMEZ — STATUS UPDATE  
—Paul Chinana, Governor  
—Matthew Gachupin, First Lt. Governor  
—Joshua Madalena, Second Lt. Governor
- 12:00 noon LUNCH
- 1:15 p.m. USDA TRIBAL EXTENSION INITIATIVE  
—Sam Suina, Project Director, USDA Tribal Extension Initiative
- 2:00 p.m. JEMEZ STATE MONUMENT  
—Rick Raycraft, Superintendent, Jemez State Monument, Department of Cultural Service
- 2:45 p.m. ADJOURN

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

**August 3, 2004 - Pueblo of Isleta  
August 4, 2004 - Southwestern Indian Polytechnic Institute  
August 5, 2004 - Pueblo of Jemez**

Representative James Roger Madalena, co-chair, called the third meeting of the Indian Affairs Committee to order on Tuesday, August 3, 2004, at 10:24 a.m. in the Elderly Center at the Pueblo of Isleta.

**PRESENT**

Rep. James Roger Madalena, co-chair  
Sen. Leonard Tsosie, co-chair  
Sen. Rod Adair  
Rep. Ray Begaye  
Rep. Irvin Harrison (8/4 & 8/5)  
Rep. Patricia A. Lundstrom  
Sen. John Pinto  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez  
Rep. Teresa A. Zanetti

**ABSENT**

Sen. Raymond Kysar  
Rep. Don Tripp  
Rep. Avon W. Wilson

**Advisory Members**

Sen. Joseph J. Carraro (8/4)  
Rep. Fred Luna (8/3 & 8/5)  
Sen. Richard C. Martinez (8/3 & 8/4)  
Rep. Debbie A. Rodella (8/5)  
Rep. W.C. "Dub" Williams

Sen. Ben D. Altamirano  
Rep. Ben Lujan  
Rep. Nick L. Salazar  
Sen. William E. Sharer  
Sen. James G. Taylor

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Leslie Schaar  
Charles H. Van Gorder

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

## **Tuesday, August 3 - Pueblo of Isleta**

Alvino Lucero, governor of the Pueblo of Isleta, opened the meeting with an invocation.

### **PUEBLO OF ISLETA — STATUS UPDATE**

Governor Lucero told committee members that the people of Isleta elected him governor in 1970. At that time, Isleta saw few economic development opportunities. According to Governor Lucero, Isleta's decision to participate in high-stakes bingo turned the tide. Gaming proceeds allowed Isleta to build a convenience store in 1994 and a recreation center in 1995. In 1999, Isleta built a health center. Isleta paid cash for all three buildings. Isleta is about to break ground on a new Head Start building and hopes to build a new elementary school within two years. Gasoline tax proceeds from its operation of the convenience store enabled Isleta to establish its own road department and purchase the necessary road equipment. Governor Lucero also indicated an interest in having all of the pueblo's land consolidated into Valencia County instead of being in three separate counties.

### **APPROVAL OF MINUTES**

Representative Madalena called for approval of the July Indian Affairs Committee minutes at 11:50 a.m. Representative Lundstrom moved the approval, and Senator Rainaldi seconded the motion. The motion passed unanimously.

### **NATIVE NATIONS, NATIVE VOICES — UPDATE**

Gordon Bronitsky, Ph.D., is working with the Indian Pueblo Cultural Center on a festival to honor native language authors at a week-long festival. Authors will read from their works in their own languages; English translations will be available at the option of each author. Festival dates are July 24 through 30, 2005. Dr. Bronitsky requested an appropriation to cover a portion of festival costs. Representative Madalena told Dr. Bronitsky to speak with staff about drafting an appropriation.

### **NEW MEXICO VOICES FOR CHILDREN — REPORT ON IMPACT OF STATE TAX AND BUDGET POLICIES**

Kelly O'Donnell, Ph.D., research director, New Mexico Voices for Children, explained New Mexico's tax system. According to Ms. O'Donnell, beginning in January 2002, the legislature made a series of changes to New Mexico's tax system, including a:

- dramatic reduction in the income tax for the top tax brackets;
- 50 percent reduction in the capital gains tax;
- higher gross receipts tax rate; and
- nursing home bed tax.

Ms. O'Donnell explained that a good tax system should provide adequate, stable revenue to consistently fund state services in a manner that is fair, administrable and efficient, accountable and balanced. In addition, Ms. O'Donnell believes that tax burden should be based on equity, which means that people in similar circumstances should be taxed similarly, and taxes on low-

income households should be minimized. According to Ms. O'Donnell, income taxes are typically the most equitable major state revenue source.

A heated discussion ensued, and Bill Jordan, deputy director, New Mexico Voices for Children, clarified that while New Mexico taxpayers do receive benefits from paying taxes, including roads and police protection, 65 percent of the taxpayers did not receive a benefit from the tax cut.

Lynn Wilson, director, Native American School-Based Health Care Initiative, explained that the initiative is a collaborative effort of New Mexico Voices for Children, the Northwest New Mexico Champions for School-Based Health Care, the Northern Navajo Medical Center and the Acoma-Canoncito-Laguna Teen Centers. The purpose of the initiative is to improve the quality of health care services to Native American communities in New Mexico and to strengthen school-based health care serving Native American communities.

According to Ms. Wilson and Dee Apache of New Mexico Voices for Children, the New Mexico School-Based Health Care Initiative is needed because New Mexico has the nation's highest rate of uninsured children. One-fifth of the state's children do not have health insurance, and 40 percent of Native American children lack health insurance. Even though Native American children are only 12 percent of the state's child population, 35 percent of all uninsured children in New Mexico are Native American.

#### **Committee Request:**

Representative Lundstrom requested that Ms. O'Donnell provide her with the percentage of people at the bottom of the income distribution chart in McKinley County.

#### **JUVENILE CORRECTIONS INSTITUTIONS — CULTURAL SENSITIVITY**

Ada Pecos Melton, president, American Indian Development Associates, helped committee members understand the problems of Native American incarcerated youth. According to Ms. Melton, Native American youth in the juvenile justice system experience substantially higher rates of mental health disorders than do youth in the general population. In addition, youth from tribal communities are disconnected from their families and from local service providers, and detained Native American youth rarely receive or have access to culturally relevant care.

Yolanda Toya, M.D., University of New Mexico School of Medicine, discussed the study she conducted concerning New Mexico's incarcerated Native American youth. According to Dr. Toya, youth from all ethnic groups in the juvenile justice system experience substantially higher rates of mental health disorders than do youth in the general population. In addition, many of the youth in the juvenile justice system with mental illness also have a co-occurring substance abuse disorder.

The University of New Mexico Center for Native American Health held three community-based meetings with Native American urban groups, tribes and people. The group, named "reclaiming our native youth", addressed three major issues related to adjudicated Native American youth, including the:

- lack of basic information about who the youth are and where they are from;
- need for local Native American mentors and advocates due to the lack of visits from family; and
- need for culturally competent mental health services for incarcerated Native American youth.

Dr. Toya's study yielded the following results, including that:

- the most common reasons for male incarceration were aggravated battery and battery, and the most common reasons for female incarceration were possession of alcohol or drugs by a minor and driving under the influence of alcohol or drugs;
- 62 percent of Native American incarcerated youth came from San Juan County, and 12 percent came from Bernalillo County, the most populous county in New Mexico;
- the average age of the first use of marijuana and alcohol was age 11, and the average age of the first use of crack, cocaine and methamphetamine was age 13; and
- 82 percent of Native American incarcerated youth had diagnosable mental health disorders.

Ken Martinez, Ph.D., director, Children's Behavioral Health Division, Children, Youth and Families Department (CYFD), told committee members that eight percent of incarcerated youth are Native American. Dr. Martinez discussed existing cultural programming within CYFD-operated juvenile justice facilities, including that CYFD:

- maintains a Native American liaison position to coordinate policy and programming between CYFD and tribal governments to establish culturally appropriate programs in each CYFD service area, including juvenile justice facilities. Bernie Teba, former Indian Affairs Department secretary, currently holds this position;
- provides an 80-hour new employee orientation in juvenile justice facilities, including several training modules that emphasize cultural issues and a two-hour segment exclusively focused on diversity;
- provides a sweat lodge ceremony in juvenile justice facilities for Native American clients interested in such services;
- offers religion services for juvenile justice clients and uses community resources to acquire services for youth with individual needs; and
- provides English as a second language classes for clients attending school within juvenile justice facilities.

Dr. Martinez also discussed developing cultural programming within CYFD-operated juvenile justice facilities, including that CYFD is working on:

- establishing mentoring programs within facilities to provide Native American clients with the opportunity to learn a Native American language and traditional customs;
- recruiting facility staff that reflect the cultural diversity of the facility client population;
- establishing substance abuse programming that is specific to Native American clients; and
- developing pilot intergovernmental agreements with three tribes to access juvenile justice services and programming.

**Committee Request:**

Senator Tsosie requested that staff ask Dave Schmidt to testify at the November Indian Affairs Committee meeting regarding the New Mexico Children's Code.

Senator Tsosie recessed the meeting at 4:42 p.m.

### **Wednesday, August 4 - Southwestern Indian Polytechnic Institute**

Senator Tsosie reconvened the meeting at 9:15 a.m. Members of the interim Legislative Health and Human Services Committee were invited to attend the meeting. Senators Sue Wilson Beffort and Linda M. Lopez attended the meeting.

### **PASEO DEL NORTE EXTENSION, ALBUQUERQUE — UPDATE**

Senator Tsosie turned the floor over to Senator Carraro for the discussion on the Paseo del Norte extension. Michael Cadigan, president of Albuquerque's city council, gave committee members a brief history of the Paseo del Norte extension to Unser Boulevard. According to Mr. Cadigan, the extension is necessary because Paradise Hills Road, which is two lanes, is the only way that westside residents can cross the Rio Grande. Mr. Cadigan told committee members that the proposed extension will not go through the Petroglyph Monument but will run between the northern and southern sections of the monument.

Laurie Weahkee, who represents spiritual leaders, is concerned that extending Paseo del Norte will uproot prayers. She feels that it is an injustice that she must defend sacred sites. Ms. Weahkee also told committee members that the proposed Paseo del Norte extension is simply a short-term fix for congestion.

Larry Weaver, president of the Paradise Hills Civic Association, spoke in support of the proposed project and presented background information on the planning process that has resulted in the current proposal for the extension of Paseo Del Norte.

### **NATIVE AMERICAN HEALTH CARE DISPARITIES**

Both Gale Dine-Chacon, M.D., director, Center for Native American Health, and Mike Trujillo, M.D., University of New Mexico School of Medicine, discussed the lack of adequate health care in Indian country. They told committee members that Native Americans are dying of diabetes, alcoholism, tuberculosis, suicide, unintentional injuries and other health conditions at rates higher than those in the general population. According to Dr. Dine-Chacon, the flu is one of five leading causes of death of Native Americans in New Mexico. Dr. Trujillo suggested that the state find a way to use some casino proceeds to supplement Indian Health Service funding.

Ron Lujan, M.D., told committee members that the continuity of health care in tribal communities is the main concern of tribal members. Patients in rural areas are hampered by a lack of available transportation and telephone service. Health care is adversely affected by turnover of health care providers and an outmoded system of personnel management. He expressed concern that in the future patients may need to pay for services because of Indian Health Service funding problems.

Linda Son-Stone is executive director of First Nations Community Health Source, the only urban Indian health care organization in New Mexico. The clinic serves approximately 35,000 urban Indians, many of whom do not have the resources to pay for health care and less than 10 percent of whom are covered by health insurance. Ms. Son-Stone told committee members that transportation is a major problem and that the clinic books appointments about two months ahead of time.

**Committee Request:**

Senator Tsosie requested that staff draft a letter to Senator John Kerry telling him about the health care disparities in Indian country.

Senator Tsosie requested that staff draft a letter to New Mexico's congressional delegation inviting them to attend future Indian Affairs Committee meetings.

Senator Tsosie requested that staff draft a letter to tribal councils and governors inviting them to attend future Indian Affairs Committee meetings.

**INDIAN HEALTH SERVICE FUNDING AND 638 CONTRACTS**

James L. Toya, area director, Albuquerque Area Indian Health Service, told committee members about Indian Health Service funding issues. According to Mr. Toya, the Albuquerque area is responsible for the provision of health services to Native American tribes in New Mexico, southern Colorado and Texas. In New Mexico, the tribes served are the 20 pueblos, the Jicarilla and Mescalero Apaches and the Alamo, Canoncito and Ramah chapters of the Navajo Nation. In addition, tribal members from throughout the United States who live, work or attend school in the urban centers of the Albuquerque area are provided health services.

The Albuquerque area offices are located in Albuquerque. The Albuquerque area is divided into nine service units that deliver services at the community level. Most health facilities are strategically located near population centers and include five hospitals, 11 health centers and 12 field clinics. Mr. Toya estimated that Indian Health Service funding for the Albuquerque area is about \$106 million less than what is needed to fulfill its mandate.

Richard Bowman, vice chairperson, Navajo Area Health Board, told committee members that currently the Navajo Area Health Board has only 55 percent of the amount estimated to support the costs of health care for Navajos and others in the service population.

Mary Ann O'Neill, executive officer at the Indian Health Service Crownpoint health care facility, estimated that 62 percent of those certified for Medicare or Medicaid will fall off the rolls when re-certification is required every six months.

## **DEPARTMENT OF HEALTH — UPDATE ON NATIVE AMERICAN HEALTH ISSUES**

Patricia T. Montoya, secretary, Department of Health, and Joyce Naseyowma-Chalan, director, Public Health Division, Department of Health, discussed the health status indicators of New Mexico's Native American population. In 2002, the leading cause of death for Native Americans in New Mexico was unintentional injury. Secretary Montoya recommended improved communication, coordination and collaboration among the Department of Health, tribal programs and the Indian Health Service. She also recommended improving coordination within the Department of Health of programs serving tribes and providing cultural competency training. Secretary Montoya also proposed health initiatives, including:

- establishing a Native American liaison position within the Department of Health's Office of the Secretary;
- instituting a Native American advisory health committee;
- developing strategies for recruiting and retaining more Native Americans to work for the Department of Health;
- implementing ongoing cultural competency training for all Department of Health employees; and
- developing a strategy for working collaboratively with the Indian Affairs Department.

## **INDIAN PARTICIPATION IN MEDICAID/HEALTH MAINTENANCE ORGANIZATIONS**

Senator Tsosie rescheduled this presentation until a later date because some committee members wanted to attend the funeral of Secretary of Aging and Long-Term Care Michelle Lujan Grisham's husband.

Senator Tsosie recessed the meeting at 3:00 p.m.

### **Thursday, August 5 - Pueblo of Jemez**

Representative Madalena reconvened the meeting at 10:15 a.m in the Pueblo of Jemez's Walatowa Visitor Center. Paul Chinana, governor of the Pueblo of Jemez, opened the meeting with an invocation.

## **PUEBLO OF JEMEZ — STATUS UPDATE**

Governor Chinana welcomed committee members to the Pueblo of Jemez and introduced his two lieutenants, Mathew Gachupin, first lieutenant governor, and Joshua Madalena, second lieutenant governor. Governor Chinana thanked the state for funding the sewer improvement project, the Walatowa Visitor Center and the Inter-Agency Law Enforcement Center.

Vincent Toya, tribal administrator, Pueblo of Jemez, then presented the local infrastructure capital improvement plan project summary and priority projects, including:

- water system pipe replacement;
- water well and storage tank;
- sewer treatment plant at Red Rocks;
- State Highway 4 bypass;
- community services building;

- Walatowa Charter High School;
- public works warehouse upgrade;
- transfer station upgrade; and
- fire substation and fire truck upgrade.

### **USDA TRIBAL EXTENSION INITIATIVE**

Sam Suina, project director, Tribal Extension Initiative, requested an appropriation of \$3.055 million in recurring funding to develop nine strategically located offices to serve New Mexico's tribal communities. The initiative developed out of a tribal need to address:

- agricultural and economic development;
- issues of family instability;
- health problems of tribal members; and
- youth needs.

Representative Rodella presented a motion to endorse the Tribal Extension Initiative, and Representative Williams seconded the motion. All committee members agreed.

### **JEMEZ STATE MONUMENT**

Rick Raycraft, superintendent, Jemez State Monument, Cultural Affairs Department, explained that the Jemez State Monument shows the history of the Jemez people. Currently, the Jemez State Monument employs three park rangers and three seasonal cashier positions. According to Mr. Raycraft, the ruins are in need of stabilization, and in July 2001, the monument began closing on Tuesdays because of funding problems. Mr. Raycraft requested funds for ranger and cashier positions.

Senator Tsosie adjourned the meeting at 3:00 p.m.

**TENTATIVE AGENDA**  
**for the**  
**INDIAN AFFAIRS COMMITTEE**

**September 14-15, 2004, Gallup, New Mexico**  
**September 16, 2004, Twin Lakes Chapter House**

**Tuesday, September 14 - Commission Chambers, McKinley County Courthouse, Gallup**

- 10:00 a.m. CALL TO ORDER
- 10:05 a.m. MCKINLEY DEVELOPMENT FOUNDATION/GALLUP CHAMBER OF  
COMMERCE  
—Herb Mosher, Executive Director, McKinley Development Foundation
- 11:00 a.m. ADVENTURE GALLUP AND BEYOND FUNDING SOURCES  
—Bob Rosebrough, Mayor, City of Gallup  
—Evan Williams, Associate Planner, Northwest New Mexico Council of  
Governments  
—Marianne Joyce, ProActive Host
- 12:00 noon LUNCH
- 1:00 p.m. NAVAJO CHAPTER ECONOMIC DEVELOPMENT PROGRAM —  
MCKINLEY COUNTY  
—Ernest Becenti, Commissioner, McKinley County  
—Evan Williams, Associate Planner, Northwest New Mexico Council of  
Governments
- 2:00 p.m. RURAL ECONOMIC DEVELOPMENT  
—Mike Case, Executive Director, Northwest New Mexico Community  
Development Corporation  
—Alvin Thompson, President, Churchrock Tourism Action Committee  
—Bernice Tsosie, IDA Coordinator, Northwest New Mexico Community  
Development Corporation
- 3:00 p.m. NAVAJO NATION ECONOMIC DEVELOPMENT  
—Alan Begay, Executive Director, Navajo Nation Economic Development  
Department
- 4:00 p.m. RECESS

**Wednesday, September 15 - Commission Chambers, McKinley County Courthouse, Gallup**

9:00 a.m. GALLUP-McKINLEY COUNTY PUBLIC SCHOOLS  
—Bilingual Education: Louise Benally, Coordinator for Bilingual Education  
—Cultural Education: Gloria Begay, Coordinator for Indian Education  
—Student Retention: Dr. Ed Monahan, Assistant Superintendent for Assessment and Accountability

10:30 a.m. PITTSBURGH & MIDWAY COAL MINING COMPANY RECLAMATION PROJECT — McKINLEY NORTH MINE  
—Frank Rivera, Senior Mine Engineer/Environmental, Pittsburgh & Midway Coal Mining Company  
—Russ Porter, Surface Mine Reclamation Specialist, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior  
—John Plummer, Dine' Coal Mine Coalition

11:15 a.m. ALCOHOL-RELATED ISSUES  
—Bob Rosebrough, Mayor, City of Gallup  
—Barry Butler, President, Na'nizhoozhi Center, Inc.  
—Jim Harlin, Director, Community Pantry

12:00 noon LUNCH

1:00 p.m. PREDATORY LENDING  
—Representative Patricia A. Lundstrom  
—Levon Henry, Executive Director, DNA - People's Legal Services, Inc.  
—Ray Prushnok, Consumer Advocate, New Mexico Public Interest Research Group  
—Clarice Getz, Chair, AARP Consumer Team

2:30 p.m. REPORT ON WELL-BEING OF NATIVE AMERICAN CHILDREN  
—Nandini Kuehn, Ph.D., Research Associate, New Mexico Voices for Children

3:30 p.m. GALLUP CENTER FOR INDEPENDENT LIVING  
—Sherry Watson, Director, San Juan Center for Independence  
—Doris Dennison, Gallup Advocacy Coordinator, San Juan Center for Independence

4:00 p.m. RED VALLEY CHAPTER, NAVAJO NATION — NAVAJO ROUTE 13  
—Willie W. Johnson, Sr., Chapter Delegate to Navajo Nation Council

4:30 p.m. RECESS

**Thursday, September 16 - Twin Lakes Chapter House, Navajo Nation**

9:00 a.m. TWIN LAKES CHAPTER, NAVAJO NATION — STATUS UPDATE  
—Bobby Sandoval, Chapter President  
—Notah Barney, Chapter Vice President

—Norman John, II, Chapter Delegate to Navajo Nation Council

10:00 a.m. DISTRICT 14, NAVAJO NATION CHAPTER PRESENTATION  
—Richard Bowman, President, Mexican Springs Chapter

11:00 a.m. ZUNI ECONOMIC DEVELOPMENT  
—Andrew Othole, Director, Office of Planning and Development, Pueblo of Zuni

12:00 noon LUNCH

1:00 p.m. TESTING OF HOMES BUILT WITH RADIOACTIVE MATERIALS  
—Michael Taylor, Radon Outreach Coordinator, Department of Environment  
—Jon Sink, Site Manager, Office of Legacy Management, U.S. Department of  
Energy

2:00 p.m. ADJOURN

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

**September 14-15, 2004 - McKinley County Courthouse, Gallup  
September 16, 2004 - Twin Lakes Chapter, Navajo Nation**

Senator Leonard Tsosie, co-chair, called the fourth meeting of the Indian Affairs Committee to order on Tuesday, September 14, 2004, at 10:40 a.m. in the Commission Chambers at the McKinley County Courthouse in Gallup. Senator Tsosie asked Representative Patricia A. Lundstrom to act as co-chair for the meetings in Gallup.

**PRESENT**

Rep. James Roger Madalena, co-chair (9/14 & 9/15)  
Sen. Leonard Tsosie, co-chair  
Sen. Rod Adair (9/15)  
Rep. Ray Begaye (9/15 & 9/16)  
Rep. Irvin Harrison  
Rep. Patricia A. Lundstrom  
Sen. John Pinto (9/16)  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez (9/16)

**ABSENT**

Sen. Raymond Kysar  
Rep. Don Tripp  
Rep. Avon W. Wilson  
Rep. Teresa A. Zanetti

**Advisory Members**

Rep. Fred Luna (9/16)  
Sen. Richard C. Martinez (9/15 & 9/16)  
Rep. Nick L. Salazar

Sen. Ben D. Altamirano  
Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Rep. Debbie A. Rodella  
Sen. William E. Sharer  
Rep. W.C. "Dub" Williams

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Charles H. Van Gorder  
Jennie Lusk

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

**Tuesday, September 14 - Gallup**

## **McKINLEY DEVELOPMENT FOUNDATION/GALLUP CHAMBER OF COMMERCE**

Chamber of Commerce Executive Director Herb Mosher announced the chamber's merger with the McKinley Development Foundation for purposes of fundraising, grant writing and planning. The chamber would remain primarily responsible for implementation. Among the projects being designed are a "bed and pueblo" (as opposed to bed and breakfast); a city-county indoor market area; and a museum publication, "Spirit of Zuni". Local businessman Ellis Tanner joined Mr. Mosher to talk about the need for clarifying funding and enforcement authority for Native American authenticity legislation passed recently. Staff was asked to investigate whether enforcement of the authenticity act is part of the attorney general's consumer protection line item and to remind the committee in November of the issue so that the committee can decide whether to carry a new bill clarifying enforcement authority and funding. Other development initiatives discussed included: the first Native American-accredited veterinary medicine program and clinic; potential site for a new Indian Health Service (IHS) hospital and getting that proposed facility on the IHS priority list; a Zuni dialysis center; the Native American All-Stars Tournament semi-finals; the Taste of Gallup; and Heritage Day.

Mr. Mosher also talked about a Rural School Leadership Academy, endorsed by education partner and Albuquerque Isotopes owner J. Martin "Mike" Koldyke. The academy will be comprised of mid-career degree-holders in other disciplines who wish to become teachers. Under the program, these professionals will be able to get teacher training while receiving a \$30,000 per year stipend. Upon becoming certified, the teachers commit to working in schools currently under corrective action by the Public Education Department (PED). Mr. Mosher and Gallup-McKinley County Superintendent of Schools Karen White have met with the lieutenant governor, who said the governor supports the leadership academy, but may prefer two sites – one in urban Albuquerque and one in a rural area. Gallup is interested in initiating the training at the Western New Mexico University campus. Staff was instructed to work with Superintendent White regarding a letter supporting the location of the academy in the Gallup area.

## **"ADVENTURE GALLUP AND BEYOND" FUNDING SOURCES**

Mayor Bob Rosebrough introduced Evan Williams, who discussed "Adventure Gallup", an economic development initiative spearheaded by Representative Lundstrom in which hiking and mountain biking trails and rock climbing routes are being developed with a \$1 million bond approved by Gallup voters. The program will need a state match. Marianne Joyce discussed "ProActive Host" customer service training for hospitality employees. The program, which encourages training of host personnel in tourist areas, is funded through the city of Gallup lodgers' tax and the State Workforce Development Project. On questioning from Representative Salazar, Mayor Rosebrough discussed Gallup's problems with having a good water supply system, and said the city is working with the Interstate Stream Commission to develop a regional water system.

## **NAVAJO CHAPTER ECONOMIC DEVELOPMENT PROGRAM — McKINLEY COUNTY**

Ernest Becenti, McKinley County commissioner, reported that the county has asked chapters to come together to develop plans expressing their community needs so that the county can do

effective collaborative planning. The county has started comprehensive planning and wants to include all communities in developing the plan further, in part with the Council of Governments. Thus far, chapters at Red Rock, Bread Springs and Church Rock have begun to participate. The county will request legislative funds for the completion of community planning. Representative Lundstrom requested that the Indian Affairs Department (IAD) take a more active role in streamlining resolutions of jurisdictional problems that frustrate recipients who need services and projects, and IAD deputy cabinet secretary Michelle Brown-Yazzie reported that she is working on a joint powers agreement (JPA) template with the Navajo Nation Intergovernment Committee, so that a single JPA can be used for local projects with amendments, avoiding the need to go through a separate approval process for each project. Representative Lundstrom and Senator Tsosie emphasized the need to craft language in proposed legislation carefully. Senator Tsosie commented on the need to give money directly to the tribes and to use the county or another entity as the fiscal agent rather than the Navajo Nation. The committee asked staff to work on proper wording for a bill to fund local projects and to double-check the status of finance and appropriations for these chapter projects.

## **RURAL ECONOMIC DEVELOPMENT**

Mike Case, executive director of the Northwest New Mexico Community Development Corporation (NNMCDC), Bernice Tsosie, individual development account (IDA) coordinator for NNMCDC, Laurie Lerch, Tourism Department director of NNMCDC, and Alvin Thompson, president of the Church Rock Tourism Action Committee, gave a presentation on rural economic development. The NNMCDC encourages people to save and then matches savings funds on a three to one basis up to \$4,000 for participants who are successful in meeting their savings goals. The savings do not have an impact on Temporary Assistance for Needy Families (TANF) funds. Ms. Tsosie clarified that the matching funds are not from TANF state funds. On questioning from the committee, Ms. Tsosie explained that the total budget for the IDA is \$785,000 and that NNMCDC has now gone statewide, though it began with services in only San Juan, McKinley and Cibola counties. She said that participants, who generally meet their savings goal of \$4,000 within three years, have 100 percent control over their assets, but most target them for education or the purchase of a first home. Ms. Lerch discussed the "BOOST" (Business Ownership Opportunities in Support of Tourism) project of NNMCDC, which started last November. The program aims to help low-income clients aged 18 and over develop and focus on a business idea. Mr. Thompson presented the activities of the Church Rock Chapter in an effort to promote tourism, including an annual balloon rally and Indian markets.

## NAVAJO NATION ECONOMIC DEVELOPMENT

Alan Begay, executive director of the Navajo Nation Economic Development Department, reported on problems peculiar to a nation with 25,000 square miles and a population density of six persons per square mile, which he described as a "third world country economy". Unemployment rates range from 42.8 percent to 50 percent, with an annual per capita income of \$6,400. Because the Navajo Nation's government is replaced every four years with a new administration, the strategic plan serves as the nation's only continuity in planning. He reported on various Navajo Nation projects throughout the western states. In the coming year, it hopes to achieve the goal of 1,000 new permanent jobs through becoming more aggressive; 500 new jobs have already been created. Mr. Begay reported that the nation is 15 years behind the times in tourism; it is just beginning to build welcome centers and rest areas. The nation is also trying to erect a casino, but recently had only nine responses to its request for proposals. Mr. Begay commented on recent development efforts, including a sewing factory in Montezuma Springs, Utah, and the BCDES, Inc., facility for the retrofitting of biochemical decontamination equipment.

Senator Tsosie posed the following questions to participants in a roundtable discussion, including Mr. Begay, Mr. Case, Mr. Williams, Ms. Lerch, Ms. Tsosie and Ms. Brown-Yazzie:

1. Why have traditional food vendors and crafts people not, thus far, benefited from economic development?
2. Why have tax benefits not trickled down?
3. Why have the TANF "one stop shop" offices not been successful?
4. In education, the Gallup branch campus of UNM certifies many people in two-year programs, but this has not become an economic development incubator. Why not?
5. Why is economic development in McKinley County concentrated in Gallup?
6. Knowing that there is diversity in the area, why is there so little economic development? "Incubators" seem to be centered near New Mexico laboratories, but not in rural New Mexico. Is the prison industry the only one interested in rural New Mexico?

Representative Lundstrom, who sat as a participant in the roundtable discussion, said that in McKinley County, which has 5,000 square miles, a population of 60,000, half of its schools in corrective action, unemployment above the national average and 35 percent of residents without running water, there is a multi-jurisdictional jurisdiction so that some problems remain beyond the control of locals to address. New Mexico wants performance-based budgeting, but this is not fair to rural areas. The discrepancy between urban and rural growth patterns is escalating, she said, as the area shrinks. The task in Gallup and McKinley County is to build infrastructure and improve schools and education. There have been disappointments, including quality concerns with the branch college and its certificate programs. The recent income tax breaks in the state benefited only two constituents in Representative Lundstrom's district. Communications are difficult because of access problems and a lack of coordination. The area needs resources, industrial development, jobs and to get away from a dependency mentality. The area is committed to innovation, however, and to building its assets.

Ms. Brown-Yazzie reported that problems with the IAD include a lack of infrastructure, such as power, water and telecommunications, and the oversight of capital outlay requests that have a \$17 million backlog. She noted that the dependency mentality is a problem, but even for those who are able to get off welfare, there are questions of how and when they can be employed in the

area.

Mr. Begay said the Navajo Nation leaves things alone unless it is requested to become involved, and acknowledged that the nation could work more closely with TANF clients, the State Housing Authority and workforce development agencies. He also identified a "turf" problem between the Navajo Nation and local government. The biggest problem is a lack of development funds, which now only trickle in.

Ms. Lerch reported that she has identified problems with people not knowing how to produce, how to do outreach and marketing and how to access resources. Her group did community outreach, but, at first, people would not show up to meetings. They experienced a lack of communication and coordination. She also noted that the offices of NNMDC are in a high security area, which makes its studio space and photo lab difficult to access.

Ms. Tsosie said that she believed changing the dependency mentality starts with staff who have a fire in their bellies and a chance to be innovative. She also finds education to be essential.

Mr. Case said there are 4,000 clients enrolled in TANF, but he is aware of 24,000 TANF clients who are unenrolled. He said people are not getting benefits they deserve because the infrastructure deters people from obtaining virtually free money. He said he believes it is "us" who are the problem – that is, leadership. He said it is clear that teacher-to-student ratios matter, and that the same holds true for accessing services. There is higher quality service with better staffing. His mission is to lower the staff-client ratio. He continued by saying that economic development tools are readily available.

Senator Tsosie recessed the meeting at 5:25 p.m.

### **Wednesday, September 15 - McKinley County Courthouse, Gallup**

Senator Tsosie reconvened the meeting at 9:10 a.m.

### **GALLUP-McKINLEY COUNTY PUBLIC SCHOOLS**

The morning session focused on education issues in the Gallup-McKinley County Public Schools. Louise Benally, coordinator for bilingual education, gave a PowerPoint presentation. She reported that the PED had funded principals to apply for bilingual programs, but that most of the funding was for salaries. She presented a graph for a three-year period, which indicates that participation has been slowing since the program's inception. The area now has two Spanish and seven Navajo bilingual teachers. A survey indicated that there are problems finding qualified teachers, and that state restrictions are in place because of the federal No Child Left Behind Act. The current PED-required program consists of 45 minutes per day for native language instruction in a "pull-out" program. Ms. Benally noted that monolingual English has more than doubled on the reservation in recent years, according to a PED "heritage" study, and that this is a contributing factor in difficulties instituting a bilingual program in the area schools. Another issue is placement tests in the Navajo language. Within two years, there should be Navajo literacy tests, and Johnson O'Malley is developing lessons for teachers and a Navajo language immersion school.

On questioning from committee members, Ms. Benally said participation has lessened each year because the bilingual program is optional, and because more people know about Spanish bilingual programs than about Navajo bilingual programs. Ms. Benally said that bilingual education is treated as an optional or extracurricular course, not a requirement. She said that nine teachers are currently in the Navajo bilingual program, about 20 teachers have retired and that approximately 600 students are currently involved as opposed to 10,000 students at a previous time. Superintendent White stated that the Native American speech and language certificate for Navajos includes a 300-word essay in the Navajo language, but noted that many Navajo speakers are not fluent in written language since the language has no written tradition.

Senator Tsosie asked that Gallup-McKinley County Public Schools meet with Central Consolidated Schools for an all-day meeting on bilingual education. He also suggested the committee consider alternative funding that would not have to fit within the confines of the current PED funding. Finally, he also asked the superintendent to forward to staff a list of arguments of why the PED programmatic restraints are wrong. He and Representative Lundstrom urged the superintendent to help the committee fix the problems ahead of the next session rather than hesitating. They asked that the district lobbyist come up with a plan for what is needed versus what is currently in place.

Community member Genevieve Jackson said that teachers are not participating in the Navajo bilingual programs because bilingual teachers are itinerant and are not assigned classrooms. She reported that many teachers are unhappy with the level of school support for the bilingual programs and with the budget for bilingual instructional materials.

Gloria Begay, coordinator for Indian education for Gallup-McKinley County Public Schools and a person involved with bilingual education for 25 years, noted that her job is to ensure that the 800 teachers in the district's 34 schools access bilingual materials. She took committee members on a virtual tour of the bilingual web site, demonstrating the "culture wheel", the curriculum guide, standards and benchmarks access, and noting that the Navajo Nation has different standards from those of New Mexico. Last year, a pilot program emphasizing native language with native history was developed, and now math and science are being added. Her budget is being cut from \$19,000 to \$8,400. She said she would submit an Indian Education Act application this year.

Dr. Ed Monahan, assistant superintendent for assessment and accountability at the Gallup-McKinley County Public Schools, presented the district's "adequate yearly progress" (AYP) scores. The goal in the coming year is for 38.3 percent of students to be proficient in math. At present, the language proficiency is low, as an estimated 40 to 45 percent of the population in the district qualifies as English Language Learners (ELL) and 20 to 25 percent are behind in English. The percentage of schools meeting AYP this year was 39 percent (13 of 32 schools), and the poorest students missed making AYP by the largest percentages. One of the middle schools made AYP, and the district plans an appeal. Attendance and participation at the middle school level is a real problem as 95 percent of each subpopulation must participate in the annual tests. At the high school level, Native American math and language groups are not performing up to standards, though the percentage of students proficient in language arts is improving.

Community member Frank Walleto spoke about a conflict between Cuba Independent Schools and the local district, which arose when a new school was built. Now, according to Mr. Walleto, the Cuba school district has banned Gallup-McKinley County Public School buses from crossing into its district. PED transportation director Gilbert Perea said he would clarify with the Cuba superintendent that Cuba must permit the buses to travel through. Senator Tsosie asked that Mr. Perea write a letter to the committee about bus routes and any needed legislation to promote cooperation between districts on behalf of students who have moved from one district to another. Noting that it is inappropriate for districts to be arguing about boundaries while ignoring the needs of children who want to attend school, he said the district boundary issue should be discussed at the committee's last meeting.

Community members addressed the committee, presenting on behalf of the Indian Education Committee a list of 10 concerns about the Gallup-McKinley County Public Schools, about bilingual education funding and about school construction. Senator Tsosie asked that the list of concerns be presented to the district school board, that the school district present the Indian Affairs Committee with a detailed organizational chart indicating which positions are held by Navajo teachers and administrators, and referred one speaker to the Office for Civil Rights.

Elvira Largie from the Navajo Education Technology Consortium distributed portfolios to the committee members that demonstrate a conceptual framework in use in 23 school districts that uses U.S. Department of Education funds. Ms. Largie demonstrated the Beauty Way lessons, which include character and beliefs, community and culture. The highest priority funding is for telecommunications services, followed by Internet access services. The budget for years one through four is for \$3.1 million, but the consortium has not yet received its funds.

### **PITTSBURGH AND MIDWAY COAL MINING COMPANY RECLAMATION PROJECT — MCKINLEY NORTH MINE**

John Plummer from the Dine' Coal Mine Coalition, Frank Rivera, senior mine engineer for the Pittsburgh and Midway (PM) Coal Mining Company, and Russ Porter, surface mine reclamation specialist with the Albuquerque Office of the Surface Mining Reclamation and Enforcement Section of the U.S. Department of the Interior, discussed issues related to the closure of the PM mines in the Gallup area. Mr. Plummer stated that the original holders of the grazing rights on lands leased to PM for mining purposes were entitled to get that property back, including improvements made to that property. His group has tried to deal with the Navajo Nation on this matter but has gotten nowhere. There are at least four Navajo Nation chapters that are interested in claiming portions of the leased land and improvements.

Mr. Rivera gave a report to the committee on the history of the PM mines in the Gallup area. He explained how the state was responsible for monitoring the closure of the south mine in the so-called checkerboard area while the federal government was responsible for the north mine, which is located entirely on the Navajo reservation. He explained the general requirements for closing the mines and the reclamation of leased lands. The improvements on the leased land, including buildings and railroad spurs, must be removed unless the Navajo Nation, as lessor, approves the retention of such facilities. Mr. Porter explained the role of the federal government in certifying the proper reclamation of former mining properties.

Members of the committee asked whether a performance bond had been issued for the leased lands. Senator Tsosie asked Mr. Russell to provide copies of old lease agreements to committee staff. Community member Genevieve Jackson raised the problem that permit holders are not notified of meetings about the land they believe will revert to them. Senator Tsosie recommended that Representative Lundstrom write the president and appropriate committees of the Navajo Nation, PM, the U.S. government and others regarding concerns about the House Joint Memorial, sending cover copies to Governor Richardson and to the Navajo Nation.

## **PREDATORY LENDING**

Representative Lundstrom circulated her October 16, 2003 letter to the Commission on Civil Rights raising the issue of predatory lending in the Gallup-McKinley County area. She discussed the problem of predatory lenders. Such businesses, which lend money at usurious interest rates to people who do not necessarily understand what high rates they will be paying, now form the fastest growing industry in Gallup. Representative Lundstrom also discussed the provisions of legislation that she had introduced in the 2003 legislative session but that did not pass. She has recommended that the city of Gallup pass an ordinance making the lenders a nuisance business like pornography shops, and three cities are considering such an ordinance. She also distributed copies of newspaper feature stories about the widespread problem.

Ray Prushnok, a consumer advocate with the New Mexico Public Interest Research Group, and Clarice Getz, chair of the American Association of Retired Person (AARP) Consumer Team, gave a presentation regarding legislation that caps the interest rates that lenders are permitted to charge borrowers. The advocates said they congratulated Representative Lundstrom on her work, but oppose her bill because limits on the number of rollovers have proven ineffective in dealing with predatory lending practices in Oklahoma and Texas. Senator Tsosie suggested that the advocates work with staff on versions of legislation to regulate the predatory lenders, including an interest cap and a limit on loan rollovers. The committee can then consider its options and vote on which to support in November. Bill Jordan, executive director of New Mexico Voices for Children, addressed the committee, stating that predatory lenders nullify the purpose of the federal earned income tax credit, a credit that has been the single most effective way to get children out of poverty. He recommended that the legislation amend the New Mexico Small Loan Act of 1955 or the usury laws.

## **ALCOHOL-RELATED ISSUES**

Barry Butler, president of the Na'nizhoozhi Center, Inc., (NCI), announced a first-ever collaboration with the Navajo Nation that affects families, communities, housing and jobs. However, NCI is no longer allowed to hold clients involuntarily for a five-day treatment or intervention, which is posing a problem for clients with intoxication problems. Representative Lundstrom requested staff to research ways that NCI can place a long-term hold on clients after passage of the new law, especially as the committee has had conflicting reports on the limits of involuntary holds that are permitted. NCI reported that the maximum hold now is for 12 hours, though it can take that long for a person's body to detoxify. With the five-day hold, clients get monitoring, food, counseling and a place to rest; they are released when the toximeter is at zero.

Jim Harlin, director of the Community Pantry, noted that his organization distributed \$3 million

in food leveraged on only \$150,000 in cash, that his center is affected by alcoholism and predatory lending and that 80 percent of its clients are Native American. His organization distributes food across an area covering 16,000 square miles, and he compared financial assistance received by the Santa Fe food bank. He asked for help on behalf of a new nonprofit, Care 66, which is an offshoot of the mayor's Alcoholism Task Force. Care 66 plans a drop-in center where homeless clients can spend the day, where Presbyterian Health Services will offer health and dental services and where laundry facilities will be available. The group is working with the city of Gallup and U.S. Representative Tom Udall on a \$100,000 funding package. It also is working with the Mortgage Finance Authority on a start-up grant of \$10,000 on ways to access federal dollars. He noted that statistics have shown that sobriety eliminates 90 percent of homelessness within 10 years.

## **APPROVAL OF MINUTES**

Senator Tsosie called for approval of the August Indian Affairs Committee minutes at 4:30 p.m. on Wednesday, September 15, 2004, and the minutes were approved without opposition.

## **GALLUP CENTER FOR INDEPENDENT LIVING**

Sherry Watson, director of the San Juan Center for Independence, discussed the situation of people with disabilities on tribal lands. New program manager Don Schmidt, new program coordinator Judy Myers and Doug Holstoi have been working on providing services. Doris Dennison described her personal experience of being essentially a prisoner in her own home until the center helped her make her home wheelchair accessible. The center will request \$65,000 for its independent living center, which will be matched by the Navajo Nation. On questions from Representative Begaye, the center said that problems with its elder center have been ironed out. Senator Tsosie asked staff to research whether the center should qualify for Department of Health funding, or whether there would be an anti-donation clause problem in its receipt of funds. Representative Salazar noted that capital outlay may need to be involved through the Department of Vocational Rehabilitation (DVR) structure. He suggested that working with DVR through the capital outlay process may be the most effective way to get the work done.

Senator Tsosie recessed the meeting at 5:45 p.m.

## **Thursday, September 16 - Twin Lakes Chapter, Navajo Nation**

Senator Tsosie reconvened the meeting at 9:10 a.m. in the Twin Lakes Chapter House.

## **TWIN LAKES CHAPTER, NAVAJO NATION — STATUS UPDATE**

Twin Lakes Chapter Vice President Notah Barney addressed the committee, as did Navajo Nation Council Chapter Delegate Norman John, II. Mr. Barney announced that a target date for dedication of the new senior center is set as by November 27 and that landscaping and paving of the parking lot still needs funds. Future plans include a new multipurpose building, space for a flea market and a baseball park for families. Mr. John said that the center would need only approximately \$180,000. Representative Lundstrom stressed that only the operational funds for

the Twin Lakes Chapter House are at issue. Representative Lundstrom requested that the committee write a letter about the importance of capital outlay requests for senior centers, such as that being built at Twin Lakes, and to request a feasibility study. She said that last year there was funding to do a feasibility study, but that she has not heard about the status of that study. She asked IAD staff to investigate the status of the feasibility study. Legislative Council Service staff was requested to check with the new secretary of aging and long-term services about the possibility of including money for the Twin Lakes Community Chapter in the senior citizen budget.

#### **DISTRICT 14, NAVAJO NATION CHAPTER PRESENTATION**

Richard Bowman, president of the Mexican Springs Chapter, introduced Peter Watchman from the same chapter. Mr. Bowman reported on the importance of economic development and land use planning. He noted that there is road construction coming over from the Navajo Nation now, and that the chapter will eventually have a boating dock and recreation area. The chapter is also working for a four-lane highway, a fire station, a police substation and a postal facility at the junction of the highways. He said that a walkway built for the elderly at a cost of \$12,000 is in regular use as the elders exercise on it. IAD staff was requested to ensure — before the beginning of the session — whether funds for the senior citizen center are included in the appropriations bill and to ensure that there is no delay. Senator Tsosie requested that the chapter come up with the top two or three funding priorities for the committee's use. Mel Begay, a chapter representative, noted that the two items would be power and water lines.

#### **ZUNI ECONOMIC DEVELOPMENT**

Andrew Othole, director of the Office of Planning and Development for the Pueblo of Zuni, reported on works in progress and works completed, and documented his report with handouts. The handouts are in the committee file. A discussion ensued on TANF funding for the Navajo Nation and Pueblo of Zuni, given the sovereignty problems in spending state maintenance of effort (MOE) funds for tribal projects. Mr. Othole said the Pueblo of Zuni signed agreements, basing its request on information from federal dollars supplemented because of projections. The Pueblo of Zuni's plan is to use the funds to supplement its dollars while it finds other money through the IAD. The committee requested that TANF be a discussion issue on its agenda and that staff get Human Services Department representatives from the state as well as from the Navajo Nation to explain the problem.

#### **TESTING OF HOMES BUILT WITH RADIOACTIVE MATERIALS**

John Sink, site manager of the Office of Legacy Management with the U.S. Department of Energy, gave a presentation on the transfer of site management and monitoring for former uranium mining sites. The Uranium Mill Tailings Radiation Control Act Program, which was in effect from 1978-98, performed and certified cleanup of some sites. Other sites, which have not been certified, are being transferred to the Nuclear Regulatory Commission for certification. When the Nuclear Regulatory Commission is satisfied with the cleanup, these sites will be turned over to the Office of Legacy Management.

Discussion ensued on who has the responsibility for remediation on uranium mining sites, and on

whether contracts are specific enough on private responsibility for cleanup and remediation. Mr. Sink acknowledged that it is possible for people to be unaware of the government cleanup efforts, since public meetings on the cleanup efforts of the 1970s and 1980s were advertised primarily in newspapers. People who did not recognize that they may have uranium tailings may not have known to worry, and all cooperation was voluntary. Under such a system, he said, it is possible not to get all the radioactive materials identified or cleaned up. Mr. Sink's agency does not do air cleanup, but posts signs, checks sites when flooding has occurred and monitors the sites. He recommended talking to Colorado about its state monitoring funding.

Senator Tsosie recommended that the committee send a letter to the congressional delegation requesting a federal survey of all homes in northwestern New Mexico, since people may have missed an opportunity to report or be tested between 1978-98. Homes have never been monitored, according to Mr. Sink. Representative Lundstrom recommended that the letter on the issue be prepared and raised during the committee's October meeting with the congressional delegation. Representative Salazar noted that other places have had independent verification of cleanup efforts, and this oversight mechanism may be important.

Michael Taylor, radon outreach coordinator for the Department of Environment, appeared before the committee and explained that radon is a naturally occurring gas that can build up in homes. He distributed free test kits, and let committee members know that his agency can make such kits available to anyone for no cost. His primary goal is to increase public awareness of the problem. He has some demonstration project resources for helping people fix their homes if they discover high radon levels. A discussion ensued on tactics for getting the gas to dissipate, and on remediation and reclamation.

Senator Pinto adjourned the meeting at 1:30 p.m.

**TENTATIVE AGENDA**  
**for the**  
**INDIAN AFFAIRS COMMITTEE**

**October 26-27, 2004, Santa Fe**  
**October 28, 2004, Pueblo of Santa Clara**

**Tuesday, October 26 — Institute for American Indian Arts, Santa Fe**

- 10:00 a.m.    CALL TO ORDER
- 10:05 a.m.    NATIVE AMERICAN EDUCATION ISSUES  
—Benny Shendo, Jr., Secretary-Designate, Indian Affairs Department  
—Penny Bird, Assistant Secretary, Public Education Department  
—Donovan Gomez, Chair, Indian Education Advisory Committee  
—Dr. Joseph Suina, Associate Professor, Director of the Institute for  
   Indian Education, University of New Mexico
- 12:00 noon    LUNCH AND IAIA TOUR
- 1:30 p.m.    INTER-TRIBAL INDIAN CEREMONIAL OFFICE  
—Joe Athens, Executive Director, Inter-Tribal Indian Ceremonial  
   Association
- 2:00 p.m.    REPORT ON WELL-BEING OF NATIVE AMERICAN CHILDREN  
—Nandini Kuehn, Ph.D., Research Associate, New Mexico Voices for Children
- 3:00 p.m.    TEMPORARY ASSISTANCE TO NEEDY FAMILIES  
—Pam Hyde, Secretary, Human Services Department  
—Liz Stefanics, Deputy Secretary, Human Services Department  
—Roxanne Gorman, TANF Director, Navajo Nation  
—Art Sanderson, Principal Accountant, Navajo Nation  
—Tony Dineyazhe, Policy Analyst, Navajo Nation  
—Michelle Walela, Director, Zuni Education and Career Development Center,  
   Pueblo of Zuni  
—Bernadette Panteah, TANF Coordinator, Zuni Education and Career  
   Development Center, Pueblo of Zuni
- 4:00 p.m.    RECESS

**Wednesday, October 27 — State Capitol, Room 321**

- 9:00 a.m. STATE LIBRARY — NATIVE AMERICAN LANGUAGE WEB SITE  
—Richard Akroyd, State Librarian
- 9:30 a.m. E-MERCADO PROJECT  
—Loretta Armenta, President and CEO, Albuquerque Hispano Chamber of  
Commerce
- 10:00 a.m. NATIVE AMERICAN VOTING ISSUES  
—Denise Lamb, Director, Bureau of Elections, Office of the Secretary of State  
—Zane James, Native American Election Information Coordinator, Dine' Nation,  
Bureau of Elections, Office of the Secretary of State  
—Martin Aguilar, Native American Election Information Coordinator, Bureau of  
Elections, Office of the Secretary of State
- 11:00 a.m. UPDATE OF CHILDREN'S CODE  
—Steffani Cochran, Chair, Native American Subcommittee, New Mexico  
Children's Code Revision Task Force  
—Ada Pecos Melton, President, American Indian Development Associates  
—Stephen Wall, Tribal Justice Specialist, American Indian Development  
Associates
- 12:00 noon LUNCH
- 1:00 p.m. ECONOMIC DEVELOPMENT  
—Rick Homans, Secretary, Economic Development Department
- 2:00 p.m. INDIAN PARTICIPATION IN MEDICAID/HEALTH MAINTENANCE  
ORGANIZATIONS  
—Liz Stefanics, Deputy Secretary, Human Services Department  
—Carolyn Ingram, Director, Medical Assistance Division, Human Services  
Department  
—Sharilyn Aguilar-Roanhorse, Native American Liaison, Medical Assistance  
Division, Human Services Department  
—Ron Lujan, M.D.  
—Mary Eden, Medicaid Executive Director, Presbyterian Health Plan  
—Mark Padilla, Compliance Officer, Molina Healthcare  
—Stephen DeSaulniers, Medicaid Director, Lovelace Health Plan
- 4:00 p.m. RECESS

**Thursday, October 28 — Pueblo of Santa Clara**

- 9:00 a.m. PUEBLO OF SANTA CLARA — STATUS UPDATE  
—Jeff Sisneros, Governor  
—Joseph Bruce Tafoya, Lt. Governor
- 10:00 a.m. EIGHT NORTHERN INDIAN PUEBLOS COUNCIL — STATUS UPDATE  
—Terry Aguilar, Acting Director
- 11:00 a.m. PUEBLO OF SANTO DOMINGO — STATUS UPDATE  
—Leandro Garcia, Tribal Administrator  
—Kenny Pin, Tribal Planner
- 12:00 noon LUNCH
- 1:00 p.m. PUEBLO OF NAMBÉ — STATUS UPDATE  
—Tom F. Talache, Governor  
—Jennifer Vigil, Lt. Governor
- 1:30 p.m. ADJOURN

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

**October 26, 2004 - Institute of American Indian Arts, Santa Fe  
October 27, 2004 - State Capitol, Santa Fe  
October 28, 2004 - Pueblo of Santa Clara**

Representative James Roger Madalena, co-chair, called the fifth meeting of the Indian Affairs Committee to order on Tuesday, October 26, 2004, at 10:35 a.m. in the auditorium at the Institute of American Indian Arts in Santa Fe.

**PRESENT**

Rep. James Roger Madalena, co-chair  
Sen. Leonard Tsosie, co-chair (10/26 and 10/27)  
Rep. Ray Begaye  
Rep. Irvin Harrison (10/26 and 10/27)  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez

**Advisory Members**

Rep. Ben Lujan (10/27)  
Rep. Fred Luna (10/26 and 10/28)  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella (10/28)  
Rep. Nick L. Salazar  
Rep. W.C. "Dub" Williams

**ABSENT**

Sen. Rod Adair  
Sen. Raymond Kysar  
Rep. Patricia A. Lundstrom  
Sen. John Pinto  
Rep. Don Tripp  
Rep. Avon W. Wilson  
Rep. Teresa A. Zanetti

Sen. Ben D. Altamirano  
Sen. Joseph J. Carraro  
Sen. William E. Sharer

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Charles H. Van Gorder  
Jennie Lusk

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

## **Tuesday, October 26 - Institute of American Indian Arts (IAIA)**

### **INTRODUCTIONS**

Della Warrior welcomed the committee to IAIA. She thanked members for \$1 million in support of campus projects including the library and technical center, road paving and water lines, and noted that the committee has voted to endorse the Lifelong Education Learning and Research Center on the campus.

### **NATIVE AMERICAN EDUCATION ISSUES**

Indian Affairs Department (IAD) Secretary-designate Benny Shendo, Jr.; Public Education Department (PED) Assistant Secretary Penny Bird; Indian Education Advisory Committee Chair Donovan Gomez; and Institute for Indian Education Director Dr. Joseph Suina presented the memorandum of understanding (MOU) among IAD, PED and UNM. The MOU establishes a three-year grant for a cooperative effort to support the Indian Education Act's mandates to develop Native American curricula, to provide teachers of Native American students with preparation and training, to build partnerships addressing Native American issues, including dropout rates, college retention, culturally appropriate learning materials and student achievement, and to revitalize native language. Dr. Suina, the first director of the institute, reported that the institute now has eight Indian faculty members – the largest number of Indian faculty in the country – and that the faculty has expertise in language revitalization, sociology of education, bilingualism, physical education, technology and science. Prior to establishment of the institute, funding was not stable and the former State Department of Public Education's Native American focus was piecemeal. The institute has an MOU with the Navajo Nation for teacher training. Currently, the institute has 22 undergraduates in teacher preparation and nine graduate students, and it is extending expertise statewide. Concerns include institutionalizing the institute, establishing a master's program with a concentration in Indian education and establishing a license in Indian education.

In questioning by committee members, the discussion ranged from including IAIA in a MOU, the need for special mention of the needs of special education students to create a similar institute at New Mexico State University and reviving native languages. Dr. Suina explained that the language revival program at the institute is separate from the teacher preparation program, and mentioned that Native American teachers serve as important role models both for students and for the broader community. The goal is to encourage Indian people to remain within their communities, but the institute also aims to prepare others to work in native communities and to teach others about Native American culture. Dr. Bird stated that the caliber of teachers has been a problem, as has keeping teachers in rural areas, and she discussed her desire to build a cadre of long-term, high-quality teachers of Native American language and culture. Dr. Bird noted that the appropriation for the initiative is already in the budget, but that the committee's support will be essential for long-term funding.

Committee members expressed concerns about the organization of the MOU without ample supporting data and about centralizing training at a single university rather than with a

community-based focus. The members are concerned that every appropriate institution needs to be brought to the table. Dr. Bird noted that this MOU is only one small component of the implementation of the Indian Education Act, that the department is collecting information on other organizations to involve and that other partners will be brought in. Members also expressed dissatisfaction with the number of employees in the Indian Education Division within PED and discussed restructuring the role of the assistant secretary to elevate the powers to accomplish the mandates of the Indian Education Act.

Dr. Bird was requested to return with a later draft of the MOU.

## **INTER-TRIBAL CEREMONIAL OFFICE**

Joe Athens, executive director, and Louis Bonaguidi, chief executive officer, both of the Inter-tribal Indian Ceremonial, presented that organization's proposal to return to its status as a government agency. The ceremonial separated from state government in 1996 under Governor Johnson's administration, but has now found that the structure as a private not-for-profit is not effective without government alignment. The current governor has expressed his view that the ceremonial should be part of the Tourism Department, but the ceremonial sees its role less as drawing funding than as providing cultural education.

The ceremonial proposes to become part of state government while maintaining its 501 (c)(3) board of directors. Discussion ensued on how and whether the proposal could be structured as envisioned by the ceremonial's board of directors.

## **REPORT ON WELL-BEING OF NATIVE AMERICAN CHILDREN**

Bill Jordan, executive director of New Mexico Voices for Children, and Nandini Kuehn, research associate, presented a report that will be submitted to tribal leaders before publication on census data on Native American children and their needs in New Mexico. The state-specific data can be useful for grant writers for special populations. The handouts of the reports are in the meeting file.

## **TEMPORARY ASSISTANCE TO NEEDY FAMILIES**

Representatives from the Navajo Nation, the Pueblo of Zuni and the New Mexico Human Services Department (HSD) gave a presentation on TANF funding problems among the governmental entities. Last year, the legislature voted to fund TANF programs on the Navajo Nation (NN) and the Pueblo of Zuni, but worded the appropriation to specify that ***federal*** money should flow to the Navajo Nation (in the amount of \$1.3 million) and to the Pueblo of Zuni (in the amount of \$186,000). Each of the tribes has a TANF plan that differs from New Mexico's in terms of populations eligible for the funding and in terms of work requirements. Therefore, the federal program warned HSD not to release the funding under threat of penalties. HSD and Governor Richardson unsuccessfully petitioned the federal government for a waiver to deal with the issue. HSD also circulated a draft joint powers agreement (JPA) to deal with the

issue, but the JPA was unacceptable to the Native American governments because it abrogated their sovereignty.

HSD Secretary Pamela Hyde and Deputy Secretary Liz Stefanics suggested that the legislature could correct the problem by making a simple general fund appropriation in the coming session. HSD agreed to meet with Navajo Nation TANF Director Roxanne Gorman and Principal Accountant Art Sanderson and with Zuni Education and Career Development Center Director Michelle Walela and TANF Coordinator Bernadette Panteah to resolve the problem. HSD will help in getting the right kind of appropriation drafted and on getting the appropriation into HB 2, the general appropriation bill.

Representative Begaye suggested that the committee raise the problem that state maintenance of effort (MOE) funding cannot go to tribes with New Mexico's congressional delegation. Ms. Walela reported that 29 of 36 tribes in the United States received MOE funding from their states, although New Mexico's MOE funds do not go to the Pueblo of Zuni.

Representative Madalena recessed the meeting at 4:40 p.m.

### **Wednesday, October 27 - State Capitol**

Representative Madalena reconvened the meeting at 9:30 a.m.

### **STATE LIBRARY — NATIVE AMERICAN LANGUAGE WEB SITE**

State Librarian Richard Akeroyd presented the committee with an update of the web site, which began last year, and Wes Owens accompanied him. Handouts are in the meeting file. Thus far, translations for three languages are on the "Telling the Stories" web site, the goals of which are presenting information about agencies and services in native languages and, in addition, providing additional information on areas of Native American interest, including water rights, court decisions, law and commerce. By 2007, all seven language groups will be represented on the web site. Senator Tsosie recommended that the web site emphasize oral rather than written translations, and suggested using icons to help users become aware of the functions on the web site. The web site provides descriptive information about the various divisions of the Cultural Affairs Department and other agencies, descriptive information about each of New Mexico's tribal communities (presented in the format of choice of each community) and links to resources.

### **E-MERCADO PROJECT**

Del Castillo, chief executive officer of the Albuquerque Hispano Chamber of Commerce, gave a presentation on the E-mercado project, which provides businesses with a means of posting their products on the World Wide Web and can quickly and accurately measure economic impact. He said that the project began two or three years ago with the help of government and the Rural Economic Development Initiative, and was funded with a \$500,000 capital outlay appropriation and no operating funds. Operating funds have since been provided by Sandia National

Laboratories (SNL) and the Albuquerque Hispano Chamber of Commerce, both of which are absorbing expenses.

The organization partners with the Economic Development Department, New Mexico Tech and SNL. Adam Roberts, director of the project, has developed a database of businesses through the New Mexico Hispanic Chamber of Commerce and local chambers of commerce, and is forming a statewide council. New Mexico Tech in Socorro will own the rights to the amassed database. Mr. Roberts reported that the project has taken surveys of many businesses, and has a database of 70,000 entries. The project, co-sponsored with SNL, has involved donation of services by lab employees, including its executive director. On questioning from Senator Tsosie, the director acknowledged that no business has thus far been generated.

## **NATIVE AMERICAN VOTING ISSUES**

Denise Lamb, director of the Bureau of Elections, and Martin Aguilar, Native American election information coordinator, both with the Secretary of State's Office, reported that the upcoming presidential election is keeping the office extremely busy. Registration in New Mexico is up by 160,000 voters from the previous general election, and they expect Native American voting to be up by approximately 9,000 voters. Early voting has been brisk statewide, and the secretary of state got a ruling from the state supreme court allowing absentee ballots to be separated from their outer envelopes beginning just after midnight on Election Day rather than after the polls open. New Mexico now has over one million registered voters for the first time. Some 50,000 voters had already voted early by the day of the committee meeting, and by the second day of early voting, even Pojoaque had 350 early voters. Bernalillo County will have 65,000 to 85,000 absentee ballots before Election Day. There are 1,486 polling places in the state, and the attorney general will have 50 observers at polling places.

Ms. Lamb introduced Hvtce ("Hutch") Miller, who is the new voter outreach coordinator for the Santa Fe County clerk, who as part of his duties works with pueblos in Santa Fe County (Tesuque, Nambe, Pojoaque and San Ildefonso). Mr. Aguilar gave numbers on the growth of the Native American voter registration. In November 2002, there were 48,945 Native American voters registered; in June 2004, there were 50,398; in September, 53,998. The Help America Vote Act was to have provided one translator at each location and an audio translation on a machine at every polling place, thus ensuring that minority language voters can vote in complete secrecy and that the quality of translations is sound. Discussion on the limits of the secretary of state's authority ensued. Ms. Lamb said that her office cannot tell elected county clerks that they must train translators to emphasize neutrality, and that her office has no express power to enforce the Voting Rights Act. At early voting, there may be no translators.

Ms. Lamb reported that the federal government did not release funding for the new voting machines promised, so \$14 million of \$17 million delivered to the state did not arrive until May. The state expected \$23 million altogether, and hence is \$6 million behind in payments from the federal government.

Representative Begaye expressed concern about both conflict of interest where nonnative county clerks may resist efforts to register Native American voters as a means of keeping their jobs, and about bias in interpretations given for Native American voters who rely on translators at county clerk locations. He was also concerned about translation services for early voters.

Ms. Lamb promised to send the committee information on the four remaining consent decrees on voting rights in Indian country and to send a written report compiling information on the numbers of registered voters. The committee is interested in legislation requiring organizations with voter registration employees to register with the secretary of state, listing the name, address and social security number of people in charge and those taking registration. In addition, those who take registrations should certify that they provide assistance in the registration.

Other legislation recommended included: (1) a bill to correct the law permitting felons to vote so that it does not codify an expectation that the federal courts will notify New Mexico authorities when a former inmate has fulfilled obligations; (2) a bill increasing the staffing for the Bureau of Elections, reflecting the fact that voter registration has risen from 700,000 to over a million voters; and (3) a bill permitting the secretary of state to encourage geographic diversity for polling places for early voting.

#### **UPDATE OF THE CHILDREN'S CODE**

Steffani Cochran, chair of the Native American Subcommittee of the New Mexico Children's Code Revision Task Force, presented her subcommittee's suggested revisions. The larger task force did not accept all of the subcommittee's recommendations, and the Children Youth and Families Department (CYFD) is not likely to accept all of the task force's recommendations. CYFD had previously asked to be scheduled for a report on the task force recommendations only after the final committee drafts are submitted in November.

Ms. Cochran noted that the Native American Subcommittee was charged with reviewing the work of all four areas to be revised: abuse and neglect/adoption; delinquency; families in need of court-ordered services (FINCOS); and general provisions, including the Indian Child Welfare Act, Children's Court rules and mental health issues.

The subcommittee made recommendations to:

- (1) improve the possibilities for mutual recognition of tribal court orders through development of intergovernmental agreements (IGAs) so that tribes can resolve problems surrounding treatment options for Native American youthful offenders in the state juvenile justice system;
- (2) address the balance of tribal-state authority over Indian children under the Indian Child Welfare Act;
- (3) mandate consultation and exchange of information with an Indian child's tribe when tribal members seek voluntary services;

- (4) retain the notice provisions currently in place with FINCOS so that tribes may become involved in truancy and other matters;
- (5) add new sections consistent with the Indian Child Welfare Act regarding preferences for placement of Indian children in protective custody and preferences for changes in placement;
- (6) provide tribal social service agencies with better access to confidential records;
- (7) recognize Indian Child Welfare Act requirements within the Safe Haven for Infants Act; and
- (8) add a new subsection to the cultural recognition sections of the Children's Code specifically addressing the cultural needs of Indian children.

The task force recommended the consultation and exchange of information revisions supported by the subcommittee; accepted the subcommittee's recommendations to create new subsections addressing child placement preferences; accepted the subcommittee's recommendations regarding changes to the Safe Haven for Infants Act; and tabled the subcommittee's recommendation on special cultural needs. The task force made a recommendation that the subcommittee did not endorse because of concerns about inconsistencies with tribal services and the role of attorneys in tribal court proceedings, which was mandatory appointment of attorneys for children 14 years of age or older.

The committee recommended specific changes to wording of the completed subcommittee report, which has been presented to and acted on by the task force.

## **APPROVAL OF MINUTES**

Representative Madalena called for approval of the minutes of the September Indian Affairs Committee meeting. Senator Tsosie moved and Senator Rainaldi seconded approval of the minutes. The minutes were approved as submitted without opposition.

## **ECONOMIC DEVELOPMENT**

Economic Development Department Secretary Rick Homans presented and reviewed a report on the department's accomplishments. (A copy is in the meeting file.) The department's Native American liaison could not attend because of medical problems. The department has contacted all tribes to determine their interest in economic development. Secretary Homans reported that the department has earmarked \$1 million for job training incentives on tribal land and reimburses wages at a higher rate for trainees on tribal land than in urban areas. Thus far, 58 Native American jobs have been generated.

Members expressed concern about the operation of a revolving loan fund and about retraining talented jewelers to work as microsystems assembly workers. The department was encouraged

to create a checklist for tribes to use in participating in "potential recruitment opportunity" solicitations. Secretary Homans acknowledged that the department has not yet created any new jobs.

## **INDIAN PARTICIPATION IN MEDICAID/HEALTH MAINTENANCE ORGANIZATIONS**

HSD Deputy Secretary Liz Stefanics introduced Carolyn Ingram and Sharilyn Aguilar-Roanhorse, who presented for the department. In addition, presenters from the Presbyterian, Molina and Lovelace health maintenance organizations reported on Native American use of alternatives to the HSD "Salud" Medicaid plan. Discussion ensued on whether translation services are provided through a dial-up or locally. There was discussion regarding the number of Native American clients who "opt out" of the managed care plans and the reasons for such decisions. The presenters agreed to furnish the committee with more information on Native American feedback about the managed care plans, including any criticisms received, and reasons for opting out of the managed care plans/HMOs. Deputy Secretary Stefanics stated that the department is now distributing \$3 million to \$4 million to school clinics.

Representative Madalena recessed the meeting at 5:20 p.m.

### **Thursday, October 28 - Pueblo of Santa Clara Senior Center**

Representative Madalena reconvened the meeting at 9:30 a.m. and turned the gavel over to Senator Martinez, who represents an area that includes the Pueblo of Santa Clara.

## **PUEBLO OF SANTA CLARA**

Pueblo of Santa Clara Governor Jeff Sisneros welcomed the committee and introduced Bernice Morfin, the Santa Clara Senior Citizen Program Director. Santa Clara's top priorities for funding are: (1) an adult day care center; (2) a tribal courts/law enforcement building revision and update; and (3) improvements to the library. Ms. Morfin explained that the tribe has received assurances that the federal congressional representatives will contribute toward the projects if the state funds them. Architect Levi Romero discussed the adult day care center; Judge Joseph Naranjo, the judicial complex; and Theresa Naranjo, the \$50,000 library proposal. Senator Martinez and Representative Rodella agreed to co-sponsor the Santa Clara library effort.

Committee members expressed support for the facilities, but worried over whether support would require recurring expenses that would be hard to come by. Members suggested seeking federal matching funds or other funding for the facility, either for construction (capital outlay) or for the recurring expenses.

## **EIGHT NORTHERN INDIAN PUEBLOS COUNCIL**

Acting Director Terry Aguilar presented the top three priorities of the council and requested committee support for the projects, which include behavioral health programs such as Head Start, a substance abuse program for Native American adults, discouraging the use of tobacco and publishing a visitors' guide. The member pueblos need five buses for Head Start, and will get federal money for each bus, which the state or pueblo will have to repay.

### **SANTO DOMINGO PUEBLO**

Pueblo of Santo Domingo Governor Sisto Quintana, tribal planner Kenny Pin, tribal administrator Leandro Garcia and planner Celia Hildebrand described the multipurpose education center and dialysis center that are the pueblo's top priorities. Santo Domingo successfully sought a Mortgage Finance Authority grant, receiving \$3.7 million, and also received federal funding for its projects and will request capital outlay funding from the legislature to augment the budgets.

The pueblo will also request funding for a certified ambulance, as demand for ambulance services is high. The pueblo had 85 calls in June, 72 of which were from Native Americans; 88 in July, with 74 from Native Americans; and 82 in August, with 67 from Native American callers. Other projects include a new Head Start facility, a multipurpose community center and a transfer station.

### **PUEBLO OF NAMBE**

Pueblo of Nambe Lieutenant Governor Jennifer Vigil presented on behalf of Governor Tom Talache, who could not attend. She expressed concern about funding for several projects, and was advised to present the funding proposals in writing and to consult with the IAD regarding coordination of funding. The tribe is requesting \$2.5 million for correcting mold problems; needs \$650,000 to finish improvements to its Head Start facility; and needs another highway from Nambe Falls.

### **TESUQUE PUEBLO**

Former Pueblo of Tesuque Governor Charlie Dorame presented the committee with a list of priorities. He was advised to work with the IAD on funding requests, and discussion ensued about coordination of funding requests between the tribes and federal and state governments. He reported that the pueblo has finished an intergenerational center, but lacks \$496,142. The pueblo also needs \$50,000 for a multijurisdictional law enforcement training center and \$570,685 for a new administration building. The pueblo also requests a \$215,000 planning grant for a multi-educational facility.

Senator Martinez adjourned the meeting at 1:55 p.m.

**TENTATIVE AGENDA  
for the  
INDIAN AFFAIRS COMMITTEE**

**November 9-10, 2004  
Room 321, State Capitol**

**Tuesday, November 9**

- 10:00 a.m. SENIOR CITIZEN CENTER  
—Michaelene Ahidley, Director, Mescalero Elderly Program, Mescalero Apache Tribe
- 10:20 a.m. GREENHOUSE FUNDING  
—Manuel Archuleta, Governor, Pueblo of Picuris
- 10:40 a.m. PAYMENT OF STATE TAXES  
—Joseph Mark Chavarria, New Mexico Storage Tank Committee
- 11:00 a.m. NATIVE ROOTS AND RHYTHMS  
—Seth Rothman, Southwest Learning Center
- 11:20 a.m. SANTO DOMINGO PUEBLO ALTERNATIVE EDUCATION  
—Sisco Quintana, Governor, Pueblo of Santo Domingo  
—Dr. Ben Atencio
- 11:40 a.m. VIRTUAL WEB PROGRAM  
—Maria P. Williams, Professor, UNM Native American Studies Program
- 12:00 noon LUNCH
- 1:00 p.m. CAPITAL OUTLAY REQUESTS — 2005 PROCEDURES  
—Robert Apodaca, Director, Capital Projects Division, Department of Finance and Administration  
—Rebecca Martinez, Capital Outlay Manager, Indian Affairs Department  
—Janice McCrary, Capital Outlay, Legislative Council Service
- 3:00 p.m. FUNDING OF WATER LITIGATION SETTLEMENTS  
—D.L. Sanders, General Counsel, Office of the State Engineer

- 3:20 p.m. WAIVER OF BONDING REQUIREMENTS — NEW MEXICO STATE INVESTMENT COUNCIL  
—Joseph Keating, Executive Co-Producer, LTC & Associates  
—Travis Clark, Producer, LTC & Associates  
—Elsa Johnson, Advisor, LTC & Associates
- 3:40 p.m. AMERICAN INDIAN EARLY CHILD LITERACY INITIATIVE – PHASE 2  
—Colleen Keane, KNME Educational Services Manager
- 4:00 p.m. PROPOSED PREDATORY LENDING LEGISLATION  
—Senator Bernadette M. Sanchez
- 4:15 p.m. RECESS

**Wednesday, November 10**

- 9:00 a.m. DISCUSSION OF COMMITTEE INITIATIVES FOR 2005 LEGISLATIVE SESSION  
—Chase Van Gorder, Staff Attorney, Legislative Council Service  
—Jennie Lusk, Staff Attorney, Legislative Council Service
- 1:00 p.m. ADJOURN

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

**November 9-10, 2004  
State Capitol, Room 321**

Representative Begaye, acting co-chair, called the sixth meeting of the Indian Affairs Committee to order on Tuesday, November 9, 2004, at 10:30 a.m. in Room 321 of the State Capitol in Santa Fe.

**PRESENT**

Rep. James Roger Madalena, co-chair  
Sen. Leonard Tsosie, co-chair  
Sen. Rod Adair (11/10)  
Rep. Ray Begaye  
Rep. Irvin Harrison  
Rep. Patricia A. Lundstrom  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez (11/10)  
Rep. Teresa A. Zanetti

**Advisory Members**

Rep. Debbie A. Rodella (11/10)  
Rep. Nick L. Salazar  
Rep. W.C. "Dub" Williams

**ABSENT**

Sen. Raymond Kysar  
Sen. John Pinto  
Rep. Don Tripp  
Rep. Avon W. Wilson

Sen. Ben D. Altamirano  
Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Rep. Fred Luna  
Sen. Richard C. Martinez  
Sen. William E. Sharer

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Charles H. Van Gorder  
Jennie Lusk

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

## **Tuesday, November 9**

The meeting was called to order by Representative Begaye at 10:30 a.m. Representative Begaye asked that Representative W.C. "Dub" Williams co-chair the meeting with him.

### **APPROVAL OF MINUTES**

The minutes of the fifth meeting of the committee on October 26 through 28 were unanimously approved without change, on motion of Representative Salazar and second motion of Senator Rainaldi.

### **SENIOR CITIZEN CENTER**

Representative Williams introduced his constituent, Michaelene Ahidley, development director of the Mescalero Elderly Program, as well as frequent users of the elderly program's building who traveled to Santa Fe to attend this meeting. Ms. Ahidley introduced Maurice Hobson, who briefed the committee on the state of disrepair of the senior center building that originally was constructed in 1977 as a private home. They requested that committee members approve a new 6,000 square-foot senior center building adjacent to a 40-bed care facility already in place, which will permit the senior center to use the care facility's kitchen, hair salon, wheelchairs, chapel, laundry and dietician and share its transportation. The plan would include space for a children's daycare center to promote multigenerational interaction.

Since the committee does not fund pre-construction programs, the presenters were referred to the Indian Affairs Department (IAD) in hopes that the department can help the program put together a comprehensive plan for a capital outlay proposal.

### **GREENHOUSE FUNDING**

Pueblo of Picuris Governor Manuel Archuleta and Picuris Environmental Department Director Joe Quanchello presented the pueblo's top funding priority, a request for \$425,124 for an environmental education training facility, which includes a greenhouse, water quality testing unit and a teaching kitchen, and methods for providing native agricultural and dietary programs. The pueblo will utilize its own natural resources (such as lumber), heavy equipment and some staffing for the 3,240 square-foot renovation of the pueblo's old school building to house the environmental education training facility. The pueblo was encouraged to meet with the IAD to get its priorities for funding on the department's capital outlay list.

### **CLEANUP OF UNDERGROUND GAS TANK LEAKS**

Joseph Mark Chavarria, environmental director of the Pueblo of Santa Clara and head of the New Mexico Storage Tank Committee, and Jim Norton, director of the Environmental Protection Division of the Department of Environment, reported on corrective action cleanup of water

contaminated by leaks and spills from underground gas tanks. The purpose of the presentation was to educate the committee about money available through the state program for cleanup; participation involves tribal contributions into a fund later distributed according to need on native lands.

### **NATIVE ROOTS AND RHYTHMS**

Seth Roffman, Melissa Sanchez and Emmet Shkeme Garcia presented a \$50,000 appropriation request for production and programming for the Native Roots and Rhythms Program. The 10-year-old program involves Native American entertainers in contemporary performances. Last year, the production, which included break dancing, rock bands, stand-up comics and other performers, sold out two nights at the 2,900-seat Paolo Solari Auditorium.

The committee suggested that the requesters ask the Cultural Affairs Department to include the program in its budget. The committee will write the Tourism Department to suggest that it fund a reasonable portion of the production's promotions budget. On motion of Representative Salazar and second motion of Representative Williams, the committee recommended that the Cultural Affairs Department put \$50,000 in its recurring budget for Native Roots and Rhythms.

### **SANTO DOMINGO ALTERNATIVE EDUCATION**

Former Pueblo of Santo Domingo Governor Dr. Benjamin Atencio and his son, Benjamin Atencio, addressed the committee with concerns about the Pueblo of Santo Domingo schools, which have been under corrective action for the past four years and are still not making adequate yearly progress (AYP). The schools are run on a contract with the Bernalillo schools. The two presenters asked the committee to endorse a \$200,000 appropriation for a comprehensive master plan on how the tribal schools could work to improve the educational capacity of the pueblo and explore alternatives to management by the Bernalillo schools. The pueblo acknowledged that it had not contacted the Indian Education Division of the Public Education Department or the IAD, nor did it have a plan for who would serve as fiscal agent. Committee members suggested that the Pueblo of Santo Domingo seek to resolve its problems with the Public Education Department first. The committee acknowledged that it had received the pueblo's message and had questions as to ways to address the problem.

### **VIRTUAL WEB PROGRAM**

Greg Cajete and Ron Feldman discussed the Native American Studies Program for the Tribal Virtual Network. The network involves a consortium of tribes, the Indian Pueblo Cultural Center, the Jicarilla Apache Nation and others to access technology. It uses low bandwidth teleconferencing and live video so that indigenous communities can talk to each other. The network requested \$198,024 to get its partners connected.

### **WATER LITIGATION SETTLEMENT FUNDING**

D. L. Sanders, Office of the State Engineer general counsel, and Gregory Ridgley, special assistant attorney general, discussed the need for legislation to set funds aside for the state match of funding in four lawsuits. They reported that New Mexico is committed to spending \$58 million if the settlements are approved. If money is set aside beginning now, it will not be such an onerous task to have it available when the cases settle. The presenters brought copies of legislation proposed to the governor as a "straw man" for purposes of getting funding set aside. Representative Madalena noted that the state engineer would give a four-hour presentation to the Legislative Finance Committee on November 15. The proposals are for funds that would not revert and set-aside funding that is not discretionary.

### **SPIDERWOMAN PROJECT**

Joe Keating and Elsa Johnson requested consideration of funding for "Spiderwoman", a film in Navajo with English subtitles written by Mr. Keating's deceased wife. The movie will be 80 percent filmed in New Mexico, except for scenes in Canyon de Chelly, and 50 percent or more of the cast and crew will be New Mexico residents. Mr. Keating's request is for specific legislation to exempt this project from a statutory requirement for a co-signer or guarantor. The committee recommended that Mr. Keating work with the governor's office to find ways to reduce the amount of guarantee required when a film involves substantial Native American talent and is in an area of economic need.

### **AMERICAN INDIAN EARLY CHILD LITERACY INITIATIVE — PHASE TWO**

Colleen Keane of KNME TV presented a progress report on Native American early child literacy materials and programs. The committee said that the programs should be eligible for funding under the Indian Education Act and that the committee would make Assistant Secretary for Indian Education Penny Bird, at the Public Education Department, aware of its position.

### **PREDATORY LENDING**

Senator Bernadette M. Sanchez came before the committee to request its endorsement of her predatory lending bill, which will: 1) include endorsement of the Public Interest Resource Group, the American Association for Retired Persons, the Catholic Archdiocese, the New Mexico Conference of Churches, the Human Needs Coordinating Council and the Native American Resource Association, among others; 2) cap interest rates at 36 percent APR; 3) address rates charged for car title, mortgage and tax refund loans; and 4) require licensure for companies extending such loans. The committee agreed to consider and compare Senator Sanchez's proposed bill with that recommended by the Alternative Lending Task Force and proposed by Representative Lundstrom. Representative Lundstrom's proposed legislation: 1) does not cap rates; 2) applies only to payday lending; and 3) focuses on regulation of lending establishments.

## **DISCUSSION OF CAPITAL OUTLAY PROCEDURES FOR 2005**

Indian Affairs Department Secretary Benny Shendo, Deputy Secretary Michelle Brown-Yazzie and Rebecca Martinez, IAD capital outlay manager, discussed the procedures that the IAD has used for identifying and organizing capital outlay requests in the months since the department was organized. Secretary Shendo also introduced his staff, general counsel Helen Padilla, accountant William Crispin and business specialist Loretta Diaz.

The three presenters shared information demonstrating the reduction in the backlog of capital outlay requests, streamlining project management of the 450 capital projects already on the books and formalizing the joint powers agreement (JPA) process so that some contracts are paid directly to vendors rather than reimbursed. The department encumbered \$2.2 million between July 1 and the present, although it had encumbered only \$389,000 previously in JPAs. The backlog of projects was reduced significantly to approximately \$1.5 million.

A wide-ranging discussion ensued during which committee members expressed disapproval of what some saw as the governor's overstepping the bounds of executive power by encouraging an executive agency to go directly to tribes and pueblos with instructions to hone down their capital outlay proposals to three top priorities. The legislators expressed the conclusion that going directly to the tribes from the Department of Finance and Administration (DFA) and IAD is confusing to constituents, who still may approach legislators for direct legislative support and appropriations. Secretary Shendo agreed to carry the committee's concerns to the fourth floor, but assured committee members that the IAD is addressing any confusion by meeting directly with the tribes. Also, he and committee members agreed that for large projects (of approximately \$1 million or more), the intervention of the IAD is helpful in setting plans for funding over multi-year periods. Committee members requested that the department telephone any tribes whose funding is on the verge of expiration to inform them of the problem and that it inform new chapter leaders of the new capital outlay process.

Senator Tsosie recessed the meeting at 6:25 p.m.

### **Wednesday, November 10**

Representative Madalena reconvened the meeting at 9:10 a.m.

## **CAPITAL OUTLAY PROCEDURES**

Janice McCrary, capital outlay staff from the Legislative Council Service (LCS), addressed the committee and reported that LCS is adding capital outlay staff to keep up with the demands of the upcoming session.

## **2005 LEGISLATIVE INITIATIVES**

The committee discussed and voted on a number of committee endorsements for capital outlay bills and other initiatives. In each case, the motion passed without objection.

### **Institute of American Indian Arts**

On motion of Representative Madelena and second motion of Senator Rodriguez, Representative Salazar agreed to sponsor legislation endorsing the Center for Lifelong Education, Research and Cultural Exchange for Indigenous Peoples at the Institute of American Indian Arts. The committee will write the governor stating its position endorsing the construction of the center, to which the governor has committed \$2 million in general obligation bonds. The amount of the appropriation and the source of the funds will be up to the sponsor, who will ask that committee members sign off before presenting the bill.

### **Native American Capital Outlay**

(1) On motion of Senator Rodriguez with second motion by Representative Begaye, legislation to be sponsored by Representative Lundstrom and Senator Tsosie was endorsed to fund more IAD staffing to help with eliminating the backlog of capital outlay projects. For purposes of the legislation, a project considered "backlogged" would have been reauthorized more than two times.

(2) Senator Tsosie and Representative Lundstrom committed to a comprehensive bill to address Navajo capital outlay issues, and the committee voted to consider the draft bill, on motion of Representative Madalena and second motion of Senator Rainaldi. The bill will expedite completion of capital outlay projects through directing state appropriations to chapters and other smaller divisions of Navajo government and permitting direct payment to vendors after the approval of the IAD. Such a solution could directly benefit Navajo residents of New Mexico who are still without power because of intergovernmental communications problems. Senator Adair proposed a resolution to define as indigent any family in New Mexico without a powerline in the twenty-first century. Senator Rainaldi cautioned that the committee endorsement will follow upon review of the drafted bill.

### **Radiation Exposure Compensation Act**

Senator Pinto was suggested as the sponsor for a memorial to Congress requesting investigation of awards to New Mexico Native Americans for radiation compensation. Senator Rainaldi moved and Representative Lundstrom seconded the endorsement of such a memorial.

### **Hogback Bridge**

Representative Lundstrom moved and Representative Madalena seconded a motion to endorse a memorial to the congressional delegation carried by Representative Begaye supporting the proposed "Hogback Bridge", which would connect Navajo Highway 368 with State Highway 64

over the San Juan River. It was suggested that Senator Pinto and Representative Begaye sponsor the memorial, which will also be sent to the Bureau of Indian Affairs, the state Department of Transportation and San Juan County.

### **Native Nation, Native Voices**

Representative Zanetti was recommended as sponsor for a bill requesting an appropriation to the Cultural Affairs Department for funding a proposed festival for authors writing in native languages next summer in Albuquerque. Representative Lundstrom moved and Senator Rodriguez seconded a motion to support the undrafted bill, and the committee will consider endorsement after the bill is drafted as to the amount of the appropriation and the source of the funding.

### **USDA Tribal Extension Initiative**

Representative Madalena will carry a bill requesting a recurring appropriation for the USDA Tribal Extension Initiative. The committee's endorsement was carried on Representative Madalena's motion with Senator Rainaldi's second motion.

### **Native American Authenticity**

Representative Lundstrom and Senator Rainaldi agreed to carry a bill to be introduced simultaneously in both houses directly providing for enforcement of the Native American authenticity bill, which provides for certification of native arts and crafts. The committee endorsed an appropriation adequate for at least two or three people to enforce the act, on motion of Representative Madalena and second motion of Representative Harrison. The committee will also inquire as to what might be done to protect against the copyrighting of traditional Indian designs by non-Indians.

### **Rural School Leadership Academy**

No action was taken regarding a site in a rural area such as Gallup for a rural leadership academy.

### **Education Bills**

A number of education issues were discussed.

### **Issues resolved *without* the need for legislation included:**

Emphasizing the importance of the Indian Education Division of the Public Education Department. Senator Tsosie and Representative Begaye will work with Penny Bird, assistant secretary for Indian education, to improve implementation of the Indian Education Act. Among the concerns are duties and authority of the Indian Advisory Council and compliance with the Indian Education Act, enhancing the ability of local school districts to improve professional staff and responding to the demand for Native American language and culture

certification. Elevating the status of the Indian Education Department — as a means of reducing cumbersome bureaucratic controls over payment for Indian arts and culture certificate-holders, making per diem available for members of the Indian Advisory Committee and encouraging better communications between the IAD, the secretary of public education and the Indian Education Division — is also a priority.

#### **Education bills receiving committee endorsement were:**

**Inter-school transportation:** Senators Tsosie and Rainaldi will jointly sponsor a bill clarifying that legislators expect school districts to cooperate to resolve inter-county, inter-district and inter-governmental transportation issues so that children are not left standing in the cold because of unresolved bureaucratic disputes. The endorsement was passed on motion of Representative Lundstrom and second motion of Representative Begaye.

**Amendment to HB 212:** Representative Begaye and Senator Rainaldi will sponsor an amendment to HB 212 to return the responsibility for hiring and firing of staff to local school boards rather than local superintendents in areas where there is a lack of Native American professional staff. The motion to endorse was made by Representative Begaye and seconded by Senator Rainaldi. Vesting authority in school superintendents to address Native American staffing concerns was seen as being unsuccessful and leading to lawsuits.

**Appropriation for "Bridging the Literacy Gap" Programs:** Representative Harrison was suggested as sponsor for the "Bridging the Literacy Gap" measure, which will bring Save the Children funding into more school programs in Indian country, with a match from the state. Endorsement of the proposal was moved by Senator Rainaldi and seconded by Representative Begaye.

**Teach for America:** On motion of Senator Rainaldi and second motion of Representative Harrison, the Teach for America Program will be enhanced by a \$250,000 subsidy for two years. Senator Tsosie will carry the bill.

#### **Predatory Lending**

Senator Rainaldi moved that predatory lending bills be tabled until the proposed bills have been drafted and are available for review and Representative Madalena seconded the motion.

#### **Radioactive Materials**

Representative Harrison and Senator Tsosie will carry a joint memorial urging the federal Department of Energy and the Navajo Tribal Utility Authority to test homes for radioactive materials. Committee endorsement was on motion of Representative Madalena and second motion of Senator Rainaldi.

#### **Intertribal Ceremonial**

Representative Lundstrom moved and Senator Rainaldi seconded a bill to endorse a bill to be sponsored by Senator Rainaldi and Representative Harrison to bring the Intertribal Ceremonial back under the auspices of state government. There would also have to be an accompanying appropriation bill.

### **Temporary Assistance to Needy Families (TANF)**

Representative Madalena agreed to carry a general appropriation bill for TANF for the Navajo Nation and the Pueblo of Zuni. The motion of Representative Madalena and second motion of Senator Rainaldi is for a direct state appropriation.

### **Election Revisions**

Senator Rainaldi moved and Representative Harrison seconded a motion to endorse a wide-ranging election bill to be sponsored by Senators Tsosie and Rainaldi and Representatives Madalena and Harrison. Issues addressed include giving the secretary of state authority to establish polling places in Indian country; ensure that translators are available to early voters; coordinate use of tribal, state and federal election polling places; permit early counting of absentee ballots; authorize the use of schools as polling places; and require elected officials to live in districts.

It was moved by Representative Madalena and seconded by Representative Harrison that the committee endorse a bill for a constitutional amendment to provide for six-year terms for state senators and four-year terms for state representatives.

### **Children's Code Revisions**

The committee endorsed in concept a plan to work with the Native American Task Force on a revision to the Children's Code either to support amendment of sections pertinent to Indian children or to write a new children's code that comports with the federal Indian Child Welfare Act for Indian children. The endorsement was on motion of Representative Madalena and second motion of Representative Lundstrom. A sponsor did not commit to the measure.

### **Indian Law Institute**

The committee agreed to sponsor a bill to appropriate \$5,000 for a half-day training for new legislators on federal Indian law issues in New Mexico. The bill will be carried by Representative Lundstrom and Senator Rainaldi. Senator Tsosie moved acceptance; Representative Madalena seconded the motion.

### **Gallup Food Bank**

Representative Harrison and Senators Tsosie and Rainaldi will carry a bill appropriating additional funds for Native American communities for their food banks. Acceptance was moved by Representative Lundstrom on second motion of Senator Rainaldi.

### **San Juan Independent Living Center**

(1) The committee endorsed an appropriation request of \$65,000 from the general fund to maintain a satellite office in McKinley County for the San Juan Independent Living Center. Funding for the bill sponsored by Representative Begaye will be for additional staff, operations and for home modifications and transportation. The endorsement passed on motion of Representative Madalena and second motion of Representative Harrison.

(2) Senator Tsosie agreed to carry a bill expediting modifications of Native American senior citizen and disabled resident homes in need of wheelchair ramps. The endorsement passed on motion of Representative Lundstrom and second motion of Senator Rodriguez.

### **Indigenous Language Institute**

Representative Begaye agreed to carry an appropriation bill for the Indigenous Language Institute for an assessment of Indian languages in public schools, pre-kindergarten, after-school and adult programs. Representative Madalena moved to endorse the bill and Representative Begaye seconded.

### **Indian Water Rights Settlement Litigation**

On motion of Representative Madalena and second motion of Representative Lundstrom, the committee voted to endorse legislation carried by Representative Begaye in the House and Senators Tsosie and Rainaldi in the Senate to set aside funds needed for settlement of Native American water rights litigation.

### **CAPITAL OUTLAY**

Robert Apodaca, director of the Capital Projects Division of the DFA, addressed the committee to report that he had received 41 tribal government requests for a total of \$134 million. Mr. Apodaca agreed to contact the Mescalero Apache Tribe regarding its needs for a new senior center and to furnish a list broken out by county of all the projects to committee members.

Senator Tsosie adjourned the meeting at 1:20 p.m.