

Indian Affairs Committee

**2008
INTERIM REPORT**



New Mexico State Legislature
Legislative Council Service
411 State Capitol
Santa Fe, New Mexico

INDIAN AFFAIRS COMMITTEE

2008 INTERIM SUMMARY

At its initial meeting of the 2008 interim, the Indian Affairs Committee (IAC) identified 16 areas upon which it intended to focus during the 2008 interim: 1) capital outlay, including tracking the expenditure of allocated funds and coordination with the Navajo Nation; 2) implementation of the Indian Education Act and Native American education, including enforcement of truancy laws; 3) health care for Native Americans and in Native American communities; 4) domestic violence in Native American communities, including the funding of shelter facilities and the impact of substance abuse and DWI violations; 5) resumption of uranium mining on tribal lands and cleanup of abandoned uranium mining and milling sites; 6) Native American veterans' affairs, including settlement of state income tax refund claims; 7) services provided by the Office of the State Medical Investigator (OMI) to tribal communities; 8) funding of projects from the Tribal Infrastructure Project Fund; 9) collection of taxes by utilities from customers on tribal lands; 10) feasibility of designating Shiprock Pinnacle as a state park; 11) Navajo Nation child support services; 12) tribal emergency management services; 13) disproportionate incarceration of Native Americans in relation to the population; 14) gambling addiction treatment services, including accountability for funding set aside for that purpose; 15) status of Indian water rights settlements in coordination with the Water and Natural Resources Committee; and 16) Native American voting rights and election issues in coordination with the Courts, Corrections and Justice Committee. Following its traditional scheduling procedure, the IAC scheduled many of its meetings to be held at chapters of the Navajo Nation, pueblos and Indian-related institutions. The IAC meetings were conducted at the following locations in addition to the State Capitol: the Bahasti'ah (Twin Lakes), Crownpoint, Nageezi, Ramah, Shiprock and Upper Fruitland chapters of the Navajo Nation; the Pueblo of Isleta, Picuris, San Ildefonso and Zia; Albuquerque, Gallup and Grants, New Mexico; and Window Rock, Arizona. 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 meeting, Paula Tackett, director of the Legislative Council Service, briefed the committee on various topics concerning protocol during interim committee meetings. Chase Van Gorder, staff attorney, reviewed with the committee the fate of bills endorsed by the committee for the 2008 legislative session as well as the fate of other bills that might be of interest to committee members. Jason A. Marks, chair of the Public Regulation Commission (PRC), briefed the committee on the PRC's investigation of complaints regarding the alleged improper collection of state and county taxes by utilities serving Native American customers residing on tribal lands. The collection of those taxes by the state is preempted by federal regulations. On May 19, the PRC conducted its first workshop on the current inquiry, and participants included many of the pueblos, as well as the Navajo Nation and representatives of telecommunication companies and the Taxation and Revenue Department (TRD). Jim Nunns, tax policy director for the TRD, reviewed the current state regulations regarding the collection of gross receipts taxes from telecommunication and public utility companies for services provided to Native Americans residing on tribal lands. Brian Harris, an attorney with the Office of the Attorney General, indicated that his office would be heavily involved as the PRC investigation continues. John Garcia, secretary of veterans' services, and Rick Homans, secretary of taxation

and revenue, addressed the committee regarding efforts to implement Senate Bill 574, which passed during the 2008 legislative session. Representatives of the TRD, the Veterans' Services Department (VSD) and the Indian Affairs Department (IAD) addressed the committee regarding efforts to implement Senate Bill 574, which passed during the 2008 legislative session. A final report with recommendations will be ready for presentation to the committee in October 2008. Alvin H. Warren, secretary of Indian affairs, introduced himself and his staff to the committee. Secretary Warren reviewed with the committee his initial priorities as the new secretary of Indian affairs: 1) to continue to improve management of capital outlay funds; 2) to expand the department's involvement in policy development; 3) to strengthen the role of tribal liaisons in state agencies; 4) to improve the protocols for tribal consultation by state agencies; 5) to increase the capacity of the IAD; 6) to broaden partnerships between the IAD and other entities, including foundations, nonprofit organizations and universities; and 7) to make New Mexico a leader in improving state-tribal relations and in working fairly with all tribal entities in New Mexico. Secretary Warren also suggested several topics that the committee may want to consider during the 2008 interim. Rebecca Martinez, capital outlay manager for the IAD, reviewed with the committee the status of capital outlay appropriations approved during the 2008 legislative session. Twenty-seven projects totaling approximately \$2.5 million were reauthorized in 2008. Forty-five projects totaling approximately \$1.1 million affecting the Navajo Nation may revert as of June 30 because those projects were not identified as needing to be reauthorized, yet they may not be ready to close out by June 30. Ms. Martinez also reviewed the efforts that are being made to assist the Navajo Nation in streamlining the process for the approval of capital outlay projects and encumbering appropriated funds.

The second interim meeting of the IAC was held in July at the Indian Pueblo Cultural Center in Albuquerque and the Pueblos of Isleta and Zia. On the first day of the meeting at the Indian Pueblo Cultural Center, Nancy Martine-Alonzo, Public Education Department (PED) assistant secretary for Indian education, presented information dealing with the status of Indian Education Act funds, updates on the implementation of the Indian Education Act and performance data. Kevin Shendo, co-chair of the New Mexico Indian Education Advisory Council (NMIEAC), presented concerns about funding for Native American education. Dr. Christine Sims, assistant professor in the Department of Language and Linguistics for the College of Education at the University of New Mexico, discussed the Tribal Language Certification Project funded by the IAD's special projects. Dr. Reed Dasenbrock, secretary of higher education, reported that the budget for tribal colleges will be presented along with the Higher Education Department budget this year, a breakthrough in handling the funding needs. He expressed concern that the department's role in the Indian Education Act is not spelled out and said he would attempt to clarify the desired outcome for higher education participation with the NMIEAC. Veronica Garcia, secretary of public education, reported that the rulemaking process for implementing the Indian Education Act amendments was just starting, but added that federal law and regulation set the standards for closing the achievement gap for Native American students. Jim Toya, director of the Albuquerque Region of the Indian Health Service (IHS), provided an update on the IHS. Sam Howarth, division director of the Division of Policy and Performance for the Department of Health (DOH), presented the status of Native American health programs. He discussed the mission of the Office of American Indian Health, stating that

the mission is to facilitate collaboration among the DOH, American Indian populations residing in New Mexico and other health partners to promote health and sound health policy, improve health services systems and ensure that essential public health functions and safety-net services are available to American Indians in New Mexico. Dr. Howarth also remarked on the New Mexico Health Disparities Report Card, examining 19 health status indicators. Clifford Phillips, the area administrator for Fresenius Medical Care, and Lillie Elledge, a registered nurse and educator for treatment options and home dialysis, presented information about kidney disease and dialysis to the committee.

The second day of the meeting was held at the Isleta Hotel and Convention Center. Governor Robert Benavides welcomed the committee and introduced Lieutenant Governor Max Zuni, who gave a history of the Pueblo of Isleta. A status report was given by Governor Benavides, including recent capital outlay projects and future projects for the pueblo. Georgina Louis, the state gaming representative from the New Mexico Gaming Control Board (NMGCB), presented the NMGCB's "Compulsive Gambling Funds Report". Dominic Dutton, attorney for the NMGCB and a member of the Compulsive Gambling Council, discussed future legislation, including proposed legislation in 2009 that expresses the desire to have regulatory procedures in establishing the process by which a person can seek self-exclusion from all non-tribal casinos and the lottery within New Mexico (the tribes and pueblos already have such processes in place). Mr. Dutton mentioned therapeutic justice, calling for legislation that would take compulsive gamblers out of the usual criminal category and place them into treatment. Jeff Jojola, president of the Responsible Gaming Association of New Mexico (RGANM), outlined the policy statement of the RGANM and explained some of the programs the association initiates and conducts. Kandace S. Blanchard, executive director of the New Mexico Council on Problem Gambling, discussed the health services available to compulsive gamblers and those affected by compulsive gambling. Martin Aguilar, Native American Election Information Program coordinator, discussed the activities and goals of the Native American Election Information Program. Its mission is to provide equal access to all phases of the election process to the Native American population in Sandoval County, including the Pueblos of Cochiti, San Felipe, Santo Domingo, Santa Ana, Sandia, Zia and Jemez, along with the Navajo chapters of Counselor, Ojo Encino and Torreon. Marvin Trujillo, voting rights coordinator for the pueblo, presented information about Native American voting for the pueblo. Alan Martinez, director of state benefits and the legislative liaison for the VSD, spoke about Native American veterans and the programs the department has in place. He discussed the Native American Veteran Service Officer Mentoring Program designed to recruit and train local Native American veterans to serve in their local pueblos and tribes and the Navajo Nation. This initiative is the first of its kind in the nation, according to Mr. Martinez. Mr. Brian Padilla, chair of the Tamaya Veterans Association, discussed Native American veterans returning from combat zones and the psychological trauma many have as a result of being in those zones. Mr. Padilla pointed out that there are several issues that need to be addressed regarding providing proper care for these returning soldiers.

The third day of the meeting was held at the Pueblo of Zia. Governor Ivan Pino welcomed the committee and identified members of his staff. Lieutenant Governor Fred Medina

thanked the committee for coming to the Pueblo of Zia. Governor Pino gave a brief history of the pueblo and thanked the legislature for funding the Intergenerational Center. Ken Lucero, assistant tribal administrator, discussed the Ambulatory Center Project at the Pueblo of Zia; the pueblo has outgrown the existing facilities, and attempts to raise capital have been ongoing since 2003. Neil Carter, a consultant from Neil Carter & Associates working with the Pueblo of Zia on the project, reviewed the requirements for the new ambulatory center to serve the pueblo adequately. Following the panel discussion regarding pueblo matters, the committee took a field trip to Zia Lake where former Governor Gauchupin discussed the history of Zia Lake and its uses. Sharon Pino, domestic violence czar from the Office of the Governor, discussed the services provided by the state for victims and witnesses of domestic violence, as well as those who commit domestic violence. Ms. Pino addressed updating the manual to be more culturally appropriate.

The third interim meeting of the IAC was held in August in Gallup, at the Bahasti'ah (Twin Lakes) Chapter of the Navajo Nation and in Window Rock, Arizona. On the first day of the meeting at the McKinley County Courthouse, City of Gallup Mayor Harry Mendoza and McKinley County Commissioner Ernest Becenti welcomed the committee to Gallup. Superintendent Ray Arsenault, Gallup-McKinley County School District; Interim Superintendent Bill Noland, Central Consolidated School District; Superintendent Dr. Kaye Peery, Zuni Public School District; and Superintendent Kilino Marquez, Grants-Cibola County School District, presented the steps taken in each of their respective school districts to implement the Indian Education Act. Thomas Reinheimer, chief executive officer of Veritec Solutions, LLC, gave a summary of the payday loan legislation that was passed in the legislature in 2007 and illustrated how the payday lending database operates in New Mexico and how it works on a transaction-by-transaction basis. William J. Verant, director of the Financial Institutions Division of the Regulation and Licensing Department, gave a status update on payday loans and the effect that the new laws have had on the number and character of payday lenders. He reviewed the provisions of the payday lending statutes that were passed in the legislature in 2007 and explained what he views as the installment loan loophole that permits some aspects of predatory consumer lending to continue in New Mexico. Karen J. Meyers, assistant attorney general and director of the AG's Consumer Protection Division (CPD), reviewed the history of complaints since the effective date of the 2007 payday lending legislation. Tony Erachio of the Council for Indigenous Arts and Culture gave a detailed presentation to the committee, explaining the manner in which non-authentic arts and crafts items are presented to the public and showed examples of how difficult it is to distinguish between items made of natural materials as opposed to synthetic materials. Nina Alexander of the Indian Arts and Crafts Board of the federal Department of the Interior explained the work her agency is doing in the area of controlling the sale of non-genuine Native American arts and crafts. Karl R. Gillson, district attorney of the Eleventh Judicial District, provided a detailed narrative of the prosecution of Amro Al-Assi, formerly of the Silver Bear Trading Company in Gallup. William S. Keller, assistant attorney general with the CPD, briefed the committee on the penalties of the Indian Arts and Crafts Sales Act compared to the general fraud statutes. The presentation included recommendations to amend the penalties in the Indian Arts and Crafts Sales Act to penalties similar to those provided in the general fraud statutes.

The second day of the meeting was held at the chapter house of the Bahasti'ah (Twin Lakes) Chapter. Notah Barney, vice president of the Bahasti'ah Chapter, and Christine Sam-Barney, community services coordinator of the Bahasti'ah Chapter, presented a status update on the chapter. Bella Ben and Wallace Ben, Sr., of Shiprock presented a proposal to make Highway 491 a scenic and historic route leading to the development of a visitors' center, Indian market, recreational vehicle park, convenience store and rest area for the Shiprock area. Jimson Joe, project manager for the Navajo Nation Department of Emergency Management, presented a report on the status of emergency management for the Navajo Nation and highlighted four areas that are priorities for emergency management: (1) mitigation; (2) preparation; (3) response; and (4) recovery. Johnny Johnson, a program and project specialist for the Navajo Nation Department of Emergency Management, presented the structure, goals and functions of emergency management for Crownpoint. John Martinez, deputy director of the Homeland Security and Emergency Management Department, presented a general overview of emergency management in New Mexico, including statutory powers, the disaster declaration process and the services provided. Heather Townsend, co-chair of the legislative committee for the All Indian Pueblo Council, and Governor Pino from the Pueblo of Zia remarked that 21 other tribes and pueblos were not included in the emergency management fund, and they both want these tribes and pueblos included. Bahasti'ah elders Clara John and Joe Pino spoke before the committee, with Representative Ray Begaye translating. Ms. John expressed concern about the expense of ambulance service and of recovering bodies from the morgue. Mr. Pino outlined trouble with culverts being washed away in flooded arroyos near his home. Christina M. Stick, policy analyst for the IAD, discussed poverty in the Native American population and the work conducted by the Ad Hoc Native American Working Group and outlined the working group's recommendations for those issues. Charissa Saavedra, director of the Child Support Enforcement Division of the Human Services Department (HSD), gave a presentation discussing the child support program, including tribal support programs. Pierette Baldwin-Gumbrecht, program supervisor with the Navajo Nation Department of Child Support Enforcement, discussed the background and status of child support enforcement for the Navajo Nation. Cathy Sisneros, bureau chief of work and family support, Income Support Division, HSD, presented the status of the Low Income Home Energy Assistance Program (LIHEAP) and its functions in the Navajo Nation. Sherry Dinezzle, who is with block grants/special projects from the Navajo Nation Division of Social Services, presented a report on LIHEAP for the Navajo Nation.

The third day of the meeting was held at the Navajo Nation Museum in Window Rock, Arizona. Secretary Warren and Ms. Martinez gave a presentation to the committee pertaining to the status of New Mexico capital outlay appropriations for the Navajo Nation. Patsy Trujillo, deputy secretary of the Aging and Long-Term Services Department (ALTSD), discussed capital outlay appropriations for the ALTSD. Stanley Yazzie, deputy director of the Division of Community Development for the Navajo Nation Council, thanked the committee for its service to the Navajo Nation and introduced Casey Begaye, manager of the Capital Improvement Office of the Navajo Nation. Mr. Begaye provided two recommendations for the legislature to help with the capital outlay process. First, the scope of funding needs to be broadened to include planning, designing, purchasing, equipping and maintaining. Second, the scrutiny and time frames for project completions are too strenuous and often prove to be unrealistic.

The fourth interim meeting of the IAC was held in September at the Shiprock, Upper Fruitland and Nageezi chapters of the Navajo Nation. On the first day of the meeting at the Shiprock Chapter, Donald Benally, vice president of the Shiprock Chapter, welcomed the committee on behalf of the Shiprock Chapter. Leonard Anthony, council delegate, expressed concern to the committee regarding funding from the state, the monitoring process and utilization of funds. Peter Deswood joined the panel to provide a capital outlay update. Ms. Martinez presented an update and status report on the IAD allocation of funds for the Shiprock Chapter. Wallace Charlie discussed some problems that the new high school on the New Mexico and Arizona border in the Navajo Nation is experiencing. Tim Stepetic, associate director for administrative services of the OMI, discussed proposed legislation by his office regarding new subpoena power, policies, procedures and powers and the name for the OMI. Amy Wyman, supervisor of technical services for the OMI, gave a presentation regarding the OMI's policy of cultural deference and procedures for dealing with the remains of Native Americans. Dave Simon, director of the State Parks Division of the Energy, Minerals and Natural Resources Department, presented the results of a feasibility study undertaken in response to House Joint Memorial 11, passed in the 2008 legislative session, regarding the designation of Shiprock Pinnacle as a state park. Martin Begaye with the Navajo Nation Parks and Recreation Department said the Navajo Nation requires its parks to fund themselves through revenue generated from the parks. He said that working with New Mexico state parks would help fund the project and help bring more people into the proposed park. Following questions and discussion by committee members, committee members traveled to Shiprock Pinnacle for an on-site briefing by state and Navajo officials and local residents.

The second day of the meeting was held at the chapter house of the Upper Fruitland Chapter. Lorenzo Bates, delegate to the Navajo Nation Council for the Upper Fruitland Chapter, reviewed the chapter's use of prior capital outlay appropriations and future capital outlay needs. Raymond Tsosie discussed the history and structure of the chapter and the way the members use its facilities and services. Lynn M. Bitok, the supervisor for the Upper Fruitland Senior Center, discussed the chapter's senior center. Lenny Esson, youth program coordinator for Upper Fruitland, discussed youth programs at the chapter. Rick Golbe, commander of the Upper Fruitland Veterans Organization, and Rachel Hatch, secretary and treasurer of the Upper Fruitland Veterans Organization, discussed the status of veterans' programs in Upper Fruitland. Elaine Benally, Upper Fruitland scholarship chair, discussed the status of college scholarships for 25 students from Upper Fruitland. Paul J. George, veterans' services officer for the Shiprock Agency of the Navajo Nation, discussed a veterans' housing project. Raymond Jim, president of the Navajo Veterans' Organization of the Northern Navajo Agency, presented a request to the committee for assistance to amend Senate Bill 574 from the 2008 session to appropriate funds into the Native American Veterans' Income Tax Settlement Fund. Morris Johnson and Perry Benally, both Native American veterans, expressed their concerns about SB 574 and their desire to rectify the situation. Marian Johns, a member of the Shiprock Chapter Veterans' Organization, said that there is a need for clarification about the status of SB 574 and asked what course of action must be taken to rectify the situation. Ray Etcitty, general counsel for the Navajo Nation Gaming Enterprise, presented the structure and status of the Navajo Nation Gaming Enterprise. The Navajo Nation will open a casino called the Fire Rock Casino, which

will be self-funded. The Upper Fruitland and Hogback chapters are still under consideration for future casinos. Mike Salabiye, Navajo Nation tribal planner, and Dr. Christopher Morris of the Navajo Department of Behavioral Health Services, presented a status report on the Navajo Department of Behavioral Health Services and the Navajo Regional Behavioral Health Center. Secretary Warren provided an update and status report for the Tribal Infrastructure Board. Lyndy Bennett, San Juan County district attorney, presented the status of truancy protocol and commented that it is relatively effective, but it can improve. Patsy Felter, district office manager for the eleventh judicial district attorney (Division One), stated that there is a local judge in Farmington that has worked well with the schools to help make the truancy system more efficient and effective and expressed the desire for the legislature to pass a law that allows parents to be placed on observatory probation. John Whitehead, truant officer for Farmington Municipal Schools, spoke about issues dealing with truant students. Dr. Kristine M. Meurer, director of the School and Family Support Bureau of the PED, discussed truancy, remarking that truancy is usually a symptom of something larger than not liking school, such as physical abuse or substance abuse. She presented information about the truancy prevention model that utilizes a case management approach. Ron Lucero, the statewide truancy coordinator for the School and Family Support Bureau, said a truancy guide has now been made available and can be viewed on the bureau's web site. Mr. Lucero discussed the contracts the bureau has to help curtail truancy and how best to deal with Native American tribes and pueblos. Robert Joe, plant manager of the Raytheon Missile Systems Navajo Agricultural Products Industry, invited committee members to tour Raytheon's new facility. Wava White of the Navajo Nation Division of Economic Development gave a short presentation on the history of the NAPI Industrial Park.

The third day of the meeting was conducted at the chapter house of the Nageezi Chapter. Juan E. Betoni, president of the Nageezi Chapter, told the committee that the chapter would be requesting funds for power line extensions, vehicle purchases, solar power systems for remote areas, senior center updates, chapter security updates and assisted living programs for the elderly. Louise Gleason, community service coordinator for the Nageezi Chapter, provided an update on the status of the chapter for the committee. Rory A. Jaques, vice president of the Nageezi Chapter, told the committee that there are many needs for infrastructure and electricity in the Nageezi Chapter; power lines are a major priority for the chapter. Mr. Jaques stated that there are problems with capital outlay funds, and some funds, although allocated to the chapter, have not been received. Ervin Chavez, county commissioner of San Juan County District 2, discussed issues and concerns with appropriation of funds and conditions of roads in the chapter. He stated that three miles of road on Route 7950 have been chip sealed, but 16 miles have not. Although the government wants improved access to the Chaco Culture National Historical Park, Mr. Chavez stated there has been opposition from the Historic Preservation Division of the Cultural Affairs Department (CAD). Philemon Allison, acting district manager of the Navajo Tribal Utility Authority (NTUA), presented a status update and report on the structure of the NTUA. Leland Leonard of the Navajo Nation Telecommunications Regulatory Commission (NNTRC) presented an update on the NNTRC. Kee Long, program manager of the Navajo Film Office for the Office of Broadcast Services, presented information on the sharing of bandwidth and broadcasting of television stations. John Badal, chief executive officer for Sacred Wind Communications, stated that the goal is to serve the underserved areas of the Navajo Nation.

Mr. Badal told the committee he wants legislation to create a personal computer recycling and refurbishing center to help make personal computers available to more people in the Navajo Nation.

The first two days of the fifth interim meeting of the IAC held in October were held jointly with the Radioactive and Hazardous Materials Committee in Crownpoint and Grants. Elmer Guy, president of Navajo Technical College, welcomed the committees and provided background about Navajo Technical College. Jamison DeVore, president of the Crownpoint Chapter of the Navajo Nation, also welcomed the committees to Crownpoint. He told the committees that Crownpoint was considered the uranium capital of the Navajo Nation, but the nation then discovered that it was a harmful industry. Alice W. Benally, Crownpoint delegate to the Navajo Nation Council, told the committees that uranium mining is good for the economy, but only for the short term. She stated that once a mine is exhausted, it leaves a legacy of detrimental results to the people, animals and land. Douglas M. Bland, special projects manager for the New Mexico Bureau of Geology and Mineral Resources, a division of New Mexico Institute of Mining and Technology (NMIMT), provided an objective view of the uranium industry. He discussed the economic effects involved with uranium mining in terms of costs to extract and produce uranium compared to the value of uranium. Mr. Bland concluded that New Mexico's reserves of uranium are by no means exhausted. Paul Robinson, research director of the Southwest Research and Information Center, said that the uranium reserves that exist today are more than adequate to fuel any conceivable expansion of nuclear power, and the nuclear fuel market will be more than adequately supplied to the year 2020. He commented on the economics of the uranium industry and concluded that there is not a lot of room for new mining operations in New Mexico. Rick Van Horn, executive vice president and chief operating officer of Uranium Resources, Inc. (URI), discussed the economic side of mining uranium from the industry's perspective. Following this panel discussion, members of the public were given an opportunity to comment on the potential resumption of uranium mining and milling in New Mexico. The next presentation was by Peter A. Scholle, state geologist and director of the New Mexico Bureau of Geology and Mineral Resources, who discussed the technical aspects of uranium mining, milling and enrichment. Mr. Van Horn then presented information regarding modern techniques in uranium mining. Michael W. Capitan of Eastern Diné Against Uranium Mining gave a presentation to the committees about his experience with in situ leach (ISL) mining. Milton Head of the Bluewater Valley Downstream Alliance gave a presentation regarding the environmental effects on ground water of uranium mining and milling activities. The next panel discussed the current status of past uranium mining and milling sites. Bill Brancard, director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department, gave a progress report on a survey of abandoned uranium mines. Rich Bush, project manager for the Office of Legacy Management of the United States Department of Energy (DOE), gave a presentation to the committees dealing with effectively and efficiently managing the DOE legacy responsibilities. Scott Stollman, senior policy advisor for the Environmental Protection Agency (EPA) Region 9, reported on the activities of the EPA in cleaning up contaminated uranium mining and milling sites. Teddy Nez, resident of the Red Water Pond Road area, gave a presentation on behalf of the residents living next to the Northeast Church Rock mine and the Church Rock uranium mill and tailings disposal area. Randy Foote,

New Mexico operations director for URI, said the EPA document he was discussing was not a study of abandoned or former uranium mines. He said that the study was geared toward finding the worst sites in terms of contamination. Mr. Foote stated that the way the study was approached results in a misleading report. He stated that the industry does support the cleanup of sites.

The second day of the joint meeting was held at the Cibola County Convention Center in Grants. The first panel addressed recent judicial, legislative and regulatory developments related to the uranium industry. Marcy Leavitt, director of the Water and Waste Management Division of the Department of Environment (NMED), gave a presentation to the committees regarding water quality and uranium mining. Mr. Brancard discussed permitting under the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department. He said that his agency's focus is on the surface and cleanup of contamination. Jan Biella, deputy historic preservation officer for the Historic Preservation Division of the CAD, discussed cultural resources and proposed uranium development in New Mexico and examined the legal protections for cultural resources in New Mexico. She also outlined cultural resources and cultural properties designations, including state register, national register and traditional cultural property. Following this panel discussion, members of the public were given an opportunity to comment on the potential resumption of uranium mining and milling in New Mexico. On a panel discussing state legislative initiatives, Chris Shuey, director of the Uranium Impact Assessment Program at the Southwest Research and Information Center, presented concerns about the uranium legacy issue and about potential new uranium development. He stated that the legislature should help define the extent of damage to the state's water resources from historic uranium mining and milling discharge by funding regional water quality studies. He also presented recommendations to the committee, including exploring the idea of having a surcharge or fee on the generation of wastes from new uranium mining and milling activities and having the state conduct a comprehensive review of existing state and federal regulations applicable to uranium mining and milling. Mr. Velasquez said the industry will not be initiating any specific legislative package, but he believes the industry is willing to take on its side of the legacy issue. Mark Pelizza, vice president for URI, stated that the process of starting the mining up again and the gearing up of dealing with the legacy issue will take time. He stated that the coal model for taxation, cleanup and responsibility is useful for the uranium mining industry. The day's meeting concluded with committee members discussing possible state legislative initiatives for the 2009 legislative session.

The third day of the meeting was held at the chapter house of the Ramah Chapter of the Navajo Nation. Leo L. Pino, president of the Ramah Chapter of the Navajo Nation, presented a status update on the chapter. Cecil Frank Eriacho, Ramah's delegate to the Navajo Nation Council, said the chapter is working to get things done within the policy set forth by the Navajo Nation and wants to continue cooperation with the State of New Mexico. Mr. Eriacho said that he hopes things will progress in the future, and he wants to continue advocating to resolve the chapter's concerns. Bennie Cohoe, executive director of the Ramah Navajo School Board, Inc. (RNSB), said that the RNSB's mission is to provide a culturally viable educational foundation that sustains a healthy lifestyle and provides economic, technological and infrastructure

development that promotes and preserves the autonomy of the Ramah Band of the Navajo Nation. Dr. Sanjeev Arora, director of Project ECHO for the Health Sciences Center at the University of New Mexico (UNM), gave a presentation to the committee about Project ECHO. He said its mission is to develop the capacity to treat chronic, common and complex diseases in rural and underserved areas safely and effectively and to monitor outcomes. Secretary Garcia and Secretary Homans discussed the Native American Veterans' State Income Tax Settlement. In their presentations, the secretaries discussed Senate Bill 574, which was introduced by Senator John Pinto and passed in 2008. According to the secretaries, until settlement claims are filed, it is impossible to know the precise number of Native American veterans who were residents on tribal lands during their military service after July 1, 1977 and before 2004; how much was withheld from their exempt military pay; or how many who had taxes improperly withheld filed a New Mexico income tax return and received a refund. The secretaries said they have developed a draft set of rules for administering the Native American Veterans' Income Tax Settlement Fund and for making payments from it. The guiding principle of these draft rules is that any settlement payments can and should be made in the fairest way possible. They plan to enter into a formal government-to-government consultation with tribes on these rules before they are finalized as regulation.

On October 30, 2008, the Mining Act Subcommittee of the IAC held a meeting at the State Capitol. Mr. Brancard provided an overview of the New Mexico Mining Act. In response to questions from the subcommittee regarding the act, Mr. Brancard explained the impact of several sections of that act. Ms. Leavitt, began her presentation by providing a time line of the Water Quality Act. She then continued to explain the major duties and powers of the NMED. The NMED also has primacy for the federal Underground Injection Control (UIC) Program, which covers ISL mining facilities. Ms. Leavitt also informed the subcommittee that the Water Quality Act created the Water Quality Control Commission (WQCC), and provided a comprehensive overview of the WQCC rules that cover ground water protection and the remediation program. Mr. Bland joined the other two presenters. All three presenters came to a consensus that there are no major gaps in the relevant law dealing specifically with uranium mining. Representative Patricia A. Lundstrom began the discussion of revisions to existing state laws affecting uranium mining by reiterating the issues of concern expressed by the subcommittee during the meeting. During discussion regarding the subcommittee's concerns, members focused on the appointment of public members of the two commissions to represent various viewpoints; consultation with the tribes concerning uranium mining; a comprehensive approach to address all concerns; a health assessment of the affected areas; and working with the agencies and the Office of the Governor to address the cleanup of legacy sites through legislation. At the conclusion of the subcommittee meeting, the members voted without opposition to recommend that the IAC take seven specific steps related to uranium mining and milling activities.

The sixth meeting of the IAC for the 2008 interim was held in November at the Pueblos of Picuris and San Ildefonso and at the State Capitol. On the first day of the meeting at the Pueblo of Picuris, Craig Quanchello, governor of the Pueblo of Picuris, welcomed the committee and discussed the pueblo's needs, including suitable infrastructure improvement. Richard

Mermejo, lieutenant governor of the Pueblo of Picuris, reiterated that health care issues are extremely important and a very big concern for the pueblo. Lieutenant Governor Mermejo said that the pueblo's small population hinders its political sway and its clout to get necessary programs. Howard Spiegelman, executive director of the New Mexico Alliance for School-Based Health Centers (NMASBHC), presented a status update on the NMASBHC. He said that young Native American students are taking the initiative to stay healthy because that helps their overall performance and achievement. Regina Roanhorse, policy project manager of the NMASBHC, provided an overview of the goals and programs of the NMASBHC. Ms. Roanhorse also discussed the Native H.O.P.E. (Helping Our People Endure) Suicide Prevention Training Program. Joyce Naseyowma-Chalan, associate director for the University of New Mexico Center for Native American Health (CNAH), introduced herself and turned the presentation over to Tassy Parker, director of research and development for the CNAH. Ms. Parker provided an overview of the CNAH. Ms. Parker listed the center's projects for 2008-2009. Michael Bird, commissioner of the Bernalillo County Off-Reservation Native American Health Commission, discussed the status of the commission, which was established with a house bill from the 2008 legislative session. He said that, so far, the commission has created an analytical team to look at available demographic and health care utilization data. The final report will provide information on Native Americans in Bernalillo County, including providers offering current services; major reasons for visits to the emergency room; inpatient care and clinics; levels of health coverage; costs, charges and self-pay impacts; and an inventory of services available. Dr. Jim Henderson, San Juan County commissioner, stated that improvements of the road to Chaco Canyon are necessary. He said the poor condition of the road has been an issue in the area for the past 25 years. Dr. Henderson explained that, due to the controversy over adverse impacts on Chaco Canyon from improving the road, the Federal Housing Administration (FHA) has required an environmental assessment, which will be completed in April 2009 at a cost of \$344,000. He said that even with the environmental assessment, the FHA is now contemplating requiring a full environmental impact statement, which would take two to three additional years and cost an additional \$400,000. There is concern about this possibility because that would leave only \$256,000 of the original \$1 million in funding. Dr. Henderson requested the help of the IAC regarding procedures and financial aid. Keith Johns, executive officer for San Juan County, said the improvement is a safety issue and he wants to repair, update and crown the road to help the residents of New Mexico. David Keck, public works administrator for San Juan County, said the FHA will evaluate if there needs to be a full-blown environmental assessment. The presenters in favor of the chip seal would like the FHA to issue a finding of no significant impact so they can move forward with the chip seal without further delay. Katherine Slick, director of the Historic Preservation Division in the CAD, said she operates under the Historic Preservation Loan Act, not the National Environmental Policy Act. The FHA is considered the lead agency on the road situation, and her division follows the FHA's lead. Barbara West, superintendent of the Chaco Culture National Historical Park, said park administrators are concerned with the impact on the environment and on the park itself. The park does not have the facilities, including water and staff, to deal with a boost in visitation.

The second day of the committee meeting was held at the senior center at the Pueblo of San Ildefonso. Leon T. Roybal, governor of the Pueblo of San Ildefonso, welcomed the committee to the pueblo and described the activities and services held in the senior center. Governor Roybal also discussed capital outlay, highlighting the pueblo's efforts to spend the money properly and efficiently. Terrence K. Garcia, second lieutenant governor of the Pueblo of San Ildefonso, discussed recent talks with the IAD and the ALTSD. The pueblo is planning and designing a wellness center that will focus on diabetes prevention, obesity, cancer and other health issues and will also serve as a gymnasium. Chris Moquino, tribal administrator of the Pueblo of San Ildefonso, discussed the gasoline tax and health care issues, including the IHS, Medicare and Medicaid. Committee members expressed concern about the letter that Governor Richardson sent to the Local Government Division of the Department of Finance and Administration about de-authorizing capital outlay funds. Secretary Warren indicated that the IAD is planning to work with all the tribes and pueblos to make the impact of the budget shortfall as small as possible. John D'Antonio, state engineer, presented the 2008 Indian Water Rights Settlement Fund report to the committee. Michael Benson, program and projects specialist for the water management branch of the Navajo Nation, supported continual funding for the Regional Water Planning Program. Deputy Secretary Travis Suazo provided background on House Memorial 94 from the 2007 legislative session. The IAD convened the Native American Women Domestic Violence Study Workgroup on August 17, 2007, with representatives from the Children, Youth and Families Department, the DOH, the New Mexico Interpersonal Violence Data Central Repository, the Office of the Governor, the Pueblo of Santa Clara and the Coalition to Stop Violence Against Native Women. To address the situation of domestic violence, Deputy Secretary Suazo asserted the need to approach the problem of domestic violence in a culturally aware and sensitive manner. Sharon Pino, domestic violence czar, discussed the services available for domestic violence, focusing on the national domestic violence hotline. Deputy Secretary Suazo presented an update on the status of House Memorial 59, which involves tribal libraries. He said that the IAD and state library developed and conducted a survey to assess the operational needs of tribal libraries. The state library also conducted a financial needs assessment. The results and recommendations of the survey and assessment were compiled into House Memorial 59 in November 2008. Deputy Secretary Suazo said the IAD will coordinate with libraries throughout the state, including tribal libraries, to work with legislators to get more funding, to address their needs and to fill the vacant tribal library coordinator position. Geri Hutchins, federal programs coordinator at the New Mexico State Library, supported Deputy Secretary Suazo's presentation. Lana Paolillo, education director at the Pueblo of San Ildefonso, introduced the tribal librarians in the audience. She said it is vital to help tribal libraries with funding to construct facilities, get equipment, obtain books and pay salaries. Secretary Dasenbrock discussed the higher education institutions that are serving Native Americans. The Native American-Serving Non-Tribal Institutions Program is an initiative that provides funding to nontribal colleges with a student population that is at least 10 percent Native American. The program provides grants of at least \$200,000 to support curriculum development and academic instruction; faculty development; the purchase of books and other educational materials; and academic tutoring and counseling. Secretary Warren informed the committee that funding from the Kellogg Foundation had been secured to host a summit on tribal emergency management. Ms. Townsend of the All Indian Pueblo Council

discussed the Tribal Emergency Management Summit that took place in Albuquerque on October 17, 2008. Mark Holyan, policy analyst for the IAD, said that while not all Indian nations, tribes, pueblos and other entities were present at the summit, 14 of them were represented, and that is a high representation level.

The third day of the meeting was held at the State Capitol. Secretary Homans updated the committee on progress made to address the state gross receipts tax rules of public utilities and telecommunications companies on Indian lands. Secretary Homans indicated that the TRD has participated in the working group meetings held by the PRC to address the issue. The department supports the proposed solutions, such as forms and a database clearinghouse. Roy Stephenson, director of the Utility Division of the PRC, presented the report of the working group. The working group came up with sample forms, outreach that collects necessary information and protects privacy concerns, a legal analysis, lists of taxes improperly charged and a handbook to serve as a guide to the issue. Secretary Warren presented two bills for consideration by the committee. The first bill for consideration relates to governmental affairs. The proposed act would require state-tribal collaboration and communication. While the bill could not direct Indian nations, tribes or pueblos to take action, the bill does direct state agencies to take steps to increase collaboration and communication with the Indian nations, tribes and pueblos. Secretary Warren presented to the committee for endorsement a bill relating to real property. The proposed act would amend the New Mexico Subdivision Act to require tribal consultation in specific instances. The committee then considered and voted on initiatives for the 2008 legislative session, including substantive legislation, memorials and appropriations. The committee voted to endorse the following proposals:

Substantive Bills

- a Native American veterans' tax refund;
- the Indian Arts and Crafts Sales Act;
- the Uranium Legacy Cleanup Act;
- predatory mortgages;
- state-tribal collaboration;
- the Subdivision Act — tribal consultation;
- the Post-Secondary Indian Education Act; and
- a dual credit program.

Memorials

- federal financial assistance — cleanup of abandoned uranium mine sites

Appropriations

- an inventory of abandoned uranium mine sites (\$300,000);
- a comprehensive health study - uranium contamination (\$200,000);
- a comprehensive study of san mateo basin aquifers (\$650,000);
- water planning (\$400,000);
- Native American arts and crafts authenticity (\$100,000); and
- a Native American adolescent health program (\$50,000).

The seventh meeting of the Indian Affairs Committee for the 2008 interim was held on December 17 at the State Capitol in Santa Fe, New Mexico. Bruce Bernstein, executive director of the Southwestern Association for Indian Arts, and Vernon Lujan, director of the Poeh Cultural Center and Museum, both of whom are members of the Governor's Task Force on Native American Arts Authenticity, briefed the committee on the recent activities of the task force and on the legislative recommendations of the task force. Joe Garcia, chair of the All Indian Pueblo Council, commented upon the problem of the sale of non-authentic Native American arts and crafts items and indicated that an appropriation to the Cultural Affairs Department to study the extent of misrepresentation of Native American arts and crafts will help produce recommendations to achieve the desired effective changes. Members of the committee expressed reservations regarding the proposed appropriation bill that calls for studies of the issue when the existence of the problem is widely known. Upon a motion by Senator Lovejoy, seconded by Representative Madalena, the committee voted without objection to endorse the proposed appropriation to the Cultural Affairs Department. Upon a motion by Representative Madalena, seconded by Senator Lovejoy, the committee voted without objection to endorse a separate bill to be sponsored by Representative Madalena to appropriate \$100,000 to the Office of the Attorney General for the enforcement of laws pertaining to the misrepresentation of Indian arts and crafts authenticity. Secretary of Indian Affairs Alvin Warren gave a brief overview of the status of the capital outlay projects for which the Indian Affairs Department is responsible and then turned to Rebecca Martinez, capital outlay manager at the department, for a detailed report on capital outlay. Navajo Nation Vice President Ben Shelly provided a summary of the capital outlay projects awarded to the various chapters of the Navajo Nation. Additionally, Vice President Shelly presented a letter and several resolutions regarding Governor Richardson's direction to classify all capital outlay projects into categories that can then be used to generate a recommendation for de-authorization as part of an effort to balance the state's budget for fiscal year 2009, and the Navajo Nation's efforts to move its capital outlay projects in response. Arbin Mitchell, director of the Division of Community Development of the Navajo Nation, presented a report on the status of capital outlay projects awarded to the Navajo Nation and its chapters. Mr. Mitchell indicated that in order to move forward with these projects and avoid the possibility of de-authorization, the Navajo Nation had contacted all the affected chapters and informed them that the projects at risk of being de-authorized would be pooled together for different projects to move them forward. The committee expressed concern about the ability of the Navajo Nation to unilaterally pool individual chapter appropriations and expend them on a common project for the Navajo Nation without the reauthorization of the state. An alternative was for the legislature to exempt capital outlay for the Indian nations, tribes and pueblos from de-authorization. Upon a motion by Senator Lovejoy, seconded by Representative Madalena, the committee voted without objection to request that capital outlay projects for all tribal entities be exempt from consideration for de-authorization as part of the effort to balance the state's budget for fiscal year 2009. Secretary Warren then reviewed the department's budget plans for fiscal year 2010. Secretary Warren and Governor Ivan Pino of the Pueblo of Zia provided a summary of the revised bills addressing state-tribal collaboration and tribal consultation in the case of subdivision proposals. Upon a motion by Senator Rainaldi, seconded by Senator Rodriguez, the committee voted without opposition to endorse the proposed State-Tribal Consultation Act and the proposed bill amending the New Mexico Subdivision Act. Secretary of Higher Education

Reed Dasenbrock and members of his staff presented the proposed Post-Secondary Indian Education Act and a proposed bill to extend the dual credit programs to tribal colleges and federal Bureau of Education schools. Upon a motion by Representative Madalena, seconded by Senator Rodriguez, the committee voted without opposition to endorse these two bills. The committee then considered and voted on initiatives for the 2009 legislative session, including substantive legislation, memorials and appropriations. The committee voted to endorse the following additional proposals:

Substantive Bills

- Native American Veterans' Tax Refund

Memorials

- Amendments to the Federal Radiation Compensation Act
- Cleanup of Fort Wingate
- Appointment of a Uranium Mining Task Force

Appropriations

- CYFD Counselor for Domestic Violence (\$43,000)
- Comprehensive Health Study — Uranium Contamination (\$200,000)
- Tribal Emergency Management (\$5,000,000)
- Tohatchi Chapter Youth Development Program (\$230,000)
- Navajo Nation Child Support Program (\$119,000)

**2008 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
INDIAN AFFAIRS COMMITTEE**

Membership

Rep. James Roger Madalena, Co-chair
Sen. John Pinto, Co-chair
Sen. Rod Adair
Rep. Ray Begaye
Sen. Dianna J. Duran
Rep. Justine Fox-Young
Sen. Lynda M. Lovejoy

Rep. Patricia A. Lundstrom
Rep. John Pena
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Gloria C. Vaughn
Rep. W. C. "Dub" Williams

Advisory Members

Sen. Joseph J. Carraro
Rep. Ernest H. Chavez
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Sen. Richard C. Martinez

Rep. Debbie A. Rodella
Rep. Nick L. Salazar
Sen. William E. Sharer
Sen. David Ulibarri

Work Plan

The Indian affairs committee has existed since 1989 as a result of post-session New Mexico legislative council action each year. In view of the fact that the committee's work addresses issues relating principally to New Mexico's Native American population, the committee strives to conduct its meetings in locations that are accessible to the state's tribal members and their leaders. The committee views its meetings as an essential way of relating the work of the legislature to this segment of its constituency. This year, in addition to meetings in Santa Fe, the committee plans to meet at five chapters of the Navajo Nation, five of the 19 pueblos located in New Mexico, the capital of the Navajo Nation and the cities of Albuquerque, Gallup and Grants.

A. The Indian affairs committee proposes to explore and discuss the following topics during the 2008 interim:

1. capital outlay, including tracking the expenditure of allocated funds and coordination with the Navajo Nation;
2. implementation of the Indian Education Act and Native American education, including enforcement of truancy laws;
3. health care for Native Americans and in Native American communities;
4. domestic violence in Native American communities, funding of shelter facilities and the impact of substance abuse and DWI violations;

5. resumption of uranium mining on tribal lands and cleanup of abandoned uranium mining and milling sites;

6. Native American veterans' affairs, including settlement of state income tax refund claims;

7. services provided by the office of the medical investigator to tribal communities;

8. funding of projects from the tribal infrastructure project fund;

9. collection of taxes by utilities from customers on tribal lands;

10. feasibility of designating Shiprock Pinnacle as a state park;

11. Navajo Nation child support services;

12. tribal emergency management services;

13. disproportionate incarceration of Native Americans in relation to the population;

14. gambling addiction treatment services, including accountability for funding set aside for that purpose;

15. status of Indian water rights settlements in coordination with the water and natural resources committee; and

16. Native American voting rights and election issues in coordination with the courts, corrections and justice committee.

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

APPROVED MEETING SCHEDULE

<u>Date</u>	<u>Location</u>
May 21	Santa Fe
July 7-9	Albuquerque, Pueblo of Isleta, Pueblo of Zia
August 11-13	Gallup, Rock Springs Chapter, Window Rock, Arizona
September 8-10	Shiprock Chapter, Upper Fruitland Chapter, Nageezi Chapter
October 1-3	Crownpoint Chapter, Grants, Ramah Chapter
November 5-7	Pueblo of Picuris, Pueblo of San Ildefonso, Santa Fe

Revised: May 19, 2008

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**May 21, 2008
Room 322, State Capitol**

Wednesday, May 21

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **2008 Legislation — Summary**
—Chase Van Gorder, Staff Attorney, Legislative Council Service (LCS)
- 10:30 a.m. **Interim Committee Protocols**
—Paula Tackett, Director, LCS
- 11:00 a.m. **Public Utility Taxation on Tribal Lands**
—Roy Stephenson, Director, Utility Division, Public Regulation Commission
—Representative, Taxation and Revenue Department (TRD)
—Brian Harris, Office of the Attorney General
- 12:00 noon **Lunch**
- 1:00 p.m. **Native American Veterans' State Income Tax Settlements**
—John Garcia, Secretary, Veterans' Services Department
—Rick Homans, Secretary, TRD
- 1:30 p.m. **Indian Affairs Department — Update**
—Alvin Warren, Secretary of Indian Affairs
—Rebecca Martinez, Capital Outlay Manager, Indian Affairs Department
- 2:30 p.m. **2008 Interim Work Plan and Meeting Schedule Development**
—Chase Van Gorder, Staff Attorney, LCS
- 3:30 p.m. **Adjourn**

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

**May 21, 2008
Room 322, State Capitol
Santa Fe, New Mexico**

The first meeting of the Indian Affairs Committee for the 2008 interim was called to order by Representative James Roger Madalena, co-chair, at 10:24 a.m. on Wednesday, May 21, 2008, in Room 322 of the State Capitol in Santa Fe.

Present

Rep. James Roger Madalena, Co-Chair
Rep. Ray Begaye
Sen. Dianna J. Duran
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Rep. John Pena
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Gloria C. Vaughn

Advisory Members

Rep. Ernest H. Chavez
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Staff

Chase Van Gorder
Larry Matlock

Guests

The guest list is in the meeting file.

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

Absent

Sen. John Pinto, Co-Chair
Sen. Rod Adair
Rep. Justine Fox-Young
Sen. John C. Ryan
Rep. W. C. "Dub" Williams

Sen. Joseph J. Carraro
Sen. Timothy Z. Jennings
Sen. William E. Sharer
Sen. David Ulibarri

Wednesday, May 21 — State Capitol, Santa Fe

Interim Committee Protocols

Paula Tackett, director, Legislative Council Service (LCS), briefed the committee on various topics concerning protocol during interim committee meetings. Items discussed included quorum requirements for voting purposes and for payment of per diem and mileage, appointment of temporary committee members for quorum purposes, voting on and approval of committee business, chairing committee meetings, voting member calendar conflicts, scheduling and committee staffing.

2008 Legislation — Summary

Mr. Van Gorder reviewed with the committee the fate of bills endorsed by the committee for the 2008 legislative session as well as the fate of other bills that may be of interest to committee members. One substantive bill endorsed by the committee that was passed was Senate Bill 18 regarding the reversion of capital outlay appropriations to the Tribal Infrastructure Project Fund. Two other substantive bills of interest that passed were House Bill 236 regarding off-reservation Native American health and Senate Bill 574 regarding the refund of taxes withheld from Native American veterans. A compromise bill that would have imposed a surtax on uranium mining and milling activities to fund the cleanup of abandoned uranium mining and milling sites passed the legislature, but was vetoed by the governor. Questions and discussion by committee members concerned the reauthorization process, the drafting of bills throughout the interim, pre-filing legislation and duplicate bills.

Public Utility Taxation on Tribal Lands — Update

Jason A. Marks, chair, Public Regulation Commission (PRC), briefed the committee on the PRC's investigation of complaints regarding the alleged improper collection of state and county taxes by utilities serving Native American customers residing on tribal lands. The collection of such taxes by the state is preempted by federal regulations. The PRC first looked into this matter in 2001. Following workshops attended by tribal representatives, telecommunication companies and the Taxation and Revenue Department (TRD), the telecommunication companies formulated various solutions to the problem, including the use of an "opt-out" form to be used by Native American customers. The PRC was made aware in late 2007 that these solutions were not working and recently opened a new inquiry into the matter. On May 19, the PRC conducted its first workshop on the current inquiry, and participants included many of the pueblos, as well as the Navajo Nation and representatives of telecommunication companies and the TRD. It was determined that the opt-out forms currently being used by telecommunication companies have had only moderate success, that privacy concerns were a barrier to consumers' use of such forms and that their use was a burden to consumers. A second workshop will be conducted on July 11, 2008, and the PRC will engage in government-to-government consultation with tribal entities regarding this issue.

Jim Nunns, tax policy director, TRD, also briefed the committee on this issue. Mr. Nunns reviewed the current state regulations regarding the collection of gross receipts taxes from telecommunication and public utility companies for services provided to Native Americans residing on tribal lands. Mr. Nunns reviewed the ways in which telecommunication and public

utility companies have been attempting to comply with the existing restrictions on the collection of gross receipts taxes from Native American customers. Concerns raised by participants at the May 19 meeting included public awareness of the prohibition on the collection of taxes in certain circumstances, privacy concerns with the use of the opt-out forms, the movement of tribal customers, unclear or changing physical boundaries of tribal lands and non-uniformity in utility billing statements.

Brian Harris, an attorney with the Office of the Attorney General, indicated that his office would be heavily involved as the PRC investigation continues.

Following the presentations, Senator Lovejoy expounded upon the history of the problem of improper collection of taxes from Native American customers by telecommunication and public utility companies.

Native American Veterans' State Income Tax Settlements — Update

John Garcia, secretary of veterans' services, and Rick Homans, secretary of taxation and revenue, addressed the committee regarding efforts to implement Senate Bill 574, which passed during the 2008 legislative session. Secretary Garcia gave the history of a recent lawsuit against the state on behalf of Native American veterans who claim that state income taxes were inappropriately withheld from their military pay while they were on active duty. Eleven of the claimants received settlement payments in a total amount of just over \$28,000; the amount of the individual settlements ranged from \$856 to \$1,828. The rest of the claimants were barred from recovery because of the applicable statute of limitations. Senate Bill 574 directed the Veterans' Services Department (VSD), in cooperation with the TRD, to determine how many Native American veterans may have had state income taxes unlawfully withheld from their pay while on active duty and the amount of state taxes inappropriately withheld and to propose a manner in which such veterans could receive settlement payments for inappropriately withheld state income taxes. Secretary Garcia reviewed the history of personal income taxes in New Mexico. Employer withholding of personal income tax did not begin in New Mexico until 1961; as best as they could determine, the U.S. Department of Defense did not start withholding income taxes from active duty military until July 1977. The total number of living Native American veterans who may have had state personal income taxes withheld from their military pay is 7,585; the number of Native Americans who served during the target time period is unknown at this time. Representatives of the TRD, VSD and Indian Affairs Department (IAD) have met to discuss how to fulfill the mandate set forth in Senate Bill 574; the VSD has also met with the All Indian Pueblo Council and other Native American groups to discuss this issue. The TRD and the VSD will be working to identify Native American veterans who served between 1977 and 2004 and the amount of taxes that may have been improperly withheld. A final report with recommendations will be ready for presentation to the committee in October 2008.

Indian Affairs Department — Update

Alvin H. Warren, secretary of Indian affairs, introduced himself and his staff to the committee. He also thanked the committee for its support for and collaboration with the IAD and for introducing and supporting legislation relating to New Mexico's Native American population. Secretary Warren reviewed with the committee his initial priorities as the new secretary of Indian affairs: 1) to continue to improve management of capital outlay funds; 2) to expand the department's involvement in policy development; 3) to strengthen the role of tribal liaisons in state agencies; 4) to improve the protocols for tribal consultation by state agencies; 5) to increase the capacity of the IAD; 6) to broaden partnerships between the IAD and other entities, including foundations, nonprofit organizations and universities; and 7) to make New Mexico a leader in improving state-tribal relations and work fairly with all tribal entities in New Mexico. Secretary Warren also suggested several topics that the committee may want to consider during the 2008 interim: building stronger government-to-government relations between the state and tribal entities, providing sufficient funding for tribal infrastructure projects, encouraging appropriate educational programs, funding and facilities, Native American health issues, wastewater infrastructure and Native American water rights, tribal economic development and environmental issues, such as the resumption of uranium mining and milling and the protection of sacred sites.

Rebecca Martinez, capital outlay manager for the IAD, reviewed with the committee the capital outlay appropriations approved during the 2008 legislative session. The legislature approved approximately \$1.8 million for vehicles and equipment and \$19.7 million for infrastructure and construction to be managed by the IAD on behalf of tribal entities. Additional capital outlay appropriations to benefit tribal communities were made through other state agencies, such as the Aging and Long-Term Services Department and the Department of Environment. The IAD has received scopes of work for 56% of the projects approved by the 2008 legislature. Ms. Martinez described the process the IAD went through to determine which projects would need to be reauthorized by the legislature in 2008. Twenty-seven projects totaling approximately \$2.5 million were reauthorized in 2008. Forty-five projects totaling approximately \$1.1 million affecting the Navajo Nation may revert as of June 30 because those projects were not identified as needing to be reauthorized, yet they may not be ready to close out by June 30. Ms. Martinez reviewed the outreach and capital outlay training sessions being done by the IAD and outlined the process for projects to be funded through the Tribal Infrastructure Project Fund beginning in 2008. In response to questions from Representative Begaye, Ms. Martinez reviewed the efforts that are being made to assist the Navajo Nation in streamlining the process for the approval of capital outlay projects and encumbering appropriated funds.

2008 Interim Work Plan and Meeting Schedule Development

Mr. Van Gorder presented the committee with a draft proposed work plan for the 2008 interim and explained how the initial dates and places for committee meetings had been determined. In reviewing topics to be discussed during the interim, Senator Lovejoy requested that Secretary of Public Education Veronica Garcia and the chair of the Indian Education Advisory Council be asked to make a presentation regarding the Indian Education Act. She also asked that tribal emergency management be discussed. Representative Begaye asked that truancy laws be discussed, as well as disproportionate sentencing for minorities convicted of

crimes and funding for domestic violence programs. Senator Rainaldi moved that the proposed work plan be approved subject to a final review by the committee co-chairs. Representative Begaye seconded the motion and it passed without objection.

Adjournment

There being no further business before the committee, the first meeting of the Indian Affairs Committee for the 2008 interim was adjourned at 4:05 p.m.

Revised: July 1, 2008

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**July 7-9, 2008
Indian Pueblo Cultural Center, Albuquerque, New Mexico
Pueblo of Isleta
Pueblo of Zia**

Monday, July 7 — Indian Pueblo Cultural Center

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Welcome**
—Ron Solimon, Chief Executive Officer, Indian Pueblo Cultural Center
- 10:30 a.m. **Native American Education Issues**
—Veronica Garcia, Secretary of Public Education
—Nancy Martine-Alonzo, Assistant Secretary of Public Education
—Benjamin Atencio, Chair, Indian Education Advisory Council (Invited)
—Lyndy Bennett, District Attorney, San Juan County
—Dr. Christine Sims, Assistant Professor, Department of Language and
Linguistics, College of Education, University of New Mexico
- 12:00 noon **Lunch**
- 1:00 p.m. **Native American Health Care — Update**
—Jim Toya, Director, Albuquerque Region, Indian Health Service
—Sam Howarth, Director, Division of Policy and Performance, Department of
Health (DOH)
—Ron Reid, Director, Office of American Indian Health, DOH
—Ken Lucero, Co-Chair, American Indian Health Advisory Committee
- 3:00 p.m. **Dialysis Treatment**
—Clifford Phillips, Health Care Administrator, Fresenius Medical Care
- 4:00 p.m. **Recess**

Tuesday, July 8 — Seminar Meeting Room, Isleta Hotel and Casino

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Pueblo of Isleta — Status Update**

- Governor Robert Benavides
- First Lieutenant Governor Max Zuni
- Second Lieutenant Governor Frank Lujan

- 10:30 a.m. **Gambling Addiction Treatment Services**
—Georgene Louis, State Gaming Representative, Gaming Control Board
—Dominic E. Dutton, Member, Gaming Control Board, Compulsive Gambling Council
—Jeff Jojola, President, Responsible Gaming Association of New Mexico
—Kandace S. Blanchard, Executive Director, New Mexico Council on Problem Gambling
- 12:00 noon **Lunch**
- 1:00 p.m. **Native American Election Issues**
—Martin Aguilar, Native American Election Information Program Coordinator
—Representative, Cibola County Clerk's Office (Invited)
—Marvin Trujillo, Voting Rights Coordinator, Pueblo of Laguna
- 2:30 p.m. **Native American Veterans Outreach**
—Alan Martinez, Director of State Benefits, Veterans' Services Department
—Brian Padilla, Chair, Tamaya Veterans Association
- 4:00 p.m. **Recess**

Wednesday, July 9 — Tribal Offices, Pueblo of Zia

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Pueblo of Zia — Status Update**
—Governor Ivan Pino
—Lieutenant Governor Fred Medina
- 10:30 a.m. **Native American Domestic Violence Services**
—Sharon Pino, Domestic Violence Czar, Office of the Governor
—David Martinez, Director, Division of Family Services, Children, Youth and Families Department
- 12:00 noon **Lunch**
- 1:00 p.m. **Adjourn**

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

**July 7-9, 2008
Albuquerque, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Zia, New Mexico**

The second meeting of the Indian Affairs Committee for the 2008 interim was called to order by Representative James Roger Madalena, co-chair, at 10:12 a.m. at the Indian Pueblo Cultural Center in Albuquerque, New Mexico.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair (7/8, 7/9)
Rep. Ray Begaye
Sen. Dianna J. Duran
Sen. Lynda M. Lovejoy
Rep. John Pena
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. John C. Ryan (7/8, 7/9)
Rep. Gloria C. Vaughn

Absent

Sen. Rod Adair
Rep. Justine Fox-Young
Rep. Patricia A. Lundstrom
Rep. W. C. "Dub" Williams

Advisory Members

Sen. Joseph J. Carraro
Rep. Ernest H. Chavez
Rep. Ben Lujan (7/7, 7/9)
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar (7/7, 7/8)
Sen. David Ulibarri (7/8, 7/9)

Sen. Timothy Z. Jennings
Sen. William E. Sharer

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

Staff

Chase Van Gorder
Jennie Lusk
Damian Lara
Mark P.H. Harben
Aaron Choneska

Guests

The guest list is in the meeting file.

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

Monday, July 7 — Indian Pueblo Cultural Center

Welcome

Representative Madalena opened the meeting by welcoming everyone and asking Governor Pino from the Pueblo of Zia to give an opening prayer. The committee members then introduced themselves, as did members of the audience. Ron Solimon, chief executive officer of the Indian Pueblo Cultural Center (IPCC), welcomed committee members and noted the many changes in the building and in the IPCC's programming since the committee last met at the IPCC.

Native American Education Issues

Nancy Martine-Alonzo, assistant secretary of public education for Indian education, presented information dealing with the status of Indian Education Act funds, updates on the implementation of the Indian Education Act and performance data. Ms. Martine-Alonzo outlined areas of impact for the Indian Education Act, including curriculum development (academic rigor along with cultural relevance, maintenance and revitalization); an increase in the number and quality of teachers; bilingual and native language programs; increased access to educational opportunities; truancy and dropout prevention; health education; parent involvement; and college and work force readiness. Ms. Martine-Alonzo also discussed the changes required since amendments to the Indian Education Act require changes not just from kindergarten through high school, but now from pre-school through age 20. The amendments will require the Public Education Department to work more closely with community colleges to facilitate a more seamless transition from high school to college, as well as into the work force. The department is also working on a guide for implementing Native American cultural education into school curriculum, along with developing a teacher and parent tool kit to keep parents involved, focusing on maintaining their involvement throughout their child's education.

Kevin Shendo, co-chair of the Indian Education Advisory Council, presented concerns about funding for Native American education. He said that programs instituted for Native American education are only reaching about one-third of the Native American student population. The council is looking for ways to increase funding, which is becoming even more necessary because pre-kindergarten to age 20 is now a part of the funding system. He also said that the council is looking at ways to use existing laws for assessments and programs and invited members to the council's next meeting on July 18, 2008. Sara Adakai, one of the four Navajo Nation representatives on the Indian Education Advisory Council, noted that the council has expanded to 16 members.

Dr. Christine Sims, assistant professor in the Department of Language and Linguistics for the College of Education at the University of New Mexico (UNM), discussed the Tribal Language Certification Project (TLCP) funded by the Indian Affairs Department special projects. The scope of work for the TLCP has been to provide assistance to tribes requesting help with language program planning, certification development issues and the preparation of native speakers to teach language. She explained that during fiscal year 2008, 10 training

workshops were offered to participants representing at least 24 different Indian pueblos, tribes and nations. Additionally, individual on-site visits were made to at least seven different tribal communities and schools. Dr. Sims said the culmination of the 2007-08 project activities was the second annual Native American Language Teacher Institute held at the UNM main campus on June 2-7, 2008. This one-week period utilized the bulk of the grant resources from the Indian Affairs Department to help offset the cost of travel, housing and parking expenses. She stated that the summer is the most opportune time for most language teachers to attend the institute because they are usually free from their regular teaching duties or, in some communities, summer language programs have not yet begun. The institute's emphasis is on teaching strategies for persons working with Native American students, she said, and noted her continued concern is that the youngest tribal members are not learning to speak their native languages. According to Dr. Sims, the summer institute provides three hours of undergraduate course credit. It had 54 participants who attended an intensive eight-hour per day program of training for six days. They represented eight different tribal languages and various tribal communities and school districts in New Mexico.

Dr. Reed Dasenbrock, secretary of higher education, reported that the budget for tribal colleges will be presented along with the Higher Education Department budget this year, a breakthrough in handling the funding needs. He expressed concern that the department's role in the Indian Education Act is not spelled out and said he would attempt to clarify the desired outcome for higher education participation with the Indian Education Advisory Council.

Veronica Garcia, secretary of public education, who just returned from the graduation ceremonies for almost 20 doctoral students in Indian education, reported that the rulemaking process for implementing the Indian Education Act amendments was just starting, but added that federal law and regulation set the standards for closing the achievement gap for Native American students.

Following the presentation, the committee expressed concerns with the lack of results evident from passage and implementation of the Indian Education Act; about problems that could be related to grade level or periods of transition from Bureau of Indian Education schools to New Mexico public schools; about truancy and truancy policy; and about the language curricula, both native and English, in Native American schools. Moreover, committee members requested that superintendents of schools with large Native American student populations be added to future Indian Affairs Committee agendas to present on their respective schools' efforts to address federal and state law mandating the closing of the achievement gap for Native American students.

Native American Health Care — Update

Jim Toya, director of the Albuquerque Region of the Indian Health Service (IHS), provided an update on the IHS. He commented on a controversial case in California where a tribe began charging for health services; the courts held up the tribe's policy. Mr. Toya remarked that the tribes in New Mexico, when asked if that was something they were considering, replied with an emphatic "no". Mr. Toya stated that in 2005, \$9 million in services were denied, and \$9.2 million in services were denied in 2006. He also discussed attempts to institute programs of

prevention, specifically citing dental care issues. Costs for the Residential Behavior Center for Youth were also presented. Mr. Toya said that the IHS gets \$300 a day per patient (who are between the ages of 12 and 19) at the center, but it costs about \$670 a day per patient. The 22 beds at the facility are usually all taken.

Sam Howarth, division director of the Division of Policy and Performance for the Department of Health, presented the status of Native American health programs. He discussed the mission of the Office of American Indian Health, stating that the mission is to facilitate collaboration among the Department of Health, American Indian populations residing in New Mexico and other health partners to promote health and sound health policy, improve health services systems and ensure that essential public health functions and safety net services are available to American Indians in New Mexico. Dr. Howarth also noted that the office's goals are to: a) provide guidance on issues, treatments, resources, training and health policies affecting American Indians in New Mexico; b) increase public knowledge about American Indian health disparities and lead efforts to address these disparities; and c) facilitate partnerships that improve the health of Native Americans in New Mexico. Dr. Howarth also remarked on the New Mexico Health Disparities Report Card, examining 19 health status indicators. He explained that Native Americans ranked highest on nine indicators, which include: 1) late or no prenatal care; 2) deaths due to diabetes; 3) motor vehicle deaths; 4) youth suicide; 5) youth obesity; 6) adults (age 65+) not receiving pneumonia vaccines; 7) pneumonia and influenza deaths; 8) homicide; and 9) deaths related to alcohol. He also relayed that Native Americans have the best rates on three indicators, including receiving the recommended services for individuals with diabetes, HIV/AIDS and drug-induced deaths. Dr. Howarth then discussed services instituted to help educate, prevent and treat issues such as diabetes, mental well-being, obesity, alcoholism, tobacco use and motor vehicle deaths.

Following the presentation, the committee raised issues regarding the payment policy of the federal government for health services, doctor shortages and IHS programs to help Native Americans go to college and medical school; the Department of Health's role to help expedite federal assistance for Native Americans in New Mexico; the Indian Health Care Act; coordination of pneumonia vaccinations with influenza vaccinations; and the New Mexico First Born program for Native American populations.

Dialysis Treatment

Clifford Phillips, the area administrator for Fresenius Medical Care, and Lillie Elledge, registered nurse and educator for treatment options and home dialysis, presented information about kidney disease and dialysis to the committee. They discussed how the kidneys work, how and why they fail and treatment options (including diet/fluid management, medication, dialysis, transplant or no treatment). They stressed the need for early detection and prevention of the need for dialysis, particularly for diabetes patients.

The committee inquired as to services and facilities near Native American populations and rural areas and transportation to those services and facilities.

Minutes

Upon a motion by Senator Carraro, seconded by Representative Vaughn, the committee approved without objection the minutes from the May 21, 2008 meeting of the Indian Affairs Committee.

Following the motion, Representative Madalena recessed the meeting at 4:56 p.m.

Tuesday, July 8 — Isleta Hotel and Convention Center

The second meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Representative Madalena on Tuesday, July 8, 2008, at 9:18 a.m. in the Seminar Room at the Isleta Hotel and Convention Center. Representative Madalena asked First Lieutenant Governor Max Zuni of the Pueblo of Isleta to give an opening prayer. Then the committee members introduced themselves.

Pueblo of Isleta — Status Update

Governor Robert Benavides welcomed the committee and the audience to the Pueblo of Isleta, and members of the audience introduced themselves. Governor Benavides then introduced Mr. Zuni, who gave a history of the Pueblo of Isleta. A status report was given by Governor Benavides, including recent capital outlay projects, such as the Rail Runner station, recreational park facilities and services to combat diabetes and obesity. Future projects for the pueblo include a judicial complex, an educational complex, village water main replacements, new police substations, turning lane construction for Highway 47 and a new interchange for Interstate 25 south on the pueblo's southern boundary. Governor Benavides outlined concerns that included untimely receipt and enactment of joint powers agreements; the need to protect water rights; the lack of the pueblo's involvement in water rights and water trust legislation; and the cost to provide the elderly with meal delivery.

The committee raised concerns regarding funding for health services, traffic issues and accidents, domestic violence services and shelters, the Boys' and Girls' Club, youth anti-smoking programs, medical facilities, water pollution faced by the pueblo and employment at Native American casinos, hotels and convention center resorts. Senator Lovejoy moved the committee to write a letter to Secretary Rhonda Faught, New Mexico Department of Transportation, in support of a turning lane on the section of Highway 47 that runs through the Pueblo of Isleta. The motion was seconded by Representative Vaughn and met with no objection. Senator Rainaldi moved that the committee write a letter to Mr. Toya in support of the Pueblo of Isleta's application for funding of health services. The motion was seconded by Representative Rodella and met with no objection. Senator Carraro moved that the committee write a letter to Ron Curry, secretary of environment, requesting that his department conduct studies of the water of the Rio Grande, starting with the waters that flow into the Pueblo of Isleta. The motion was seconded by Senator Lovejoy and met with no objection.

Gambling Addiction Treatment Services

Georgina Louis, the state gaming representative from the New Mexico Gaming Control Board (NMGCB), presented the NMGCB's "Compulsive Gambling Funds Report". She

discussed the sources for compulsive gambling funds, stating that racetracks and tribes contribute no less than one-fourth of one percent (0.25%) of net take/win funds to support programs for the treatment and assistance of compulsive gamblers in New Mexico or for those who patronize New Mexico gaming facilities, as well as for the prevention of compulsive gambling in New Mexico. Ms. Louis outlined funds and expenses for those projects.

Dominic Dutton, attorney for the NMGCB and member of the Compulsive Gambling Council, discussed future legislation, including proposed legislation in 2009 expressing the desire to have regulatory procedures in establishing the process by which a person can seek self-exclusion from all non-tribal casinos and the lottery within New Mexico (the tribes and pueblos already have such processes in place). Along with this legislation, Mr. Dutton mentioned therapeutic justice, calling for legislation taking compulsive gamblers out of the usual criminal category and placing them into treatment.

Jeff Jojola, president of the Responsible Gaming Association of New Mexico (RGANM), outlined the policy statement of the RGANM and explained some of the programs the association initiates and conducts. It has: conducted a prevalence study to improve services; administered training to employees in the gaming industry to identify and deal with compulsive gambling issues; funded a help line service; and worked with the Evolution Group, Inc., which specializes in the mental health treatment of individuals and families that include compulsive gamblers.

Kandace S. Blanchard, executive director of the New Mexico Council on Problem Gambling, discussed the health services available to compulsive gamblers and those affected by compulsive gambling. The services include a help line available 24 hours a day, seven days a week and the counselors to treat patients. According to Ms. Blanchard, in rural areas, counselors are contracted out, but still have the training necessary to deal with compulsive gambling. Ms. Blanchard also discussed the importance of training gaming employees because they are usually the first contact a compulsive gambler has.

Following the presentation, the committee expressed concerns regarding the oversight of the gambling revenue spent for services by the pueblos, spending discretion of the tribes, transparency and disclosure of how the funds are spent by all tribes, standards for spending the funds and individual gambling assistance.

Native American Election Issues

Martin Aguilar, Native American election information program coordinator, discussed the activities and goals of the Native American Election Information Program (NAEIP). Its mission is to provide equal access to all phases of the election process to the Native American population in Sandoval County, including the pueblos of Cochiti, San Felipe, Santo Domingo, Santa Ana, Sandia, Zia and Jemez, along with the Navajo chapters of Counselor, Ojo Encino and Torreon. Mr. Aguilar said the NAEIP also attempts to foster intergovernmental coordination between tribal governments and state entities. The program also focuses on the dissemination of election information and material, translations and assistance with voter registration and absentee voting.

Marvin Trujillo, voting rights coordinator for the Pueblo of Laguna, presented information about Native American voting for the Pueblo of Laguna. He said that the pueblo increased its precincts from one to six, which, along with a heated election, helped boost voter turnout. In a June 2004 primary, 374 Native Americans voted, and in a June 2006 primary, 357 voted. After the redraw of precincts, 536 people voted in the June 2008 primary. Mr. Trujillo reaffirmed the need to help fund the NAEIP to provide information on elections and voting and discussed the need to create that information in the native languages of the tribes; he cited an instance where radio programming attempting to do just that aired at 4:00 p.m. and was not accessible for the intended audience.

Following the presentation, the committee identified concerns regarding the continued need to facilitate voting access for Native Americans.

Native American Veterans Outreach

Alan Martinez, director of state benefits and the legislative liaison for the Veterans' Services Department (VSD), spoke about Native American veterans and the programs the department has in place. He discussed the Native American Veteran Service Officer Mentoring Program designed to recruit and train local Native American veterans to serve in their local pueblos, tribes and the Navajo Nation. Mr. Martinez explained that this past fiscal year, the program was able to obtain national certification to allow 21 appointed tribal members to begin processing Veterans Administration claims for benefits, made possible by attending a one-week course conducted by the National Association of State and County Service Officers. This initiative is the first of its kind in the nation, according to Mr. Martinez. The VSD has initiated a campaign to educate Native American veterans about benefits and how to file for them. Mr. Martinez also explained how the department helped establish a new community-based clinic in Sandoval County that will serve many Native American veterans (the clinic was targeted to open in 2012, but will open in 2009). The VSD has teamed up with the Taxation and Revenue Department to educate Native American veterans about SB 574. Mr. Martinez also said the VSD has partnered up with the New Mexico Native American Veterans Organization, led by Brian Padilla of the Pueblo of Santa Ana, to identify every Native American veteran in New Mexico.

Mr. Padilla, chair of the Tamaya Veterans Association, discussed Native American veterans returning from combat zones and the psychological trauma many have as a result of being in those zones. Mr. Padilla pointed out that there are several issues that need to be addressed regarding providing proper care for these returning soldiers, including a lack of resources (financial and manpower) from the Veterans Administration, Native American veterans living in remote locations and a lack of understanding of Native Americans by those working with the Veterans Administration. He asserted that because the system falls short, it is the responsibility of the tribal community to develop and provide for alternative services where needed. A solution for this would be the creation of a veterans' center located within the tribal structure that would provide life skills programs; "peer coaching" administered by trained Native American veterans; and reintegration programs to help veterans return back to their families and normal lives. Mr. Padilla said, initially, the plan focused on veterans from World War I, World War II, the Korean War and Vietnam, but the intention now is to extend services to all returning Native American veterans and families as financial support permits.

The committee commended the work of the presenters and highlighted the difference of having a VSD, rather than a commission, and the need to fund the department adequately.

Following the presentation on Native American veterans outreach, Representative Madalena recessed the meeting at 3:25 p.m.

Wednesday, July 9 — Tribal Offices, Pueblo of Zia

The second meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Senator Pinto, co-chair, on Wednesday, July 9, 2008, at 9:31 a.m. at the tribal offices of the Pueblo of Zia. Senator Pinto then handed chair duties to Representative Madalena, co-chair. Representative Madalena asked Governor Ivan Pino, Pueblo of Zia, to give an opening prayer.

Pueblo of Zia — Status Update

Governor Pino welcomed the committee and the audience to the meeting. He identified members of his staff, and the members of the audience introduced themselves. Lieutenant Governor Fred Medina thanked the committee for coming to the Pueblo of Zia. Governor Pino gave a brief history of the pueblo and thanked the legislature for funding the Intergenerational Center, which has been completed (except for a handicap ramp). The pueblo had a current project for improvements to the kitchen totaling \$60,000, including an electrical system upgrade, replacement of the swamp cooling system with refrigerated air and roof repair. The governor said the pueblo would be requesting funds for more kitchen expansion and a breezeway to connect centers. The request will be made through the Five Sandoval Indian Pueblos and will be part of an Aging and Long-Term Services Department capital outlay request.

Ken Lucero, assistant tribal administrator, was introduced to discuss the ambulatory center project at the Pueblo of Zia; the pueblo has outgrown the existing facilities, and attempts to raise capital have been ongoing since 2003.

Neil Carter, a consultant from Neil Carter & Associates working with the Pueblo of Zia on the project, reviewed the requirements for the new ambulatory center to serve the pueblo adequately. Initially, a 9,000-square-foot building was determined to be necessary, but the cost of over \$4 million was too much. A compromise of a 5,500-square-foot building costing \$2.2 million was acceptable. The pueblo, however, has a shortfall of \$600,000, but will proceed with the project, hoping to raise the rest of the funds. A design should be ready by the end of the year, with completion of the actual facility targeted for July 2009.

The committee then inquired as to how often a doctor comes to the pueblo, the most prevalent illnesses, the number of patients seen, health services available at the pueblo, including transportation services to outside health facilities, behavioral health and the process for funding of the ambulatory center. Senator Lovejoy moved that the committee write a letter to the Indian Affairs Department in support of the Pueblo of Zia's TIF application. The motion was seconded by Senator Rainaldi, and met with no objection.

Representative Madalena ended the panel and agreed that the committee take a field trip to Zia Lake. Former Governor Gauchupin discussed the history of Zia Lake and its uses. The lake is manmade and is suffering from an algae infestation due to high silt levels from the Jemez River. The pueblo is allowing the water to evaporate and hopes the lake bottom will solidify and the algae problem will be rectified. Mr. Gauchupin and the pueblo supplied the committee with a map designating where they would like to install an inflow and outflow gage, an automated lake stage gage and a lake staff site.

Native American Domestic Violence Services

Sharon Pino, domestic violence czar from the Office of the Governor, discussed the services provided by the state for victims/witnesses of domestic violence, as well as those who commit domestic violence. She supplied statistics of how many people received services and the cost of the services. Ms. Pino then addressed the updating of the manual to be more culturally appropriate.

Adjournment

There being no further business before the committee, the second meeting of the Indian Affairs Committee for the 2008 interim was adjourned at 1:57 p.m.

Revised: August 5, 2008

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 11-13, 2008
Gallup, New Mexico
Bahasti'ah (Twin Lakes) Chapter, Navajo Nation
Window Rock, Arizona**

Monday, August 11 — McKinley County Courthouse, Gallup

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Welcome**
—Representative, City of Gallup
—Representative, McKinley County
- 10:30 a.m. **Implementation of the Indian Education Act — Status Update**
—Superintendent Ray Arsenault, Gallup-McKinley County School District
 (Invited)
—Superintendent Bill Noland, Central Consolidated School District
—Superintendent Dr. Kaye Peery, Zuni Public School District
—Superintendent Kilino Marquez, Grants-Cibola County School District
 (Invited)
- 12:00 noon **Lunch**
- 1:00 p.m. **Payday Lending — Status Update**
—William J. Verant, Director, Financial Institutions Division, Regulation and
 Licensing Department
—Thomas Reinheimer, Chief Executive Officer, Veritec Solutions, LLC
—Karen J. Meyers, Assistant Attorney General, Director, Consumer Protection
 Division
- 2:30 p.m. **Native American Arts and Crafts — Authenticity**
—Tony Erachio, Council for Indigenous Arts and Culture
—Nina Alexander, Indian Arts and Crafts Board, Department of the Interior
—Karl R. Gillson, District Attorney, Eleventh Judicial District (Invited)
—William S. Keller, Assistant Attorney General, Consumer Protection Division
- 4:00 p.m. **Recess**

Tuesday, August 12 — Chapter House, Bahasti'ah (Twin Lakes) Chapter

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Bahasti'ah Chapter — Status Update**
—President Bob Sandoval
—Vice President Notah Barney
—Council Delegate Norman John II
- 10:00 a.m. **Tourist Center Proposal — US 491/N9**
—Bella Ben, Shiprock
- 10:30 a.m. **Tribal Emergency Management**
—Jimson Joe, Project Manager I, Navajo Nation Department of Emergency Management
—Johnny Johnson, Project/Program Specialist, Navajo Nation Department of Emergency Management
—John Martinez, Deputy Director, New Mexico Homeland Security and Emergency Management Department
- 12:00 noon **Lunch**
- 1:00 p.m. **Native American Poverty Issues — Status Update**
—Christina M. Stick, Policy Analyst, Indian Affairs Department
- 2:00 p.m. **Navajo Nation Child Support Enforcement**
—Charissa Saavedra, Director, Child Support Enforcement Division, New Mexico Human Services Department (HSD)
—Cathi Valdes, Deputy Director, Child Support Enforcement Division, HSD
—Pierette Baldwin-Gumbrecht, Department of Child Support Enforcement, Division of Human Resources, Navajo Nation (Invited)
- 3:00 p.m. **Low Income Housing Energy Assistance Program (LIHEAP)**
—Cathy Sisneros, Bureau Chief, Work and Family Support Bureau, Income Support Division, HSD
—Rita Begay, Senior Office Specialist, Block Grants/Special Projects, Division of Social Services, Navajo Nation
- 4:00 p.m. **Recess**

Wednesday, August 13 — Navajo Museum, Window Rock, Arizona

9:00 a.m. **Call to Order**

9:05 a.m. **Welcome**

—Representative, Office of the President/Vice President, Navajo Nation
—Representative, Navajo Nation Council

9:30 a.m. **Status of New Mexico Capital Outlay Appropriations**

—Alvin H. Warren, Secretary of Indian Affairs
—Rebecca Martinez, Capital Outlay Manager, Indian Affairs Department
—Patsy Trujillo, Deputy Secretary of Aging and Long-Term Services
—Bernardine Salazar, Capital Projects Director, Aging and Long-Term Services
Department

10:30 a.m. **Navajo Nation Capital Outlay Process**

—Sampson Begaye, Chair, Transportation and Community Development
Committee, Navajo Nation Council
—Stanley Yazzie, Deputy Director, Division of Community Development,
Navajo Nation
—Casey Begaye, Manager, Capital Improvement Office, Navajo Nation
—Representative, Office of Management and Budget, Navajo Nation
—Representative, Office of the Controller, Navajo Nation

11:30 a.m. **Discussion of Alternatives for Improvements in Capital Outlay Process**

12:30 p.m. **Adjourn**

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

**August 11-13, 2008
Gallup, New Mexico
Bahasti'ah (Twin Lakes) Chapter, New Mexico
Window Rock, Arizona**

The third meeting of the Indian Affairs Committee for the 2008 interim was called to order by Representative James Roger Madalena, co-chair, at 10:15 a.m. in the rotunda of the McKinley County Courthouse in Gallup, New Mexico.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair (8/11)
Rep. Ray Begaye
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Rep. John Pena
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Gloria C. Vaughn

Absent

Sen. Dianna J. Duran
Rep. Justine Fox-Young
Sen. John C. Ryan
Rep. W. C. "Dub" Williams

Advisory Members

Sen. Joseph J. Carraro (8/11, 8/12)
Rep. Ernest H. Chavez
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. David Ulibarri (8/11, 8/12)

Sen. Timothy Z. Jennings
Rep. Ben Lujan
Rep. Nick L. Salazar
Sen. William E. Sharer

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

Staff

Chase Van Gorder
Damian Lara
Mark Harben
Aaron Choneska

Guests

The guest list is in the meeting file.

Handouts

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

Monday, August 11 — McKinley County Courthouse

Welcome

City of Gallup Mayor Harry Mendoza and McKinley County Commissioner Ernest Becenti welcomed the committee to Gallup. Mayor Mendoza presented the committee members with a symbol of the city's hospitality and with commemorative coins.

Implementation of the Indian Education Act — Status Update

Superintendent Ray Arsenault, Gallup-McKinley County School District; Interim Superintendent Bill Noland, Central Consolidated School District; Superintendent Dr. Kaye Peery, Zuni Public School District; and Superintendent Kilino Marquez, Grants-Cibola County School District, presented on the steps taken in each of their respective school districts to implement the Indian Education Act. Superintendent Arsenault highlighted two schools that showed marked improvements for students and indicated those best practices would be duplicated in the other schools. He also presented his district's Indian education plan, including: native language and culture, professional development, curriculum development, systems for continuous improvement, reading and math interventions, bully-proofing and insuring attendance with computerized interventions such as "Parent Link". Superintendent Marquez highlighted his district's support for language programs and parent input and facilitation. The Grants-Cibola County School District has established partnerships with local tribal leaders and the Pueblos of Laguna and Acoma, the Navajo Nation and Native American licensed teachers and educational assistants. Superintendent Peery highlighted her district's Native American members on the board of education, curriculum, class size, language and culture programs, staff of 85 percent to 90 percent Native American, tribal government relationship and parent involvement. Dr. Peery also expressed concern that the school districts are tasked with too many social services that detract from education. Interim Superintendent Noland and Dr. Janette Slowmanchee also presented on the steps central consolidated is taking to implement the Indian Education Act.

The committee expressed concerns on the percentage of New Mexico's estimated graduation rate and the percentage of New Mexico's graduates required to take remedial courses, the practice of issuing certificates of attendance as equivalents for high school diplomas and salaries for Native American teachers and assistants. Upon a motion by Representative Lundstrom, seconded by Representative Pena, the committee approved without objection to request from Secretary of Public Education Dr. Veronica Garcia a summary of the steps each school district with a significant Native American population had taken to address each of the elements of the Indian Education Act.

Payday Lending — Status Update

Thomas Reinheimer, chief executive officer of Veritec Solutions, LLC, gave a summary of the payday loan legislation that passed the legislature in 2007 and illustrated how the payday lending database operate in New Mexico works on a transaction-by-transaction basis. Mr. Reinheimer highlighted the experiences of other states with similar populations and

demographics and indicated that they had about 30 percent of the population engaged in payday loans. New Mexico had about six percent of the population engaged in payday loans. Mr. Reinheimer explained that, in his professional opinion, the missing percentage of borrowers using payday loans in New Mexico is being directed into predatory installment loans not covered by the New Mexico Small Loan Act of 1955 (Small Loan Act).

William J. Verant, director, Financial Institutions Division, Regulation and Licensing Department, gave a status update on payday loans and the effect that the new laws have had on the number and character of payday lenders. He reviewed the provisions of the payday lending statutes that passed the legislature in 2007 and explained what he views as the installment loan loophole that permits some aspects of predatory consumer lending to continue in New Mexico. Mr. Verant indicated that the current moratorium on licensing new lenders pursuant to the Small Loan Act would soon be lifted.

Karen J. Meyers, assistant attorney general and director of the Consumer Protection Division, reviewed the history of complaints since the effective date of the 2007 payday lending legislation. She agreed that payday lenders appear to be steering customers into relatively unregulated installment loans with extremely high interest rates. There also appear to have been instances where payday lenders may not have complied with the new payday lending laws and rules.

Following questions and discussion by committee members, upon motion by Representative Lundstrom, seconded by Representative Madalena, the committee voted without objection to write a letter to Mr. Verant requesting that the moratorium on the licensing of new payday lenders not be lifted. Upon motion by Representative Lundstrom, seconded by Representative Vaughn, the committee voted without objection to write a letter to Mr. Verant and the attorney general inquiring about their ability to track payday lending via the Veritec database and prosecute payday lenders who are improperly converting payday loans into unregulated installment loans and further request that they provide proposed regulations or statutory revisions at or before the committee's November meeting. Upon motion by Representative Madalena, seconded by Representative Vaughn, the committee voted without objection to write a letter to Mr. Verant and the attorney general inquiring about the need to raise the limit of loans pursuant to the Small Loan Act above \$2,500 due to the inflation increases since the act was adopted in 1955.

Native American Arts and Crafts — Authenticity

Tony Erachio of the Council for Indigenous Arts and Culture gave a detailed presentation to the committee explaining the manner in which non-authentic arts and crafts items are presented to the public and showed examples of how difficult it is to distinguish between items made of natural materials as opposed to synthetic materials. Nina Alexander of the Indian Arts and Crafts Board of the federal Department of Interior explained the work her agency is doing in the area of controlling the sale of non-genuine Native American arts and crafts. Karl R. Gillson, district attorney, Eleventh Judicial District, provided a detailed narrative of the prosecution of Amro Al-Assi, formerly of the Silver Bear Trading Company in Gallup. He specifically noted that the prosecution was as a fourth degree fraud rather than a violation of the state Indian Arts

and Crafts Sales Act due to the minimal penalties provided for in that act. William S. Keller, assistant attorney general with the Consumer Protection Division, briefed the committee on the penalties of the Indian Arts and Crafts Sales Act compared to the general fraud statutes. The presentation included recommendations to amend the penalties in the Indian Arts and Crafts Sales Act to penalties similar to those provided for pursuant to the general fraud statutes. He noted that the felony threshold set forth in the Indian Arts and Crafts Sales Act is impossibly high to charge, as transaction of \$20,000 or more involving incidents of Native American arts and crafts are very rare.

Following the presentation regarding the authenticity of Native American arts and crafts, Representative Madalena recessed the meeting at 4:32 p.m.

Tuesday, August 12 — Bahasti'ah (Twin Lakes) Chapter House

The third meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Senator Pinto, co-chair, on Tuesday, August 12, 2008, at 9:20 a.m. at the chapter house of the Bahasti'ah (Twin Lakes) Chapter. The members of the committee introduced themselves, as did the members of the audience.

Bahasti'ah (Twin Lakes) Chapter, Navajo Nation — Status Update

Notah Barney, vice president of the Bahasti'ah Chapter, and Christine Sam-Barney, community services coordinator of the Bahasti'ah Chapter, presented a status update regarding the chapter. They provided a history of the chapter and discussed the rise in population from the 2000 census report. The chapter had a population of 2,251 in 2000, but, according to the presenters, that number has risen at least 15 percent since then. As a result of this population increase and the obsolete condition of the current governmental office complex, the chapter is moving forward in an attempt to secure funds for a new complex, estimated to cost \$1.4 million. Mr. Barney and Ms. Sam-Barney provided figures for the allocation of funds thus far: \$50,000 in 2006, \$70,000 in 2007 and \$200,000 (with an additional \$35,000) in 2008. With other funds from the Navajo Nation, the total amount raised so far is \$1.07 million. Mr. Barney and Ms. Sam-Barney notified the committee members that the Bahasti'ah chapter would approach the legislature for supplemental funding during the 2009 legislative session. The committee members were pleased with the positive steps toward raising the funds for the governmental office complex. Upon motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee voted without objection for the committee to request the Indian Affairs Department (IAD) to provide information on how to secure financing for the project from the New Mexico Finance Authority and how to use the Tribal Infrastructure Project Fund as a funding source.

Tourist Center Proposal — U.S. 491/N9

Bella Ben and Wallace Ben, Sr., of Shiprock presented a proposal to make Highway 491 a scenic and historic route leading to the development of a visitors' center, Indian market, recreational vehicle park, convenience store and rest area for the Shiprock area. They advised the committee that the estimated cost for this project, which should be conducted in phases, amounts to \$1 million. They also provided a copy of a 1993 house memorial requesting the Economic Development Department to conduct a study of economic development alternatives for the Table Mesa and Shiprock areas in San Juan County. They will be making a request in the upcoming legislative session for \$250,000 to be used for a feasibility study.

Upon motion by Representative Lundstrom, seconded by Representative Madalena, the committee voted without objection to request that the Department of Transportation and the Tourism Department conduct a feasibility study for the creation of a visitors' center in the Shiprock area, noting that the area is located in a scenic highway system. Representative Begaye also asked to add a request for the Tourism Department and others to take a tour of the Shiprock area.

Tribal Emergency Management

Jimson Joe, project manager for the Navajo Nation Department of Emergency Management, presented a report on the status of emergency management for the Navajo Nation. He stated that the chapters are not prepared for disasters and do not know how to handle them. A major concern that hinders preparation and knowledge, according to Mr. Joe, is language. There are efforts underway to translate words describing disasters and emergencies (flood, tornado and bioterrorism, for instance) into the Navajo language. Mr. Joe highlighted four areas that are priorities for emergency management, including: mitigation, preparation, response and recovery.

Johnny Johnson, a program and project specialist for the Navajo Nation Department of Emergency Management, presented the structure, goals and functions of emergency management for Crownpoint. The Crownpoint branch has three employees, including a program and project specialist, an emergency services liaison and an office assistant. Mr. Johnson discussed the same four areas Mr. Joe highlighted as priorities for emergency management: mitigation, preparation, response and recovery. Mr. Johnson said the goals of emergency management are to save lives, prevent injuries and protect property and the environment if an emergency or disaster occurs. He outlined types of disasters, such as power outages, explosions and chemical spills. The functions of emergency management in the Navajo Nation include providing effective and efficient emergency management services on a 24-hour basis within the territorial jurisdiction of the Navajo Nation, which includes seven counties in the State of New Mexico. Mr. Johnson provided budget information, with an allocation of \$375,000 for fiscal year 2009.

John Martinez, deputy director for the New Mexico Homeland Security and Emergency Management Department, presented a general overview of emergency management in the State of New Mexico, including statutory powers, the disaster declaration process and the services provided. Mr. Martinez commented that disasters remain controlled and managed locally.

Although not on the agenda, Heather Townsend, co-chair of the legislative committee for the All Indian Pueblo Council, and Governor Pino from the Pueblo of Zia, were permitted to give a presentation. They remarked that 21 other tribes and pueblos were not included in the emergency management fund, and they both want these tribes and pueblos included. Ms. Townsend stated that the All Indian Pueblo Council will request \$10 million for this inclusion, and the council desires to create a relationship with the state and federal governments at an unprecedented scale in the country. Governor Pino asked the committee to explore this issue and stated that he desires the state to work with the tribes and pueblos.

All presenters explained the difficulty in achieving an adequate level of preparedness without proper resources and the obstacles in accessing federal grants because of the stringent requirements.

Upon motion by Representative Vaughn, seconded by Senator Pinto, the committee voted without objection to encourage the members of the New Mexico congressional delegation to address the obstacles in accessing federal grants and funding for emergency management in order for the tribes and pueblos to develop emergency management plans and increase internal work force capacity.

Invited Guests

Bahasti'ah elders Clara John and Joe Pino spoke before the committee, with Representative Begaye translating. Ms. John expressed concern about the expense of ambulance service and of recovering bodies from the morgue. She also discussed the importance of health care for the chapter. Mr. Pino outlined trouble with culverts being washed away in flooded arroyos near his home. He stated that there is a need for six culverts, and the chapter needs help financing and building those culverts.

Senator Rodriguez and Representative Lundstrom asked the staff to look into indigent funds and county help for burials and why it takes so long for the Bahasti'ah Chapter to get bodies back from the morgue. Representative Lundstrom also asked Rebecca Martinez from the IAD to assist Mr. Pino in filling out a request for assistance regarding the flooding of the arroyos.

Native American Poverty Issues — Status Update

Christina M. Stick, policy analyst for the IAD, discussed poverty in the Native American population and the work conducted by the Ad Hoc Native American Working Group. She reported that there is a significant disparity between the percentage of the population of New Mexico who are Native American (10 percent) and the percentage of Native Americans living below the federal poverty level (18.5 percent). Ms. Stick discussed food security, housing, child care, taxation, education, employment and consumer issues for Native Americans. She also outlined the working group's recommendations for those issues.

Navajo Nation Child Support Enforcement

Charissa Saavedra, director of the Child Support Enforcement Division (CSED) of the Human Services Department (HSD), gave a presentation discussing the child support program, including tribal support programs. She said that child support helps New Mexico families, as well as the state itself, by preventing and reducing poverty; promoting family self-sufficiency and child well-being; and preventing and reducing the need for public assistance. She outlined the work of her division, stating that it: locates absent parents, establishes paternity, establishes child support and medical support court orders and enforces court orders for child and medical support. Ms. Saavedra said that the Navajo Nation is operating a tribal child support program in cooperation with the U.S. Department of Health and Human Services, Administration for Children and Families and the Office of Child Support Enforcement. She said that the CSED has entered into a joint powers agreement with the Navajo Nation and provided statistics of funding, cases and services.

Pierette Baldwin-Gumbrecht, program supervisor with the Navajo Nation Department of Child Support Enforcement, discussed the background and status of child support enforcement for the Navajo Nation. She provided the committee with statistics regarding funding and caseloads. The use of services for data enforcement by the Navajo Nation is provided at the same cost the HSD is charged for the service. Also, the HSD was appropriated \$40,000 to help the Navajo Nation meet the costs for the use of the data service. The money will be tripled by federal matching funds.

Low Income Housing Energy Assistance Program (LIHEAP)

Cathy Sisneros, bureau chief of work and family support, Income Support Division, HSD, presented the status of LIHEAP and its functions in the Navajo Nation. She discussed the challenges LIHEAP faces, including arrearages from last winter's high cost of home heating; paying for summer cooling; and asking consumers to prepare for next winter by pre-buying propane and other bulk fuels. Ms. Sisneros provided statistics regarding national recipients of LIHEAP and New Mexico figures. In 2008, there have been 62,455 recipients to date, compared to 62,269 in all of 2007. She provided funding statistics for national and state funding, as well as New Mexico tribal federal funding.

Sherry Dinezzle, who is with block grants/special projects from the Navajo Nation Division of Social Services, presented a report on LIHEAP for the Navajo Nation. She said the Navajo Nation LIHEAP intends to assist low-income households in meeting their home energy needs for heating, cooling, crisis situations and weatherization. The assistance includes, but is not limited to, wood, coal, butane, heating oil, propane, natural gas and other energy-related assistance. Ms. Begay stated that allocation is divided among the six regions of the Navajo Nation based on the 2000 census, with each region having chapters. She also provided maps of the regions covered and statistics pertaining to LIHEAP. Ms. Begay said the Navajo Nation would be requesting additional funding to defray the high cost of heating, would ask for more flexibility for the funds and would like the funds in a lump sum in July or August to ensure the availability of money for the winter months. Upon inquires by the committee, Ms. Dinezzle indicated that delivery of services by her agency averaged three months after receipt of a LIHEAP application from a member of the Navajo Nation.

Following the presentation regarding LIHEAP, Representative Madalena recessed the meeting at 4:30 p.m.

Wednesday, August 13 — Navajo Nation Museum, Window Rock, Arizona

The third meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Senator Pinto, co-chair, on Wednesday, August 13, 2008, at 9:17 a.m. at the Navajo Nation Museum in Window Rock, Arizona.

Status of New Mexico Capital Outlay Appropriations

Alvin H. Warren, secretary of Indian affairs, and Rebecca Martinez, capital outlay manager for the IAD, gave a presentation to the committee pertaining to the status of New Mexico capital outlay appropriations for the Navajo Nation. Secretary Warren stressed that the issues the Navajo Nation faces regarding capital outlay are not unique, and all the tribes and pueblos are affected as well. Ms. Martinez provided a status update on the capital outlay process for the Navajo Nation. Although challenges are present, she commended the nation for its current efforts to streamline and improve the process and work toward improvements of the system. She said that in 2008, state funding to the New Mexico tribes totaled \$20,983,000 and provided statistics for previous years, including 2007's \$30,324,957. The Navajo Nation received \$4,010,000 in 2008 for 55 projects and has received \$48,810,432 since 2004. The challenges Ms. Martinez cited include: the joint powers agreement process requiring three state agencies' approval; how capital outlay is limited to reimbursements; the delay in processing scopes of work and joint powers agreements; and expiration of projects where funds could have been reauthorized. She also discussed what the IAD is doing to address problems, including: improved monitoring, compliance and quarterly reporting; establishment of a work group that has met 41 times since August 2005 to reconcile information about projects, address reversions and discuss ways to improve the process; increased training and technical assistance at the chapter level; and converting the joint powers agreement to grant agreements to expedite the contract process.

Representative Lundstrom asked if the IAD has a comprehensive list or chart of all the funds budgeted for Native Americans from all state agencies, including purposes, monetary amounts and deadline dates. Secretary Warren said that would be a great resource, but the IAD lacks the resources and staff to compile such a list. Upon motion by Representative Lundstrom, seconded by Representative Rodella, the committee voted without objection to send a letter to the Legislative Finance Committee and to the governor urging them to instruct all state agencies to identify projects and programs for Native Americans and to help get a list or chart compiled. Upon motion by Representative Begaye, seconded by Senator Lovejoy, the committee voted without objection to write a letter to the president and vice president of the Navajo Nation and to the speaker of the Navajo Nation Council urging the review by a single council committee and adoption of a single joint powers agreement for all Navajo Nation capital outlay projects approved each year.

Patsy Trujillo, deputy secretary of the Aging and Long-Term Services Department (ALTSD), discussed capital outlay appropriations for the ALTSD. She said that capital project

requests are submitted to the ALTSD in each of the senior programs' respective regions. Capital project funding requests are simultaneously prioritized by the department and the Area Agencies on Aging using established criteria. According to Ms. Trujillo, the final aging network capital projects recommendations go to the legislature as the aging network package. She provided capital outlay priority criteria; appropriation amounts for five years; and a list of pending contracts and all active projects. She noted that \$1,360,809.68 in capital outlay appropriations for the Navajo Nation had reverted over the past five years. Upon motion by Representative Begaye, seconded by Senator Lovejoy, the committee voted without objection to send a letter to the secretary of aging and long-term services urging the expansion of the department's capital outlay staff.

Navajo Nation Capital Outlay Process

Stanley Yazzie, deputy director of the Division of Community Development for the Navajo Nation Council, thanked the committee for its service to the Navajo Nation and introduced Casey Begaye, manager of the Capital Improvement Office of the Navajo Nation. Mr. Begaye provided two recommendations for the legislature to help with the capital outlay process. First, the scope of funding needs to be broadened to include planning, designing, purchasing, equipping and maintaining. Second, the scrutiny and time frames for project completions are too strenuous and often prove to be unrealistic. Upon motion by Senator Lovejoy, seconded by Representative Lundstrom, the committee approved without objection to write a letter to the president, vice president and speaker to encourage a streamlined, efficient and shortened process for certification of LIHEAP applications. Upon motion by Representative Begaye, seconded by Senator Lovejoy, the committee approved without objection to write a letter to the president and vice president of the Navajo Nation about the discussion of capital outlay procedures, such as scope of work modification, and encourage approval for the projects by a single legislative committee.

Discussion of Alternatives for Improvements in the Capital Outlay Process

The committee discussed the need for continued communication and dialogue with the Navajo Nation to improve the delivery of capital outlay funds to the Navajo chapters in New Mexico.

Adjournment

There being no further business before the committee, the third meeting of the Indian Affairs Committee for the 2008 interim was adjourned at 3:05 p.m.

Revised: September 3, 2008

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**September 8-10, 2008
Shiprock Chapter, Navajo Nation
Upper Fruitland Chapter, Navajo Nation
Nageezi Chapter, Navajo Nation**

Monday, September 8 — Chapter House, Shiprock Chapter

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Shiprock Chapter — Status Update**
—President Duane H. Yazzie
—Vice President Donald Benally
—Council Delegate Leonard Anthony
- 11:00 a.m. **Office of the Medical Investigator — Status Update**
—Tim Stepetic, Associate Director for Administrative Service, Office of the
Medical Investigator
- 12:00 noon **Lunch**
- 1:00 p.m. **Shiprock Pinnacle As State Park — Feasibility Study**
—Dave Simon, Director, New Mexico State Parks
—Representative, Parks and Recreation Department, Navajo Nation
- 2:30 p.m. **Tour of Shiprock Pinnacle (Tse' bi t'ai)**
- 4:00 p.m. **Recess**

Tuesday, September 9 — Chapter House, Upper Fruitland Chapter

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Upper Fruitland Chapter — Status Update**
—Vice President Alice L. Mason
—Council Delegate LoRenzo Bates
- 10:00 a.m. **Northern Navajo Veterans' Center**
—Paul George, Veterans' Service Officer, Shiprock Agency, Navajo Nation

- 10:30 a.m. **Navajo Nation Gaming — Status Update**
—Ray Etcitty, General Counsel, Navajo Nation Gaming Enterprise
- 11:30 a.m. **Diné Local Behavioral Health Collaborative #15 — Total Community Approach**
—Dr. Christopher Morris, Navajo Department of Behavioral Health Services
—Mike Salabiye, Navajo Tribal Planner
- 12:00 noon **Lunch**
- 1:00 p.m. **Tribal Infrastructure Board — Status Update**
—Alvin H. Warren, Secretary of Indian Affairs
—Representative, Tribal Infrastructure Board
- 2:00 p.m. **Truancy Program — San Juan County**
—Lyndy Bennett, San Juan County District Attorney
—Ron Lucero, Statewide Truancy Coordinator, Coordinated School and Family Support Bureau, Public Education Department
- 3:00 p.m. **Raytheon Corporation — Status Update and Tour**
—Robert Joe, Plant Manager, NAPI Facility, Raytheon Missile Systems (Invited)
- 5:00 p.m. **Recess**

Wednesday, September 10 — Chapter House, Nageezi Chapter

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Nageezi Chapter — Status Update**
—President Juan E. Betoni
—Vice President Rory A. Jaques
—Council Delegate Harry J. Willetto
- 10:00 a.m. **Navajo Tribal Utility Authority (NTUA)**
—Philemon Allison, Acting District Manager, Fort Defiance District, NTUA (Invited)
- 11:00 a.m. **Navajo Nation Telecommunications Regulatory Commission (NNTRC)**
—Ernest Franklin, Jr., Executive Director, NNTRC (Invited)
- 11:30 a.m. **Sacred Wind Communications — Update**
—John Badal, Chief Executive Officer, Sacred Wind Communications
- 12:00 noon **Lunch**
- 1:00 p.m. **Adjourn**

MINUTES

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

**September 8-10, 2008
Shiprock Chapter, New Mexico
Upper Fruitland Chapter, New Mexico
Nageezi Chapter, New Mexico**

The fourth meeting of the Indian Affairs Committee for the 2008 interim was called to order by Senator John Pinto, co-chair, at 10:30 a.m. in the chapter house of the Shiprock Chapter of the Navajo Nation.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair (9/8)
Rep. Ray Begaye (9/8, 9/9)
Sen. Dianna J. Duran
Sen. Lynda M. Lovejoy (9/10)
Rep. Patricia A. Lundstrom (9/8, 9/9)
Rep. John Pena (9/9)
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez

Absent

Rep. Justine Fox-Young
Sen. John C. Ryan
Rep. Gloria C. Vaughn
Rep. W. C. "Dub" Williams

Advisory Members

Rep. Ernest H. Chavez
Rep. Ben Lujan (9/8)
Sen. Richard C. Martinez
Rep. Debbie A. Rodella (9/8, 9/9)
Rep. Nick L. Salazar

Sen. Joseph J. Carraro
Sen. Timothy Z. Jennings
Sen. William E. Sharer
Sen. David Ulibarri

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

Staff

Chase Van Gorder
Damian Lara
Mark Harben

Guests

The guest list is in the meeting file.

Handouts

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

Monday, September 8 — Shiprock Chapter, Navajo Nation

Shiprock Chapter, Navajo Nation — Status Update

Donald Benally, vice president of the Shiprock Chapter, welcomed the committee on behalf of the Shiprock Chapter. He thanked the committee members for all the work they have done for the chapter, but said that continued development of communication and cooperation is needed. Mr. Benally asked for support to get the Shiprock Pinnacle designated as a state park. Leonard Anthony, council delegate, expressed concern to the committee regarding funding from the state, the monitoring process and utilization of funds. He also stated that he worries about irrigation, the Headstart Program, education and infrastructure. Mr. Anthony said the chapter wants more funding, especially for its children and elders, and is dedicated to using the funds properly and on time. Peter Deswood joined the panel to provide a capital outlay update. He told the committee that a general manager for the Tribal Power Authority has been hired and is concentrating on finding and closing out projects related to electricity, water and sewer projects. Mr. Anthony discussed streetlight and electricity projects facing obstacles as a result of the sparse population density. Rebecca Martinez, capital outlay manager for the Indian Affairs Department (IAD), presented an update and status report on the IAD allocation of funds for the Shiprock Chapter. She commended the chapter for its hard and efficient work with the funds from the IAD. Wallace Charlie discussed some problems the new high school on the New Mexico/Arizona border in the Navajo Nation is experiencing. One of the most problematic issues, according to Mr. Charlie, is the bus lines. The Navajo Nation does not have enough heavy equipment to clear the roads and improve them, so the Navajo Nation would like assistance from some of the counties surrounding the territory, such as San Juan County. The concern arises from worries over the anti-donation clause. Mr. Charlie asked what can be done to alleviate this problem.

Upon a motion by Speaker Lujan, seconded by Representative Madalena, the committee voted without objection to write a letter to Secretary Rhonda Faught of the Department of Transportation, with copies to the governor and to the school adjoining school districts, to request that the secretary help with equipment going into the reservation.

Office of the Medical Examiner — Status Update

Tim Stepetic, associate director for administrative services of the Office of the Medical Investigator (OMI), discussed proposed legislation by his office regarding new subpoena power, policies, procedures, powers and the name for the OMI. Mr. Stepetic highlighted continued deference and sensitivity to the cultural needs of family members and particularly to Native Americans in the legislation. Amy Wyman, supervisor of technical services for OMI, gave a presentation regarding the OMI's policy of cultural deference and procedures for dealing with the remains of Native Americans. At the conclusion of the presentation, the committee expressed the importance for the OMI to continue to defer to the cultural requisites of Native Americans whenever possible.

Shiprock Pinnacle As a State Park

Dave Simon, director, State Parks Divisions, Energy, Minerals and Natural Resources Department, presented the results of a feasibility study undertaken in response to House Joint Memorial 11 passed in the 2008 legislative session regarding the designation of the Shiprock Pinnacle as a state park. Mr. Simon reviewed the statutory requirements and criteria for state parks, the cultural and natural resource values of the Shiprock Pinnacle, legal and management issues surrounding the designation of the Shiprock Pinnacle as a state park and the action alternatives considered in the feasibility study: no action, establish the Shiprock Pinnacle as a state park or establish the Shiprock Pinnacle as a Navajo Nation tribal park with assistance from the State Parks Division in the design, development and possibly the management of such a park. Mr. Simon outlined legislative action that might be taken in the event any of the alternatives are chosen for action. The feasibility study will remain open for public comment for 60 days. Martin Begaye with the Navajo Nation Parks and Recreation Department said the Navajo Nation requires its parks to fund themselves through revenue generated from the parks. He said that working with New Mexico state parks would help fund the project and help bring more people into the proposed park. If the Shiprock Pinnacle is only a tribal park, tourists may think that it is only for the Navajo Nation, not tourists in general.

Following questions and discussion by committee members, committee members traveled to the Shiprock Pinnacle for an on-site briefing by state and Navajo officials and local residents. Following the presentation and tour of the Shiprock Pinnacle, Senator Pinto recessed the meeting at 4:45 p.m.

Tuesday, September 9 — Upper Fruitland Chapter, Navajo Nation

The fourth meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Senator Pinto, co-chair, on Tuesday, September 9, 2008, at 9:32 a.m. at the chapter house of the Upper Fruitland Chapter.

Upper Fruitland Chapter, Navajo Nation — Status Update

Lorenzo Bates, delegate to the Navajo Nation Council for the Upper Fruitland Chapter, thanked the committee for its support of the construction of the new chapter house. He said the chapter raised and used \$165,000 of its own money; and although quite independent, the Upper Fruitland Chapter does still need assistance and cooperation from the State of New Mexico. The chapter would like to institute an initiative for a youth program that is separate from the Boys' and Girls' Club. According to Mr. Bates, the rodeo grounds are inactive at the moment, but the chapter would like to get the grounds started again. The senior citizens center is also a priority because it has become too small to accommodate the growing population of the chapter's seniors. There are some funds from the Navajo Nation to be used for planning for a new senior center and perhaps for demolition of the old center. Mr. Bates stated that the chapter would like to add an addition to the chapter house geared toward veterans with funds coming from the Navajo Nation. There have been some improvements on Navajo Route 36 and the chapter house parking lot was improved with leftover gravel.

Raymond Tsosie discussed the history and structure of the chapter and the way the members use its facilities and services. The chapter wants to provide services and opportunities

for members of all ages. He discussed the desire to update and rejuvenate the fairgrounds. Mr. Tsosie stated that the community's need for recreation facilities was identified by the 2006 land use plan approved by the Upper Fruitland Chapter and certified by the Navajo Nation Council's Transportation and Community Development Committee. He remarked that the Upper Fruitland Fairgrounds Committee has worked with the chapter to organize a plan to develop an area for recreation by way of facilities for a fairgrounds, rodeo arena and improved multipurpose center. The facilities plan will piggy back on the larger infrastructure presently available. Mr. Tsosie told the committee the chapter has 20 acres to develop fairgrounds and recreation facilities, with a horse track already present. The committee projects the cost of a feasibility study, associated master plan and actual construction to total \$1,760,000.

Lynn M. Bitok, the supervisor for the Upper Fruitland Senior Center, discussed the chapter's senior center. She stated that, according to the 2000 census, Upper Fruitland has 600 elders. The current senior center is plagued with limited space, damage and a need for kitchen equipment. Some of the damage or areas in need of repair include sewer pipes open on the outside sidewalk, damaged ceilings in the storage room, holes in the building's siding allowing birds to enter the attic, ill-fitting windows, an unvented dryer that blows into the building and sink drainage that is not up to code. The senior center currently has 82 registered clients, but there is a continuous growth in the numbers of clients registering. Ms. Bitok told the committee a new senior center is needed.

Lenny Esson, youth program coordinator for Upper Fruitland, discussed youth programs at the chapter. He said that during the spring, an average of 10-15 students attended the after-school program. There is a summer recreation program, and last year an average of 40 students participated each day. Breakfast and lunch were provided to the participants of the program. Program activities included arts and crafts, indoor/outdoor recreation, traditional teachings and a 10-and-under basketball program. Mr. Esson provided a list of things the program would like, including: a weight room fitness center, a game room, a new gym floor and bleachers, a scoreboard, kitchen items, a heating/cooling system, computers and a trail system.

Rick Golbe, commander of the Upper Fruitland Veterans Organization, and Rachel Hatch, secretary and treasurer of the Upper Fruitland Veterans Organization, discussed the status of veterans' programs in Upper Fruitland. The organization worked on improving and redrawing the bylaws, which took three months and is still ongoing. According to Mr. Golbe and Ms. Hatch, the organization is growing and experiencing increased participation from veterans of all ages. There is interest for a veterans' memorial, but there needs to be more discussion among the veterans first. They said that funds have come in for the program and are being used for home improvements for veterans.

Elaine Benally, Upper Fruitland scholarship chair, discussed the status of college scholarships for 25 students from Upper Fruitland. The scholarships assist with tuition, books and other costs associated with attending college. Ms. Benally stated that 23 students are undergraduates and two are graduate students (one attending New Mexico State University and the other attending the University of Arizona). The scholarship program is now looking to contribute funds for summer sessions as well as the regular academic year.

Upon motion by Representative Lundstrom, seconded by Representative Madalena, the committee voted without opposition to write a letter to the secretary of aging and long-term services to ask for the Upper Fruitland Chapter's request that funding for the senior center and services be added, even though the deadline has passed, and to obtain a list and summary of any capital outlay appropriations for seniors of the Navajo Nation.

Northern Navajo Veterans' Center

Paul J. George, veterans' service officer for the Shiprock Agency of the Navajo Nation, discussed a veterans' housing project. He said the Northern Navajo Agency Department of Navajo Veterans' Affairs will be requesting \$1,045,000 in fiscal year 2009. It will make the request to the New Mexico Legislature and will aim to fund the veterans' housing project, which would include solar energy home electricity projects, upgrades and improvement of the Northern Navajo Veterans' Center and improvements of information technology systems. Raymond Jim, president of the Navajo Veterans' Organization of the Northern Navajo Agency, presented a request to the committee for assistance to amend Senate Bill 574 from the 2008 session to appropriate funds into the Native American Veterans' Income Tax Settlement Fund. Morris Johnson and Perry Benally, both Native American veterans, Expressed their concern for SB 574 and their desire to rectify the situation. Marian Johns, a member of the Shiprock Chapter Veterans' Organization, was given the floor from the audience. She said that there is a need for clarification about the status of SB 574 and asked what course of action must be taken to rectify the situation.

Upon motion by Representative Lundstrom, seconded by Senator Rodriguez, the committee voted 10 to three to write to Secretaries Homans and Garcia to clarify what methodology and processes are used for the survey, report and process for the tax reimbursement for Native American veterans as set forth in Senate Bill 574 from the 2008 legislative session.

Navajo Nation Gaming — Update

Ray Etcitty, general counsel for the Navajo Nation Gaming Enterprise, presented the structure and status of the Navajo Nation Gaming Enterprise. He provided the backgrounds of the members of the board and stated that they are very well-qualified. The Navajo Nation will open a casino called the Fire Rock Casino, which will be self-funded. Currently, the casino is intended to be located outside of Gallup, but the Upper Fruitland and Hogback chapters are still under consideration for future casinos. Mr. Etcitty's organization is not governmental, but is the business arm of the Navajo Nation.

Diné Local Behavioral Health Collaborative #15 — Total Community Approach

Mike Salabiye, Navajo Nation tribal planner, and Dr. Christopher Morris, Navajo Department of Behavioral Health Services, presented a status report on the Navajo Department of Behavioral Health Services and the Navajo Regional Behavioral Health Center. They stated that approximately 52,000 Navajo individuals (25 percent of the Navajo population) are affected by alcohol and substance abuse. The project has funding totaling \$15,933,410, but an additional \$1,650,000 will be requested for telecommunications, security, furnishings and equipment. Dr. Morris said that the department is working on a project utilizing a "total community approach" (TCA), focusing on youths ages 13 to 24. They chose to focus on the youth because the Navajo

Nation's population distribution is disproportionately "young". There have been six prevention strategies developed for TCA. They include: information dissemination, providing education, offering alternatives, problem identification and referral, community-based process and environmental change. According to Dr. Morris, a focus of the programs will be intervention with the involvement of the Navajo Nation police, judicial branch, Office of the Prosecutor, teen court, the TCA youth treatment and care coordination team and the community. Mr. Salabiye and Dr. Morris outlined the program's requests, including: the support of community members in the Diné Underage Planning Task Force, the endorsement of the program and increased funding from \$600,000 to \$800,000.

The committee raised concerns with the renewal of the ValueOptions contract.

Tribal Infrastructure Board — Status Update

Secretary of Indian Affairs Alvin Warren provided an update and status report for the Tribal Infrastructure Board. The IAD has provided training programs in Indian country for funding for infrastructure improvements and the application process for Tribal Infrastructure Fund (TIF) grants. Secretary Warren provided a list of the tribal entities that have requested funding from the TIF.

The committee discussed several of the projects and allocations of the TIF. Upon motion by Senator Duran, seconded by Representative Pena, the committee approved without objection to write a letter to the TIF Board and Governor Richardson expressing concern about the appropriateness of the All Indian Pueblo Council receiving funds from the Tribal Infrastructure Board and requesting a list of alternative funding sources. Upon motion by Representative Lundstrom, seconded by Representative Madalena, the committee approved without objection to forward the previously mentioned letter to Mark Valenzuela at the New Mexico Finance Authority to evaluate where funding could be obtained from that source.

Truancy Program — San Juan County

Lyndy Bennett, San Juan County district attorney, presented the status of truancy protocol and commented that it is relatively effective, but can improve. He stated that there have not been arrests because there are so many effective steps that are implemented before an arrest is called for. Patsy Felter, district office manager for the eleventh judicial district attorney (division one), stated that there is a local judge in Farmington that has worked well with the schools to help make the truancy system more efficient and effective. She expressed the desire for the legislature to pass a law that allows parents to be placed on observatory probation. John Whitehead, truant officer for Farmington Municipal Schools, spoke about issues dealing with truant students. There is a new policy that recommends not bringing truant students back to school because those students are bringing in objects (weapons, drugs, etc.) that should not be in a school. Subsequently, the identification process is very difficult; thus, reporting is not effective.

Dr. Kristine M. Meurer, director of the School and Family Support Bureau of the Public Education Department, discussed truancy, remarking that truancy is usually a symptom of something larger than not liking school, such as physical abuse or substance abuse. She presented information about the truancy prevention model that utilizes a case management

approach. Ron Lucero, the statewide truancy coordinator for the School and Family Support Bureau, said a truancy guide has now been made available and can be accessed on the bureau's web site. Mr. Lucero discussed the contracts the bureau has to help curtail truancy and how best to deal with Native American tribes and pueblos.

Raytheon Corporation — Status Update

Robert Joe, plant manager of the Raytheon Missile Systems Navajo Agricultural Products Industry (NAPI) facility, indicated that, given the time, if the committee members wish to visit and tour the facility, they would have to go to the facility now and the presentation and questions would need to be addressed during the tour. Wava White of the Navajo Nation Division of Economic Development gave a short presentation on the history of the NAPI Industrial Park. Following the presentation regarding the expansion of the Raytheon Corporation facility and a tour of the facility, Representative Madalena recessed the meeting.

Wednesday, September 10 — Nageezi Chapter, Navajo Nation

The fourth meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Senator Pinto, co-chair, on Wednesday, September 10, 2008, at 9:30 a.m. at the chapter house of the Nageezi Chapter.

Nageezi Chapter, Navajo Nation — Status Update

Juan E. Betoni, president of the Nageezi Chapter, welcomed the committee and introduced other presenters. Mr. Betoni told the committee that the chapter would be requesting funds for power line extensions, vehicle purchases, solar power systems for remote areas, senior center updates, chapter security updates and assisted living programs for the elderly. He thanked the committee for coming to visit the chapter. Louise Gleason, community service coordinator for the Nageezi Chapter, provided an update on the status of the chapter for the committee. She thanked the legislature for allocating funding for Nageezi and provided statistics for requested funding, along with the corresponding allocations. There is money for bathroom expansions, updates to the chapter house and power line extension. Rory A. Jaques, vice president of the Nageezi Chapter, told the committee that there are many needs for infrastructure and electricity available in the Nageezi Chapter; power lines are a major priority for the chapter. He asked the committee to propose legislation for power line extension, house wiring, a senior center and bathroom expansions/updates. Mr. Jaques stated that there are problems with capital outlay funds, and some funds, although allocated to the chapter, have not been received.

Ervin Chavez, county commissioner of San Juan County District 2, discussed issues and concerns with appropriation of funds and conditions of roads in the chapter. He stated that three miles of road on Route 7950 have been chip sealed, but 16 miles remain. Although the government wants improved access to the Chaco Canyon National Historic Cultural Park, Mr. Chavez stated there has been opposition from the Historic Preservation Division of the Cultural Affairs Department. He requested assistance in getting road improvements. The committee asked that this topic be included on the agenda for a future meeting.

Navajo Tribal Utility Authority

Philemon Allison, acting district manager of the Navajo Tribal Utility Authority (NTUA), presented a status update and report on the structure of the NTUA. The NTUA was created in 1959 by the Navajo Tribal Council to provide modern utility services to the Navajo people and is a nonprofit organization. The NTUA currently serves 38,133 electricity customers, 34,355 water customers, 13,440 wastewater customers and 7,607 natural gas customers. Mr. Allison discussed the high capital cost of utilities and provided a list of sources of funding, including: the Navajo Nation, loans from various organizations and grants from the federal Economic Development Administration and the federal Environmental Protection Agency. He also discussed future concerns of the NTUA such as inflation, the low population density, rights of way for acquisition, electric deregulation and increasing energy costs.

Navajo Nation Telecommunications Regulatory Commission

Leland Leonard, of the Navajo Nation Telecommunications Regulatory Commission (NNTRC) presented an update about the NNTRC. Mr. Leonard provided a history of the Navajo Nation's telecommunications programs. He stated that 42 percent of the nation is not connected to telephone lines. He said that two companies serve the majority of the Navajo Nation with telecommunications: Frontier and Sacred Wind Communications. Mr. Leonard said that many students and children have access to internet services, but more access is needed. He discussed some positive ideas and programs that the Navajo Nation has experienced in Arizona regarding running telecommunications lines. Kee Long, program manager of the Navajo Film Office for the Office of Broadcast Services, presented on the sharing of bandwidth and broadcasting of television stations. John Badal, chief executive officer for Sacred Wind Communications, stated that the goal is to serve the underserved areas of the Navajo Nation. Mr. Badal told the committee he wants legislation to create a personal computer recycling and refurbishing center to help make personal computers accessible and available to more people in the Navajo Nation.

Adjournment

There being no further business before the committee, the fourth meeting of the Indian Affairs Committee for the 2008 interim was adjourned at 1:30 p.m.

Revised: September 29, 2008

**TENTATIVE AGENDA
for the
JOINT MEETING
of the
INDIAN AFFAIRS COMMITTEE
and the
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE**

**October 1-2, 2008
Crownpoint, New Mexico
Grants, New Mexico**

Wednesday, October 1 — Navajo Technical College, Crownpoint, New Mexico

- 9:30 a.m. **Call to Order**
- 9:35 a.m. **Welcome**
—Elmer Guy, President, Navajo Technical College
—Jamison DeVore, President, Crownpoint Chapter, Navajo Nation
—Alice Benally, Crownpoint Delegate, Navajo Nation Council
- 10:00 a.m. **Introductory Comments**
—Chase Van Gorder, Staff Attorney, Legislative Council Service
- 10:30 a.m. **Uranium Resources in New Mexico**
—Douglas M. Bland, Special Projects Manager, New Mexico Bureau of Geology
and Mineral Resources, New Mexico Institute of Mining and Technology
—Paul Robinson, Research Director, Southwest Research and Information Center
—Rick Van Horn, Executive Vice President and Chief Operating Officer,
Uranium Resources, Inc.
- 11:30 a.m. **Public Comment and Working Lunch**
- 1:00 p.m. **Uranium Mining and Milling Basics: In Situ Leaching and Underground
Geology**
—Peter A. Scholle, Director and State Geologist, New Mexico Bureau of
and Mineral Resources, New Mexico Institute of Mining and Technology
—Rick Van Horn, Executive Vice President and Chief Operating Officer,
Uranium Resources, Inc.
—Mitchell W. Capitan, Eastern Navajo Diné Against Uranium Mining
—Milton Head, Bluewater Valley Downstream Alliance
- 2:30 p.m. **Inventory, Evaluation, Environmental Impact and Cleanup Status of
Uranium Mining/Milling Sites**
—Bill Brancard, Director, Mining and Minerals Division, Energy, Minerals and

- Natural Resources Department
—Rich Bush, Project Manager, Office of Legacy Management, U.S. Department of Energy
—Scott Stollman, Senior Policy Advisor, Region 9, Environmental Protection Agency (EPA)
—Andrew Bain, Superfund Program, EPA
—Stephen B. Etsitty, Executive Director, Navajo Nation Environmental Protection Agency
—Teddy Nez, Resident of the Red Water Pond Road Area
—Juan Velasquez, Vice President, Environmental and Regulatory Affairs, Strathmore Minerals Corporation
—Randy Foote, New Mexico Operations Director, Uranium Resources, Inc.

4:00 p.m. **Tour of Proposed HRI Crownpoint In Situ Leaching Site**

5:00 p.m. **Recess**

Thursday, October 2 — Cibola County Convention Center, Grants, New Mexico

9:00 a.m. **Call to Order**

9:05 a.m. **Recent Judicial/Legislative/Regulatory Developments**

- Bill Brancard, Director, Mining and Minerals Division, Energy, Minerals and Natural Resources Department
—Marcy Leavitt, Director, Water and Waste Management Division, Department of Environment
—Jan Biella, Deputy Historic Preservation Officer, Historic Preservation Division, Cultural Affairs Department
—Stephen B. Etsitty, Executive Director, Navajo Nation Environmental Protection Agency

11:00 a.m. **Public Comment and Working Lunch**

1:00 p.m. **State Legislative Initiatives**

- Representative, Uranium Industries
—Chris Shuey, Executive Director, Southwest Research and Information Center
—Representative John A. Heaton
—Senator Lynda M. Lovejoy
—Representative Patricia A. Lundstrom
—Senator David Ulibarri

4:00 p.m. **Adjourn**

Revised: September 15, 2008

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**October 3, 2008
Ramah, New Mexico**

Friday, October 3 — Chapter House, Ramah Chapter, Navajo Nation

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Ramah Chapter — Status Update**
—President Leo L. Pino
—Vice President Martha Garcia
—Council Delegate Cecil Frank Eriacho
- 10:00 a.m. **Project ECHO — Update**
—Dr. Sanjeev Arora, Director, Project ECHO, Health Sciences Center,
University
 of New Mexico
- 11:00 a.m. **Native American Veterans State Income Tax Settlements — Status Update**
—John Garcia, Secretary of Veterans' Services
—Rick Homans, Secretary of Taxation and Revenue
- 12:00 noon **Lunch**
- 1:00 p.m. **Adjourn**

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

**October 1-3, 2008
Crownpoint Chapter, New Mexico
Grants, New Mexico
Ramah Chapter, New Mexico**

The joint meeting of the Indian Affairs Committee and the Radioactive and Hazardous Materials Committee for the 2008 interim was called to order by Representative John A. Heaton, co-chair of the Radioactive and Hazardous Materials Committee, at 9:30 a.m. at the Navajo Technical College in Crownpoint, New Mexico.

Present

Rep. James Roger Madalena, Co-Chair (10/1 & 10/2)
Sen. John Pinto, Co-Chair
Rep. Ray Begaye
Sen. Dianna J. Duran
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom (10/1 & 10/2)
Rep. John Pena
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez (10/3)

Advisory Members

Sen. Joseph J. Carraro (10/2 & 10/3)
Rep. Ernest H. Chavez
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar
Sen. David Ulibarri

Also Present

Rep. Thomas A. Anderson
Rep. William J. Gray
Rep. John A. Heaton
Rep. W. Ken Martinez
Rep. Jim R. Trujillo
Rep. Peter Wirth

Absent

Sen. Rod Adair
Rep. Justine Fox-Young
Sen. John C. Ryan
Rep. Gloria C. Vaughn
Rep. W. C. "Dub" Williams

Sen. Timothy Z. Jennings
Rep. Ben Lujan
Sen. William E. Sharer

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

Staff

Chase Van Gorder
Damian Lara
Mark Harben
Jeret Fleetwood

Guests

The guest list is in the meeting file.

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

Wednesday, October 1 — Navajo Technical College, Crownpoint**Welcome**

Elmer Guy, president of Navajo Technical College, welcomed the committees and provided background about Navajo Technical College. He said the college offers two-year degrees and trade certificates. Enrollment has increased by 10 percent from last year and the college now has a total enrollment of 500 students. There is a new building being constructed with a December completion date that will house the culinary center. President Guy said there is need for a new auditorium and the college has funds to start architectural planning. President Guy thanked committee members for the legislature's capital outlay support of Navajo Technical College.

Jamison DeVore, president of the Crownpoint Chapter of the Navajo Nation, welcomed the committees to Crownpoint. Crownpoint has felt the economic turmoil and needs help, especially with roads. A proposal for a hotel in Crownpoint is waiting for financial investors, and there is a need for a restaurant in town. He told the committees that Crownpoint was considered the uranium capital of the Navajo Nation, but the nation then discovered that it was a harmful industry. Mr. DeVore stated that infrastructure and the lack of electricity are the biggest problems in Crownpoint, especially as the cost of living goes up. The waterline project is about 48 percent complete. Mr. DeVore emphasized that Crownpoint has been very hard-hit by the economic slow down.

Alice W. Benally, Crownpoint delegate to the Navajo Nation Council, told the committees that uranium mining is good for the economy, but only for the short term. She stated that once a mine is exhausted, it leaves a legacy of detrimental results to the people, animals and land. The negative results of uranium mining lead to poor water sources and the need for expensive medical care. She said the people of Crownpoint struggle with health care costs and lack of services, so a further strain is extremely dangerous. There is also a need for help from the legislature to give the people running water and electricity. Ms. Benally said the chapter also needs help to improve and maintain infrastructure, along with economic development for the area. Ms. Benally also thanked committee members for their assistance with capital outlay appropriations to benefit the Crownpoint Chapter.

Introductory Comments

Mr. Van Gorder, staff attorney for the Legislative Council Service, said that the fact that this is a joint meeting of two interim committees is an indication of just how important the topic of uranium mining is. The topic has been discussed with great frequency, and there were several bills introduced during the 2008 legislative session last year dealing with uranium mining, past and future. The purpose of this joint meeting is to allow committee members to be brought up to date, and it will provide important facts and opinions about uranium mining from both the uranium industry and those who are concerned about the resumption of uranium mining and milling activities in New Mexico. There will be an opportunity for public comment, but members of the public need to sign up to speak. Mr. Van Gorder discussed the briefing book that has been compiled for and distributed to committee members.

Uranium Resources in New Mexico

Douglas M. Bland, special projects manager for the New Mexico Bureau of Geology and Mineral Resources (a division of New Mexico Tech), said he is not advocating for or against uranium mining, but is providing an objective view of the industry. Uranium is a very hot topic right now and uranium is in demand. Following the slides of his presentation, he said that in 2008 there were 439 operating nuclear reactors in the world, requiring an estimated 64,615 tons of uranium for fuel, about 1.6 times as much uranium as is actually being mined currently. The United States produces 4.2 percent of global uranium output. The deficit is made up by sales from surplus weapons stockpiles, especially from Russia. However, those supplies will most likely run out by 2012. He provided a map showing where in the United States uranium is being mined. Mr. Bland discussed the economic effects involved with uranium mining in terms of costs to extract and produce uranium compared to the value of uranium. Much like the petroleum industry, prices in the uranium industry are unpredictable, and the size of uranium deposits underground is unknown. Mr. Bland stated that technology has improved recently, making the extraction process more efficient, even eliminating in some cases the need for digging up the ground. He also examined the production levels of the United States in uranium mining and provided calculations of New Mexico's reserve value, estimated at \$20 billion to \$27 billion, using federal Energy Information Administration estimates.

Mr. Bland concluded that New Mexico's reserves of uranium are by no means exhausted. It is unknown exactly how much remains in New Mexico, and he provided estimates of 84 million pounds of U_3O_8 at \$30.00 per pound and 341 million pounds of U_3O_8 at \$50.00 per pound. Trends show that uranium will stay above \$50.00 per pound. Thus, Mr. Bland concluded that estimates of total production value of U_3O_8 are between \$20 billion and \$27 billion.

Additional factors affecting the estimates of U_3O_8 reserves in New Mexico include geological studies, incomplete knowledge, changes in mining techniques, commodity prices, costs of permitting and reclamation requirements. The permitting processes have very large requirements on timing. Uranium has water and radioactive issues that will take many years to monitor. He noted that the regulatory scheme can be affected by the legislature.

Paul Robinson, research director of the Southwest Research and Information Center, said that the uranium reserves that exist today are more than adequate to fuel any conceivable expansion of nuclear power, and the nuclear fuel market will be more than adequately supplied

in the period to the year 2020. He did say, however, that prospective uranium mines will be required beyond 2020, and market forces are bringing new uranium projects into production. Mr. Robinson provided a chart showing the world's top uranium producing countries in the world, with Australia, Kazakhstan and Canada holding the top three spots respectively (producing 46 percent of the world's total). Mr. Robinson explained that the life of a nuclear reactor is about 30 years and the United States has about 400 whose lives are to expire soon. Of those, only about half may be replaced, and replacement reactors will be much more efficient than the reactors they replace. Additionally, he stated that secondary sources of uranium, such as nuclear weapons and enriched uranium, are in plentiful supply. Primary suppliers of uranium that have prospective mining licenses have not begun new mining. He noted that only one prospective license has been applied for in New Mexico; all other applications are for exploration only. Mr. Robinson concluded that there is not a lot of room for new mining operations in New Mexico. The World Nuclear Association (WNA) has stated that stockpiles can last for 50 years, making it very difficult for new New Mexico mines to get started. The WNA states that existing mines have reserves adequate for the next 100 years. Thus, United States and New Mexico resources of uranium will not be competitive. BHP, the second-largest mining company in the world, is not moving on its New Mexico uranium land holdings. A lot of capital is needed, and very few have cash on hand to start production.

Rick Van Horn, executive vice president and chief operating officer of Uranium Resources, Inc., discussed the economic side of mining uranium. He said that 20 percent of the power in the United States comes from nuclear energy, with New Mexico obtaining 16 percent of its energy from nuclear power even though there is not a nuclear reactor in the state. The uranium prices have gone up tremendously in the last year, with \$64.00 per pound of U₃O₈ as the current price and about \$75.00 per pound as the long-term price. Mr. Van Horn stated that New Mexico does not have a mill in the state, and one mill would process all of the uranium ore produced in New Mexico. China is building a one-gigawatt coal power plant per week, but needs nuclear power because of the pollution issues associated with coal plants, as illustrated with the shutdown of plants during the Olympics. Mr. Van Horn asserted that there is a crisis looming regarding uranium production. He said that 92 percent of uranium comes from foreign sources, yet 20 percent of the United States electricity is from nuclear power, thus illustrating a foreign dependence that can threaten the energy situation in the United States. Mr. Van Horn said that this presents a national security issue.

Committee members asked each member of the panel if any member took any exception with what was presented by the others, focusing on the "neutral" scientific report given by Mr. Bland. Mr. Robinson stated that much of the presentation was agreeable; he has concerns with the use of the term "reserves". Mr. Van Horn said that he did not have any problems with the presentation, but did mention that as a company, URI feels it has a right to mine the uranium and that its holdings do not constitute "Indian land".

Upon a question as to why there is a change in the economic makeup of uranium costs, production and value, Mr. Bland responded that one factor is the creation of new uranium sources, such as weapons-grade uranium; he also mentioned the fact that governments do keep their uranium production statistics quiet.

Committee members asked about the cost of uranium production in New Mexico and the cutoff line for production costs to make New Mexico an economically unviable source for uranium. Mr. Van Horn said that it depends on the quality of the uranium reserve. Mr. Robinson stated that New Mexico faces a challenge because Australia, Canada and Kazakhstan have smaller production costs. New Mexico is striving to get the costs down to \$30.00 to \$40.00 per pound of U₃O₈, whereas other countries already have attained those cost levels, along with large reserves.

Committee members inquired if the United States reactors are producing at their peak outputs. Mr. Bland stated they are producing at capacity. Committee members stated that the price of uranium must be going up and asked the panel members if they agreed. Mr. Bland said many people would agree, but some would not. Committee members stated concerns about the fluctuation of the price for uranium and asked about any concerns about lending practices to fund production, especially in the current economic crisis. Mr. Van Horn said that his company would not finance off the balance sheet.

Committee members warned that it is not right for a company to force its way back into a community to mine if that community is not interested and is angry about the legacy of that company. Cultural factors have to be considered in this situation. Committee members asked how long would it take to get another nuclear power plant in the United States. Mr. Bland stated that there has not been a new permit awarded in at least 30 years and getting a new one would take years. Committee members also noted that regulations are concerned with the safety and business practice of an industry and not the economic feasibility of engaging in business.

Public Comment

James Martinez of the Marquez Land Grant said he wants uranium mining to resume because it will be helpful and there are no other economic opportunities.

Gerald Brown of the Church Rock community said companies have to make a commitment financially, but cultural factors need to be taken into account as well. Thirteen Navajo communities have expressed opposition to the resumption of uranium mining. Alternative energy should also be explored, according to Mr. Brown.

Ruth Armijo of the Juan Tafoya Land Company stated that energy and economic development are important and uranium mining in this area will bring opportunity for both to grow. She added that nuclear energy is the most viable alternative to oil and coal.

Candace Head-Dylla of Milan thanked the committees for holding public comment. The country's current energy crisis is a result of short-sighted planning, she claimed. Ms. Head-Dylla stated that alternative energy sources are vital for the United States and the world, and nuclear power is not the only option. She noted that the water in the Milan area has been contaminated by past uranium mining and milling activities and regulations will not prevent it. She asked the committees to take the regulations seriously to protect New Mexico.

Benjamin House of the Eastern Navajo Allottees Association remarked that many Navajo are struggling financially. The blame of uranium for being negative is exaggerated, and, according to Mr. House, uranium is a viable option for economic development and revenue for the Navajo Nation.

John Boomer of the Bluewater Valley Downstream Alliance is against mining for public health and safety issues. He said that the economic risks are very high. Mr. Boomer said technology has not improved enough to ensure the safety of the public and the land.

Larry King of the Church Rock community believes that there is still a great deal of waste left over from previous uranium mines and mills and that the radiation levels are 10 times the levels permitted by the federal Environmental Protection Agency (EPA). The uranium mining companies have not had the necessary respect for the community's desires, according to Mr. King. He said that he has not seen one instance in which an aquifer has been restored; in-situ leaching (ISL) is an unproven mining technique.

Annie Sorrel stated that the community needs to take care of the youth, because the youth are falling prey to alcohol and do not have opportunities. The leaders in Window Rock are not doing enough, especially because the land of the Navajo Nation has so many resources. She said uranium mining can provide opportunity and the land can be protected at the same time.

Daleno Long, president of the student body at Navajo Technical College, is concerned about the contamination of the community's water supply and is against uranium mining. She does not believe that the water can be restored and be safe from contamination. She expressed concern about the impact of contamination from uranium mining on human pregnancies.

Rita Capilan, a member of Eastern Diné Against Uranium Mining (ENDAUM), said that Uranium Resources, Inc., is not being honest about what can happen in areas of uranium mining and should not be allowed to do in New Mexico what it has done in Kingsville, Texas. The mining process cannot be safe and the water source will become contaminated, according to Ms. Capilan. She said the water needs to be protected.

Joni Fuenmoyor from the Western Agency of the Navajo Nation said there is a lot of waste resulting from the uranium mining industry. There are a thousand uranium mine sites that have not been cleaned up. Trust is an issue, according to Ms. Fuenmoyor, and many of the companies are not telling the truth. She stated that alternative energy technology needs to be explored.

Uranium Mining and Milling Basics

Peter A. Scholle, state geologist and director of the New Mexico Bureau of Geology and Mineral Resources at New Mexico Tech, discussed uranium mining, milling and enrichment. He said that it is important to understand that most uranium deposits were formed by natural ground water transport of uranium in solution. Uranium is constantly being dissolved in oxidizing areas and being precipitated under reducing conditions. Dr. Scholle stated that uranium-mineralized areas naturally have substantial amounts of uranium, radium, other heavy metals and radon gas in the water, even in the absence of mining contamination. He discussed the ways uranium mining is conducted, including drilling for exploration, ISL, underground mining and open-pit mining. According to Dr. Scholle, milling probably is the single most problematic part of uranium operations because of the large volume of hazardous solid and liquid wastes, along with the resulting "footprint". Modern uranium mill waste ponds and piles, compared to old ones, have de-watered wastes, multiple impermeable liners and monitoring wells. There is, however, always some potential for leakage over long time periods, according to Dr. Scholle. He also explained the uranium enrichment process. Dr. Scholle said that questions need to be asked, including the desire to have nuclear power as a major source of energy, the ethical debate of having other countries participate in uranium mining activities that the United States will not conduct because of the dangers and, as oil and gas revenues may face a decline, whether a poor state like New Mexico can hold off on taking advantage of a rich mineral resource. He said the legislature needs to utilize research, both past and future, from universities and research laboratories, to ensure that there are sufficient regulations in place, to maintain risk-based management of sites and perhaps to establish a task force of specialists to report to the legislature.

Mr. Van Horn presented information regarding modern techniques in uranium mining. Mr. Van Horn outlined the safety of modern conventional uranium mining. He said the potential benefits of uranium mining mean nothing without safe mining practices, and success for the New Mexico uranium industry is contingent on safety. Compared to the past, there are more stringent regulatory standards, additional environmental safeguards and new employee safety measures. Mr. Van Horn described ISL uranium mining, stating it is noninvasive where uranium is extracted from sandstone aquifers by reversing the natural process that deposited it. He said that because aquifers that have uranium deposits have radioactive ground water regardless of any mining history, that ground water is only suitable for industrial purposes.

Michael W. Capitan of ENDAUM gave a presentation to the committees about his experience with ISL mining. Mr. Capitan said that injecting oxygen and sodium bicarbonate, as is done with in-situ recovery, increases the uranium level in the ground water by up to 100,000 times the previous level. He used the example of the Mobil Section 9 pilot project, which involved a 40-acre plot with 13 injection-production wells. Mr. Capitan said that the leaching for the in-situ recovery lasted only 10 months, but restoration lasted for over six years and the level of contamination in the ground water was never restored to pre-mining levels. The aquifer was flushed 17 times and still did not get fully cleaned. He warned that if this smaller site proved so difficult, if not impossible, to restore, other larger projects would be even more futile. Mr. Capitan stressed the importance of protecting drinking water and explained that the Navajo Nation banned uranium mining in 2005. He said the New Mexico Legislature could help by

prohibiting ISL mining in drinking water aquifers. The legislature should also make companies provide evidence that five in-situ projects prevented leaks of mining fluid and successfully restored ground water and should establish buffer zones around all uranium mining and processing operations so they are never built close to where people live.

Milton Head of the Bluewater Valley Downstream Alliance gave a presentation regarding the environmental effects on ground water resulting from uranium mining and milling activities. He said that there are 60 sections in the community that have contaminated ground water ranging from north of Milan to Ambrosia Lake. Mr. Head also said that 1,203,200 acre-feet of water for domestic and agricultural use was lost due to that contamination. He said that there were no background water levels set before operations were started, which makes it very difficult to monitor new levels of contamination. Mr. Head said that to help fix the problem the Homestake Superfund site needs to be expanded to include the upstream polluters, including the Anaconda mill site and Ambrosia Lake mines and mills. He added that he feels that the New Mexico Department of Environment needs to have more funding and that the department and the EPA should have field offices in Grants, along with a more intense and efficient monitoring system. Mr. Head stated that sites need to be cleaned up before any more mining can be started again.

Committee members asked if there are any major issues with the state geologist's presentation. Mr. Van Horn said that the state geologist claimed that no ISL site has been cleaned up, but that is not true. Mr. Van Horn also observed that Dr. Scholle said there were problems with water disposal that Mr. Van Horn does not agree with. He said that a brine or sludge would be made to make disposal safer. Mr. Head and Mr. Capitan said they feel that contamination is riskier than portrayed by the state geologist.

Committee members asked for clarification on the issue before the United States Tenth Circuit Court. The issue was that the EPA provided a permit based on a decision that was proposed by the company HRI for an ISL site that was surrounded by Indian country and thus was Indian Country. An appeal was submitted on the permit and on the issue of jurisdiction by the EPA. Mr. Van Horn said the issue is related to the status of the land being Indian country or the state's land. The EPA said that it was taking the jurisdiction (calling it Indian country), and Mr. Van Horn is fighting that decision.

Committee members asked if the mining would be above or below the aquifer. Mr. Capitan said that it would be done on the same level. Water rights were also brought up, as were concerns about adjudicated water rights.

Inventory, Evaluation, Environmental Impact and Cleanup Status on Uranium Mining/Milling Sites

Bill Brancard, director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department, gave a progress report on a survey of abandoned uranium mines. He outlined project phases, including data gathering, field surveys, site prioritization, leveraging

resources and cleanup. Mr. Brancard said a database of abandoned mines has been compiled. There are 259 abandoned uranium mines (AUM) with a record of production, of which 140 mines have no record of reclamation. There are also 450 disturbed areas with no record of production. According to Mr. Brancard, the New Mexico Abandoned Mine Land (AML) program safeguarded 15 abandoned mines in the early 1990s; mines were surveyed to assess the need for maintenance and to identify proximity to waste piles. Regarding prioritization, Mr. Brancard said the following factors were included in the formula: radiological hazards, physical safety hazards, proximity to homes, proximity to domestic wells and proximity to water drainages. In the future, there needs to be coordination with federal, state and tribal agencies, further site assessments, prioritization of sites, establishment of reclamation standards and criteria, public participation and ensuring that there are funding sources for cleanup work, including federal, state, tribal and private sources.

Rich Bush, project manager for the Office of Legacy Management of the United States Department of Energy (DOE), gave a presentation to the committees dealing with effectively and efficiently managing the DOE legacy responsibilities. He said that his office's mission is to manage the DOE's post-closure responsibilities and ensure the future protection of human health and the environment. The DOE's goals include: to protect human health and the environment through effective and efficient long-term surveillance and maintenance; to preserve, protect and make accessible legacy records and information; to support an effective and efficient work force structured to accomplish DOE missions and ensure contractor worker pension and medical benefits; to manage legacy land and assets, emphasizing protective real and personal property reuse and disposition; and to improve program effectiveness through sound management. Mr. Bush discussed New Mexico sites such as Ambrosia Lake, Bluewater, L-Bar and Shiprock.

Scott Stollman, senior policy advisor for EPA Region 9, said that the EPA under Region 9 has spent \$6 million dealing with uranium contamination issues and has a staff of 30 people (mostly part time). He also stated that the EPA is concerned with the construction of buildings using contaminated materials. Andrew Bain with the EPA Superfund program presented the EPA's work on uranium contamination cleanup to the committees. He showed the committees an atlas that the EPA put together. He said that the EPA is evaluating homes to see if they have been made with contaminated materials, beginning work in August 2008 in the Red Valley area. The EPA has taken down six homes thus far and, as part of the program provided part-time housing for those affected. There is also a program to assess water sources for contamination and the EPA and Navajo EPA are working together on this issue. Mr. Bain said the EPA has tested 50 unregulated water sources, finding that 22 sources exceeded standards for radionuclides and 21 of these were being used for human consumption. He said the EPA and Navajo EPA are also assessing abandoned uranium mines and will work together to develop a strategy for each mine.

Teddy Nez, resident of the Red Water Pond Road area, gave a presentation on behalf of the residents living next to the Northeast Church Rock mine and the Church Rock uranium mill and tailings disposal area. Mr. Nez is against uranium mining and stated long-term goals. He said that the Red Water Pond Road community wants long-term protection. This means protection and restoration of human health, air, land, vegetation and traditional cultural practices;

removal of the wastes at the mine site; the return of traditional lands to the Navajo Nation; improvement of homes, grazing lands and roads; and ensuring safety for new development. The Coyote Canyon Chapter and Church Rock Chapter of the Navajo Nation also have a resolution requesting a new livestock water well to replace 14T-586 (Friendship I), which is contaminated. Mr. Nez proposed recommendations, including: the support of congressional hearings on the health and environmental impacts of uranium contamination in New Mexico and Navajo Nation; enforcement of the principle that the "polluter pays", holding companies such as United Nuclear accountable for the harm and suffering they have caused for communities; protection of communities by prohibiting uranium operations near where people live; and enacting more stringent regulations that prevent pollution.

Randy Foote, New Mexico operations director for URI, said the EPA document he was discussing was not a study of abandoned or former uranium mines. He said that the study was geared toward finding the worst sites in terms of contamination. Mr. Foote stated that the way the study was approached results in a misleading report. He stated that the industry does support the cleanup of sites.

Committee members expressed concerns about water quality and how it is studied. Mr. Bush responded that water quality is not tested regularly, if at all, if it is not part of a community drinking supply. Many of the wells are not meant for human drinking water and only for agricultural use. Committee members also asked for calcification of the identified 243 wells and the significance of color coding.

Following the discussion regarding the status of former uranium mining and milling sites, Representative Heaton recessed the meeting at 5:52 p.m.

Thursday, October 2 — Cibola County Convention Center, Grants

The joint meeting of the Indian Affairs Committee and the Radioactive and Hazardous Materials Committee for the 2008 interim was called back into session by Representative Heaton on Thursday, October 2, 2008, at 9:05 a.m. at the Cibola County Convention Center in Grants, New Mexico.

Recent Judicial/Legislative/Regulatory Developments

Marcy Leavitt, director of the Water and Waste Management Division of the Department of Environment, gave a presentation to the committees regarding water quality and uranium mining. She stated that uranium mines need a "toolbox", including discharge permits, underground injection control permits, closure plans, financial assurance and abatement plans. Ms. Leavitt provided a chart discussing the types of permits required for exploration, conventional mining and milling and ISL recovery. She also discussed the current uranium mine status. Currently, there are no mining and milling discharges, but there are two active permits at the Mt. Taylor and Rio Algom mines. There are no ISL permit applications in process. According to Ms. Leavitt, future permit considerations would require protection of drinking

water aquifers, background water quality studies, aquifer restoration upon completion and financial assurance. She also presented current water pollution abatement activities.

Mr. Brancard discussed permitting under his agency. He said that his agency's focus is on the surface and cleanup of contamination. There is cooperation with state agencies to address the issues more comprehensively. Mr. Brancard said there have been seven permits issued, including two that are pending, for uranium exploration. The applications are for sites ranging from Church Rock west to Magdalena, but the main area has been just to the west of Grants. Many permits have been denied or redrawn. He said there are two types of permits issued: minimal impact, which are more streamlined and do not require public disclosure; and major exploration activity permits requiring notice and public hearings. Some of the denied permits have been rejected because they do not qualify for the minimal impact standards. Another issue for denied permits is when access to the sites conflicts with tribal lands. There are concerns about illegal drilling, according to Mr. Brancard. Some issues with mining need to be addressed, including how to plug abandoned mine holes, evaluation of minimal impact versus major exploration standards (use of a drill hole number) and required financial assurance. The trends of the industry have been to have fewer applications for sites that are intended to be sold off and more applications for outfits that intend to actually do the mining themselves once the application is approved. In other words, the companies that are more serious about mining are the ones applying for permits.

Jan Biella, deputy historic preservation officer for the Historic Preservation Division of the Cultural Affairs Department (CAD), discussed cultural resources and proposed uranium development in New Mexico. She examined the legal protections for cultural resources in New Mexico. She said the CAD is tasked with protecting, preserving and enhancing public appreciation of New Mexico's diverse cultural heritage and resources. Ms. Biella outlined cultural resources and cultural properties designations, including state register, national register and traditional cultural property (TCP). Mt. Taylor site has two different TCPs. She then explained to the committees what these designations mean for uranium drilling, exploration and other development projects in Cibola County and the rest of New Mexico.

Committee members asked Mr. Brancard for a status update on the abandoned mines project. Mr. Brancard said the project is essentially complete, including all 21 sites. When committee members asked if land grants are treated differently in terms of TCP, Ms. Biella said there would not be any effect or difference if the area is a land grant. Committee members inquired about any granted permits for new mines. Mr. Brancard said large mines have not been permitted because they have not had applications.

Public Comment

Les Gaynes told the committees he would like them to make New Mexico a pro-business state. As discussed with the legacy issues, New Mexico needs to produce a clean, safe, quality product. The poorer parts of the state need to be taken care of. He also said that some of the interpretations presented by the panels are different than those of other people. Mr. Gaynes believes that the uranium mining industry can function productively and safely here.

Ava Peets said the uranium companies have always been of service to communities. She provided a list of "good deeds" and services provided by those companies. The mining companies have paid good salaries and provided jobs.

Juan Velasquez explained the difference between uranium mines and mills. The mills are being reclaimed by the original owners. He said the idea that uranium mining companies are just cutting and running is not true. The mill sites are not being cleaned up by New Mexico, and there is not any funding from the state to do it. Mr. Velasquez said that there needs to be more scientific data and specifics.

Paulina Martinez of the Marquez Land Grant is working in a mentoring program and would like to become a mining engineer. She is in favor of uranium mining. Her father, James Martinez, said there is more uranium mining left to do and New Mexico needs the economic boost from uranium mining.

Mr. House said that the uranium mining industry needs to be allowed to start mining again. Those against it say the water contaminated is drinking water, but Mr. House claims that water is not actually for drinking. There needs to be economic development and uranium mining will help that.

Mr. Nez redirected comments from yesterday's meeting and indicated his belief that the cost of cleanup of uranium mining sites will fall upon the state.

Ms. Head-Dylla said that New Mexico needs to be a pro-business state, but the big companies are not being held accountable and have gotten away without bearing the cost of cleanup. Uranium mining and milling activities cause issues for private property values because no one will want to live near the mining sites. The water supply in the Milan area is threatened and the impact is unknown.

Dr. Jana Gunnell said she works with health clinics in McKinley and Cibola counties. She is opposed to the resumption of uranium mining until the negative legacies have been taken care of. Water is the most significant and important natural resource in New Mexico. Water is threatened by uranium mining, and the potential (and already existing) contamination of water is too dangerous to allow uranium mining to be resumed.

Sandy Brewer of the Bluewater Valley Downstream Alliance said that 500 wells have been tested in the area and many of them are "not fit for human consumption". The negative effects of mining uranium have led to property values being at rock-bottom levels. Uranium is not a terrible thing and she is not against it, but the legacy problems have to be cleaned up and the mining have to be done cleanly.

Art Gebeau worked for Kerr McGee uranium mining as its general manager. He said he is not against uranium mining, but he insists that the waste must be cleaned up. The contamination from the uranium mines and mills has grown incredibly since the 1970s. He said half or more of the well samplings have been conducted in the last year and a half. There needs

to be more done.

Sofia Martinez said there is a conflict between the health of the residents and the profit of business when it comes to uranium mining. She mentioned that what has been going on is at least environmental injustice, if not environmental racism. Ms. Martinez said that the situation needs to be viewed with cautionary discretion.

Johnie Head said the area has been waiting for 30 years to get clean water. Residents were promised to have clean water in 10 years, but that was 30 years ago and nothing has been done. The Department of Environment is terribly underfunded, and the water problems have not been fixed. A recent health study has been conducted and designated this area as a hazardous health area.

Star Gonzalez with the Cibola Economic Foundation said it is important to examine both sides. The global economy affects the local area, and mining is a huge industry that the Grants area can take advantage of. The legacy issues will be addressed, and the area needs to move forward and bring back uranium mining.

Mr. Van Horn stated that uranium mining can be cleaned up. He claimed that there have been instances of cleaning in-situ mining sites. Mr. Van Horn said that the uranium industry is committed to working with the community and legislature to clean up the legacy sites.

State Legislative Initiatives

Chris Shuey, director of the Uranium Impact Assessment Program at the Southwest Research and Information Center, presented uranium legacy concerns and concerns regarding potential new uranium development. He said that he has worked with and for residents of communities in New Mexico, the Navajo Nation and around the world who have been affected by mining and milling projects. Mr. Shuey stated that every possible effort must be made to find the parties responsible for leaving abandoned mines unreclaimed or poorly reclaimed. The New Mexico Legislature should engage the federal government in a discussion of the federal government's responsibility for paying for reclamation of mines that were developed solely for the purpose of supplying uranium for the nuclear weapons program. He added that the legislature should help define the extent of damage to the state's water resources from historic uranium mining and milling discharge by funding regional water quality studies. According to Mr. Shuey, affected communities have repeatedly requested assistance to fund, design and implement health studies among local residents, but there have been very few studies conducted. He presented recommendations to the committee, including: to explore the idea of having a surcharge or fee on the generation of wastes from new uranium mining and milling activities, and to have the state conduct a comprehensive review of existing state and federal regulations applicable to uranium mining and milling.

Mr. Velasquez said the industry will not be initiating any specific legislative package. Mr. Velasquez said he feels the industry is willing to take on its side of the legacy issue.

Mark Pelizza, vice president for URI, stated that the process of starting the mining up

again and the gearing up of dealing with the legacy issue will take time. He stated that the coal model for taxation, cleanup and responsibility is useful for application toward the uranium mining industry.

Committee members expressed the sentiment that just like the oil industry, the uranium industry must be responsible for cleaning up abandoned mining sites and is responsible for assurance regarding legacy cleanup. One way for funding is approaching Congress as suggested by Mr. Pelizza. Representative Heaton suggested writing a letter to Senator Jeff Bingaman to request funding for cleaning up the legacy problems. He proposed that the legislature send a delegation to Washington to make the letter more meaningful. Representative Lundstrom agreed with the idea of going to Washington, but there needs to be a solid and specific legislative package.

Upon a motion by Senator Ulibarri, seconded by Representative Madalena, the committee voted without opposition to write a letter to Senator Bingaman requesting increased federal financial assistance for the cleanup of abandoned and unreclaimed uranium mining sites. Staff will draft the letter and finalize the text after approval by the committee co-chairs. Upon a motion by Representative Lundstrom, seconded by Representative Begaye, the committee voted without opposition to form a subcommittee to look into ways in which the New Mexico Mining Act and other state statutes and rules may need to be amended to provide adequate environmental protection in view of modern uranium mining techniques.

Following the discussion of state legislative initiatives, Representative Heaton recessed the meeting at 4:00 p.m.

Friday, October 3 — Ramah Chapter, Navajo Nation

The fifth meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Senator Pinto, co-chair, on Friday, October 3, 2008, at 9:25 a.m. at the chapter house of the Ramah Chapter of the Navajo Nation.

Ramah Chapter, Navajo Nation — Status Update

Leo L. Pino, president of the Ramah Chapter of the Navajo Nation, presented a status update on the chapter. He said that 35 families have received power line service with state funding. Also, a tractor and backhoe were purchased with state funds. He said that with the help of Senator Rainaldi, a \$7 million GRIP project is now underway to improve the road to the community. President Pino stated that the road project needs to be expanded even more and the chapter would go to the legislature for more funding again. He said that the money allocated to the chapter has been utilized the best that it could and none of the funds will revert back. The chapter has a lot of projects that it would like to pursue. Paulson Chaco, director of community planning, commented on the road projects that are already underway.

Cecil Frank Eriacho, delegate to the Navajo Nation Council from Ramah, thanked the committee for all the help the legislature has given the chapter. He said the chapter is working to get things done within the policy set forth by the Navajo Nation and wants to continue cooperation with the State of New Mexico. Mr. Eriacho said that he hopes things will progress in the future, and he wants to continue advocating to resolve the chapter's concerns.

Bennie Cohoe, executive director of the Ramah Navajo School Board, Inc. (RNSB), thanked the committee for coming to the chapter. He said that the RNSB's mission is to provide a culturally viable educational foundation that sustains a healthy lifestyle and provides economic, technological and infrastructure development that promotes and preserves the autonomy of the Ramah Band of the Navajo Nation.

Committee members inquired if there were any problems getting money from Cibola County. Mr. Cohoe stated that the Navajo Nation always dips into its own funds for cost issues. President Pino said there are a lot of problems getting the funds from the state and the Navajo Nation, but the chapter is working on that process. The federal government funding is different and less of a problem. Secretary of Indian Affairs Alvin Warren stated that yesterday he signed a master intergovernmental agreement with President Joe Shirley of the Navajo Nation. What the agreement means is that there is now a mechanism to get funds to the chapters put into one package instead of on an individual basis. It will expedite fund disbursement from the state and, if successful, will provide a model for funding from the Department of Transportation and the Aging and Long-Term Services Department. Secretary Warren told President Pino that the chapter will receive a \$50,000 package for planning of road construction.

Project ECHO — Update

Dr. Sanjeev Arora, director of Project ECHO for the Health Sciences Center at the University of New Mexico (UNM), gave a presentation to the committee about Project ECHO. He said the mission of Project ECHO is to develop the capacity to treat chronic, common and complex diseases in rural and underserved areas safely and effectively and to monitor outcomes. Dr. Arora gave background information on hepatitis C and discussed how it affects New Mexico. He said that there are approximately 28,000 cases in the state and less than five percent have been treated; without treatment, 8,000 patients will develop cirrhosis between 2010-2015, resulting in several thousand deaths. There are about 2,300 prisoners diagnosed with hepatitis C within the corrections system. New Mexico has the highest rate of chronic liver disease/cirrhosis deaths in the nation, according to Dr. Arora, and 32 of 33 New Mexico counties are listed as medically underserved areas (MUAs); 14 counties are designated as health professional shortage areas (HPSAs). He said goals for Project ECHO include development of the capacity to treat hepatitis C in all areas of New Mexico safely and effectively, to monitor outcomes and to develop a model to treat complex diseases in rural locations and developing countries. The partners involved with the project are the UNM School of Medicine, Telemedicine and CME, the Corrections Department, the Department of Health, the Indian Health Service, community providers with interest in hepatitis C and the Primary Care Association. Dr. Arora said that Project ECHO's use of telemedicine, best practice protocols and co-management of patients with

case-based learning (the ECHO model) is a robust method to treat chronic, common and complex diseases safely and effectively in rural and underserved areas and to monitor outcomes.

Native American Veterans' State Income Tax Settlement — Status Update

John Garcia, secretary of veterans' services, and Rick Homans, secretary of taxation and revenue, discussed the Native American Veterans' State Income Tax Settlement. In the presentation, the secretaries discussed Senate Bill 574, which was introduced by Senator Pinto and passed in 2008. The bill creates the Native American Veterans' Income Tax Settlement Fund, from which the secretary of veterans' services is directed "to make settlement payments to Native American veterans who had state personal income taxes improperly withheld from their military pay". The secretaries stated that the impetus for the bill was that New Mexico income tax was withheld from Native Americans' military wages even though those wages may have been exempt from New Mexico income tax. The withholding of income taxes by the federal Department of Defense began after July 1, 1977, the date New Mexico first entered into a withholding agreement with the federal Department of the Treasury that covered the Department of Defense. The reason the withholding occurred was because, until recently, there were no clear instructions available to Native Americans in the military describing how to avoid the withholding by stating the exemption on a W-4 or by other means. They said Native Americans who did have New Mexico income taxes withheld from their exempt military pay could have obtained a refund of those withheld taxes by filing a New Mexico income tax return within the prescribed three-year period.

According to the secretaries, until settlement claims are filed, it is impossible to know the precise number of Native American veterans who were residents on tribal lands during their period of military service after July 1, 1977 and before 2004; how much was withheld from their exempt military pay; or how many that had pay improperly withheld filed a New Mexico income tax return and received a refund. They estimate that as many as 7,651 living Native American veterans may have had New Mexico income tax improperly withheld between July 1, 1977 and 2003. Using a variety of data sources and alternative assumptions, they estimate that the total amount of this withholding was likely less than \$2 million. The secretaries said they have developed a draft set of rules for administering the Native American Veterans' Income Tax Settlement Fund and for making payments from it. The guiding principle of these draft rules is that any settlement payments can and should be made in the fairest way possible. They plan to enter into a formal government-to-government consultation with tribes on these rules before they are finalized as regulation. Once the rules are finalized, they plan to begin accepting claims for settlement payments. Secretaries Garcia and Homans added that there are several issues related to the workings of the fund that may need to be addressed in future legislation, including an appropriation to the fund to cover the cost of making and administering payments and the question of paying interest on improperly withheld funds.

Adjournment

There being no further business before the committee, the fifth meeting of the Indian Affairs Committee for the 2008 interim was adjourned at 1:20 p.m.

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**TENTATIVE AGENDA
for the
FIRST MEETING
of the
MINING ACT SUBCOMMITTEE
of the
INDIAN AFFAIRS COMMITTEE**

**October 30, 2008
State Capitol, Santa Fe**

Thursday, October 30 — Room 305, State Capitol

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Overview of New Mexico Mining Act**
—Bill Brancard, Director, Mining and Minerals Division, Energy, Minerals and
Natural Resources Department
- 10:00 a.m. **Overview of Water Quality Act**
—Marcy Leavitt, Director, Water and Waste Management Division, Department
of Environment
- 11:00 a.m. **Applicability of Existing State Law to New Uranium Mining Techniques**
—Bill Brancard, Director, Mining and Minerals Division, Energy, Minerals and
Natural Resources Department
—Marcy Leavitt, Director, Water and Waste Management Division, Department
of Environment
—Douglas M. Bland, Special Projects Manager, New Mexico Bureau of Geology
and Mineral Resources, New Mexico Institute of Mining and Technology
- 12:00 noon **Working Lunch**
- 1:00 p.m. **Discussion of Revisions to Existing State Laws Affecting Uranium Mining**
- 4:00 p.m. **Adjourn**

**MINUTES
of the
FIRST MEETING
of the
MINING ACT SUBCOMMITTEE
of the
INDIAN AFFAIRS COMMITTEE**

**October 30, 2008
Santa Fe, New Mexico**

The first meeting of the Mining Act Subcommittee of the Indian Affairs Committee for the 2008 interim was called to order by Representative Patricia A. Lundstrom, chair, at 9:20 a.m. in Room 305 at the State Capitol in Santa Fe.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Rod Adair
Rep. Ray Begaye
Sen. Lynda M. Lovejoy
Rep. James Roger Madalena
Sen. John Pinto
Sen. David Ulibarri
Rep. Gloria C. Vaughn

Absent

Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. John C. Ryan

Staff

Chase Van Gorder
Damian Lara
Mark Harben

Guests

The guest list is in the meeting file.

Handouts

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

Thursday, October 30 — Room 305, State Capitol

Overview of the New Mexico Mining Act

Bill Brancard, director for the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department, provided an overview of the New Mexico Mining Act. Mr. Brancard pointed out that New Mexico was one of the last states to adopt comprehensive mining legislation. Among the substantive contents of the New Mexico Mining Act are the requirements for all mines to be reclaimed, retroactive requirements for past mines with two full years of production between 1970 and 1993, financial assurances, including bonds, public involvement and robust review of new mines. That act also established three main categories of

activity that are regulated: 1) exploration; 2) existing mining operations; and 3) new mining. Permits are issued according to the status of these categories. Exploration permits are for drill holes used to obtain core and mineral samples. These samples are used to identify any reserves or resources in the ground. There are also permits for existing mines and expansion permits for existing mines to continue or expand mining operations. The expansion permits have very similar requirements as the permits for new mining operations, including extensive review and reclamation requirements.

Mr. Brancard stated that the New Mexico Mining Act starts very broadly and then excludes certain mining activities. Specific to uranium mining, Section 3 of that act excludes mining activity under the purview of the Nuclear Regulatory Commission (NRC). Mr. Brancard noted that his agency interpreted that language of the New Mexico Mining Act to mean that only mining operations that received a license from the NRC were exempt. However, the industry took the language to mean that all uranium activities were exempt from that act. Litigation ensued and after six or eight years, a court ruling upheld the interpretation of the agency. The drawback was that companies did not begin reclamation of those mines in question until after the conclusion of the litigation.

Additionally, Mr. Brancard noted that the New Mexico Mining Act was not meant to supersede any other law or agency rules that might impose requirements on mining operations. The Mining and Minerals Division works with other departments, including the Department of Game and Fish, the Cultural Affairs Department and the Department of Environment, to issue permits. The Mining and Minerals Division also integrates its rules with federal law. The permit process is structured in a manner that allows a company seeking a permit to submit only one package that will meet the requirements of all the agencies. Financial assurance for reclamation required to receive the permit will sometimes have multiple agencies as the beneficiaries. After some discussion, Mr. Brancard provided an example of uranium activities and the government entities responsible for regulating those activities. Milling and *in situ* leach (ISL) mining, which are considered as "production of uranium" rather than conventional mining, are licensed by the NRC and are exempt from the New Mexico Mining Act. However, those same activities are subject to the state's Water Quality Act and the federal Safe Drinking Water Act. Permits from the Department of Environment and others still need to be issued before a company may begin those activities.

The subcommittee expressed concerns about the scope of its task, legacy issues, the complexity and difficulty of topics and issues implicit in the New Mexico Mining Act; the need to objectively balance all interests, become educated on the entire issue and bring a comprehensive perspective; being fair to the uranium industry by not changing the rules in the middle of the game; and the health and public safety of the communities affected by uranium mining. The subcommittee instructed staff to allow any member referenced in a committee letter to review the letter before it is delivered to the intended recipient. Then the subcommittee requested that Mr. Brancard provide the committee with a flow chart of the permitting process and a list of all permit applications and their status in the permitting process. Mr. Brancard made the subcommittee aware of two vacancies on the Mining Commission, and the subcommittee expressed a desire to have the vacancies filled with representation from various geographical areas of the state and Native Americans.

Mr. Brancard informed the subcommittee that initial baseline data are required for approval of permits and that his agency often contracts out some of that work when necessary to move a permit application faster. Additionally, he indicated that priorities are made for reclamation of the almost 1,500 abandoned mines because of the limited amount of federal funds available. For new and expanded mining, a reclamation schedule is required and a "reclaim as you go approach" is preferred. Nonetheless, a company is required to start reclamation within six months of the last mining activity, or the division will draw down the financial assurance put up by the company.

In response to questions from the subcommittee regarding the New Mexico Mining Act, Mr. Brancard addressed the sections of that act as follows:

For Section 69-36-3(G) NMSA 1978, he explained that the references to the NRC and the federal Resource Conservation and Recovery Act (RCRA) apply to materials regulated by the NRC, which include certain radioactive materials. Subtitle C of the RCRA establishes a federal program to manage hazardous wastes from cradle to grave to ensure that hazardous waste is handled in a proper manner.

For Section 69-36-3(H) NMSA 1978, he explained that the definition does not include ISL mining that is licensed by the NRC. In general, mining that is licensed by the NRC is exempt from the definition of "mining" and, therefore, from regulation under the New Mexico Mining Act. In *New Mexico Mining Comm'n v. United Nuclear Corp.*, 2002-NMCA-108 (Ct. App. 2002), cert. denied (2002), the New Mexico Court of Appeals determined that the NRC exemptions in Section 69-36-3(G) and (H) NMSA 1978 only applied to uranium mining facilities that are licensed by the NRC. Therefore, mills and ISL operations licensed by the NRC are exempt from the New Mexico Mining Act, while conventional uranium mines, such as underground and open pit that are not licensed by the NRC, are covered by that act.

For Section 69-36-4(A) NMSA 1978, he explained that mines may be subject to a number of other state laws, such as the Water Quality Act, Section 74-6-1 NMSA 1978 et seq., and the Air Quality Control Act, Section 74-2-1 NMSA 1978 et seq.

In reference to Section 69-36-7(C) NMSA 1978, and possible commission consideration to promulgate rules for ISL techniques, he explained that the New Mexico Mining Act rules do not specify requirements for a particular commodity or mining technique. There are no rules that address ISL mining, nor is the commission considering them, because the technique is not covered under the New Mexico Mining Act. If, in the future, the NRC no longer licenses this technique, the commission will adopt rules because ISL will then be covered by that act.

For Section 69-36-7(G) NMSA 1978, he explained how financial assurance requirements work in practice. Mr. Brancard indicated that each permittee must provide financial assurance to cover the costs of the performance requirements of the permit, including closure and reclamation. The cost is calculated as the cost if the work specified in the permit had to be performed by the state or a third party contractor. The state and the permittee agree on an estimate of the costs and then the permittee provides instruments, such as surety bonds, letters of credit or trust funds, to the state to cover that amount.

Mr. Brancard then reviewed the rules promulgated pursuant to Section 69-36-7(J) NMSA 1978. He noted that provisions concerning agency coordination are provided at various places in the New Mexico Mining Act rules. For example, each permit application must be sent to a number of state agencies for their review and comment. The division often establishes permit conditions based on other agency requirements.

In reference to Section 69-36-7(Q) NMSA 1978 and how the various types of financial assurance work if the applicant goes bankrupt, he explained that the financial assurance instruments are payable to the state in case the permittee defaults on its permit obligations to reclaim the mine site. The state will not release the financial instruments until the permit obligations are met. The division has a 12-year wait to ensure that all permit obligations are met. This 12-year time frame is a minimum, and other agencies that monitor other requirements or obligations under the permit may have longer waits. Bankruptcy does not relieve the company of the permit obligation. If bankruptcy triggers a default, the financial assurance instrument is paid to the state in order to perform the work. On the other hand, the company, even in bankruptcy, can continue to fulfill its obligations under the permit.

For Section 69-36-9(C) NMSA 1978, he explained that the advisory committee does exist and generally meets when the division is considering proposing any rule changes. That advisory committee met recently to review proposed changes to the exploration rules. There were several representatives of the uranium industry on that committee. In response to follow up, he indicated that before that last meeting, rule changes had not been proposed for almost two years. The last rule changes related to the schedule of fees that fund the division operations.

For Section 69-36-12 NMSA 1978, he noted that the division follows the New Mexico Mining Act standards and requirements for new mine permits, including the specific examples found at Sections 69-36-7(B), (C), (H), (I) and 69-36-9(G) NMSA 1978.

For Section 69-36-19 NMSA 1978, he explained that the New Mexico Mining Act Fund exists and contains the fees paid by permittees and applicants. There is no money from the general fund or federal appropriations in that fund. That fund is used to pay the entire cost of administering the New Mexico Mining Act program at the Energy, Minerals and Natural Resources Department as required by Section 69-36-7(M) NMSA 1978.

Overview of the Water Quality Act

Marcy Leavitt, director for the Water and Waste Management Division of the Department of Environment, began her presentation by providing a time line of the Water Quality Act. The significant activity and years are as follows:

- 1967 Water Quality Act adopted;
- 1973 Water Quality Act amended to include permitting authority;
- 1977 discharge permit regulations adopted;
- 1993 Water Quality Act amended to allow financial assurance regulations to be adopted;
- 1995 abatement regulations adopted; and
- 1995 financial assurance regulations adopted.

Ms. Leavitt continued to explain the major duties and powers of the Department of Environment. For example, the Department of Environment certifies federal Clean Water Act permits for discharges to surface water and issues state ground water quality protection permits for operational discharges, closure activities and ground water pollution abatement at mines and other types of facilities. The Department of Environment certifies the federal National Pollutant Discharge Elimination System permits to ensure that state surface water quality standards will be met. The Department of Environment also has primacy for the federal Underground Injection Control (UIC) Program, which covers ISL mining facilities. Ms. Leavitt expounded on the significant activity presented in her time line. Operational discharges include de-watering and process fluids, tailings, leach ore, waste rock and other discharges that have the potential to affect water quality. Closure or reclamation activities include source control measures such as regrading, covering and re-vegetating piles and impoundments and dismantling of catchment basins that have stored contaminated fluids, in order to protect water quality into the future. Financial assurance is required to ensure that closure activities can be implemented. Abatement activities include pumpback systems to control the spread of contaminated ground water, ground water remediation systems and water treatment operations. She highlighted that the Department of Environment coordinates with the Mining and Minerals Division to ensure that closure activities are designed to both protect water quality and meet the requirements of the New Mexico Mining Act. The Department of Environment implements state responsibilities under the federal Superfund Program. The department has assumed a lead role for several Superfund sites, and conducts Superfund investigations and oversight.

Ms. Leavitt also informed the subcommittee that the Water Quality Act (WQA) created the Water Quality Control Commission (WQCC), which is now a 14-member commission with responsibility for regulation and standards adoption and review of permitting decisions and enforcement decisions. The WQA also creates the framework for the state's ground water protection program that is codified as the WQCC regulations. Then, she provided a comprehensive overview of the WQCC rules that cover ground water protection and the remediation program. Section 1000 contains the general provisions that require notice of intent to discharge and notification of spills and unpermitted discharges. Section 2000 concerns surface water protection and contains the general provisions for surface water quality protection. Section 3000 covers the permitting, including discharge requirements, and ground water standards for protection of human health and irrigation uses. Discharge permits for mine sites include operational, monitoring, closure and financial assurance requirements. Section 4000 covers the abatement requirements, including requirements for abatement of ground water and surface water contamination, and provisions for technical infeasibility and alternative abatement standards. Alternative abatement standards are a variance from the requirement to meet the state's numerical ground water quality standards. The variance procedure is available when abatement is not technically or economically feasible. Section 5000 covers UIC regulations. UIC requirements are added to discharge permits for UIC wells. ISL is covered by Class III well requirements. This section also includes requirements for injection well construction. Section 5103 discusses the "designated aquifer" process that is similar to the federal "aquifer exemption" process.

In response to a subcommittee inquiry, Ms. Leavitt explained that the state has taken a different approach than many other states with greater rainfall in regards to protecting aquifers.

In New Mexico, all aquifers with less than 10,000 solid parts per million are protected, including for future use. Currently, there are no applications for an ISL permit submitted to the state. Ms. Leavitt said she is aware of the federal Environmental Protection Agency dealing with a permit on Navajo land, but she is unaware of the status of that application. The subcommittee expressed concern about the lack of a formal process between the tribes and the state to ensure protection of common aquifers.

The subcommittee also expressed concern over the lack of data and resources of state agencies to gather data in a timely manner. Members of the panel indicated that there is some data and mapping of the aquifers in the area; however, the data are not detailed in certain areas. The data have come from existing wells, such as private irrigation wells, livestock wells and wells located in past mining areas to monitor contamination. No new wells are being proposed to gather data. Ms. Leavitt indicated that in areas that are already above the standards allowed by the state because of past mining activity, a determination of baseline data needs to be made. The determination will be made by collecting data from wells around the affected area to determine what the natural levels should be. Currently, the mining companies that would like to start new mining operations in these affected areas will be required to bring the contamination levels to the current levels after their mining has been completed. The companies that conducted the past mining activities will be required to bring the levels back down to the natural levels of the aquifer. The need for the relevant data was again noted and highlighted by the subcommittee and panel members.

Upon inquiry from the subcommittee, further explanation of the current data was provided. The standard used by the state is .03 milligrams per liter of uranium for drinking water. In areas affected by past mining, levels of contaminants are as high as 10 milligrams per liter of uranium and decreases the further away the well is located from the mining activity. In aquifers where proposed ISL mining is to take place and where no past mining activity has occurred, such as in Crownpoint and Churchrock, levels of contaminants are as low as .001 milligrams per liter of uranium. The contamination of nearby areas was due in part to the lack of rules and regulations to prevent leaks and runoff during past mining operations. Ms. Leavitt concluded by acknowledging that the subcommittee wanted assurances that, if permits are given, the new mining operations of uranium would be done in a safe manner and reclamation could restore contamination to original levels. Unfortunately, Ms. Leavitt could not provide that assurance, and only stated that it would be done relatively safer than in the past.

Applicability of Existing State Law to New Uranium Mining Techniques

Douglas M. Bland, special projects manager of the Bureau of Geology and Mineral Resources of the New Mexico Institute of Mining and Technology, joined the other two presenters. All three presenters came to a consensus that there are no major gaps in the relevant law dealing specifically with uranium mining. Public interaction in the issuance of permits is a major component of the law and rules. The agencies provide legal advertisements, direct mailings, opportunity to receive notification of certain applications and notice of public hearings. In response to questions from the subcommittee, Mr. Brancard indicated that his division is always looking to improve the public notice process and could recall at least one instance in which public comments resulted in the denial of a permit application. Mr. Brancard also indicated that only 19 small new mining operations have been given permits and about 70

existing mining operations were given expansion permits since the New Mexico Mining Act went into effect. There have been numerous exploration permits issued. The discussion once again centered around the available baseline data and the requirements for reclamation of the areas affected by existing mining operations. In response to questions from the subcommittee, the presenters indicated that, at this time, they would not want to seek any additional primacy or duties now regulated by the federal government because those duties do not come with any federal funding to carry out those duties. Mr. Bland indicated that funding for the New Mexico Institute of Mining and Technology for a study would be beneficial to collect and gather baseline data for new mining requirements. Mr. Brancard indicated that the permittees currently cover the cost of any data required for the issuance of any permits, as well as any special costs. The Mining and Minerals Division takes adequate steps to ensure that the data are not biased, such as contracting directly with third parties. Ms. Leavitt concluded that, currently, the law and rules are implemented to ensure protection of future resources, as well as the reclamation of past resource contamination.

Discussion of Revisions to Existing State Laws Affecting Uranium Mining

Representative Lundstrom began the discussion by reiterating the issues of concern expressed by the subcommittee during the meeting. These concerns included the following:

1. seek immediate appointment of public members of the WQCC that shall reflect the geographic diversity of New Mexico;
2. seek immediate appointment of the full complement of public members of the Mining Commission, one of whom should be a Native American;
3. follow up on the requests to the presenters;
4. support an appropriation request in the 2009 legislative session for funding for fiscal year 2010 for a comprehensive study of uranium-related contamination of aquifers in the San Mateo Basin;
5. continue the study of statutory and regulatory changes that may be necessary to protect New Mexico's natural resources from adverse environmental impacts that could result from the implementation of new uranium mining techniques in New Mexico, and to advise the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department on continuing efforts to clean up abandoned uranium mine sites in New Mexico;
6. request tribal entities in New Mexico to adopt policies requiring consultation with state government when tribal activities may affect lands and persons beyond the boundaries of tribal lands;
7. consider ISL permit primacy for the state;
8. deal with legacy site issues and reclamation and provide funding for baseline data; and
9. deal with discharge permits and impacts on the aquifers.

During discussion regarding the subcommittee's concerns, members focused on: the appointment of public members of the two commissions to represent various viewpoints; consultation with the tribes concerning uranium mining; a comprehensive approach to address all concerns; health assessment of the affected areas; and working with the agencies and the Governor's Office to address the cleanup of legacy sites through legislation.

At the conclusion of the subcommittee meeting, the members voted without opposition to recommend that the Indian Affairs Committee take the following steps:

1. amend the WQA so that the appointment of public members of the WQCC shall reflect the geographic diversity of New Mexico;
2. write a letter to Governor Bill Richardson, with a copy to Lieutenant Governor Diane Denish, requesting the appointment of the full complement of public members of the Mining Commission, one of whom should be a Native American;
3. work with the Office of the Governor to draft a proposed uranium legacy cleanup act that would not be vetoed if passed by the legislature in 2009;
4. support an appropriation request in the 2009 legislative session for funding for fiscal year 2010 for a comprehensive study of uranium-related contamination of aquifers in the San Mateo Basin;
5. request New Mexico Legislative Council approval for per diem and travel expenses for members of the interim Indian Affairs Committee and Radioactive and Hazardous Materials Committee to travel to Washington, D.C., following the 2009 legislative session to meet with New Mexico's congressional delegation regarding federal financial assistance for the cleanup of abandoned uranium mines in New Mexico;
6. support a memorial and accompanying appropriation request in the 2009 legislative session requesting the appointment of a technical task force during the 2009 interim to continue a study of statutory and regulatory changes that may be necessary to protect New Mexico's natural resources from adverse environmental impacts that could result from the implementation of new uranium mining techniques in New Mexico, and to advise the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department on continuing efforts to clean up abandoned uranium mine sites in New Mexico; and
7. support a memorial in the 2009 legislative session requesting tribal entities in New Mexico to adopt policies requiring consultation with state government when tribal activities may affect lands and persons beyond the boundaries of tribal lands.

Adjournment

There being no further business before the subcommittee, the first meeting of the New Mexico Mining Act Subcommittee of the Indian Affairs Committee for the 2008 interim was adjourned at 3:15 p.m.

NEW MEXICO LEGISLATIVE COUNCIL SERVICE
411 State Capitol
Santa Fe, New Mexico 87501
(505) 986-4600
Fax: (505) 986-4680
October 31, 2008

File No. 205.127-08

TO: Indian Affairs Committee Members

FROM: Patricia A. Lundstrom, Chair, Mining Act Subcommittee

SUBJECT: RECOMMENDATIONS OF THE MINING ACT SUBCOMMITTEE

The Mining Act Subcommittee of the Indian Affairs Committee met on October 30, 2008 to consider whether existing state statutes and administrative rules may be sufficient to protect New Mexico's natural resources from adverse environmental impacts that could result from the implementation of new uranium mining techniques in New Mexico. The subcommittee was briefed by Bill Brancard, director, Mining and Minerals Division, Energy, Minerals and Natural Resources Department, Marcy Leavitt, director, Water and Waste Management Division, Department of Environment, and Douglas M. Bland, special projects manager, New Mexico Bureau of Geology and Mineral Resources, New Mexico Institute of Mining and Technology. A copy of the draft minutes of that subcommittee meeting is attached for your information.

At the conclusion of the subcommittee meeting, the members voted without opposition to recommend that the Indian Affairs Committee take the following steps.

1. Amend the Water Quality Act so that the appointment of public members of the Water Quality Control Commission shall reflect the geographic diversity of New Mexico.

2. Write a letter to Governor Bill Richardson, with a copy to Lieutenant Governor Diane Denish, requesting the appointment of the full complement of public members of the Mining Commission, one of whom should be a Native American.

3. Work with the Office of the Governor to draft a proposed Uranium Legacy Cleanup Act that would not be vetoed if passed by the legislature in 2009.

4. Support an appropriation request in the 2009 legislative session for funding for fiscal year 2010 for a comprehensive study of uranium-related contamination of aquifers in the San Mateo Basin.

5. Request New Mexico Legislative Council approval for per diem and travel expenses for members of the interim Indian Affairs Committee and Radioactive and Hazardous Materials Committee to travel to Washington, D.C., following the 2009 legislative session to meet with New Mexico's congressional delegation regarding federal financial assistance for the cleanup of abandoned uranium mines in New Mexico.

6. Support a memorial and accompanying appropriation request in the 2009 legislative session requesting the appointment of a technical task force during the 2009 interim to continue a study of statutory and regulatory changes that may be necessary to protect New Mexico's natural resources from adverse environmental impacts that could result from the implementation of new uranium mining techniques in New Mexico, and to advise the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department on continuing efforts to cleanup abandoned uranium mine sites in New Mexico.

7. Support a memorial in the 2009 legislative session requesting tribal entities in New Mexico to adopt policies requiring consultation with state government when tribal activities may affect lands and persons beyond the boundaries of tribal lands.

Revised: November 4, 2008

**TENTATIVE AGENDA
for the
SIXTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**November 5-7, 2008
Pueblo of Picuris
Pueblo of San Ildefonso
State Capitol, Santa Fe**

Wednesday, November 5 — Pueblo of Picuris

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Pueblo of Picuris — Status Update**
—Governor Craig Quanchello
—Lieutenant Governor Richard Mermejo
- 11:00 a.m. **New Mexico Alliance for School-Based Health Care (NMASBHC)**
—Howard Spiegelman, Executive Director, NMASBHC
—Regina Roanhorse, Policy Project Manager, NMASBHC
- 12:00 noon **Lunch**
- 1:00 p.m. **University of New Mexico Center for Native American Health — Update**
—Joyce Naseyowma-Chalan, Associate Director
—Tassy Parker, Director of Research and Development
- 2:00 p.m. **Bernalillo County Off-Reservation Native American Health Commission — Update**
—Michael Bird, Commissioner
- 2:30 p.m. **Road Access to Chaco Canyon — Update**
—Keith Johns, County Executive Officer, San Juan County
—Katherine Slick, Director, Historic Preservation Division, Cultural Affairs
Department
—Barbara West, Superintendent, Chaco Culture National Historical Park
- 4:00 p.m. **Recess**

Thursday, November 6 — Pueblo of San Ildefonso

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Pueblo of San Ildefonso — Status Update**
—Governor Leon T. Roybal
—First Lieutenant Governor Paul Rainbird
—Second Lieutenant Governor Terrence K. Garcia
- 10:00 a.m. **Indian Water Rights Settlements — Status Update**
—John D'Antonio, State Engineer
- 11:00 a.m. **Regional Water Plans — Funding Request**
—Consuelo Bokum, President, New Mexico Water Dialogue
—Michael Benson, Program and Projects Specialist, Water Management Branch,
Navajo Nation
- 12:00 noon **Lunch**
- 1:00 p.m. **Domestic Violence — House Memorial 94 (2007 Legislative Session)**
— Christina Stick, Policy Analyst, Indian Affairs Department (IAD)
- 2:00 p.m. **Tribal Libraries — House Memorial 59 (2008 Legislative Session)**
—Mark Holyan, Policy Analyst, IAD
—Susan Oberlander, State Librarian
—Teresa Naranjo, Tribal Librarian, Pueblo of Santa Clara
- 3:00 p.m. **Higher Education Department — Update**
—Dr. Reed Dasenbrock, Secretary of Higher Education

4:00 p.m. **Recess**

Friday, November 7 — Room 307, State Capitol

- 9:00 a.m. **Call to Order**
- 9:05 a.m. **Public Utility Taxation on Tribal Lands — Update**
—Representative, Public Regulation Commission
—Representative, Taxation and Revenue Department
- 10:00 a.m. **Indian Affairs Department — Legislative Update**
—Alvin Warren, Secretary of Indian Affairs
- 11:00 a.m. **Endorsement of Legislation**
- 1:00 p.m. **Adjourn**

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

**November 5-7, 2008
Pueblo of Picuris
Pueblo of San Ildefonso
Room 307, State Capitol**

The sixth meeting of the Indian Affairs Committee for the 2008 interim was called to order by Representative James Roger Madalena, co-chair, at 10:35 a.m. in the conference room of the administrative building of the Pueblo of Picuris. Representative Madalena asked Joe Conchelo of the Pueblo of Picuris to give an opening prayer. Then the committee members introduced themselves.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair
Rep. Ray Begaye
Sen. Dianna J. Duran (11/7)
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom (11/6 & 11/7)
Rep. John Pena
Sen. Lidio G. Rainaldi
Rep. Gloria C. Vaughn

Absent

Rep. Justine Fox-Young
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. W.C. "Dub" Williams

Advisory Members

Sen. Joseph J. Carraro (11/7)
Rep. Ernest H. Chavez
Rep. Ben Lujan (11/7)
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Sen. Timothy Z. Jennings
Sen. William E. Sharer
Sen. David Ulibarri

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

Staff

Chase Van Gorder
Damian Lara
Mark Harben

Guests

The guest list is in the meeting file.

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

Wednesday, November 5 — Pueblo of Picuris

Pueblo of Picuris — Status Update

Craig Quanchello, governor of the Pueblo of Picuris, welcomed the committee to the pueblo. He is proud of his people and the pueblo for the work they have done. He asked the committee to support the pueblo in its capital outlay requests. Governor Quanchello understands the economic downturn, but when the economy does recover, he does not want the pueblo to be forgotten. He discussed the need for an ambulance service. Due to the situation with the Indian Health Service (IHS), the closest hospital for members of the pueblo is in Santa Fe, and the bills accrued from visits to that hospital are not always paid by the IHS. He noted that the national average response time for an ambulance is six minutes, but at the Pueblo of Picuris the response time is anywhere from one to two hours. Governor Quanchello discussed the needs of the elderly community and programs for the aging. He said that the Capital Outlay Unit and Secretary of Indian Affairs Alvin Warren have been extremely helpful, but more needs to be done to provide the pueblo with suitable infrastructure.

Richard Mermejo, lieutenant governor of the Pueblo of Picuris, also welcomed the committee. He reiterated that health care issues are extremely important and a very big concern for the pueblo. The Pueblo of Picuris is in a partnership with the Pueblo of Taos, but all the needs of the Pueblo of Picuris are not met by that relationship. Lieutenant Governor Mermejo said that the pueblo's small population hinders its political sway and clout to get necessary programs. For instance, there has not been a Head Start program and, with a recent baby boom at the pueblo, it is now necessary. He repeated the need for an ambulance service and also pointed out that there is no police department at the pueblo. The one moneymaker for the pueblo, its restaurant, has been shut down because the IHS has cited the restaurant for health violations. However, the pueblo has no money to fix those problems. Lieutenant Governor Mermejo said the pueblo is not a gaming pueblo because of its small population and remote location, so generating capital for programs is difficult.

Committee members acknowledged that health services are important and that they understand that isolation and a small population are obstacles for improving those services. Committee members expressed concern that the pueblo does not have ambulance services and recommended that the pueblo should communicate with its state-elected officials about getting those services. They made the pueblo aware of the possibilities of funding for ambulance services from the federal government.

Upon a motion by Representative Begaye, seconded by Representative Salazar, the committee approved without objection writing a letter to President-elect Barack Obama, with a copy to the IHS, requesting it to fund a clinic, dental clinic and ambulance services at the Pueblo

of Picuris. Senator Martinez moved that the letter also be sent to the new congressional delegates, including Representative-elect Ben R. Lujan.

In response to a question from the committee regarding the pueblo's lack of tourism, Governor Quanchello replied that its remote location hinders tourism. Deputy Secretary of Indian Affairs Travis Suazo discussed some programs from the Tourism Department that could assist the pueblo. Responding to an inquiry of the pueblo's history of completing capital outlay projects, Rebecca Martinez, capital outlay manager for the Indian Affairs Department (IAD), said the Pueblo of Picuris has an excellent track record for completing its projects.

New Mexico Alliance for School-Based Health Care (NMASBHC)

Howard Spiegelman, executive director of the NMASBHC, presented a status update on the NMASBHC. He said that young Native American students are taking the initiative to stay healthy because that will help their overall performance and achievement. There are 85 school-based health centers (SBHCs) in New Mexico.

Regina Roanhorse, policy project manager of the NMASBHC, provided an overview of the goals and programs of the NMASBHC. She said that SBHCs provide students both mental and physical health care. The program aims to provide health care when the student needs it, but also attempts to identify problems early on to prevent larger issues from developing. Ms. Roanhorse told the committee that of 85 SBHCs in New Mexico, 31 serve Native American students. She also provided information regarding the health issues Native American students face, including lower life expectancy, higher rates of diabetes and higher rates of alcohol and drug abuse. Ms. Roanhorse discussed the Native H.O.P.E. (Helping Our People Endure) Suicide Prevention Training program. She told the committee about the conferences that students in the program attended and the overall success of H.O.P.E. She stated, however, that this was the last year of the project, as the funding window will be closing. Mr. Spiegelman said that teen suicide in Indian country is underreported.

University of New Mexico Center for Native American Health — Update

Joyce Naseyowma-Chalan, associate director for the University of New Mexico (UNM) Center for Native American Health (CNAH), introduced herself and turned the presentation over to Tassy Parker, director of research and development for CNAH. Ms. Parker provided an overview of the CNAH. The center's mission is to build and strengthen health alliances between the Native American and university communities and their partners for the purpose of improving Native American health in New Mexico. Ms. Parker said the center has three Native American faculty members, six Native American staff members and two Native American graduate students. The total funding for the center is about \$784,469, with money coming from the state, the National Institutes for Health and the IHS. The center focuses on education and research and aims to provide helpful information about health for Native American communities. In order to make a connection with younger people, the center sends university students in the program to college fairs. The high school students interact well with younger college students. Ms. Parker listed the center's projects for 2008-2009, including behavioral and mental health training for tribes, the 2009 National Indian Health Policy Conference, conducting the fourth annual CNAH Tribal Research Summit, expanding the CNAH Student Development program, developing

community-based Native American cancer education programs and facilitating the creation of Native American health extension regional offices. Because of the great need for more Native Americans in the health professions, student development is focused on programs to create a pipeline into health professions for Native American students.

The committee commended the presenters for their work and asked the center to consider working with the Children, Youth and Families Department, the Department of Health and tribal liaisons. Committee members also reminded the presenters of the deficits expected in the coming fiscal year.

Bernalillo County Off-Reservation Native American Health Commission — Update

Michael Bird, commissioner of the Bernalillo County Off-Reservation Native American Health Commission, discussed the status of the commission, which was established with a house bill from the 2008 legislative session. The nine members of the commission were appointed on September 23, 2008 to create a voice for off-reservation Native Americans and to lead comprehensive health care planning. The commission also came into existence to address the recent cuts in the IHS in recent years, including the closing of urgent care services at Albuquerque's IHS. Mr. Bird said the goal of the commission is to develop a strategic plan to address the health care needs of Native American residents of Bernalillo County who have no access to IHS services. He said the strategic plan is due in two years. In fiscal year 2003, the county had 46,883 patients registered with the Albuquerque IHS, illustrating a need for those services. Mr. Bird explained that a survey was conducted to determine the adverse effects of the cutbacks. Of the total survey participants, 61.6 percent said they did not seek out medical care because IHS services were no longer available, and 22.8 percent said they owed more than \$500 for walk-in care. He said that, so far, the commission has created an analytical team to look at available demographic and health care utilization data. The final report will provide information on Native Americans in Bernalillo County, including providers offering current services; major reasons for visits to the emergency room; inpatient care and clinics; levels of health coverage; costs, charges and self-pay impacts; and an inventory of services available. The report will also compare its findings to those in the general population.

Road Access to Chaco Canyon — Update

Dr. Jim Henderson, San Juan County commissioner, stated that improvements of the road to Chaco Canyon are necessary. He said the poor condition of the road has been an issue in the area for the past 25 years. The popularity of visiting Chaco Canyon, according to Dr. Henderson, has led to a significant increase in traffic. As a result, there is an increased need for maintenance, along with more requests for improvements. Dr. Henderson then discussed the involvement of the Federal Highway Administration (FHA) in upgrading the road. He said the federal government gave San Juan County a grant of \$800,000, which required the county to add \$200,000. Dr. Henderson explained that, due to the controversy over adverse impacts on Chaco Canyon from improving the road, the FHA has required an environmental assessment, which will be completed in April 2009 at a cost of \$344,000. He said that even with the environmental assessment, the FHA is now contemplating requiring a full environmental impact statement (EIS), which would take two to three additional years and cost an additional \$400,000. There is concern about this possibility because that would leave only \$256,000 of the original \$1 million in

funding. He also stated that there are right-of-way issues because 4.25 miles of the road is on Navajo Nation land, and it would cost \$100,000 and take a year to transfer that right of way to San Juan County. Dr. Henderson requested the help of the Indian Affairs Committee regarding procedures and financial aid.

Keith Johns, executive officer for San Juan County, said the improvement is a safety issue. The Hertz rental car company reports 20 accidents on that road each year. The road conditions affect those who live there as well as those who visit the park. He claimed that using chip seal would prevent the need for tearing up new land, thus only using land that is already allocated for the road. He said he wants to repair, update and crown the road to help the residents of New Mexico.

David Keck, public works administrator for San Juan County, said the FHA will evaluate if there needs to be a full-blown environmental assessment. The current evaluations are based on the spectrum from no activity to full paving. After the environmental assessment is complete, an EIS could be required or a finding of no significant impact (FONSI) could be issued. The presenters in favor of the chip seal would like the FHA to issue a FONSI so they can move forward with the chip seal without further delay.

Katherine Slick, director of the Historic Preservation Division in the Cultural Affairs Department, said she operates under the Historic Preservation Loan Act, not the National Environmental Policy Act. The FHA is considered the lead agency on the road situation, and her division follows the FHA's lead.

Upon a motion by Senator Pinto, seconded by Representative Begaye, the committee approved without objection consideration of a committee endorsement for an appropriation bill to be introduced in the next legislative session and to include it as an agenda item at its November 7, 2008 meeting. Upon a motion by Representative Begaye, seconded by Senator Martinez, the committee voted without objection to write a letter on behalf of the committee to Senator-elect Tom Udall and copy the FHA, the Nageezi Chapter of the Navajo Nation, San Juan County and the federal Advisory Council on Historic Preservation in Washington, D.C., in which the committee expresses its position to have the process of chip sealing the road expedited without the need for an EIS.

Barbara West, superintendent of the Chaco Culture National Historic Park, said park administrators are concerned with the impact on the environment and on the park itself. The park does not have the facilities, including water and staff, to deal with a boost in visitation. She also noted that there are 28 pueblos and tribes that claim cultural affiliation with the park, and some, like the Hopi, are angry about not being consulted in the process.

Following the presentation on road access to Chaco Culture National Historic Park, Representative Madalena recessed the meeting at 4:32 p.m.

Thursday, November 6 — Pueblo of San Ildefonso

The sixth meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Senator Pinto on November 6, 2008 at 9:14 a.m. at the senior center at the Pueblo of San Ildefonso.

Pueblo of San Ildefonso — Status Update

Leon T. Roybal, governor of the Pueblo of San Ildefonso, welcomed the committee to the pueblo. He described the activities and services held in the senior center. He said that, this year, a new learning center, a library and an arts center were opened. The pueblo is working on preserving its native language. Governor Roybal also discussed capital outlay, highlighting the pueblo's efforts to spend the money properly and efficiently.

Terrence K. Garcia, second lieutenant governor of the Pueblo of San Ildefonso, also welcomed the committee. Mr. Garcia discussed recent talks with the IAD and the Aging and Long-Term Services Department. The pueblo is planning and designing a wellness center. The center will focus on diabetes prevention, obesity, cancer and other health issues and will also act as a gymnasium.

Chris Moquino, tribal administrator of the Pueblo of San Ildefonso, discussed the gasoline tax. He said that because San Ildefonso is not a gaming pueblo, the gasoline tax is vital to the economy of the pueblo. He also discussed health care issues, including the IHS, Medicare and Medicaid. Mr. Moquino said the pueblo would like more funding for water systems, infrastructure and public transportation. He said the pueblo has a \$50,000 grant for health awareness to help increase awareness for diabetes and obesity, and the pueblo would like to see an increase in those funds. Water rights is a complex issue that is very important to the Pueblo of San Ildefonso. The pueblo will submit a formal and written statement to the committee and the IAD.

Committee members expressed concern about the letter that Governor Richardson sent to the Local Government Division of the Department of Finance and Administration (DFA) about de-authorizing capital outlay funds. Committee members explained that those funds are approved by the legislature, not by the governor, and they are concerned about an encroachment by the executive branch upon the legislative branch. Upon inquiry from the committee, Secretary Warren indicated that the IAD is planning to work with all the tribes and pueblos to make the impact of the budget shortfall as small as possible.

Rebecca Martinez, capital outlay manager at the IAD, said that her department is in communication with project managers for all the projects on the IAD's books, totaling nearly 600 projects. She said that 510 of those projects are coded as current. She turned over the list to the Local Government Division of the DFA to evaluate the status of projects.

Upon a motion by Representative Lundstrom, seconded by Representative Vaughn, the committee approved without objection a request for the IAD to obtain documentation from Indian nations, tribes and pueblos about their programs and project priorities for re-authorized or de-authorized projects. Committee members noted that, given the projected budget deficits, all parties, including Indian nations, tribes and pueblos, need to justify the projects they want re-

authorized. The committee acknowledged that tribal communities are more isolated and disadvantaged than other communities in the state, and it would try to protect funds for them.

Upon a motion by Senator Lovejoy, seconded by Representative Begaye, the committee requested without objection that the committee schedule an extra day for a special meeting on this issue. The committee chair directed staff to have the last meeting of the committee in December to allow time to gather the information necessary for the committee to make decisions. There are issues and decisions from other committees and bodies that affect Native Americans that will be decided after the last November meeting. Committee members suggested that the meeting be scheduled after the Legislative Finance Committee meets and provides an idea of the budget situation.

Indian Water Rights Settlements — Status Update

John D'Antonio, state engineer, presented the 2008 Indian Water Rights Settlement Fund report to the committee. He said that New Mexico currently has three Indian water rights settlements pending, including the Navajo Nation settlement in the San Juan River adjudication, the settlement agreement with the Pueblos of Nambé, Pojoaque, Tesuque and San Ildefonso in the *Aamodt* adjudication and the Taos Pueblo Settlement in the *Abeyta* adjudication of the Pueblo de Taos and the Rio Hondo stream systems. Mr. D'Antonio quickly went over a handout providing information and progress about all three settlements. Bill Hume, special policy advisor to the governor, discussed the omnibus bill in Congress. DL Sanders, director of the litigation and adjudication program in the Office of the State Engineer (OSE), said that the process has been well thought out, but the downturn of the economy will call for more creativity for funding.

Committee members asked OSE staff to put a description of the process in writing to provide a clear and better understanding of how it all works. On an inquiry from the committee, Mr. Sanders said that if the agreement did not go through, the entire settlement will need to be renegotiated. The OSE needs to get the projected \$100 million in settlement money, otherwise there would need to be a new agreement that would essentially result in starting all over again. Upon a motion by Representative Pena, seconded by Senator Lovejoy, the committee approved without objection writing a letter to the City of Gallup asking the city to demonstrate that it is taking the proper measures to obtain the money necessary to pay for its share of the cost to construct the water pipeline.

Regional Water Plans — Funding Request

Michael Benson, program and projects specialist for the water management branch of the Navajo Nation, supported continual funding for the regional water planning program. He said that the regional water planning program is a very public process, and tribal participation does not threaten tribal sovereignty. He added that he appreciates the flexibility the program provides the Navajo Nation, the pueblos and the tribes. Mr. Benson told the committee that he appreciates the good treatment and the cooperation New Mexico gives the Navajo Nation, especially when compared to Arizona. Upon a motion by Representative Lundstrom, seconded by Representative Pena, the committee approved without objection endorsing an appropriation bill for state water planning.

Domestic Violence — House Memorial 94 (2007 Legislative Session)

Deputy Secretary Suazo provided background on House Memorial 94 from the 2007 legislative session. He said that, although Native American traditions and culture honor and revere women, domestic violence is a serious issue for Native American communities. He commented that the lack of hard data on domestic violence creates a lack of understanding about the prevalence, nature and outcomes of domestic violence in tribal communities. The IAD convened the Native American Women Domestic Violence Study Workgroup on August 17, 2007, with representatives from the Children, Youth and Families Department, the Department of Health, the New Mexico Interpersonal Violence Data Central Repository, the Office of the Governor, the Pueblo of Santa Clara and the Coalition to Stop Violence Against Native Women. Deputy Secretary Suazo said that the work group found that a comprehensive study of domestic violence against Native American women would face challenges, including a lack of available data. Although data are hard to obtain, he provided numbers from U.S. Department of Justice reports. Those reports showed that Native American and Alaska Native women are approximately 2.5 times more likely to be raped or sexually assaulted than other women in the United States. Deputy Secretary Suazo stated that jurisdiction issues, lack of response services and low conviction rates contribute to the perpetrating of domestic violence. To address the situation, Deputy Secretary Suazo asserted the need to approach the problem of domestic violence in a culturally aware and sensitive manner. He said there should be consultation with all 22 tribes to improve systematic data collection and information-sharing among the tribes and New Mexico. The state needs a better understanding of how tribal judicial systems work regarding domestic violence, and it needs to confer with tribal communities on how to increase support for linguistic and translation, traditional-healing and community-based services. Christina Stick, IAD policy analyst, said that this memorial is very important and that the IAD would like the committee's help with the memorial. The IAD does not have a systematic way to obtain data, and data are extremely difficult to obtain from Native American communities in general.

Committee members considered the possibility of convening a subcommittee meeting, as was done with the Mining Act Subcommittee, to deal with domestic violence. In response to the committee's concern that domestic violence is not being properly addressed because there is an assumption that it is a cultural issue and tribal authorities are not willing to deal with sensitive issues, Ms. Stick stated that getting the data will not come of the state imposing its authority to get those numbers. Instead, data gathering will be successful by sitting down with the tribes and pueblos and discussing the issue.

Sharon Pino, domestic violence czar, discussed the services available for domestic violence, focusing on the national domestic violence hotline. She said the national hotline will take a call and then make contact with a domestic violence provider in the area from which the victim calls.

Representative Lundstrom suggested that the committee protect domestic violence programs discussed in House Memorial 94 from funding cuts and that committee members and those on the Legislative Finance Committee keep an eye out for possible cuts to these programs. The committee chair directed staff to take up this issue during the next interim in the form of a study subcommittee.

Tribal Libraries — House Memorial 59 (2008 Legislative Session)

Deputy Secretary Suazo presented an update on the status of House Memorial 59, which involves tribal libraries. He said that the IAD and state library developed and conducted a survey to assess the operational needs of tribal libraries. The state library also conducted a financial needs assessment. The results and recommendations of the survey and assessment were compiled into House Memorial 59 in November 2008. Deputy Secretary Suazo stated that 12 of 18 tribal librarians responded. Ten of the tribal libraries reported a lack of: adequate space for collections; storage; funding for full-time employees; shelving; furniture; computers; and library programs. In order to supplement the survey, meetings with tribal librarians were held from July through September at seven pueblos. There were five areas of concern identified and highlighted at those meetings: availability of space for libraries; funding for librarian and staff positions; funding for operational costs; replacing the ATHENA catalog operating system; and the vacant tribal library coordinator position. Deputy Secretary Suazo also explained the importance of tribal libraries to Native American communities. He said the libraries provide a source for computer or internet service, often the only source in the community, as well as valuable educational programs for youth, professional training materials and services for community members, literacy programs and a physical space to bring members of the community together socially. Deputy Secretary Suazo said that the IAD will coordinate with libraries throughout the state, including tribal libraries, to work with legislators to get more funding, to address their needs and to fill the vacant tribal library coordinator position. Geri Hutchins, federal programs coordinator at the New Mexico State Library, supported Deputy Secretary Suazo's presentation.

Upon a motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee voted without objection to write a letter to Governor Richardson requesting that the tribal library coordinator position be exempt from the general executive hiring freeze. Upon a motion by Representative Lundstrom, seconded by Senator Martinez, the committee voted without objection to instruct the staff of the IAD to coordinate with tribal libraries to secure funds for the Tribal Libraries Endowment Fund from philanthropic sources, such as gaming tribes that donate to many worthy organizations and causes. Upon a motion by Representative Lundstrom, seconded by Representative Vaughn, the committee approved without objection writing a letter to the New Mexico Indian Gaming Association, represented by Charlie Dorame, governmental affairs specialist in the Office of the Governor of the Pueblo of Tesuque, asking that the organization consider contributing to the Tribal Libraries Endowment Fund.

Lana Paolillo, education director at the Pueblo of San Ildefonso, introduced the tribal librarians in the audience. She said it is vital to help tribal libraries with funding to construct facilities, get equipment, obtain books and pay salaries. She commended the work the tribal librarians have done.

Higher Education Department — Update

Dr. Reed Dasenbrock, secretary of higher education, discussed the higher education institutions that are serving Native Americans. He indicated that there are three in the state of New Mexico: San Juan College; UNM-Gallup; and New Mexico State University (NMSU)-Grants. The Native American-Serving Non-Tribal Institutions program (NASNTIP) is an initiative that provides funding to nontribal colleges with a student population that is at least

10 percent Native American. The program provides grants of at least \$200,000 to support curriculum development and academic instruction; faculty development; the purchase of books and other educational materials; and academic tutoring and counseling.

Committee members commented on the College Affordability Act and expressed concern that some of the NASNTIP institutions did not win a grant, particularly because there are so many Native American students in attendance at the colleges. The committee asked that the NASNTIP UNM main campus help the with the NASNTIP institutions the grant-writing process. Upon inquiry from the committee about enrollment in tribal colleges and available capacity, Dr. Dasenbrock said the main campus does not have as many Native American students as the NASNTIP institutions, such as UNM-Gallup or NMSU-Grants, and that tribal colleges do have plenty of space available. The committee also expressed the need to implement a suitable credit transfer system because the tribal colleges are important and provide quality education to many Native Americans.

Tribal Emergency Management

Secretary Warren informed the committee that funding from the Kellogg Foundation had been secured to host a summit on tribal emergency management. Heather Townsend of the All Indian Pueblo Council discussed the Tribal Emergency Management Summit that took place in Albuquerque on October 17, 2008. Ms. Townsend said the summit was very valuable. It is important for all communities to have a point of contact (POC) in its emergency management protocol. She said there were people in place as POCs previously, but those POCs often had more than one job, illustrating the need for more human resources. The natural environment is a major concern because many communities do not have a plan like urban centers do. The natural environment does not allow for an easy master plan that cities enjoy. The 53 participants at the summit dealt with mitigation planning, NIBS compliance, the grant application process and response and recovery processes. The summit also addressed the need to identify barriers and collaborative efforts on solutions to tribal emergency management program development.

In response to any inquiry from the committee, Mark Holyan, policy analyst for the IAD, said that while not all Indian nations, tribes, pueblos and other entities were present at the summit, 14 of them were represented, and that is a high representation level. Committee members made the presenters aware that the Information Technology and Telecommunications Oversight Committee is going to recommend legislation to establish a commission to evaluate interoperability among emergency management responders, which will include tribal entities. In response to committee questions, Governor Roybal said the Pueblo of San Ildefonso has a fire department, but it is not in operation due to equipment and funding problems.

Following the presentation on emergency management and services for tribal communities, Representative Madalena recessed the meeting at 4:24 p.m.

Friday, November 7 — Room 307, State Capitol

The sixth meeting of the Indian Affairs Committee for the 2008 interim was called back

into session by Representative Madalena, co-chair, on November 7, 2008 at 9:20 a.m. in Room 307 of the State Capitol.

Public Utility Taxation on Tribal Lands — Update

Rick Homans, secretary of taxation and revenue, updated the committee on progress made to address the state gross receipts tax rules of public utilities and telecommunications companies on Indian lands. Currently, only receipts from sales to an Indian tribe on its land or to a member of the tribe at which the sale took place are not subject to taxation. Sales off Indian lands, to non-member Indians, to non-Indians on Indian lands and to Indian tribes outside their territory are taxable. Additionally, the Indian nation, tribe or pueblo may impose its own tax that is not exempt. Secretary Homans acknowledged that there are difficulties in implementing an exemption from state gross receipts tax of public utilities and telecommunications companies from sales to Indian tribes and members of the tribe on the tribe's territory and that, in practice, state taxes are being imposed on these receipts. Because service providers cannot claim a refund from the Taxation and Revenue Department for taxes paid on the exempt services beyond the statute of limitations, they are reluctant to refund the money to Indian nations, tribes and pueblos and their members. The statute of limitations, however, is not a limit on claims by Indian nations, tribes and pueblos or their members for refunds against the service provider. There may be other statutes of limitations. Secretary Homans indicated that the Taxation and Revenue Department has participated in the working group meetings held by the Public Regulation Commission (PRC) to address the issue. The department supports the proposed solutions, such as forms and a database clearinghouse.

Roy Stephenson, director of the Utility Division of the PRC, presented the report of the working group. Mr. Stephenson noted that the work products are still in draft form and open to review and comment. The working group came up with sample forms, outreach that collects necessary information and protects privacy concerns, a legal analysis, lists of taxes improperly charged and a handbook to serve as a guide to the issue. Mr. Stephenson also stated that a database clearinghouse hosted by a third party could address the privacy concerns of Indian members and provide the utility companies with the information needed to stop collecting taxes from sales to Indian members on Indian lands.

Committee members expressed their concern and strongly urged that the issue be resolved as quickly as possible. In response to a motion by Senator Lovejoy, seconded by Representative Vaughn, to support legislation to amend the PRC Act to require that companies have language on how they would monitor tax exemption problems, Mr. Stephenson said that the PRC feels it has enough authority within the current rules to pursue a quick solution.

Indian Affairs Department — Legislative Update

Secretary Warren presented two bills for consideration by the committee. The first bill for consideration relates to governmental affairs. The proposed act would require state-tribal collaboration and communication. While the bill could not direct Indian nations, tribes or pueblos to take action, the bill does direct state agencies to take steps to increase collaboration and communication with the Indian nations, tribes and pueblos. Upon a motion by Representative

Lundstrom, seconded by Representative Begaye, the committee voted to endorse the state-tribal collaboration bill presented by the IAD, with Senators Adair and Rainaldi opposed.

Secretary Warren presented to the committee for endorsement a bill relating to real property. The proposed act would amend the New Mexico Subdivision Act to require tribal consultation in specific instances. Committee members expressed concerns about the five-mile provision in the bill, the burden of notification in particular and the lack of a presentation dealing with this bill during the interim or time to review the bill. Chase Van Gorder, staff attorney for the committee, informed the committee that the bill was not given to the Legislative Council Service until a week ago due to the process that requires the bill to receive endorsement by the Governor's Office. Upon a motion by Senator Lovejoy, seconded by Representative Lundstrom, the committee voted without objection to endorse the concept of the bill rather than the language of the bill.

Minutes

Upon a motion by Representative Lundstrom, seconded by Senator Rainaldi, the committee approved without objection the minutes for the second, third, fourth and fifth meetings of the Indian Affairs Committee for the current interim and for the meeting of the Mining Act Subcommittee held on October 30, 2008.

Endorsement of Legislation

Mr. Van Gorder presented proposed bills A through D and G through M to the committee for its consideration and endorsement.

Bill A relates to taxation and amends sections of the NMSA 1978 concerning the Native American Veterans' Income Tax Settlement Fund. Secretary Homans asked that the word "improper" be deleted from the draft bill. Upon a motion by Senator Lovejoy, seconded by Senator Rainaldi, the committee voted without objection to endorse the bill.

Bill B relates to business and would increase the penalties for violations of the Indian Arts and Crafts Sales Act. Upon a motion by Senator Lovejoy, seconded by Representative Vaughn, the committee voted without objection to endorse the bill.

Bill C relates to the environment. The proposed act calls for the cleanup of uranium legacy sites and creates a revenue source to fund uranium legacy cleanup activities. Upon a motion by Representative Lundstrom, seconded by Senator Martinez, the committee approved without objection to endorse the bill.

Bill D relates to real estate and prohibits certain home loans. Upon a motion by Representative Lundstrom, seconded by Senator Pinto, the committee voted without objection to endorse the bill.

Bill G is a memorial requesting federal financial assistance to clean up abandoned uranium mine sites. Upon a motion by Representative Lundstrom, seconded by Senator Pinto, the committee voted without objection to endorse the bill.

Upon a motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee approved without objection endorsing appropriation bills H through L. The appropriation bill requesting \$2.5 million for improvement of the Chaco Canyon access road was not endorsed by the committee.

The committee proceeded to identify sponsors for the legislation endorsed by the committee.

Adjournment

There being no further business before the committee, the sixth meeting of the Indian Affairs Committee for the 2008 interim was adjourned at 2:10 p.m.

Revised: December 15, 2008

**TENTATIVE AGENDA
for the
SEVENTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**December 17, 2008
Room 309, State Capitol
Santa Fe**

Wednesday, December 17 — Room 309, State Capitol

- 10:00 a.m. **Call to Order**
- 10:05 a.m. **Native Arts Authenticity Task Force — Status Update**
—Bruce Bernstein, Executive Director, Southwestern Association for Indian Arts
—Vernon Lujan, Director, Poeh Cultural Center/Museum
- 11:00 a.m. **Indian Affairs Department — Capital Outlay Update**
—Alvin Warren, Secretary of Indian Affairs
—Rebecca Martinez, Capital Outlay Manager, Indian Affairs Department
—Arbin Mitchell, Director, Division of Community Development, Navajo Nation
- 12:00 noon **Indian Affairs Department — Budget and Project Update**
—Alvin Warren, Secretary of Indian Affairs
- 1:00 p.m. **Endorsement of Legislation**
- 2:00 p.m. **Adjourn**

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

**December 17, 2008
Room 309, State Capitol
Santa Fe, New Mexico**

The seventh meeting of the Indian Affairs Committee for the 2008 interim was called to order by Senator John Pinto, co-chair, on December 17, 2008 at 10:14 a.m. in Room 309 of the State Capitol in Santa Fe, New Mexico.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair
Rep. Ray Begaye
Sen. Dianna J. Duran
Sen. Lynda M. Lovejoy
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Rep. Gloria C. Vaughn

Absent

Rep. Justine Fox-Young
Rep. Patricia A. Lundstrom
Rep. John Pena
Sen. John C. Ryan
Rep. W. C. "Dub" Williams

Advisory Members

Rep. Ernest H. Chavez
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Sen. Joseph J. Carraro
Sen. Timothy Z. Jennings
Sen. William E. Sharer
Sen. David Ulibarri

Staff

Chase Van Gorder
Damian Lara
Mark Harben

Guests

The guest list is in the meeting file.

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

Wednesday, December 17 — Room 309, State Capitol

Native Arts Authenticity Task Force — Status Update

Bruce Bernstein, executive director of the Southwestern Association for Indian Arts and a member of the Governor's Task Force on Native American Arts Authenticity, explained that Native American arts are a vital part of the state's heritage and today's culture. Native American artists are able to work and participate in the economy. Mr. Bernstein estimated that of the 13,000 residents of the Pueblo of Zuni, 8,500 make their living through arts and crafts. Native American arts and crafts in New Mexico is a \$500 million per year industry. Tourism by comparison is a \$4 million per year industry, and Native American culture is the primary reason for people visiting New Mexico. Mr. Bernstein noted that the presence of fake, fraudulent and imitation Native American arts and crafts items is insidious and legendary. The actual number of non-authentic Native American arts and crafts items offered for sale is unknown. There have been a few cases of prosecution in 2008 and 2005 for violation of current laws. The current laws, however, appear to be ineffective because of the knowledge and specialization needed and merchant willingness to pay the relatively small fines. Mr. Bernstein stated that given these facts, the intent of the laws to stop fakes, frauds and imitations is not producing the desired effect. Vernon Lujan, director of the Poeh Cultural Center and Museum and a member of the Governor's Task Force on Native American Arts Authenticity, commented that the burden is put upon Native American artisans to prove authenticity whereas the burden should be on the shop owners and galleries.

Joe Garcia, chair of the All Indian Pueblo Council, expressed his appreciation of the great working relationship the state has with the Indian peoples of the state. The impact of Native American arts and crafts on New Mexico's economy and society has never been studied. All facts are anecdotal and a clear picture is needed of any adverse impact of the import production and sale of non-authentic Native American arts and crafts items. Mr. Garcia indicated that often stores selling imitations will set up across the street from Native Americans selling their authentic handmade crafts and arts. While the aim is not to stifle competition or free enterprise, there is a need for regulating the sale of arts and crafts that are represented as being Native American. A clear picture of the present situation is needed, however, in order to come up with recommendations for changes in current rules and laws. An appropriation to the Cultural Affairs Department to study the extent of misrepresentation of Native American arts and crafts will help produce recommendations to achieve the desired effective changes.

The committee expressed its apprehension of studies, particularly on an issue such as this, in which the existence of the problem is widely known. Given that the expected results of the study will indicate that there are many fakes, frauds and imitations that are misrepresented as authentic Native American arts and crafts, there needs to be enforcement of existing federal and state laws. The committee also expressed concerns about the amount of \$50,000 to conduct the study, even with the leverage of twice that amount by non-state government sources. Upon a motion by Senator Lovejoy, seconded by Representative Madalena, the committee voted without objection to endorse the proposed appropriation to the Cultural Affairs Department. Upon a motion by Representative Madalena, seconded by Senator Lovejoy, the committee voted without objection to endorse a separate bill to be sponsored by Representative Madalena to appropriate

\$100,000 to the Office of the Attorney General for the enforcement of laws pertaining to the misrepresentation of Indian arts and crafts authenticity.

Indian Affairs Department — Capital Outlay Update

Secretary of Indian Affairs Alvin Warren gave a brief overview of the status of the capital outlay projects for which the Indian Affairs Department (IAD) is responsible. Secretary Warren indicated that the IAD has made great progress and has experienced record turnaround for completion of capital outlay projects. The department also made great advances with the projects supported by the Tribal Infrastructure Fund (TIF). Secretary Warren then turned to Rebecca Martinez, capital outlay manager at the IAD, for a detailed report on capital outlay.

Ms. Martinez indicated that the IAD handled more than 600 capital outlay projects over the past year. In December 2008, the IAD had 552 projects totaling \$81.9 million. Out of that total only 100 projects totaling \$6.5 million are in backlog status. Ms. Martinez indicated that the IAD had undertaken major initiatives to assist Indian nations, tribes and pueblos to complete their capital outlay projects, including outreach and training, technical assistance, reconciliation meetings, work groups and the Navajo Nation master intergovernmental agreement. These initiatives all helped reduce capital outlay projects in backlog status. The establishment of the TIF and subsequent amendments have allowed for the unexpended capital outlay appropriations made after January 1, 2007 from the general fund to the IAD or the Aging and Long-Term Services Department to revert to the TIF. The original intent to promote and develop the physical infrastructure of the Indian nations, tribes and pueblos is preserved. In addition to the capital outlay projects, the IAD handles 16 special projects and eight special appropriations for recurring services. The 2009 IAD Capital Outlay Unit annual report will be available January 19, 2009 and will be distributed to each legislator whose legislative district has Native American constituents.

Navajo Nation Vice President Ben Shelly provided a summary of the capital outlay projects awarded to the various chapters of the Navajo Nation. Additionally, Vice President Shelly presented a letter and several resolutions regarding Governor Richardson's direction to classify all capital outlay projects into categories that could then be used to generate a recommendation for de-authorization as part of an effort to balance the state's budget for fiscal year 2009, and the Navajo Nation's efforts to move its capital outlay projects in response.

Arbin Mitchell, director of the Division of Community Development of the Navajo Nation, presented a report on the status of capital outlay projects awarded to the Navajo Nation and its chapters. He reported 120 active, 134 stalled, 68 underfunded, 19 unable to move and 30 unproductive projects in New Mexico. Mr. Mitchell indicated that in order to move forward with these projects and avoid the possibility of de-authorization, the Navajo Nation had contacted all the affected chapters and informed them that the projects at risk of being de-authorized would be pooled together for different projects to move them forward. Mr. Mitchell explained that capital outlay projects with similar authorization language and purpose would be pooled to fulfill the purpose of the authorization. For example, all parking lot pavement or heavy equipment projects could be pooled together to move a common project forward thereby avoiding the need for a reauthorization. Upon further explanation, the legality of the proposed initiative was called into question. The committee expressed concern about the ability of the Navajo Nation to unilaterally

pool individual chapter appropriations and expend them on a common project for the Navajo Nation without the reauthorization of the state. The Navajo Nation felt that all appropriations were made to the nation for individual chapters rather than to individual chapters for the nation.

Upon inquiry from the committee, members representing individual chapters that voted against or abstained from voting for the resolutions presented by Vice President Shelly indicated that they voted against the resolution because some of the pooled projects would be used for the benefit of the Navajo Nation rather than for the chapters. The committee informed the representatives of the Navajo Nation that pooling the individual projects was just one alternative to dealing with the possibility of de-authorization of capital outlay projects for the Navajo Nation and its chapters. Another alternative was for the legislature to exempt capital outlay for the Indian nations, tribes and pueblos from de-authorization. Upon a motion by Senator Lovejoy, seconded by Representative Madalena, the committee voted without objection to request that capital outlay projects for all tribal entities be exempt from consideration for de-authorization as part of the effort to balance the state's budget for fiscal year 2009. The committee directed the staff to send a letter on behalf of the committee to Governor Richardson, Lieutenant Governor Denish, Secretary of Finance and Administration Katherine Miller and David Abbey, director of the Legislative Finance Committee, as well as to all legislators. Committee members explained that there is never a guarantee for the session and the Navajo Nation should continue to work on appropriate ways to move the projects forward. It was emphasized that it is the legislature, and not the governor, that decides what appropriations will be reauthorized or de-authorized.

Committee staff attorney Chase Van Gorder reminded the representatives of the Navajo Nation that absent a letter from the Office of the Attorney General or the Department of Finance and Administration allowing a pooling of projects without reauthorization from the legislature, there is a possibility that the Navajo Nation would not be reimbursed for capital outlay expenditures for "pooled projects".

Indian Affairs Committee — Budget and Project Update

Secretary Warren indicated that the five percent reduction represents a \$213,480 reduction for fiscal year 2010. The IAD proposed cuts to line items currently funded for contractual and grant services. The expansion requests for fiscal year 2010 total \$729,000. Secretary Warren also provided an update on the requests of the committee and provided the necessary information for the members. Upon inquiry from the committee, Secretary Warren indicated that salaries and personnel cuts are not proposed by the IAD.

Endorsement of Legislation

Secretary Warren and Governor Ivan Pino of the Pueblo of Zia provided a summary of the revised bills addressing state-tribal collaboration and tribal consultation in the case of subdivision proposals. The proposed State-Tribal Collaboration Act builds on a proven structure for effective government-to-government communication and collaboration between state and tribal agencies. The bill would provide for greater consistency across all cabinet-level agencies and would ensure that the effective structure continues in future administrations. The draft language dictates that

the governor shall meet with the leaders of the Indian nations, tribes and pueblos in a state-tribal summit. The proposed subdivision-tribal consultation bill amends the New Mexico Subdivision Act to require the board of county commissioners to request opinions from Indian nations, tribes and pueblos regarding preliminary plat approval by developers for newly proposed or merging subdivisions. The bill would not create any new mechanism or provide an Indian nation, tribe or pueblo with the authority to halt a board decision. Upon a motion by Senator Rainaldi, seconded by Senator Rodriguez, the committee voted without opposition to endorse the proposed State-Tribal Consultation Act and the proposed bill amending the New Mexico Subdivision Act.

Secretary of Higher Education Reed Dasenbrock and members of his staff presented the proposed Post-Secondary Indian Education Act and a proposed bill to extend the dual credit programs to tribal colleges and federal Bureau of Education schools. Upon a motion by Representative Madalena, seconded by Senator Rodriguez, the committee voted without opposition to endorse these two bills.

Mr. Van Gorder presented additional proposed bills to the committee for its consideration and endorsement. Bill A relates to taxation and amends sections of the NMSA 1978 concerning the Native American Veterans' Income Tax Settlement Fund. Bill E is a memorial regarding proposed amendments to the federal Radiation Exposure Compensation Act. Bill F is a memorial regarding the cleanup of the ammunition dump at Fort Wingate. Bill L is a memorial requesting the New Mexico Legislative Council to appoint a uranium mining task force. Bill H is an appropriation bill requesting \$43,000 for a counselor to assist victims of domestic violence. Bill I is an appropriation bill requesting \$5 million for tribal emergency management. Bill J is an appropriation bill requesting \$230,000 for a youth development program at the Tohatchi Chapter of the Navajo Nation. Bill K is an appropriation bill requesting \$119,000 to offset fees charged to the Navajo Nation by the state for services related to child support enforcement. Upon a motion by Representative Madalena, seconded by Senator Rodriguez, the committee approved without objection to endorse the proposed bills as presented by Mr. Van Gorder.

Minutes

Upon a motion by Representative Vaughn, seconded by Representative Madalena, the committee approved without objection the minutes from the November 2008 meeting of the Indian Affairs Committee.

Adjournment

There being no further business before the committee, the seventh meeting of the Indian Affairs Committee for the 2008 interim was adjourned at 3:33 p.m.

INTERIM INDIAN AFFAIRS COMMITTEE - 2009 LEGISLATIVE ENDORSEMENTS

<u>202 File #</u>	<u>Type</u>	<u>Sponsor</u>	<u>Description</u>
174162.7	Bill	Sen. Pinto	Native American Veterans' Tax Refund
174237.1SA	Bill	Rep. Madalena	Indian Arts and Crafts Sales Act
174241.1	Bill	Rep. Lundstrom	Uranium Legacy Cleanup Act
174243.2	Bill	Rep. Lundstrom	Predatory Mortgages
174319.5GR	Bill	Sen. Pinto	State-Tribal Collaboration*
174383.4SA	Bill	Rep. Begaye	Subdivision Act - Tribal Consultation*
174534.2SA	Bill	Rep. Begaye	Post-Secondary Indian Education Act**
174535.1SA	Bill	Rep. Begaye	Dual Credit Program**
* * * * *			
174166.1	Memorial	Sen. Lovejoy	Federal Financial Assistance - Cleanup of Abandoned Uranium Mine Sites
174502.1	Memorial	Sen. Ulibarri	Radiation Exposure Compensation Act
174770.1	Memorial	Sen. Pinto	Fort Wingate Cleanup
174711.2	Memorial	Rep. Lundstrom	Uranium Mining Task Force
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174163.1	Approp	Sen. Lovejoy	Inventory of Abandoned Uranium Mine Sites (\$300,000)
174164.1	Approp	Sen. Lovejoy	Comprehensive Health Study - Uranium Contamination (\$200,000)
174165.1	Approp	Sen. Ulibarri	Comprehensive Study of San Mateo Basin Aquifers (\$650,000)
174201.1	Approp	Rep. Nunez	Water Planning (\$400,000)
174240.1	Approp	Rep. Lundstrom	Native American Arts and Crafts Authenticity (\$100,000)
174478.1	Approp	Rep. Begaye	Native American Adolescent Health Program (\$50,000)
174529.1	Approp	Sen. Pinto	CYFD Counselor (\$43,000)
174551.1	Approp	Rep. Begaye	Tribal Emergency Management (\$5,000,000)
174554.1	Approp	Sen. Pinto	Tohatchi Youth Development (\$230,000)
174555.1	Approp	Sen. Pinto	Waiver of State Fees (\$119,000)
175035.1	Approp	Rep. Madalena	Attorney General's Office - Indian Arts & Crafts Enforcement (\$100,000)

* Indian Affairs Department Request ** Higher Education Department Request

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING SECTIONS OF THE NMSA 1978
CONCERNING THE NATIVE AMERICAN VETERANS' INCOME TAX SETTLEMENT
FUND; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2H-1 NMSA 1978 (being Laws 2008,
Chapter 89, Section 1) is amended to read:

"7-2H-1. LEGISLATIVE FINDINGS.--

A. Native Americans have had a long history of
serving their country through active duty in the armed forces
of the United States during periods of both war and peace and
have made great sacrifices in serving their country through
active duty in the military during periods of war and peace.

B. Native American veterans domiciled ~~[on]~~ within
the boundaries of their tribal lands or their spouse's tribal

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1 lands during their periods of active military service may have
2 been exempt from paying state personal income taxes on their
3 military income, but may have had state personal income taxes
4 [~~improperly~~] withheld from their military income.

5 C. Native American veterans now are barred by the
6 state statute of limitations from claiming refunds of state
7 personal income taxes that may have been [~~improperly~~] withheld
8 from their military income when they were domiciled within the
9 boundaries of their tribal lands or their spouse's tribal lands
10 during the period of their active military duty, and even if
11 not barred by the statute of limitations, the passage of time
12 extending to decades will make it difficult for many Native
13 American veterans to meet strict standards of proof that they
14 are entitled to a refund of [~~improperly~~] withheld state
15 personal income taxes.

16 D. It is incumbent upon the state to ensure that it
17 was not unjustly enriched by the [~~improper~~] withholding of
18 state personal income taxes from Native American veterans who
19 were domiciled within the boundaries of their tribal lands or
20 their spouse's tribal lands during the period of their active
21 military duty, and the state should implement a feasible means
22 of refunding to Native American veterans any state personal
23 income taxes that were [~~improperly~~] withheld from military
24 [~~pay~~] income while they were domiciled within the boundaries of
25 their tribal lands or their spouse's tribal lands during the

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1 period of their active military duty."

2 Section 2. Section 7-2H-2 NMSA 1978 (being Laws 2008,
3 Chapter 89, Section 2) is amended to read:

4 "7-2H-2. [DEFINITIONS] DEFINITION.--As used in [~~this act~~:

5 A. ~~"department" means the veterans' services~~
6 ~~department;~~

7 B.] Chapter 7, Article 2H NMSA 1978, "fund" means
8 the Native American veterans' income tax settlement fund [~~and~~

9 C. ~~"secretary" means the secretary of veterans'~~
10 ~~services]."~~

11 Section 3. Section 7-2H-3 NMSA 1978 (being Laws 2008,
12 Chapter 89, Section 3) is amended to read:

13 "7-2H-3. NATIVE AMERICAN VETERANS' INCOME TAX SETTLEMENT
14 FUND--CREATED--PURPOSE--APPROPRIATIONS.--

15 A. The "Native American veterans' income tax
16 settlement fund" is created as a nonreverting fund in the state
17 treasury and shall be administered by the taxation and revenue
18 department. The fund shall consist of money that is
19 appropriated or donated or that otherwise accrues to the fund.
20 Money in the fund shall be invested by the state investment
21 officer in the manner that land grant permanent funds are
22 invested pursuant to Chapter 6, Article 8 NMSA 1978. Income
23 from investment of the fund shall be credited to the fund.

24 B. The taxation and revenue department shall
25 establish procedures and adopt rules as required to administer

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1 the fund and to make settlement payments from the fund as
2 approved by the secretary of taxation and revenue.

3 C. Money in the fund is appropriated to the
4 taxation and revenue department to make settlement payments to
5 Native American veterans who were domiciled within the
6 boundaries of their tribal lands or their spouse's tribal lands
7 during the period of their active military duty and had state
8 personal income taxes [~~improperly~~] withheld from their military
9 [~~pay~~] income. Settlement payments shall include the amount of
10 state personal income taxes withheld from eligible Native
11 American veterans that have not been previously refunded to the
12 veterans and interest on the amount withheld from the date of
13 withholding computed on a daily basis at the rate specified for
14 individuals pursuant to Section 6621 of the Internal Revenue
15 Code of 1986. No settlement payments shall be made for any
16 taxable year for which a refund claim may be timely filed with
17 the taxation and revenue department, or for which an
18 application for settlement is received after December 31, 2012.
19 Money shall be disbursed from the fund only on warrant of the
20 secretary of finance and administration upon vouchers signed by
21 the secretary of [~~veterans' services~~] taxation and revenue or
22 the secretary's authorized representative. Any unexpended or
23 unencumbered balance remaining in the fund at the end of a
24 fiscal year shall not revert to the general fund.

25 D. Beginning in fiscal year 2010 and in subsequent

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1 fiscal years, not more than five percent of the fund is
2 appropriated from the fund to the taxation and revenue
3 department for expenditure in the fiscal year in which it is
4 appropriated to administer the fund. Any unexpended or
5 unencumbered balance remaining at the end of any fiscal year
6 shall revert to the fund.

7 E. Beginning in fiscal year 2010 and in subsequent
8 fiscal years, not more than five percent of the fund is
9 appropriated from the fund to the veterans' services department
10 for expenditure in the fiscal year in which it is appropriated
11 to assist in outreach and public relations and in determining
12 eligibility for settlement payments. Any unexpended or
13 unencumbered balance remaining at the end of any fiscal year
14 shall revert to the fund."

15 Section 4. Section 7-2H-4 NMSA 1978 (being Laws 2008,
16 Chapter 89, Section 4) is amended to read:

17 "7-2H-4. DUTIES OF THE SECRETARY.--

18 A. The secretary of veterans' services shall
19 conduct a study in cooperation with the taxation and revenue
20 department to determine whether Native American veterans who
21 were domiciled ~~[on]~~ within the boundaries of their tribal lands
22 or their spouse's tribal lands during the period of their
23 active military duty had state personal income taxes
24 ~~[improperly]~~ withheld from their ~~[pay]~~ military income and if
25 so, to determine the amount of such state personal income taxes

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1 [~~improperly~~] withheld and the number and identity of Native
2 American veterans or their survivors affected by the [~~improper~~]
3 withholding of such state personal income taxes.

4 B. The secretary of taxation and revenue and the
5 secretary of veterans' services shall promulgate rules for a
6 state program to compensate Native American veterans or their
7 survivors for state personal income taxes [~~improperly~~] withheld
8 from military income while on active military duty and
9 domiciled within the boundaries of the veteran's or the
10 veteran's spouse's tribal lands.

11 C. The secretary of taxation and revenue shall
12 report to the appropriate interim legislative committee no
13 later than October 1 of each year regarding estimates of the
14 amount of state personal income taxes [~~improperly~~] withheld
15 from the military [~~pay~~] income of Native American veterans
16 domiciled on their respective tribal lands, the number of
17 Native American veterans or their survivors affected by [~~the~~
18 ~~improper~~] such withholding of state personal income taxes,
19 total expenditures from the fund for the previous fiscal year
20 and the anticipated appropriations to the fund needed to pay
21 for settlements to be entered into for the next fiscal year."

22 Section 5. APPROPRIATION.--Two million dollars
23 (\$2,000,000) is appropriated from the general fund to the
24 Native American veterans' income tax settlement fund for
25 expenditure in fiscal year 2010 and subsequent fiscal years to

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1 carry out the purposes of the fund. Any unexpended or
2 unencumbered balance remaining at the end of a fiscal year
3 shall not revert to the general fund.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE URANIUM LEGACY
CLEANUP ACT; PROVIDING FOR THE ADMINISTRATION OF THAT ACT AND
CLEANUP ACTIONS TO BE TAKEN PURSUANT TO IT; CREATING REVENUE
SOURCES TO FUND URANIUM LEGACY CLEANUP ACTIVITIES; AMENDING AND
ENACTING CERTAIN SECTIONS OF THE NMSA 1978; MAKING
APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 5 of this act may be cited as the "Uranium Legacy
Cleanup Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Uranium Legacy Cleanup Act:

A. "department" means the energy, minerals and
natural resources department;

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1 B. "financial assistance" means providing grants or
2 loans on terms and conditions approved by the secretary for
3 qualified projects;

4 C. "fund" means the uranium legacy cleanup fund;

5 D. "qualified project" means a project selected by
6 the secretary for financial assistance; and

7 E. "secretary" means the secretary of energy,
8 minerals and natural resources.

9 Section 3. [NEW MATERIAL] URANIUM LEGACY CLEANUP FUND--
10 CREATED--PURPOSE--APPROPRIATIONS.--

11 A. The "uranium legacy cleanup fund" is created as
12 a nonreverting fund in the state treasury and shall be
13 administered by the department. The fund shall consist of
14 money from distributions of the uranium legacy cleanup surtax
15 pursuant to Section 7-1-6.59 NMSA 1978; money that is repaid
16 from loans approved by the secretary; and money that is
17 appropriated or donated or that otherwise accrues to the fund.
18 Money in the fund shall be invested by the state investment
19 officer in the manner that land grant permanent funds are
20 invested pursuant to Chapter 6, Article 8 NMSA 1978. Income
21 from investment of the fund shall be credited to the fund.

22 B. The department shall establish procedures and
23 adopt rules as required to administer the fund and to originate
24 grants or loans for qualified projects approved by the
25 secretary.

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1 C. Money in the fund shall be appropriated by the
2 legislature to the department to carry out the purposes of the
3 Uranium Legacy Cleanup Act by providing financial assistance
4 for qualified projects. Money shall be disbursed from the fund
5 only on warrant of the secretary of finance and administration
6 upon vouchers signed by the secretary of energy, minerals and
7 natural resources or the secretary's authorized representative.
8 Any unexpended or unencumbered balance remaining at the end of
9 a fiscal year shall not revert to the general fund.

10 Section 4. [NEW MATERIAL] DUTIES OF THE SECRETARY.--

11 A. Expenditures from the fund for financial
12 assistance shall be approved by the secretary for qualified
13 projects directed at the elimination or reduction of actual or
14 potential exposure of persons to contamination that may have
15 resulted from uranium mining or milling activities that
16 occurred prior to July 1, 2009.

17 B. The secretary shall adopt rules for applying for
18 financial assistance from the fund and for establishing
19 priorities for qualified projects. The priorities for
20 approving qualified projects shall be based upon:

- 21 (1) the protection of public health, safety
22 and welfare;
- 23 (2) the protection of the environment from
24 existing or potential contamination;
- 25 (3) the ability to leverage funds available

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1 from other sources to implement qualified projects;

2 (4) the degree to which a qualified project
3 can be completed with the requested funding;

4 (5) the size of the area to be included with
5 the qualified project;

6 (6) the number of persons affected or
7 potentially affected by contamination at the site of the
8 qualified project;

9 (7) the level of actual or potential radiation
10 exposure at the site of the qualified project;

11 (8) the potential for an increase of the area
12 contaminated or potential exposure to persons if the site of a
13 qualified project is not cleaned up;

14 (9) the lack of any potentially responsible
15 party obligated to conduct a cleanup pursuant to any federal,
16 state or tribal law;

17 (10) the potential uses for the site following
18 the completion of the qualified project; and

19 (11) the legal authority of the applicant to
20 conduct cleanup activities on the proposed site.

21 C. Financial assistance may be provided to
22 qualified projects in which the state of New Mexico, other
23 state governments, the federal government, tribal governments
24 and other public and private entities are participating.

25 Section 5. [NEW MATERIAL] REPORT TO LEGISLATURE.--The

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1 secretary shall report to the appropriate interim legislative
2 committee no later than October 1 of each year regarding the
3 total expenditures from the fund for the previous fiscal year,
4 the purposes for which expenditures were made, an analysis of
5 the progress of the projects funded and proposals for
6 legislative action in the subsequent legislative session.

7 Section 6. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
8 Chapter 65, Section 6, as amended) is amended to read:

9 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
10 SUSPENSE FUND--DISTRIBUTION.--

11 A. Except as provided in Subsection B of this
12 section, after the necessary disbursements have been made from
13 the extraction taxes suspense fund, the money remaining in the
14 suspense fund as of the last day of the month shall be
15 identified by tax source and distributed or transferred in
16 accordance with the provisions of Sections 7-1-6.21 through
17 7-1-6.23, 7-1-6.59 and 7-1-6.60 NMSA 1978. After the necessary
18 distributions and transfers, any balance, except for
19 remittances unidentified as to source or disposition, shall be
20 transferred to the general fund.

21 B. Payments on assessments issued by the department
22 pursuant to the Oil and Gas Conservation Tax Act, the Oil and
23 Gas Emergency School Tax Act, the Oil and Gas Ad Valorem
24 Production Tax Act and the Oil and Gas Severance Tax Act shall
25 be held in the extraction taxes suspense fund until the

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1 secretary determines that there is no substantial risk of
2 protest or other litigation, whereupon after the necessary
3 disbursements have been made from the extraction taxes suspense
4 fund, the money remaining in the suspense fund as of the last
5 day of the month attributed to these payments shall be
6 identified by tax source and distributed or transferred in
7 accordance with the provisions of Sections 7-1-6.21 through
8 7-1-6.23 NMSA 1978. After the necessary distributions and
9 transfers, any balance, except for remittance unidentified as
10 to source or disposition, shall be transferred to the general
11 fund."

12 Section 7. A new section of the Tax Administration Act,
13 Section 7-1-6.59 NMSA 1978, is enacted to read:

14 "7-1-6.59. [NEW MATERIAL] DISTRIBUTION TO URANIUM LEGACY
15 CLEANUP FUND--URANIUM LEGACY CLEANUP SURTAX.--A distribution
16 pursuant to Section 7-1-6.20 NMSA 1978 of the net receipts
17 attributable to the uranium legacy cleanup surtax shall be made
18 to the uranium legacy cleanup fund."

19 Section 8. A new section of the Tax Administration Act,
20 Section 7-1-6.60 NMSA 1978, is enacted to read:

21 "7-1-6.60. [NEW MATERIAL] DISTRIBUTION TO URANIUM LEGACY
22 CLEANUP FUND--RESOURCES EXCISE TAX.--A distribution pursuant to
23 Section 7-1-6.20 NMSA 1978 of fifty percent of the net receipts
24 attributable to taxes on uranium pursuant to the Resources
25 Excise Tax Act shall be made to the uranium legacy cleanup

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1 fund."

2 Section 9. A new section of the Resources Excise Tax Act
3 is enacted to read:

4 "[NEW MATERIAL] RATE AND MEASURE OF SURTAX--DENOMINATION
5 AS "URANIUM LEGACY CLEANUP SURTAX".--

6 A. For the privilege of severing or the related
7 processing of uranium, there is imposed a "uranium legacy
8 cleanup surtax" on any severer or related processor of uranium
9 in New Mexico. A severer of uranium shall not be subject to
10 the uranium legacy cleanup surtax with respect to severed
11 uranium if the surtax on that severed uranium is paid by a
12 processor. The uranium legacy cleanup surtax shall be imposed
13 at a rate of two percent on the taxable value of the uranium
14 severed or processed.

15 B. For the privilege of severing or the related
16 processing in New Mexico of uranium that is severed in New
17 Mexico and is owned by another person and not otherwise taxed
18 by Subsection A of this section, there is imposed on the
19 service charge of any person severing or processing after the
20 severing of uranium owned by another person a uranium legacy
21 cleanup surtax at the same rate that would be imposed on an
22 owner of uranium for performing the same function.

23 C. Notwithstanding the provisions of Subsections A
24 and B of this section, the uranium legacy cleanup surtax shall
25 not be imposed upon the purification, UF6 conversion,

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1 enrichment, deconversion, reprocessing or disposal of uranium."

2 Section 10. SEVERABILITY.--If any part or application of
3 the Uranium Legacy Cleanup Act is held invalid, the remainder
4 or its application to other situations or persons shall not be
5 affected.

6 Section 11. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is January 1, 2010.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO REAL ESTATE; PROHIBITING CERTAIN HOME LOANS;
AMENDING THE HOME LOAN PROTECTION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-21A-1 NMSA 1978 (being Laws 2003, Chapter 436, Section 1) is amended to read:

"58-21A-1. SHORT TITLE.--~~[Sections 1 through 14 of this act]~~ Chapter 58, Article 21A NMSA 1978 may be cited as the "Home Loan Protection Act"."

Section 2. A new section of the Home Loan Protection Act is enacted to read:

"[NEW MATERIAL] PURPOSE.--Some problematic forms of mortgage lending have emerged in New Mexico, including some interest-only home loans, adjustable rate home loans with an initially low teaser rate that is reset after a short period to

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1 a higher rate resulting in borrower payment shock and
2 adjustable rate home loans with payment increase caps but
3 without interest rate caps that may result in negative
4 amortization, as well as mortgage lending underwriting
5 practices such as no verification of borrower income, approval
6 of borrowers with less than ideal credit histories and
7 prospective home loan payments that constitute an
8 unrealistically high proportion of the borrower's net income.
9 These mortgage lending practices may result in a higher rate of
10 home loan foreclosures and displacement of borrowers and their
11 families. The purpose of this 2009 act is to address mortgage
12 lending practices that adversely affect the welfare of New
13 Mexico homeowners."

14 Section 3. Section 58-21A-3 NMSA 1978 (being Laws 2003,
15 Chapter 436, Section 3) is amended to read:

16 "58-21A-3. DEFINITIONS.--As used in the Home Loan
17 Protection Act:

18 A. "adjustable rate home loan" means a home loan
19 that has an initial interest rate that adjusts to a variable
20 interest rate at the end of a specified initial period or
21 subsequent periods of time during the remaining term of the
22 home loan;

23 [~~A.~~] B. "affiliate" means a person that controls,
24 is controlled by or is under common control with another
25 person;

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1 ~~[B-]~~ C. "bona fide discount points" means loan
2 discount points that are knowingly paid by the borrower for the
3 express purpose of reducing, and which in fact do result in a
4 bona fide reduction of, the annual percentage rate otherwise
5 applicable to the home loan; provided, however, that discount
6 points are not "bona fide discount points" if the annual
7 percentage rate otherwise applicable to the home loan exceeds
8 the conventional mortgage rate by more than:

9 (1) one and one-half percentage points for a
10 home loan secured by a first lien; or

11 (2) three percentage points for a home loan
12 secured by a junior lien;

13 ~~[G-]~~ D. "borrower" means a natural person obligated
14 to repay a home loan, including a co-borrower, cosigner or
15 guarantor;

16 ~~[D-]~~ E. "bridge loan" means a loan for the initial
17 construction of a borrower's principal dwelling on land owned
18 by the borrower with a maturity of less than eighteen months
19 that only requires the payment of interest until the entire
20 unpaid balance is due and payable;

21 ~~[E-]~~ F. "conventional mortgage rate" means the most
22 recently published annual yield on conventional mortgages
23 published by the board of governors of the federal reserve
24 system as of the fifteenth day of the month immediately
25 preceding the month in which the application for the extension

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1 of credit is received by the creditor;

2 [~~F.~~] G. "conventional prepayment penalty" means a
3 prepayment penalty or fee that may be collected in a home loan
4 and that is authorized by federal law; provided that a
5 prepayment penalty is not a "conventional prepayment penalty"
6 if the home loan:

7 (1) has an annual percentage rate that exceeds
8 the conventional mortgage rate by more than two percent; or

9 (2) permits prepayment fees or penalties that
10 exceed two percent of the amount prepaid;

11 [~~G.~~] H. "creditor" means a person who regularly
12 makes a home loan and includes a loan broker;

13 [~~H.~~] I. "high-cost home loan" means a home loan in
14 which:

15 (1) the contract rate exceeds the [~~rates~~] rate
16 threshold; or

17 (2) the total points and fees exceed the total
18 points and fees threshold;

19 [~~I.~~] J. "home loan" means a loan, including an
20 open-end credit plan, other than a reverse mortgage transaction
21 or a bridge loan, where the principal amount does not exceed
22 the conforming loan size limit for a single-family dwelling as
23 established by the federal national mortgage association and
24 where the loan is secured by:

25 (1) a mortgage or deed of trust on real estate

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1 in this state upon which there is located or there is to be
2 located a structure:

3 (a) designed principally for occupancy
4 by one to four families; and

5 (b) that is or will be occupied by a
6 borrower as the borrower's principal residence; or

7 (2) a security interest on a manufactured home
8 that is or will be occupied by a borrower as the borrower's
9 principal residence;

10 [~~J~~] K. "manufactured home" means a structure,
11 transportable in one or more sections, which in the traveling
12 mode is eight body feet or more in width or forty body feet or
13 more in length or, when erected on site is three hundred twenty
14 or more square feet and which is built on a permanent chassis
15 and designed to be used as a dwelling with a permanent
16 foundation when erected on land secured in conjunction with the
17 real property on which the manufactured home is located and
18 connected to the required utilities and includes the plumbing,
19 heating, air conditioning and electrical systems contained
20 therein. "Manufactured home" includes any structure that meets
21 all the requirements of this subsection except the size
22 requirements and with respect to which the manufacturer
23 voluntarily files a certification required by the secretary of
24 the United States department of housing and urban development
25 and complies with the standards established under the federal

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1 National Manufactured Housing Construction and Safety Standards
2 Act of 1974. "Manufactured home" does not include rental
3 property or second homes or manufactured homes when not secured
4 in conjunction with the real property on which the manufactured
5 home is located;

6 ~~[K-]~~ L. "points and fees" means:

7 (1) all amounts payable by a borrower at or
8 before the closing of a home loan, exclusive of any time-price
9 differential due at closing on the loan proceeds, including:

10 (a) loan discount points or other
11 discounts;

12 (b) loan fees, finder's fees or similar
13 charges; and

14 (c) fees for preparation of loan-related
15 documents; but

16 (d) does not include fees for the
17 following purposes, if the amounts are bona fide and reasonable
18 and paid to a person other than the creditor or an affiliate of
19 the creditor: 1) service or carrying charges; 2) credit
20 reports; 3) title exam, title insurance or similar purposes; 4)
21 escrow charges for future payments of taxes and insurance; 5)
22 fees for notarizing deeds and other documents; 6) appraisals,
23 including fees related to any pest infestation or flood hazard
24 inspections conducted prior to closing; 7) inspection performed
25 prior to closing; 8) attorney fees, if the borrower has the

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1 right to select the attorney from an approved list or
2 otherwise; 9) fire and hazard insurance and flood insurance
3 premiums if the conditions in 12 C.F.R. s.226.4(d)(2) are met;
4 10) tax payment services; 11) surveys; 12) flood certification;
5 and 13) pest infestation and flood determination;

6 (2) all compensation paid directly or
7 indirectly to a mortgage broker, including a broker that
8 originates a loan in its own name in a table-funded
9 transaction;

10 (3) the maximum prepayment fees and penalties
11 that may be charged or collected under the terms of the loan
12 documents;

13 (4) all prepayment fees or penalties that are
14 incurred by the borrower if the loan refinances a previous loan
15 made or currently held by the same creditor or an affiliate of
16 the creditor;

17 (5) the cost of all premiums financed by the
18 creditor, directly or indirectly, for any credit life, credit
19 disability, credit unemployment or credit property insurance,
20 or any other life or health insurance, or any payments financed
21 by the creditor, directly or indirectly, for any debt
22 cancellation or suspension agreement or contract, except that
23 insurance premiums calculated and paid on a monthly basis shall
24 not be considered financed by the creditor; and

25 (6) for open-end loans, the points and fees

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1 included in Paragraphs (1) through (5) of this subsection that
2 are known at or before closing plus the minimum additional fees
3 the borrower would be required to pay to draw down an amount
4 equal to the total credit line;

5 ~~[L.]~~ M. "rate threshold" means:

6 (1) for a first lien mortgage home loan, an
7 interest rate equal to seven percentage points over the weekly
8 average yield on comparable United States treasury securities
9 on the fifteenth day of the month immediately preceding the
10 month in which the loan is made; and

11 (2) for a subordinate mortgage lien, an
12 interest rate equal to nine percentage points over the weekly
13 average yield on comparable United States treasury securities
14 on the fifteenth day of the month immediately preceding the
15 month in which the loan is made;

16 ~~[M.]~~ N. "total points and fees" means the result
17 obtained by subtracting the sum of the conventional prepayment
18 penalties and the bona fide discount points paid from the sum
19 of the points and fees, except that if the sum of the
20 conventional prepayment penalties and the bona fide discount
21 points paid exceeds two points, then only the amount that
22 represents two points shall be subtracted; ~~[and~~

23 ~~N.]~~ O. "total points and fees threshold" means:

24 (1) for a home loan in which the total
25 principal loan amount is twenty thousand dollars (\$20,000) or
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1 more, an amount equal to five percent of the total principal
2 loan amount; and

3 (2) for a home loan in which the total
4 principal loan amount is less than twenty thousand dollars
5 (\$20,000), an amount equal to the lesser of one thousand
6 dollars (\$1,000) or eight percent of the total principal loan
7 amount; and

8 P. "variable interest rate" means an interest rate
9 that changes periodically based upon a specified index plus a
10 specified additional rate margin."

11 Section 4. Section 58-21A-4 NMSA 1978 (being Laws 2003,
12 Chapter 436, Section 4) is amended to read:

13 "58-21A-4. PROHIBITED PRACTICES AND PROVISIONS REGARDING
14 HOME LOANS.--

15 A. No creditor shall finance, directly or
16 indirectly, credit life, credit disability, credit unemployment
17 or credit property insurance, or any other life or health
18 insurance, or any payments directly or indirectly for any debt
19 cancellation or suspension agreement or contract, provided that
20 nothing in this subsection prohibits the payment or receipt of
21 insurance premiums or debt cancellation or suspension fees
22 calculated on the unpaid balance of a home loan and paid on a
23 monthly basis or prohibits bona fide credit property insurance
24 required by the federal housing administration or the United
25 States department of agriculture to be paid in a single premium

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1 to the respective federal agency. As used in this subsection,
2 "credit property insurance" means property insurance written in
3 connection with credit transactions under which the creditor is
4 the primary beneficiary.

5 B. No creditor shall knowingly and intentionally
6 engage in the unfair act or practice of flipping a home loan.
7 As used in this subsection, "flipping a home loan" means the
8 making of a home loan to a borrower that refinances an existing
9 home loan when the new loan does not have reasonable, tangible
10 net benefit to the borrower considering all of the
11 circumstances, including the terms of both the new and
12 refinanced loans, the cost of the new loan and the borrower's
13 circumstances.

14 C. No creditor shall make a home loan that includes
15 or uses one or more of the following lending practices:

16 (1) making a home loan without documenting and
17 considering the borrower's reasonable ability to repay the home
18 loan pursuant to its terms. The borrower's ability to repay
19 shall be demonstrated through reasonably reliable
20 documentation, which may include payroll receipts, tax returns,
21 bank records, asset or credit evaluations or other similarly
22 reliable documentation. The provisions of this paragraph shall
23 not apply to the refinancing of a home loan facing imminent
24 foreclosure that provides the borrower with a reasonable,
25 tangible net benefit;

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1 (2) making a home loan primarily based upon
2 the foreclosure or liquidation value of the borrower's
3 collateral home;

4 (3) making a home loan without determining the
5 borrower's reasonable ability to pay the costs listed in
6 Subparagraphs (a) through (g) of this paragraph. In the case
7 of an adjustable rate home loan, the reasonable ability to pay
8 shall be determined based on a fully indexed rate and repayment
9 schedule that achieves full amortization over the life of the
10 mortgage loan. The costs, as applicable, to be used in
11 determining the borrower's reasonable ability to pay include:

- 12 (a) principal;
- 13 (b) interest;
- 14 (c) real estate taxes;
- 15 (d) property insurance;
- 16 (e) property assessments;
- 17 (f) mortgage insurance premiums; and
- 18 (g) other scheduled monthly debt
19 payments;

20 (4) making a home loan, except a home equity
21 line of credit, where the borrower's payments are limited to
22 only interest, and payment of outstanding principal of the home
23 loan is prohibited, and where the required payments over the
24 stated term of the loan are not sufficient to completely
25 amortize the loan within the term of the loan;

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1 (5) making an adjustable rate home loan,
2 except a home equity line of credit, where the interest rate
3 and resulting principal and interest payment may increase more
4 frequently than annually during the term of the loan;

5 (6) making an adjustable rate home loan,
6 except a home equity line of credit, where the interest rate
7 for the initial period or subsequent periods may be increased
8 for the next period by more than two percent, except where the
9 initial period is at least five years in length, in which case
10 an initial interest rate increase may be no more than five
11 percent;

12 (7) making an adjustable rate home loan where
13 caps on payment increases may be less than that necessary to
14 reduce principal and amortize the loan over the entire term of
15 the loan regardless of interest rate adjustments;

16 (8) making a home loan requiring a borrower to
17 pay a penalty or premium if the borrower at any time during the
18 term of the loan makes principal payments in addition to
19 scheduled principal payments or pays the balance of the home
20 loan prior to the stated end of the term of the loan;

21 (9) advertising terms of home loans, including
22 interest rates, margins, discount points, fees, commissions or
23 other material facts, including limitations on the home loans,
24 unless the creditor is able to make the advertised home loans
25 available to a reasonable number of qualified applicants;

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1 (10) misrepresenting a borrower's credit
2 rating;

3 (11) misrepresenting, inflating or
4 fabricating, or encouraging a borrower to misrepresent, inflate
5 or fabricate, the source or amount of a borrower's actual
6 income or assets in the application or underwriting process of
7 a home loan;

8 (12) making a home loan for an owner-occupied
9 residence in which the loan to value ratio is greater than
10 eighty percent, where the creditor has failed to establish an
11 escrow account for the payment of real estate taxes and
12 property insurance;

13 (13) directly or indirectly employing any
14 scheme, device or artifice to defraud or mislead borrowers;

15 (14) engaging in any unfair or deceptive
16 practice toward any person;

17 (15) obtaining property by fraud or
18 misrepresentation;

19 (16) making any payment, threat or promise,
20 directly or indirectly, to any person for the purpose of
21 influencing the independent judgment of the person in
22 connection with a home loan or making any payment, threat or
23 promise, directly or indirectly, to any appraiser of a property
24 for the purpose of influencing the independent judgment of the
25 appraiser with respect to the value of the property; and

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO GOVERNMENTAL AFFAIRS; ENACTING THE STATE-TRIBAL
COLLABORATION ACT; REQUIRING STATE-TRIBAL COLLABORATION AND
COMMUNICATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"State-Tribal Collaboration Act".

Section 2. DEFINITIONS.--As used in the State-Tribal
Collaboration Act:

A. "American Indian or Alaska Native" means:

- (1) individuals who are members of any
federally recognized Indian tribe, nation or pueblo;
- (2) individuals who would meet the definition
of "Indian" pursuant to 18 USC 1153; or
- (3) individuals who have been deemed eligible

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1 for services and programs provided to American Indians and
2 Alaska Natives by the United States public health service, the
3 bureau of Indian affairs or other federal programs;

4 B. "Indian nation, tribe or pueblo" means any
5 federally recognized Indian nation, tribe or pueblo located
6 wholly or partially in New Mexico; and

7 C. "state agency" means an agency, department or
8 office of the state of New Mexico that is cabinet-level.

9 Section 3. COLLABORATION WITH INDIAN NATIONS, TRIBES OR
10 PUEBLOS.--

11 A. By December 31, 2009, every state agency shall
12 develop and implement a policy that:

13 (1) promotes effective communication and
14 collaboration between the state agency and Indian nations,
15 tribes or pueblos;

16 (2) promotes positive government-to-government
17 relations between the state and Indian nations, tribes or
18 pueblos;

19 (3) promotes cultural competency in providing
20 effective services to American Indians or Alaska Natives; and

21 (4) establishes a method for notifying
22 employees of the state agency of the provisions of the
23 State-Tribal Collaboration Act and the policy that the state
24 agency adopts pursuant to this section.

25 B. In the process of developing the policy set

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1 forth in Subsection A of this section, state agencies shall
2 consult with representatives designated by the Indian nations,
3 tribes or pueblos.

4 C. A state agency shall make a reasonable effort to
5 collaborate with Indian nations, tribes or pueblos in the
6 development and implementation of policies, agreements and
7 programs of the state agency that directly affect American
8 Indians or Alaska Natives.

9 D. The Indian affairs department shall maintain for
10 public reference an updated list of the names and contact
11 information for the chief executives of the Indian nations,
12 tribes or pueblos and for the state agency tribal liaisons.

13 E. Every state agency shall dedicate a full-time-
14 equivalent position as a tribal liaison, who reports directly
15 to the office of the head of the state agency, to:

16 (1) assist the head of the state agency with
17 developing and ensuring the implementation of the policy as set
18 forth in Subsection A of this section;

19 (2) serve as a contact person who shall
20 maintain ongoing communication between the state agency and
21 affected Indian nations, tribes or pueblos; and

22 (3) ensure that training is provided to the
23 staff of the state agency as set forth in Subsection B of
24 Section 4 of the State-Tribal Collaboration Act. Nothing in
25 this subsection shall preclude tribal liaisons from providing

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1 or facilitating additional training.

2 Section 4. ANNUAL SUMMIT--TRAINING OF STATE EMPLOYEES--
3 ANNUAL REPORTS.--

4 A. At least once a year, during the third quarter
5 of the state's fiscal year, the governor shall meet with the
6 leaders of Indian nations, tribes and pueblos in a state-tribal
7 summit to address issues of mutual concern.

8 B. All state agency managers and employees who have
9 ongoing communication with Indian nations, tribes or pueblos
10 shall complete a training provided by the state personnel
11 office with assistance from the Indian affairs department,
12 which training supports:

13 (1) the promotion of effective communication
14 and collaboration between state agencies and Indian nations,
15 tribes or pueblos;

16 (2) the development of positive state-tribal
17 government-to-government relations; and

18 (3) cultural competency in providing effective
19 services to American Indians or Alaska Natives.

20 C. No later than July 31 of every year, a state
21 agency shall submit a report to the Indian affairs department
22 on the activities of the state agency pursuant to the State-
23 Tribal Collaboration Act, and the Indian affairs department
24 shall compile all such reports for submittal to the governor
25 and to the legislature. The report shall include:

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1 (1) the policy the state agency adopted
2 pursuant to the State-Tribal Collaboration Act;

3 (2) the names of and contact information for
4 the individuals in the state agency who are responsible for
5 developing and implementing programs of the state agency that
6 directly affect American Indians or Alaska Natives;

7 (3) the current and planned efforts of the
8 state agency to implement the policy set forth in Subsection A
9 of Section 3 of the State-Tribal Collaboration Act;

10 (4) a certification by the state personnel
11 office of the number of managers and employees of each state
12 agency who have completed the training required by Subsection B
13 of this section;

14 (5) a description of current and planned
15 programs and services provided to or directly affecting
16 American Indians or Alaska Natives and the amount of funding
17 for each program; and

18 (6) the method the state agency established
19 for notifying employees of the state agency of the provisions
20 of the State-Tribal Collaboration Act.

21 Section 5. RIGHT OF ACTION.--Nothing in the State-Tribal
22 Collaboration Act creates a right of action against a state
23 agency or a right of review of an action of a state agency.

24 Section 6. SEVERABILITY.--If any part or application of
25 this act is held invalid, the remainder or its application to

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1 other situations or persons shall not be affected.

2 Section 7. EMERGENCY.--It is necessary for the public
3 peace, health and safety that this act take effect immediately.

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1 HOUSE BILL
2 49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

3 INTRODUCED BY
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8 FOR THE INDIAN AFFAIRS COMMITTEE
9

10 AN ACT

11 RELATING TO REAL PROPERTY; AMENDING THE NEW MEXICO SUBDIVISION
12 ACT TO PROVIDE FOR TRIBAL NOTIFICATION IN SPECIFIED INSTANCES.
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 Section 1. Section 47-6-2 NMSA 1978 (being Laws 1973,
16 Chapter 348, Section 2, as amended) is amended to read:

17 "47-6-2. DEFINITIONS.--As used in the New Mexico
18 Subdivision Act:

19 A. "board of county commissioners" means the
20 governing board of a county;

21 B. "common promotional plan" means a plan or scheme
22 of operation, undertaken by a single subdivider or a group of
23 subdividers acting in concert, to offer for sale or lease
24 parcels of land where the land is either contiguous or part of
25 the same area of land or is known, designated or advertised as

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1 a common unit or by a common name;

2 C. "final plat" means a map, chart, survey, plan or
3 replat certified by a licensed, registered land surveyor
4 containing a description of the subdivided land with ties to
5 permanent monuments prepared in a form suitable for filing of
6 record;

7 D. "immediate family member" means a husband, wife,
8 father, stepfather, mother, stepmother, brother, stepbrother,
9 sister, stepsister, son, stepson, daughter, stepdaughter,
10 grandson, stepgrandson, granddaughter, stepgranddaughter,
11 nephew and niece, whether related by natural birth or adoption;

12 E. "Indian lands" means:

13 (1) real property designated as reservation
14 land;

15 (2) real property held in trust by the federal
16 government on behalf of an Indian nation, tribe, or pueblo;

17 (3) real property that is part of a pueblo
18 land grant; or

19 (4) real property that is owned in fee by an
20 Indian nation, tribe or pueblo that is contiguous to existing
21 reservation land or land that is contiguous to land that is
22 held in trust on behalf of an Indian nation, tribe or pueblo;

23 F. "Indian nation, tribe or pueblo" means any
24 federally recognized Indian nation, tribe or pueblo located
25 wholly or partially in New Mexico;

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1 ~~[E-]~~ G. "lease" means to lease or offer to lease
2 land;

3 ~~[F-]~~ H. "parcel" means land capable of being
4 described by location and boundaries and not dedicated for
5 public or common use;

6 ~~[G-]~~ I. "person" means any individual, estate,
7 trust, receiver, cooperative association, club, corporation,
8 company, firm, partnership, joint venture, syndicate or other
9 entity;

10 ~~[H-]~~ J. "preliminary plat" means a map of a
11 proposed subdivision showing the character and proposed layout
12 of the subdivision and the existing conditions in and around it
13 and need not be based upon an accurate and detailed survey of
14 the land;

15 ~~[I-]~~ K. "sell" means to sell or offer to sell land;

16 ~~[J-]~~ L. "subdivide" means to divide a surface area
17 of land into a subdivision;

18 ~~[K-]~~ M. "subdivider" means any person who creates
19 or who has created a subdivision individually or as part of a
20 common promotional plan or any person engaged in the sale,
21 lease or other conveyance of subdivided land; however,
22 "subdivider" does not include any duly licensed real estate
23 broker or salesperson acting on another's account;

24 ~~[L-]~~ N. "subdivision" means the division of a
25 surface area of land, including land within a previously

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1 approved subdivision, into two or more parcels for the purpose
2 of sale, lease or other conveyance or for building development,
3 whether immediate or future; but "subdivision" does not
4 include:

5 (1) the sale, lease or other conveyance of any
6 parcel that is thirty-five acres or larger in size within any
7 twelve-month period, provided that the land has been used
8 primarily and continuously for agricultural purposes, in
9 accordance with Section 7-36-20 NMSA 1978, for the preceding
10 three years;

11 (2) the sale or lease of apartments, offices,
12 stores or similar space within a building;

13 (3) the division of land within the boundaries
14 of a municipality;

15 (4) the division of land in which only gas,
16 oil, mineral or water rights are severed from the surface
17 ownership of the land;

18 (5) the division of land created by court
19 order where the order creates no more than one parcel per
20 party;

21 (6) the division of land for grazing or
22 farming activities; provided the land continues to be used for
23 grazing or farming activities;

24 (7) the division of land resulting only in the
25 alteration of parcel boundaries where parcels are altered for

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1 the purpose of increasing or reducing the size of contiguous
2 parcels and where the number of parcels is not increased;

3 (8) the division of land to create burial
4 plots in a cemetery;

5 (9) the division of land to create a parcel
6 that is sold or donated as a gift to an immediate family
7 member; however, this exception shall be limited to allow the
8 seller or donor to sell or give no more than one parcel per
9 tract of land per immediate family member;

10 (10) the division of land created to provide
11 security for mortgages, liens or deeds of trust; provided that
12 the division of land is not the result of a seller-financed
13 transaction;

14 (11) the sale, lease or other conveyance of
15 land that creates no parcel smaller than one hundred forty
16 acres;

17 (12) the division of land to create a parcel
18 that is donated to any trust or nonprofit corporation granted
19 an exemption from federal income tax, as described in Section
20 501(c)(3) of the United States Internal Revenue Code of 1986,
21 as amended; school, college or other institution with a defined
22 curriculum and a student body and faculty that conducts classes
23 on a regular basis; or church or group organized for the
24 purpose of divine worship, religious teaching or other
25 specifically religious activity; or

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underscored material = new
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1 (13) the sale, lease or other conveyance of a
2 single parcel from a tract of land, except from a tract within
3 a previously approved subdivision, within any five-year period;
4 provided that a second or subsequent sale, lease or other
5 conveyance from the same tract of land within five years of the
6 first sale, lease or other conveyance shall be subject to the
7 provisions of the New Mexico Subdivision Act; provided further
8 that a survey shall be filed with the county clerk indicating
9 the five-year holding period for both the original tract and
10 the newly created tract;

11 ~~[M-]~~ O. "terrain management" means the control of
12 floods, drainage and erosion and measures required for adapting
13 proposed development to existing soil characteristics and
14 topography;

15 ~~[N-]~~ P. "time of purchase, lease or other
16 conveyance" means the time of signing any document obligating
17 the person signing the document to purchase, lease or otherwise
18 acquire a legal interest in land;

19 ~~[O-]~~ Q. "type-one subdivision" means any
20 subdivision containing five hundred or more parcels, any one of
21 which is less than ten acres in size;

22 ~~[P-]~~ R. "type-two subdivision" means any
23 subdivision containing not fewer than twenty-five but not more
24 than four hundred ninety-nine parcels, any one of which is less
25 than ten acres in size;

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1 [Q-] S. "type-three subdivision" means any
2 subdivision containing not more than twenty-four parcels, any
3 one of which is less than ten acres in size;

4 [R-] T. "type-four subdivision" means any
5 subdivision containing twenty-five or more parcels, each of
6 which is ten acres or more in size; and

7 [S-] U. "type-five subdivision" means any
8 subdivision containing not more than twenty-four parcels, each
9 of which is ten acres or more in size."

10 Section 2. Section 47-6-11 NMSA 1978 (being Laws 1973,
11 Chapter 348, Section 11, as amended) is amended to read:

12 "47-6-11. PRELIMINARY PLAT APPROVAL--SUMMARY REVIEW.--

13 A. Preliminary plats shall be submitted for
14 type-one, type-two, type-three, except type-three subdivisions
15 that are subject to review under summary procedure as set forth
16 in Subsection I of this section, and type-four subdivisions.

17 B. Prior to approving the preliminary plat, the
18 board of county commissioners of the county in which the
19 subdivision is located shall require that the subdivider
20 furnish documentation of:

21 (1) water sufficient in quantity to fulfill
22 the maximum annual water requirements of the subdivision,
23 including water for indoor and outdoor domestic uses;

24 (2) water of an acceptable quality for human
25 consumption and measures to protect the water supply from

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1 contamination;

2 (3) the means of liquid waste disposal for the
3 subdivision;

4 (4) the means of solid waste disposal for the
5 subdivision;

6 (5) satisfactory roads to each parcel,
7 including ingress and egress for emergency vehicles, and
8 utility easements to each parcel;

9 (6) terrain management to protect against
10 flooding, inadequate drainage and erosion; and

11 (7) protections for cultural properties,
12 archaeological sites and unmarked burials that may be
13 [~~impacted~~] affected directly by the subdivision, as required by
14 the Cultural Properties Act.

15 C. In addition to the requirements of Subsection B
16 of this section, prior to approving the preliminary plat, the
17 board of county commissioners of the county in which the
18 subdivision is located shall:

19 (1) determine whether the subdivider can
20 fulfill the proposals contained in [~~his~~] the subdivider's
21 disclosure statement required by Section 47-6-17 NMSA 1978; and

22 (2) determine whether the subdivision will
23 conform with the New Mexico Subdivision Act and the county's
24 subdivision regulations.

25 D. The board of county commissioners shall not

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1 approve the preliminary plat if the subdivider cannot
2 reasonably demonstrate that [~~he~~] the subdivider can fulfill the
3 requirements of Subsections B and C of this section.

4 E. Any subdivider submitting a preliminary plat for
5 approval shall submit sufficient information to the board of
6 county commissioners to permit the board to determine whether
7 the subdivider can fulfill the requirements of Subsections B
8 and C of this section.

9 F. In determining whether a subdivider can fulfill
10 the requirements of Subsections B and C of this section, the
11 board of county commissioners shall, within ten days after the
12 preliminary plat is deemed complete, request opinions from:

13 (1) the state engineer to determine:

14 (a) whether the subdivider can furnish
15 water sufficient in quantity to fulfill the maximum annual
16 water requirements of the subdivision, including water for
17 indoor and outdoor domestic uses; and

18 (b) whether the subdivider can fulfill
19 the proposals in [~~his~~] the subdivider's disclosure statement
20 concerning water, excepting water quality;

21 (2) the department of environment to
22 determine:

23 (a) whether the subdivider can furnish
24 water of an acceptable quality for human consumption and
25 measures to protect the water supply from contamination in

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1 conformity with state regulations promulgated pursuant to the
2 Environmental Improvement Act;

3 (b) whether there are sufficient liquid
4 and solid waste disposal facilities to fulfill the requirements
5 of the subdivision in conformity with state regulations
6 promulgated pursuant to the Environmental Improvement Act, the
7 Water Quality Act and the Solid Waste Act; and

8 (c) whether the subdivider can fulfill
9 the proposals contained in [~~his~~] the subdivider's disclosure
10 statement concerning water quality and concerning liquid and
11 solid waste disposal facilities;

12 (3) the [~~state highway and~~] department of
13 transportation [~~department~~] to determine whether the subdivider
14 can fulfill the state highway access requirements for the
15 subdivision in conformity with state regulations promulgated
16 pursuant to Section 67-3-16 NMSA 1978;

17 (4) the soil and water conservation district
18 to determine:

19 (a) whether the subdivider can furnish
20 terrain management sufficient to protect against flooding,
21 inadequate drainage and erosion; and

22 (b) whether the subdivider can fulfill
23 the proposals contained in [~~his~~] the subdivider's disclosure
24 statement concerning terrain management; [~~and~~]

25 (5) such other public agencies as the county

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1 deems necessary, such as local school districts and fire
2 districts, to determine whether there are adequate facilities
3 to accommodate the proposed subdivision; and

4 (6) any Indian nation, tribe or pueblo located
5 wholly or partially in New Mexico:

6 (a) whether the subdivider's compliance
7 with Subsections B and C of this section may adversely affect
8 the Indian nation, tribe or pueblo;

9 (b) whether the subdivider's compliance
10 with Subsections B and C of this section may adversely affect
11 the air quality of the Indian nation, tribe or pueblo;

12 (c) whether the subdivider's compliance
13 with Subsections B and C of this section may adversely affect
14 the quality or availability of water to the Indian nation,
15 tribe or pueblo; and

16 (d) whether the subdivider's compliance
17 with Subsections B and C of this section may adversely affect
18 the cultural or other environmental resources of the Indian
19 nation, tribe or pueblo.

20 G. If, in the opinion of each appropriate public
21 agency, a subdivider can fulfill the requirements of Subsection
22 F of this section, ~~then~~ the board of county commissioners
23 shall weigh these opinions in determining whether to approve
24 the preliminary plat at a public hearing to be held in
25 accordance with Section 47-6-14 NMSA 1978.

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1 H. If, in the opinion of the appropriate public
2 agency, a subdivider cannot fulfill the requirements of
3 Subsection F of this section or, if the appropriate public
4 agency does not have sufficient information upon which to base
5 an opinion on any one of these subjects, the subdivider shall
6 be notified of this fact by the board of county commissioners,
7 and the procedure set out below shall be followed:

8 (1) if the appropriate public agency has
9 rendered an adverse opinion, the board of county commissioners
10 shall give the subdivider a copy of the opinion;

11 (2) the subdivider shall be given thirty days
12 from the date of notification to submit additional information
13 to the public agency through the board of county commissioners;
14 and

15 (3) the public agency shall have thirty days
16 from the date the subdivider submits additional information to
17 change its opinion or issue a favorable opinion when it has
18 withheld one because of insufficient information. No more than
19 thirty days following the date of the expiration of the
20 thirty-day period, during which the public agency reviews any
21 additional information submitted by the subdivider, the board
22 of county commissioners shall hold a public hearing in
23 accordance with Section 47-6-14 NMSA 1978 to determine whether
24 to approve the preliminary plat. Where the public agency has
25 rendered an adverse opinion, the subdivider has the burden of

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1 showing that the adverse opinion is incorrect either as to
2 factual or legal matters.

3 I. If a type-three subdivision contains five or
4 fewer parcels of land, and unless the land within the
5 subdivision has been previously identified in the county's
6 comprehensive plan, as amended or supplemented, or zoning
7 ordinances as an area subject to unique circumstances or
8 conditions that require additional review:

9 (1) if the smallest parcel is not less than
10 three acres in size, the board of county commissioners shall
11 use the same summary procedure for reviewing the subdivision as
12 the board uses for reviewing type-five subdivisions; or

13 (2) if the smallest parcel is less than three
14 acres in size, the board of county commissioners may use the
15 same summary procedure for reviewing the subdivision as the
16 board uses for reviewing type-five subdivisions.

17 J. Prior to approving the final plat of a type-five
18 subdivision, the board of county commissioners of the county in
19 which the subdivision is located shall:

20 (1) determine whether the subdivider can
21 fulfill the proposals contained in ~~[his]~~ the subdivider's
22 disclosure statement required by Section 47-6-17 NMSA 1978; and

23 (2) determine whether the subdivision conforms
24 with the New Mexico Subdivision Act and the county's
25 subdivision regulations.

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1 K. The board of county commissioners shall not
2 approve the final plat of any type-five subdivision if the
3 subdivider cannot reasonably demonstrate that ~~[he]~~ the
4 subdivider can fulfill the requirements of Subsection J of this
5 section.

6 L. Any subdivider submitting a plat of a type-five
7 subdivision shall submit sufficient information to the board of
8 county commissioners to permit the board to determine whether
9 the subdivider can fulfill the requirements of Subsection J of
10 this section.

11 M. The board of county commissioners shall by
12 regulation establish a procedure for summary review for certain
13 type-three subdivisions, as provided in Subsection I of this
14 section, and all type-five subdivisions. If the board of
15 county commissioners fails to adopt criteria for summary
16 review, the board of county commissioners shall approve the
17 plat if it complies with Sections 47-6-3 and 47-6-4 NMSA 1978
18 within the time limitation set forth in Section 47-6-22 NMSA
19 1978. The board of county commissioners may delegate to any
20 county administrative officer or planning commission member the
21 authority to approve any subdivision under summary review.
22 Approval by summary review is conclusive evidence of the
23 approval of the board of county commissioners."

24 Section 3. Section 47-6-16 NMSA 1978 (being Laws 1973,
25 Chapter 348, Section 16, as amended) is amended to read:

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1 "47-6-16. SUCCEEDING SUBDIVISIONS.--

2 A. Any proposed subdivision may be combined and
3 upgraded for classification purposes by the board of county
4 commissioners with a previous subdivision if the proposed
5 subdivision includes:

6 [~~A.~~] (1) a part of a previous subdivision that
7 has been created in the preceding seven-year period; or

8 [~~B.~~] (2) any land retained by a subdivider
9 after creating a previous subdivision when the previous
10 subdivision was created in the preceding seven-year period.

11 B. Any subdivision proposed to be combined and
12 upgraded pursuant to Subsection A of this section shall be
13 subject to the request for opinion pursuant to Paragraph (6) of
14 Subsection F of Section 47-6-11 NMSA 1978."

15 Section 4. Section 47-6-20 NMSA 1978 (being Laws 1973,
16 Chapter 348, Section 20, as amended) is amended to read:

17 "47-6-20. PUBLIC AGENCIES REQUIRED TO PROVIDE COUNTIES
18 WITH INFORMATION.--

19 A. Any public agency receiving a request from the
20 board of county commissioners for an opinion pursuant to
21 Section 47-6-11 NMSA 1978 shall furnish the board with the
22 requested opinion within the time period set forth in
23 Subsection A of Section 47-6-22 NMSA 1978. The board of county
24 commissioners shall furnish the appropriate public agency with
25 all relevant information that the board has received from the

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1 subdivider on the subject for which the board is seeking an
2 opinion. If the public agency does not have sufficient
3 information upon which to base an opinion, the public agency
4 shall notify the board of this fact.

5 B. Any Indian nation, tribe or pueblo receiving a
6 request from the board of county commissioners for an opinion
7 pursuant to Section 47-6-11 NMSA 1978 shall furnish the board
8 with the requested opinion within the time period set forth in
9 Subsection A of Section 47-6-22 NMSA 1978. The board of county
10 commissioners shall furnish the Indian nation, tribe or pueblo
11 with all relevant information that the board has received from
12 the subdivider regarding the subject for which the board is
13 seeking an opinion. If the Indian nation, tribe or pueblo does
14 not have sufficient information upon which to base an opinion,
15 the Indian nation, tribe or pueblo shall notify the board of
16 this fact.

17 C. An Indian nation, tribe or pueblo that chooses
18 to submit an opinion pursuant to Section 47-6-11 NMSA 1978
19 shall submit the opinion within the time period set forth in
20 Subsection A of Section 47-6-22 NMSA 1978.

21 [~~B-~~] D. All opinion requests mailed by the board of
22 county commissioners shall be by certified mail "return receipt
23 requested". Boards of county commissioners delivering opinion
24 requests shall obtain receipts showing the day the opinion
25 request was received by the particular public agency."

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1 Section 5. Section 47-6-22 NMSA 1978 (being Laws 1973,
2 Chapter 348, Section 22, as amended) is amended to read:

3 "47-6-22. TIME LIMIT ON ADMINISTRATIVE ACTION.--

4 A. All opinions required of public agencies or
5 submitted by an Indian nation, tribe or pueblo shall be
6 furnished to the board of county commissioners within thirty
7 days after the public agencies [~~receive~~] or Indian nation,
8 tribe or pueblo receives the written request and accompanying
9 information from the board of county commissioners. If the
10 board of county commissioners does not receive a requested
11 opinion within the thirty-day period, the board shall proceed
12 in accordance with its own best judgment concerning the subject
13 of the opinion request. The failure of a public agency or
14 Indian nation, tribe or pueblo to provide an opinion when
15 requested by the board of county commissioners does not
16 indicate that the subdivider's provisions concerning the
17 subject of the opinion request were acceptable or unacceptable
18 or adequate or inadequate.

19 B. Final plats submitted to the board of county
20 commissioners for approval shall be approved or disapproved at
21 a public meeting of the board of county commissioners within
22 thirty days of the date the final plat is deemed complete.

23 C. If the board of county commissioners does not
24 act upon a final plat within the required period of time, the
25 subdivider shall give the board of county commissioners written

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1 notice of its failure to act. If the board of county
2 commissioners fails to approve or reject the final plat within
3 thirty days, the board of county commissioners shall, upon
4 demand by the subdivider, issue a certificate stating that the
5 final plat has been approved."

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE AMERICAN INDIAN
POST-SECONDARY EDUCATION ACT; CREATING A DIVISION IN THE HIGHER
EDUCATION DEPARTMENT; PROVIDING POWERS AND DUTIES; CREATING A
FUND; AUTHORIZING MEMORANDA OF UNDERSTANDING BETWEEN THE
DEPARTMENT AND TRIBAL COLLEGES AND FEDERAL BUREAU OF INDIAN
EDUCATION SCHOOLS; EXPANDING DUAL CREDIT FOR HIGH SCHOOL AND
POST-SECONDARY CLASSES TO FEDERAL BUREAU OF INDIAN EDUCATION
SCHOOLS; AUTHORIZING DUAL CREDIT AGREEMENTS BETWEEN PUBLIC
POST-SECONDARY EDUCATIONAL INSTITUTIONS, TRIBAL COLLEGES AND
FEDERAL BUREAU OF INDIAN EDUCATION HIGH SCHOOLS; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-25-4 NMSA 1978 (being Laws 2005,
Chapter 289, Section 4, as amended) is amended to read:

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1 "9-25-4. DEPARTMENT CREATED.--

2 A. The "higher education department" is created in
3 the executive branch. The department is a cabinet department
4 and includes the following divisions:

- 5 (1) the administrative services division;
6 (2) the planning and research division;
7 (3) the financial aid division;
8 (4) the public information and communications
9 division;
10 (5) the adult basic education division;
11 (6) the information technology division;
12 (7) the private and proprietary schools
13 division; [~~and~~]
14 (8) the public schools liaison division; and
15 (9) the American Indian post-secondary
16 education division.

17 B. The secretary may organize the department and
18 divisions of the department and may transfer or merge functions
19 between divisions and bureaus in the interest of efficiency and
20 economy."

21 Section 2. [NEW MATERIAL] SHORT TITLE.--Sections 2
22 through 7 of this act may be cited as the "American Indian
23 Post-Secondary Education Act".

24 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
25 American Indian Post-Secondary Education Act:

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1 A. "bureau of Indian education school" means a
2 school located in New Mexico that is under the control of the
3 bureau of Indian education of the United States department of
4 the interior;

5 B. "department" means the higher education
6 department;

7 C. "division" means the American Indian post-
8 secondary education division of the department;

9 D. "fund" means the American Indian post-secondary
10 education fund;

11 E. "public post-secondary educational institution"
12 means an institution of higher education delineated in Article
13 12, Section 11 of the constitution of New Mexico or a community
14 college, branch community college or technical and vocational
15 institute organized pursuant to Chapter 21, Article 13, 14 or
16 16 NMSA 1978;

17 F. "secretary" means the secretary of higher
18 education;

19 G. "tribal college" means a tribally, federally or
20 congressionally chartered post-secondary educational
21 institution located within New Mexico that is accredited by the
22 north central association of colleges and schools; and

23 H. "tribe" means an Indian nation, tribe or pueblo
24 located within New Mexico.

25 Section 4. [NEW MATERIAL] DEPARTMENT RULES--MEMORANDA OF

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1 UNDERSTANDING.--

2 A. The department shall consult with tribes, bureau
3 of Indian education schools and tribal colleges when adopting
4 rules to carry out the provisions of the American Indian Post-
5 Secondary Education Act.

6 B. The secretary may enter into memoranda of
7 understanding with tribal colleges, bureau of Indian education
8 schools and tribes for data collection and data sharing and for
9 other matters related to implementation of the American Indian
10 Post-Secondary Education Act.

11 Section 5. [NEW MATERIAL] AMERICAN INDIAN POST-SECONDARY
12 EDUCATION DIVISION DUTIES.--

13 A. The division shall:

14 (1) develop and implement policies that
15 positively affect the post-secondary educational success of
16 American Indian students;

17 (2) provide assistance to public post-
18 secondary educational institutions and tribal colleges in the
19 planning, development, implementation and evaluation of
20 recruitment and retention strategies designed for American
21 Indian college students;

22 (3) seek funding to assist public educational
23 institutions and tribal colleges as needed to develop support
24 services to increase the enrollment, retention and graduation
25 rates of American Indians at public post-secondary educational

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1 institutions and tribal colleges, including:

2 (a) academic support and transition
3 programs; and

4 (b) institutional efforts to increase
5 academic financial support;

6 (4) develop a system for consistent data
7 collection and sharing on the enrollment, retention and
8 graduation rates of American Indian students at public post-
9 secondary educational institutions and tribal colleges;

10 (5) conduct outreach to tribes concerning
11 financial aid opportunities for American Indian students; and

12 (6) facilitate dual credit practices and
13 agreements and articulation agreements between public post-
14 secondary educational institutions, tribal colleges and bureau
15 of Indian education schools.

16 B. The director of the division shall serve as a
17 liaison with the Indian education advisory council.

18 Section 6. [NEW MATERIAL] REPORTS.--

19 A. Each public post-secondary educational
20 institution shall submit an annual American Indian post-
21 secondary education status report to the division. The
22 department may enter into agreements with tribal colleges to
23 provide the same annual status reports. The status reports
24 shall be submitted in a form prescribed by the division and
25 shall include the following information through which American

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1 Indian post-secondary educational performance is measured and
2 aligned with the higher education strategic priorities:

- 3 (1) student recruitment;
- 4 (2) student retention;
- 5 (3) student attrition;
- 6 (4) remediation needs, by course type;
- 7 (5) graduation rate and types and fields of
8 degrees;
- 9 (6) student financial aid data, including
10 student demographic data; and
- 11 (7) annual goals and objectives of American
12 Indian education programs, including graduate-level
13 participation by American Indians.

14 B. The division shall compile the data collected
15 pursuant to Subsection A of this section and publish an annual
16 state American Indian post-secondary education status report.

17 Section 7. [NEW MATERIAL] AMERICAN INDIAN POST-SECONDARY
18 EDUCATION FUND CREATED--GRANTS--APPLICATIONS.--

19 A. The "American Indian post-secondary education
20 fund" is created as a nonreverting fund in the state treasury.
21 The fund consists of appropriations, gifts, grants, donations
22 and income from investment of the fund. The fund shall be
23 administered by the department, and money in the fund is
24 appropriated to the department to carry out the purposes of the
25 American Indian Post-Secondary Education Act. Disbursements

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1 from the fund shall be by warrant of the secretary of finance
2 and administration pursuant to vouchers signed by the secretary
3 of higher education or the secretary's authorized
4 representative.

5 B. Grants may be awarded for special projects
6 related to recruitment, retention and graduation of American
7 Indian students, including student conferences, cultural
8 awareness training for faculty and staff at public post-
9 secondary educational institutions and tribal colleges,
10 academic support and transition programs and other projects
11 approved by the division.

12 C. Applications for grants shall be in the form
13 prescribed by the division. The division, with the secretary's
14 approval, shall promulgate rules on the grant application and
15 award process, including:

- 16 (1) who may apply for grants;
17 (2) information required in the application
18 process;
19 (3) how applications will be evaluated and
20 awarded;
21 (4) accounting and financial reporting
22 requirements for grantees;
23 (5) reporting requirements on the use of a
24 grant and the outcomes of the special project funded by the
25 grant; and

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1 (6) any other information deemed necessary by
2 the division.

3 Section 8. Section 21-1-1.2 NMSA 1978 (being Laws 2007,
4 Chapter 227, Section 1, as amended) is amended to read:

5 "21-1-1.2. DUAL CREDIT FOR HIGH SCHOOL AND
6 POST-SECONDARY CLASSES.--

7 A. As used in this section:

8 (1) "bureau of Indian education high school"
9 means a school located in New Mexico that is under the control
10 of the bureau of Indian education of the United States
11 department of the interior;

12 (2) "dual credit program" means a program that
13 allows high school students to enroll in college-level courses
14 offered by a public post-secondary educational institution or
15 tribal college that may be academic or career-technical but not
16 remedial or developmental, and simultaneously to earn credit
17 toward high school graduation and a post-secondary degree or
18 certificate; and

19 (3) "tribal college" means a tribally,
20 federally or congressionally chartered post-secondary
21 educational institution located within New Mexico that is
22 accredited by the north central association of colleges and
23 schools.

24 B. To be eligible to participate in a dual credit
25 program, the student shall:

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1 (1) except as provided in Subsection C of this
2 section, be enrolled in a regular public school, charter
3 school, ~~[or]~~ state-supported school or bureau of Indian
4 education high school in one-half or more of the minimum course
5 requirements approved by the public education department for
6 public school students; and

7 (2) obtain permission from a school counselor,
8 the school principal or the head administrator of a charter
9 school, ~~[or]~~ state-supported school or bureau of Indian
10 education high school prior to enrolling in a dual credit
11 course.

12 C. A student who has met the eligibility criteria
13 provided for in Subsection B of this section in a fall or
14 winter semester and who has not graduated or earned a general
15 educational development certificate may take courses for dual
16 credit during the immediately succeeding summer semester.

17 D. The school district, charter school, ~~[or]~~
18 state-supported school or bureau of Indian education high
19 school that the student attends shall pay the cost of the
20 required textbooks and other course supplies for the post-
21 secondary course the student is enrolled in through purchase
22 arrangements with the bookstore at the public post-secondary
23 educational institution or tribal college or through other
24 cost-efficient methods. The student shall return the textbooks
25 and unused course supplies to the school district, charter

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1 school, state-supported school or bureau of Indian education
2 high school when the student completes the course or withdraws
3 from the course.

4 E. A public post-secondary educational institution
5 or tribal college that participates in a dual credit program
6 shall waive all general fees for dual credit courses.

7 F. The higher education department shall revise
8 procedures in the higher education funding formula to address
9 enrollments in dual credit courses and to encourage
10 institutions to waive tuition for high school students taking
11 those courses.

12 G. The higher education department and the public
13 education department shall adopt and promulgate rules to
14 implement a dual credit program that specify:

15 (1) post-secondary courses that are eligible
16 for dual credit;

17 (2) conditions that apply, including:

18 (a) the required academic standing and
19 conduct of students enrolled in dual credit courses;

20 (b) the semesters in which dual credit
21 courses may be taken;

22 (c) the nature of high school credit
23 earned;

24 (d) any caps on the number of courses,
25 location of courses and provision of transcripts; and

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1 (e) an appeals process for a student who
2 is denied permission to enroll in a dual credit course;

3 (3) accommodations or other arrangements
4 applicable to special education students;

5 (4) the contents of the uniform master
6 agreement, developed in collaboration with school districts,
7 charter schools, state-supported schools, [~~and the~~] bureau of
8 Indian education high schools, public post-secondary
9 educational institutions and tribal colleges, that govern the
10 roles, responsibilities and liabilities of the school district,
11 charter school, [~~or~~] state-supported school or bureau of Indian
12 education high school; the institution or tribal college; and
13 the student and the student's family;

14 (5) provisions for expanding dual credit
15 opportunities through distance learning and other methods;

16 (6) the means by which public high schools are
17 required to inform students and parents about opportunities to
18 participate in dual credit programs during student advisement,
19 academic support and formulation of annual next step plans, as
20 well as other methods; and

21 (7) provisions for collecting and
22 disseminating annual data, including:

23 (a) the number of students taking dual
24 credit courses;

25 (b) the participating school districts,

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1 charter schools, state-supported schools, [~~and~~] bureau of
2 Indian education high schools, public post-secondary
3 educational institutions and tribal colleges;

4 (c) the courses taken and grades earned;

5 (d) the high school graduation rates for
6 participating school districts, charter schools, [~~and~~] state-
7 supported schools and bureau of Indian education high schools;

8 (e) the public post-secondary
9 educational institutions and tribal colleges that participating
10 students ultimately attend; and

11 (f) the cost of providing dual credit
12 courses.

13 H. The higher education department and the public
14 education department shall evaluate the dual credit program in
15 terms of its accessibility to students statewide and its effect
16 on:

17 (1) student achievement in secondary
18 education;

19 (2) student enrollment and completion of
20 higher education; and

21 (3) school districts, charter schools, state-
22 supported schools, [~~and~~] bureau of Indian education high
23 schools, public post-secondary educational institutions and
24 tribal colleges.

25 I. The departments shall make an annual report,

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1 including recommendations, to the governor and the legislature.

2 J. The provisions of this section do not apply to
3 the New Mexico military institute."

4 Section 9. APPROPRIATION.--One million dollars
5 (\$1,000,000) is appropriated from the general fund to the
6 higher education department for expenditure in fiscal year
7 2010 for operational expenses related to the creation of the
8 American Indian post-secondary education division and the
9 development of a data collection and data-sharing system for
10 public post-secondary educational institutions and tribal
11 colleges. Any unexpended or unencumbered balance remaining
12 at the end of fiscal year 2010 shall revert to the general
13 fund.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO EDUCATION; INCLUDING FEDERAL BUREAU OF INDIAN
EDUCATION HIGH SCHOOLS AND TRIBAL COLLEGES IN THE DUAL CREDIT
PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 21-1-1.2 NMSA 1978 (being Laws 2007,
Chapter 227, Section 1, as amended) is amended to read:

"21-1-1.2. DUAL CREDIT FOR HIGH SCHOOL AND
POST-SECONDARY CLASSES.--

A. As used in this section:

(1) "bureau of Indian education high school"
means a school located in New Mexico that is under the control
of the bureau of Indian education of the United States
department of the interior; and

(2) "dual credit program" means a program that

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1 allows high school students to enroll in college-level courses
2 offered by a public post-secondary educational institution or
3 tribal college that may be academic or career-technical but not
4 remedial or developmental, and simultaneously to earn credit
5 toward high school graduation and a post-secondary degree or
6 certificate.

7 B. To be eligible to participate in a dual credit
8 program, the student shall:

9 (1) except as provided in Subsection C of this
10 section, be enrolled in a regular public school, charter
11 school, [~~or~~] state-supported school or bureau of Indian
12 education high school in one-half or more of the minimum course
13 requirements approved by the public education department for
14 public school students; and

15 (2) obtain permission from a school counselor,
16 the school principal or head administrator of a charter school,
17 [~~or~~] state-supported school or bureau of Indian education high
18 school prior to enrolling in a dual credit course.

19 C. A student who has met the eligibility criteria
20 provided for in Subsection B of this section in a fall or
21 winter semester and who has not graduated or earned a general
22 educational development certificate may take courses for dual
23 credit during the immediately succeeding summer semester.

24 D. The school district, charter school, [~~or~~]
25 state-supported school or bureau of Indian education high

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1 school that the student attends shall pay the cost of the
2 required textbooks and other course supplies for the post-
3 secondary course the student is enrolled in through purchase
4 arrangements with the bookstore at the public post-secondary
5 educational institution or tribal college or through other
6 cost-efficient methods. The student shall return the textbooks
7 and unused course supplies to the school district, charter
8 school, state-supported school or bureau of Indian education
9 high school when the student completes the course or withdraws
10 from the course.

11 E. A public post-secondary educational institution
12 or tribal college that participates in a dual credit program
13 shall waive all general fees for dual credit courses.

14 F. The higher education department shall revise
15 procedures in the higher education funding formula to address
16 enrollments in dual credit courses and to encourage
17 institutions to waive tuition for high school students taking
18 those courses.

19 G. The higher education department and the public
20 education department shall adopt and promulgate rules to
21 implement a dual credit program that specify:

22 (1) post-secondary courses that are eligible
23 for dual credit;

24 (2) conditions that apply, including:

25 (a) the required academic standing and

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1 conduct of students enrolled in dual credit courses;

2 (b) the semesters in which dual credit
3 courses may be taken;

4 (c) the nature of high school credit
5 earned;

6 (d) any caps on the number of courses,
7 location of courses and provision of transcripts; and

8 (e) an appeals process for a student who
9 is denied permission to enroll in a dual credit course;

10 (3) accommodations or other arrangements
11 applicable to special education students;

12 (4) the contents of the uniform master
13 agreement, developed in collaboration with school districts,
14 charter schools, state-supported schools, ~~[and the]~~ bureau of
15 Indian education high schools, public post-secondary
16 educational institutions and tribal colleges, that govern the
17 roles, responsibilities and liabilities of the school district,
18 charter school, ~~[or]~~ state-supported school or bureau of Indian
19 education high school; the institution or tribal college; and
20 the student and the student's family;

21 (5) provisions for expanding dual credit
22 opportunities through distance learning and other methods;

23 (6) the means by which public high schools are
24 required to inform students and parents about opportunities to
25 participate in dual credit programs during student advisement,

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1 academic support and formulation of annual next step plans, as
2 well as other methods; and

3 (7) provisions for collecting and
4 disseminating annual data, including:

5 (a) the number of students taking dual
6 credit courses;

7 (b) the participating school districts,
8 charter schools, state-supported schools, [~~and~~] bureau of
9 Indian education high schools, public post-secondary
10 educational institutions and tribal colleges;

11 (c) the courses taken and grades earned;

12 (d) the high school graduation rates for
13 participating school districts, charter schools, [~~and~~] state-
14 supported schools and bureau of Indian education high schools;

15 (e) the public post-secondary
16 educational institutions and tribal colleges that participating
17 students ultimately attend; and

18 (f) the cost of providing dual credit
19 courses.

20 H. The higher education department and the public
21 education department shall evaluate the dual credit program in
22 terms of its accessibility to students statewide and its effect
23 on:

24 (1) student achievement in secondary
25 education;

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1 (2) student enrollment and completion of
2 higher education; and

3 (3) school districts, charter schools, state-
4 supported schools, [~~and~~] bureau of Indian education high
5 schools, public post-secondary educational institutions and
6 tribal colleges.

7 I. The departments shall make an annual report,
8 including recommendations, to the governor and the legislature.

9 J. The provisions of this section do not apply to
10 the New Mexico military institute."

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1 SENATE JOINT MEMORIAL

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

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6
7 FOR THE INDIAN AFFAIRS COMMITTEE AND THE
8 RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE

9
10 A JOINT MEMORIAL

11 URGING CONGRESS TO APPROPRIATE FUNDS FOR THE CLEANUP OF
12 ABANDONED URANIUM MINES OPENED AND OPERATED FOR THE BENEFIT OF
13 THE FEDERAL GOVERNMENT.

14
15 WHEREAS, a recent survey undertaken in cooperation with
16 the mining and minerals division of the energy, minerals and
17 natural resources department identified two hundred fifty-nine
18 abandoned uranium mines in New Mexico that had a record of
19 production of uranium, one hundred thirty-nine of which have no
20 record of reclamation, and the mining and minerals division is
21 currently undertaking a detailed evaluation of the extent of
22 contamination at twenty-one of those mine sites; and

23 WHEREAS, many of the unreclaimed uranium mines located in
24 New Mexico were operated during the 1950s and 1960s when the
25 primary purchaser of uranium was the federal government; and

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1 WHEREAS, the federal government in 1978 recognized its
2 responsibility to assist financially in the cleanup of
3 contamination from past uranium milling activities through the
4 passage of the federal Uranium Mill Tailings Radiation Control
5 Act of 1978, which provided that the federal government would
6 pay for the cleanup of mill sites that produced uranium solely
7 for government use; and

8 WHEREAS, Title X of the federal Energy Policy Act of 1992
9 also provided that the federal government would pay for the
10 cleanup of mill sites that produced uranium for both government
11 and private use in proportion to the amount of uranium that was
12 used for government purposes; and

13 WHEREAS, if the federal government is responsible for the
14 cost of cleaning up mill sites that produced uranium for
15 national defense purposes, it should also be responsible for
16 the cost of closing and cleaning up the mines that produced the
17 ore for the uranium mills; and

18 WHEREAS, the federal department of energy has developed a
19 policy for managing its surplus uranium inventories, one
20 element of which is to sell part of its surplus uranium
21 inventories; and

22 WHEREAS, it is estimated that the federal department of
23 energy sold approximately five million pounds of uranium in
24 2005, one million pounds in 2006 and five hundred thousand
25 pounds in 2007; and

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1 WHEREAS, in July 2007, the federal department of energy's
2 estimated total excess uranium inventory was equivalent to one
3 hundred sixty million three hundred thousand pounds of natural
4 uranium that, at a conservative value of fifty dollars (\$50.00)
5 per pound, represents a value of eight billion dollars
6 (\$8,000,000,000); and

7 WHEREAS, much of the federal department of energy's excess
8 uranium inventory originated in the uranium mines and mills in
9 New Mexico, activities that have left a legacy of radioactive
10 contamination threatening the health, safety and welfare of
11 residents in the area of the Grants mineral belt; and

12 WHEREAS, it is appropriate that a substantial portion of
13 the proceeds that will be realized as a result of the federal
14 department of energy's sale of its excess uranium inventory be
15 appropriated for the cleanup of the abandoned uranium mines in
16 New Mexico and elsewhere that produced that excess inventory;
17 and

18 WHEREAS, congress should permit funds generated pursuant
19 to the federal Surface Mining Control and Reclamation Act of
20 1977 to be used to cleanup and reclaim abandoned uranium mines,
21 which expenditures would have been permitted pursuant to the
22 provisions of Senate Bill 2779 and House Bill 5661 introduced
23 in the one-hundred-tenth session of congress; and

24 WHEREAS, it is important that funding through the sale of
25 the federal government's excess uranium inventory and through

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1 the federal Surface Mining Control and Reclamation Act of 1977
2 be made available to New Mexico so that essential but
3 long-delayed remediation activities can be initiated at
4 abandoned uranium mine sites in New Mexico; and

5 WHEREAS, funding through the sale of the federal
6 government's excess uranium inventory and through the federal
7 Surface Mining Control and Reclamation Act of 1977 would
8 provide immediate financial assistance for remediation
9 activities at abandoned uranium mine sites in New Mexico;

10 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
11 STATE OF NEW MEXICO that the United States senate and the
12 United States house of representatives be requested to approve,
13 during the one-hundred-eleventh session of congress, a program
14 whereby a significant percentage of the proceeds from the sale
15 by the federal department of energy of its excess uranium
16 inventory should be allocated on an annual basis to New Mexico
17 to be used by state and tribal entities to clean up and close
18 abandoned uranium mines; and

19 BE IT FURTHER RESOLVED that the United States senate and
20 the United States house of representatives be requested to
21 approve, during the one-hundred-eleventh session of congress, a
22 program whereby all federal funds allocated to New Mexico
23 pursuant to the abandoned coal mine program of the federal
24 Surface Mining Control and Reclamation Act of 1977 will be made
25 available for the cleanup of any abandoned mines, including

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1 uranium mines of state and tribal lands, and not be restricted
2 to the closing and cleanup only of coal mines; and

3 BE IT FURTHER RESOLVED that copies of this memorial be
4 transmitted to New Mexico's congressional delegation, the
5 governor, the president of the Navajo Nation, the speaker of
6 the Navajo Nation council, the governor of the Pueblo of Acoma
7 and the governor of the Pueblo of Laguna.

1 SENATE JOINT MEMORIAL

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4
5
6
7 FOR THE INDIAN AFFAIRS COMMITTEE AND
8 THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

9
10 A JOINT MEMORIAL

11 ENCOURAGING THE UNITED STATES CONGRESS TO ENACT AMENDMENTS TO
12 THE FEDERAL RADIATION EXPOSURE COMPENSATION ACT TO EXTEND
13 ELIGIBILITY TO INDIVIDUALS WHO WORKED IN THE URANIUM INDUSTRY
14 AFTER JANUARY 1, 1972 AND TO DIRECT FEDERAL AGENCIES TO COMPILE
15 AND REPORT URANIUM WORKER HEALTH AND SAFETY DATA, TO CONDUCT
16 HEALTH STUDIES AMONG POST-1971 URANIUM WORKERS AND TO IMPLEMENT
17 AND ENFORCE EXISTING URANIUM WORKER HEALTH AND SAFETY
18 STANDARDS.

19
20 WHEREAS, the United States congress enacted the Radiation
21 Exposure Compensation Act in 1990 to provide "compassionate
22 payments" to uranium miners who suffered from radiation-related
23 diseases presumed to have been caused by their work in uranium
24 mines and mills that provided uranium ore to the United States
25 government for military purposes; and

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1 WHEREAS, the United States congress amended the Radiation
2 Exposure Compensation Act in 2000 to include people who worked
3 in open-pit uranium mines and uranium mills or who hauled
4 uranium ore, to expand the list of compensable diseases and to
5 lower the minimum lifetime radiation dose and the minimum
6 amount of time of employment in the uranium industry in order
7 to extend eligibility to individuals who became sick or who
8 died as a result of their uranium work but who were not
9 eligible participants in the original Radiation Exposure
10 Compensation Act; and

11 WHEREAS, the Radiation Exposure Compensation Act as
12 presently amended covers only those persons who worked in the
13 uranium industry between January 1, 1942 and December 31, 1971;
14 and

15 WHEREAS, an informal survey conducted by the post '71
16 uranium workers committee of Milan, New Mexico, of more than
17 one thousand two hundred men and women who worked in the
18 uranium industry since January 1, 1972 shows that more than
19 half of the respondents to the survey reported at least one
20 adverse health condition, including but not limited to lung
21 cancer and kidney disease, conditions that are currently
22 compensable pursuant to the federal Radiation Exposure
23 Compensation Act; and

24 WHEREAS, respondents to the post '71 survey self-reported
25 frequencies of birth defects among offspring of former workers

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1 that appear to be greater than the overall New Mexico birth
2 defect rate for the period of 1995 to 1999; and

3 WHEREAS, more than ninety percent of respondents to the
4 post '71 survey reported that their employers did not inform
5 them about the health risks of exposure to radiation nor advise
6 them of the dangers to their family members of laundering their
7 uranium-contaminated work clothes at home; and

8 WHEREAS, the energy, minerals and natural resources
9 department estimates that about seven thousand people were
10 employed in the uranium industry in New Mexico in 1978, the
11 record year for uranium production in the state; and

12 WHEREAS, the United States department of energy reports
13 that nearly twelve thousand persons were employed in the
14 uranium mining and milling industry in the United States in
15 1980; and

16 WHEREAS, the national institute for occupational safety
17 and health reports that no comprehensive health study has ever
18 been conducted among post-1971 uranium workers; and

19 WHEREAS, a 1980 national institute for occupational safety
20 and health report found that average uranium miner exposure in
21 underground mines in the 1970s was "significantly greater" than
22 indicated in company records and, on average, exceeded
23 applicable in-mine exposure limits;

24 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
25 STATE OF NEW MEXICO that the United States congress be

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1 encouraged to enact legislation or provide budget directives
2 authorizing the national institute for occupational safety and
3 health to conduct formal health studies among persons who
4 worked in the domestic uranium industry since January 1, 1972;
5 and

6 BE IT FURTHER RESOLVED that the United States congress be
7 encouraged to expand eligibility for compensation pursuant to
8 the federal Radiation Exposure Compensation Act for persons who
9 worked in the uranium mining, milling and ore hauling
10 industries after January 1, 1972, in order that they might
11 receive the same compensation benefits as now enjoyed by
12 pre-1972 uranium workers; and

13 BE IT FURTHER RESOLVED that copies of this memorial be
14 transmitted to the New Mexico congressional delegation, to the
15 county commissioners of Bernalillo, Cibola, McKinley, Rio
16 Arriba, San Juan and Valencia counties, to the president of the
17 Navajo Nation, to the speaker of the Navajo Nation council and
18 to the governors of the Pueblos of Acoma, Laguna and Zuni.

1 SENATE JOINT MEMORIAL

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4
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6
7 FOR THE RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE
8 AND THE INDIAN AFFAIRS COMMITTEE

9
10 A JOINT MEMORIAL

11 REQUESTING THE NEW MEXICO CONGRESSIONAL DELEGATION TO URGE THE
12 UNITED STATES DEPARTMENT OF THE ARMY TO EXPEDITE THE CLEANUP OF
13 THE FORT WINGATE AMMUNITION DEPOT AND TO APPROPRIATE THE FUNDS
14 NECESSARY FOR THAT PURPOSE.

15
16 WHEREAS, the Fort Wingate ammunition depot, located east
17 of Gallup, sits among the red rocks along United States
18 interstate 40, next to the Navajo Nation and the Pueblo of Zuni
19 in New Mexico; and

20 WHEREAS, Fort Wingate occupies ancestral homelands of both
21 the Navajo Nation and the Pueblo of Zuni; and

22 WHEREAS, Fort Wingate contains sites rich in cultural
23 heritage and historical significance; and

24 WHEREAS, over two hundred Navajo ruins were discovered on
25 the property, as well as several modern earth-covered

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1 dwellings, called "hogans"; and

2 WHEREAS, the property served for centuries as a hunting
3 and gathering area for the Zuni, and over six hundred
4 archaeological sites were recorded by surveyors, including an
5 additional two hundred ruins traceable to the Anasazi,
6 ancestors of the Zuni; and

7 WHEREAS, in 1918, the army established a munitions depot
8 at Fort Wingate; and

9 WHEREAS, from 1918 until its closure, the twenty-two-
10 thousand-acre installation stored and demolished ammunition;
11 and

12 WHEREAS, Fort Wingate stored, conducted functional testing
13 of and demilitarized munitions, using open-burning detonation,
14 incineration and bomb washout as the principal demilitarization
15 methods, and these practices deposited ordnance-related waste
16 on and off the facility; and

17 WHEREAS, munitions testing, explosive washout activities,
18 rocket launches, training activities, open burns, open
19 detonations, demilitarization, ammunition packaging, storing
20 and shipping and munitions recycling and remanufacturing have
21 released contaminants into the ground water and the soil; and

22 WHEREAS, the aforementioned contaminants, as well as
23 asbestos and lead paint in buildings, buried waste and
24 unexploded ordnance, present human health and ecological
25 hazards at Fort Wingate; and

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1 WHEREAS, Fort Wingate is under the command of the United
2 States department of the army and is classified as a hazardous
3 waste treatment facility under the Hazardous Waste Act and the
4 federal Resource Conservation and Recovery Act of 1976; and

5 WHEREAS, the United States department of the army, the
6 United States army corps of engineers and the bureau of Indian
7 affairs have taken collaborative efforts to clean up the site
8 and to return a large portion of Fort Wingate to the Navajo
9 Nation and the Pueblo of Zuni; and

10 WHEREAS, under current funding and appropriations toward
11 the cleanup of Fort Wingate by the United States, scheduled
12 compliance with cleanup efforts will not be completed until the
13 year 2020;

14 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
15 STATE OF NEW MEXICO that the New Mexico congressional
16 delegation urge the United States department of the army to
17 expedite the cleanup of Fort Wingate so that it may be returned
18 to the Navajo Nation and the Pueblo of Zuni and to appropriate
19 the funds necessary for that purpose; and

20 BE IT FURTHER RESOLVED that copies of this memorial be
21 transmitted to United States Senator Jeff Bingaman, United
22 States Senator Tom Udall, United States Representative Martin
23 T. Heinrich, United States Representative Harry Teague, United
24 States Representative Ben R. Lujan, the president of the Navajo
25 Nation, the speaker of the Navajo Nation council and the

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1 governor of the Pueblo of Zuni.

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HOUSE JOINT MEMORIAL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

A JOINT MEMORIAL

REQUESTING THE CREATION OF A URANIUM MINING TASK FORCE.

WHEREAS, the Grants mineral belt, situated between Gallup and the Pueblo of Laguna in New Mexico, contains one of the world's richest uranium deposits; and

WHEREAS, beginning in the 1950s and 1960s, private companies began extensive exploration, mining and milling activities related to the uranium deposits located in the Grants mineral belt on private, state, federal and tribal lands; and

WHEREAS, these activities continued through the 1990s, resulting in the mining and milling of more than one hundred seventy-five thousand tons of uranium ore from lands located in New Mexico; and

WHEREAS, unremediated contamination resulting from past

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1 uranium exploration, mining and milling activities constitutes
2 a continuing threat to the health and well-being of residents
3 of northwestern New Mexico; and

4 WHEREAS, state and federal studies have repeatedly shown
5 that surface water, ground water and soils were and remain
6 irreversibly contaminated by past uranium mining and milling
7 activities; and

8 WHEREAS, the recent increase in demand for new sources of
9 uranium and the subsequent spike in the price of uranium has
10 led to increased interest in resuming uranium mining and
11 milling in New Mexico; and

12 WHEREAS, the federal energy information administration has
13 estimated that New Mexico has reserves of at least three
14 hundred forty-one million pounds of yellow cake that can be
15 mined at a cost of fifty dollars (\$50.00) per pound or less;
16 and

17 WHEREAS, over the past three years, the mining and
18 minerals division of the energy, minerals and natural resources
19 department has received twenty applications for the drilling of
20 exploration holes related to uranium mining, eight of which
21 have been approved and eleven of which have been withdrawn or
22 denied, with the remainder still being processed; and

23 WHEREAS, the federal nuclear regulatory commission is
24 processing applications for the construction of new in situ
25 leach mining facilities to be located near Church Rock and

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1 Crownpoint, New Mexico; and

2 WHEREAS, interest has been expressed in reopening the
3 underground uranium mine located on Mount Taylor; and

4 WHEREAS, New Mexico regulates uranium mining and milling
5 activities through the department of environment and the mining
6 and minerals division of the energy, minerals and natural
7 resources department; and

8 WHEREAS, the ground water quality bureau of the water and
9 waste management division of the department of environment is
10 responsible for reviewing and acting on applications for ground
11 water discharge permits, which permits would be required for
12 any facility that may potentially impact ground water,
13 including uranium mining and milling facilities; and

14 WHEREAS, the legislative interim Indian affairs committee
15 at its meeting on October 2, 2008, voted without opposition to
16 form a subcommittee to look into ways in which the New Mexico
17 Mining Act and other state statutes and rules may need to be
18 amended to provide adequate environmental protection in view of
19 modern uranium mining techniques, which request was approved by
20 the New Mexico legislative council; and

21 WHEREAS, the New Mexico Mining Act subcommittee of the
22 Indian affairs committee met on October 30, 2008 and, following
23 a six-hour meeting, voted without opposition to support a
24 memorial and accompanying appropriation request in the 2009
25 legislative session requesting the appointment of a technical

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1 task force during the 2009 interim to continue a study of
2 statutory and regulatory changes that may be necessary to
3 protect New Mexico's natural resources from adverse
4 environmental impacts that could result from the implementation
5 of new uranium mining techniques in New Mexico and to advise
6 the mining and minerals division of the energy, minerals and
7 natural resources department on continuing efforts to clean up
8 abandoned uranium mine sites in New Mexico;

9 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
10 STATE OF NEW MEXICO that the governor be requested to appoint a
11 "uranium mining task force" whose members shall include
12 representatives from the mining and minerals division of the
13 energy, minerals and natural resources department, the water
14 and waste management division of the department of environment,
15 the historic preservation division of the cultural affairs
16 department, the Indian affairs department, the New Mexico
17 bureau of geology and mineral resources at the New Mexico
18 institute of mining and technology, the Navajo Nation, the
19 uranium mining industry, environmental interest groups and a
20 member of the senate and a member of the house of
21 representatives, each of whom represents a district that may be
22 affected by the resumption of uranium mining and milling
23 activities in New Mexico; and

24 BE IT FURTHER RESOLVED that the governor be requested to
25 designate the mining and minerals division of the energy,

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1 minerals and natural resources department to provide
2 administrative support to the uranium mining task force; and

3 BE IT FURTHER RESOLVED that the uranium mining task force
4 be requested to prepare a report to the governor and the
5 legislature that provides information and recommendations
6 regarding: the prospects for the resumption of uranium mining
7 and milling activities in New Mexico, including the location
8 and extent of such activities; the potential adverse impacts,
9 if any, on New Mexico's natural and cultural resources that may
10 result from the resumption of uranium mining and milling
11 activities; the adequacy of New Mexico's current statutes and
12 administrative rules to protect New Mexico's natural and
13 cultural resources from any potential adverse impacts resulting
14 from the resumption of uranium mining and milling activities;
15 and revisions to New Mexico's current statutes and
16 administrative rules that may be necessary to protect New
17 Mexico's natural and cultural resources from any potential
18 adverse impacts resulting from the resumption of uranium mining
19 and milling activities; and

20 BE IT FURTHER RESOLVED that the uranium mining task force
21 present its report to the governor and to the appropriate
22 interim legislative committees by October 1, 2009; and

23 BE IT FURTHER RESOLVED that copies of this memorial be
24 transmitted to the governor, the secretary of energy, minerals
25 and natural resources, the secretary of environment, the

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1 secretary of Indian affairs, the state geologist and the state
2 historic preservation officer.

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE AND THE
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR AN INVENTORY OF ABANDONED URANIUM
MINING SITES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Three hundred thousand dollars
(\$300,000) is appropriated from the general fund to the energy,
minerals and natural resources department for expenditure in
fiscal years 2010 and 2011 to complete an inventory of
abandoned uranium mining sites in New Mexico, to characterize
the extent of existing contamination at those sites and to
estimate the cost of cleaning up contamination at those sites.
Any unexpended or unencumbered balance remaining at the end of
fiscal year 2011 shall revert to the general fund.

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE AND THE
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A COMPREHENSIVE STUDY OF THE
EFFECTS OF CONTAMINATION FROM PAST URANIUM MINING AND MILLING
ACTIVITIES ON HUMAN HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred thousand dollars
(\$200,000) is appropriated from the general fund to the
department of health for expenditure in fiscal years 2010 and
2011 to conduct a comprehensive study of the adverse effects on
human health resulting from contamination from past uranium
mining and milling activities in New Mexico. Any unexpended or
unencumbered balance remaining at the end of fiscal year 2011
shall revert to the general fund.

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE AND THE
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A COMPREHENSIVE STUDY OF AQUIFERS
IN THE GRANTS MINERAL BELT AFFECTED BY PAST URANIUM MINING AND
MILLING ACTIVITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Six hundred fifty thousand
dollars (\$650,000) is appropriated from the general fund to the
board of regents of the New Mexico institute of mining and
technology for expenditure in fiscal year 2010 for the New
Mexico bureau of geology and mineral resources to conduct a
comprehensive study to characterize aquifers within the San
Mateo basin affected by past uranium mining and milling
activities in the Grants mineral belt in New Mexico. Any
unexpended or unencumbered balance remaining at the end of
fiscal year 2010 shall revert to the general fund.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE
WATER AND NATURAL RESOURCES COMMITTEE
AND THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE INTERSTATE STREAM COMMISSION FOR
WATER PLANNING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Four hundred thousand dollars
(\$400,000) is appropriated from the general fund to the
interstate stream commission for expenditure in fiscal year
2010 and subsequent fiscal years to continue the water planning
program. Any unexpended or unencumbered balance remaining at
the end of a fiscal year shall not revert to the general fund.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING APPROPRIATIONS RELATING TO THE AUTHENTICITY OF AND THE
ECONOMIC, CULTURAL AND SOCIAL IMPACT OF THE SALE OF NATIVE
AMERICAN ARTS AND CRAFTS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATIONS.--

A. Fifty thousand dollars (\$50,000) is appropriated
from the general fund to the cultural affairs department for
expenditure in fiscal years 2009 and 2010 for a study to
determine the contribution of Native American arts and crafts
to the economy, culture and social fabric of New Mexico. The
purposes of the study are to determine the impact on the
economy, culture and social fabric of New Mexico of the
production and sale of items of Native American arts and crafts
and the potential adverse impact on the economy, culture and

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1 social fabric of New Mexico of the import, production and sale
2 of items of non-authentic Native American arts and crafts.
3 This appropriation is contingent upon the receipt of funding
4 from a non-state government source in an amount at least twice
5 the amount of this appropriation. Any unexpended or
6 unencumbered balance remaining at the end of fiscal year 2010
7 shall revert to the general fund.

8 B. Fifty thousand dollars (\$50,000) is appropriated
9 from the general fund to the cultural affairs department for
10 expenditure in fiscal years 2009 and 2010 for a study to
11 determine the extent to which articles represented for sale in
12 New Mexico as authentic Native American arts and crafts are
13 misrepresented in regard to materials, artist of origin, place
14 of origin or manner of production. The purpose of this study
15 is to document the extent to which the offer for sale of non-
16 authentic Native American arts and crafts already takes place
17 in New Mexico. This appropriation is contingent upon the
18 receipt of funding from a non-state government source in an
19 amount at least twice the amount of this appropriation. Any
20 unexpended or unencumbered balance remaining at the end of
21 fiscal year 2010 shall revert to the general fund.

22 Section 2. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect immediately.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A NATIVE AMERICAN ADOLESCENT HEALTH PROGRAM FOCUSING ON MENTAL HEALTH AND TEEN SUICIDE PREVENTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the department of health for expenditure in fiscal year 2010 to implement a Native American adolescent health program focusing on mental health and teen suicide prevention. Any unexpended or unencumbered balance remaining at the end of fiscal year 2010 shall revert to the general fund.

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR COUNSELING SERVICES AT THE NAVAJO NATION'S OFFICE OF WOMEN AND FAMILIES FOR LOW-INCOME WOMEN AND FAMILIES ON THE NAVAJO NATION WHO ARE VICTIMS OF DOMESTIC VIOLENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Forty-three thousand dollars (\$43,000) is appropriated from the general fund to the children, youth and families department for expenditure in fiscal year 2010 for counseling services for women and families who are low-income or who are victims of domestic violence in New Mexico communities of the Navajo Nation through the Navajo Nation's office of women and families. Any unexpended or unencumbered balance remaining at the end of fiscal year 2010 shall revert to the general fund.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR EMERGENCY MANAGEMENT SERVICES ON THE INDIAN NATIONS, TRIBES AND PUEBLOS AND TWO INDIAN SCHOOL PROPERTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Five million dollars (\$5,000,000) is appropriated from the general fund to the Indian affairs department for expenditure in fiscal year 2010 to provide funding for emergency management services on the Indian nations, tribes and pueblos and two Indian school properties that are located in whole or in part within New Mexico. Any unexpended or unencumbered balance remaining at the end of fiscal year 2010 shall revert to the general fund.

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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO FUND YOUTH DEVELOPMENT PROGRAMS IN
TOHATCHI.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Two hundred thirty thousand
dollars (\$230,000) is appropriated from the general fund to the
Indian affairs department for expenditure in fiscal year 2010
to fund youth development programs, including the youth
leadership project, at the Tohatchi chapter of the Navajo
Nation. Any unexpended or unencumbered balance remaining at
the end of fiscal year 2010 shall revert to the general fund.
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SENATE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR CHILD SUPPORT ENFORCEMENT ON THE
NAVAJO NATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One hundred nineteen thousand
dollars (\$119,000) is appropriated from the general fund to the
human services department for expenditure in fiscal year 2010
for case fees and program expenses for child support
enforcement cases involving clients on the Navajo Nation. Any
unexpended or unencumbered balance remaining at the end of
fiscal year 2010 shall revert to the general fund.

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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE ATTORNEY GENERAL'S OFFICE FOR
THE ENFORCEMENT OF THE INDIAN ARTS AND CRAFTS SALES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--One hundred thousand dollars
(\$100,000) is appropriated from the general fund to the
attorney general's office for expenditure in fiscal year 2010
to provide staff for the investigation and prosecution of
violations of the Indian Arts and Crafts Sales Act. Any
unexpended or unencumbered balance remaining at the end of
fiscal year 2010 shall revert to the general fund.

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