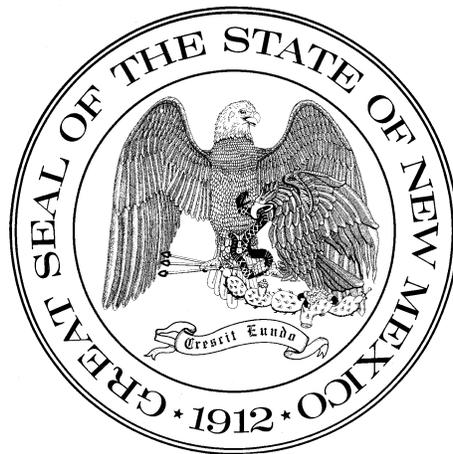


INDIAN AFFAIRS COMMITTEE

2011 INTERIM FINAL REPORT



New Mexico Legislature
Legislative Council Service
411 State Capitol
Santa Fe, New Mexico 87501

INDIAN AFFAIRS COMMITTEE
2011 INTERIM FINAL REPORT
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2011 INTERIM SUMMARY

INDIAN AFFAIRS COMMITTEE
2011 INTERIM SUMMARY

The Indian Affairs Committee (IAC) has addressed issues that disproportionately affect Native Americans residing in New Mexico since the inception of the IAC in 1989 by post-session action of the New Mexico Legislative Council. The IAC strives to facilitate government-to-government cooperation with all Indian nations, tribes and pueblos in New Mexico. In view of its work, the IAC conducts its meetings in locations accessible to Native Americans and their leaders. The meetings of the IAC are an essential way of relating the work of the legislature to the Native American segment of its constituency. In fulfillment of its mission, the IAC held six meetings during the 2011 interim, which were conducted at three pueblos, one Navajo Nation chapter, the Southwestern Indian Polytechnic Institute (SIPI) and other locations accessible to tribal leaders and Native Americans.

The first meeting of the IAC is traditionally an organizational meeting to determine the most currently pressing issues affecting Native Americans. Therefore, the IAC heard from Arthur P. Allison, secretary-designate, Indian Affairs Department (IAD); Sidonie Squier, secretary, Human Services Department (HSD); and Hanna Skandera, secretary-designate, Public Education Department (PED), during the first meeting. The members of the IAC focused on the priorities and concerns of the IAD, the priorities and initiatives of the HSD and the PED, and the goals and objectives for the upcoming interim. The IAC outlined the major issues affecting Native Americans for the 2011 interim in its work plan and meeting schedule.

During the second meeting, the committee heard status updates from the Mariano Lake Chapter and the Churchrock Chapter of Navajo Nation as well as the Pueblo of Zuni. The IAC also received an update from Ben Shelly, president of the Navajo Nation, and Johnny Naize, the speaker of the twenty-second Navajo Nation Council. John D'Antonio, state engineer, updated the committee on the state funding obligation of the Taos Water Settlement, the Navajo Nation Water Settlement and the Aamodt Water Settlement. Timothy Benally, assistant superintendent of the Department of Diné Education, expressed concerns regarding information sharing between public schools and tribal entities. The committee was introduced to the new head of Native American tourism with the Tourism Department, Mark Trujillo. Former State Senator Leonard

Tsosie, representing the Navajo Nation Council, gave the committee an overview of the Navajo Nation legislative process. Dr. José Z. Garcia, secretary of the Higher Education Department (HED), gave an overview of changes to the HED funding formula that will help to close the Native American student achievement gap. The committee requested further information from the IAD regarding the funding formula for the PED and its effect on the Zuni Public School District. John Billison, executive director of the Navajo Nation Division of Public Safety, told the committee that the budget for the Emergency Management Division was reduced by \$19,000 in one year.

The IAC was hosted by the Pueblo of Zuni on the second day of the second meeting. Amadeo Shije, tribal partnership data specialist from the Denver Regional Census Center, presented statistics regarding New Mexico Native American populations from the 2010 census. David Eisenberg, contract counsel from the Public Defender Department, updated the committee on the status of a public defender's office in McKinley County. The IAC was concerned about protections for traditional cultural property on state land, specifically Mount Taylor. The committee also expressed significant concern about in situ leaching (ISL) uranium mining. Jerry Schoeppner from the Ground Water Quality Bureau of the New Mexico Department of Environment (NMED) explained the process of ISL mining. Leona Morgan, representing the Eastern Navajo Diné Against Uranium Mining (ENDAUM), told the committee that the Navajo Nation is opposed to any uranium mining. The committee decided to request an additional meeting day in order to address the issue of uranium mining.

At its third meeting, the IAC focused on issues of federal and state tribal recognition, as well as economic opportunities for the tribes, collection of cigarette taxes and escrow payments on tribal lands and educational needs for Native American children. Bernie Teba, tribal liaison for the Children, Youth and Families Department, outlined and answered questions about the Indian Child Welfare Act of 1978, a federal act that enables adopted Indian children to receive their tribal affiliation information. The committee met with the Fort Sill Apache Tribe, the Mescalero Apache Tribe and the Chihene Nde Nation, a group of individuals that are attempting to achieve tribal recognition at the federal level. The Chihene Nde Nation requested support from the IAC in its attempts to achieve tribal recognition. The Fort Sill Apache Tribe is a federally recognized tribe with trust land in New Mexico. The Mescalero Apache Tribe

expressed concerns about tribal recognition for the Chihene Nde Nation as well as concerns about acknowledging the Fort Sill Apache Tribe as a New Mexico tribe. The IAC discussed the appropriate role for the committee and the state regarding tribal recognition. After the committee met with the Fort Sill Apache Tribe, the United States Department of the Interior awarded the tribe a proclamation establishing a reservation on 30 acres of land near Deming. Though New Mexico does not have a formal system of tribal recognition, issues of recognition in the state may need to be addressed by the committee in the future.

During the second day of the third meeting, the IAC discussed the estimated severance tax bond capacity of \$264.3 million for fiscal year 2013, 5% of which will be allocated to the Tribal Infrastructure Project Fund (TIPF), and the revised application process, which should make it easier for tribal entities to apply for money from the TIPF. The committee discussed at length the propriety of state intervention regarding taxation on tribal lands. Albert J. Lama, chief deputy attorney general, stressed that the Attorney General's Office is supportive of New Mexico tribes and is seeking to ensure that the statutes regarding collection of escrow are not open to interpretation. Barbara Alvarez, a policy analyst for the IAD, explained that because New Mexico has a state equalization guarantee distribution of public school funding, New Mexico takes credit for 75% of impact aid that specifically makes up for the lack of property taxes on federal trust land. The Alamo, To'hajiilee and Ramah chapters of the Navajo Nation presented status updates to the IAC. The committee discussed the need for regional solutions to problems such as juvenile detention facilities in rural areas.

The fourth meeting of the IAC was hosted by the Pueblo of Sandia. The Pueblo of Sandia presented the committee with a status update, listing several areas of concern, including federal impact aid funds, water resources and issues of "free play" at the Sandia Casino. The committee focused on problem areas of Indian gaming compacts. Marvin Ginn, executive director of Native Community Finance, discussed concerns of refund anticipation check abuses in Indian country, explaining that often tax preparers will take advantage of refund anticipation loans and may not prepare taxes properly for Native Americans who live on reservations. Christine P. Sims from the American Indian Language Policy Research and Teacher Training Center at the University of New Mexico (UNM) stressed the importance of developing language immersion programs and dedicating resources to Native American language programs. The IAC

dedicated part of the fourth meeting to the issue of dental services in tribal communities. Barbara Webber, executive director of Health Action New Mexico, and others presented information about a dental therapist program that has been implemented in Alaska to meet the growing demand for dental services in rural areas. Mark Moores, executive director for the New Mexico Dental Association (NMDA), and Dr. Shelly L. Fritz, president of the NMDA, told the committee that an expansion of dental hygienist training and responsibilities would meet the demand for dental services without the implementation of a dental therapist program. Several members of the audience expressed their support for the implementation of a dental therapist program in New Mexico.

The second day of the fourth meeting was held at SIPI and focused on the access and quality of higher education for Native American students. Dr. Sherry R. Allison, president of SIPI, presented an update on SIPI's accreditation, which was placed on candidate status in 2010 and will likely be accredited by 2013. Secretary of Higher Education Garcia presented additional information regarding the new HED funding formula and outlined funding for pell grants and the New Mexico legislative lottery scholarship. Theresa L. Acker, outreach coordinator for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), outlined the GEAR UP process and presented information about the outcome of the program. Pamela Agoyo, director of American Indian Student Services for UNM, told the committee that Native Americans comprise 6% of the student body on the main UNM campus. UNM provides funding for a program that allows students to acclimate to college life before their first semester. Justin McHorse, director of the American Indian Program at New Mexico State University (NMSU), gave the committee a status update on the American Indian Student Center, which has been constructed to house the American Indian Program and to serve as an alternative home for Native American students that attend NMSU.

ISL mining was the exclusive issue addressed during the fifth meeting of the IAC. Presenters included the NMED, ENDAUM, geologists from the New Mexico Institute of Mining and Technology (NMT) and representatives of companies that mine uranium, including Uranium Resources, Inc. (URI), a company that has an application for an underground injection control permit under consideration at the NMED. Mr. Schoeppner explained the NMED's extensive licensing process, which determines the ability of a company to rehabilitate a site to baseline

standards. Mr. Schoeppner explained that the water restoration process involves pumping out fluids that have been contaminated and then treating them before injecting them back into the ground. Dr. Dana S. Ulmer-Scholle, associate research professor with the Department of Earth and Environmental Science at NMT, explained the geology of most aquifers and made recommendations that the state take certain actions before allowing ISL mining to occur. Industry representatives included: Richard A. Van Horn, executive vice president of operations at URI; Dr. Daniel Erskine, principal geologist and geochemist at INTERA, Inc.; and Mark S. Pelizza, senior vice president of health, safety, environment and public affairs at URI. These industry representatives elaborated on specific processes involved in ISL mining. Ms. Morgan told the committee that ENDAUM believes ISL mining will have a negative effect on the aquifer and, therefore, on the drinking water that is available in many areas inhabited primarily by Native Americans. Ms. Morgan requested that extensive studies be conducted before ISL mining is allowed. Stephen B. Etsitty, executive director for the Navajo Nation Environmental Protection Agency, told the committee that the proposed URI mining site is located immediately south of Navajo Nation trust land and requested that the legislature carefully consider ISL mining. Mr. Etsitty also requested that if ISL mining is allowed, regulations and protective controls be built into legislation to ensure that the surrounding community and environment are protected from devastation. The committee expressed serious concerns about ISL mining as well as a need for more information and more discussion about this very controversial issue.

At its final meeting, the IAC heard reports and considered legislation. Estevan Lopez, director of the Interstate Stream Commission, presented the Office of the State Engineer's 2011 Indian Water Rights Settlement Fund Report and the implication of the enactment of the federal Indian water rights settlements. Walter Dasheno, governor of the Pueblo of Santa Clara, and Michael S. Duvall, secretary of homeland security and emergency management, reported on the status of the Pueblo of Santa Clara after the Las Conchas fire and various flooding incidents. Steven Adelsheim, director of the Center for Rural and Community Behavioral Health at UNM, gave a status update on the suicide prevention clearinghouse created by Senate Bill 417 and enacted on March 31, 2011. Ray Espinoza, director of the Office of Indian Elder Affairs, Aging and Long-Term Services Department, presented the committee with information regarding Native American seniors in New Mexico. Alan Martinez, deputy secretary for the Veterans'

Services Department, told the committee that the Taxation and Revenue Department has paid out over \$800,000 in processed claims for the Native American Veterans' Income Tax Settlement Fund, which has left a balance of approximately \$173,000. The committee dedicated a portion of the meeting to the Gaming Control Board and other entities that receive a portion of casino net winnings in order to comply with the gaming compacts. Ms. Morgan presented additional information regarding ISL mining to the committee.

Finally, the IAC concluded its work for the 2011 interim by endorsing legislation. The IAC-endorsed legislation for the upcoming legislative session is as follows:

- Grant Assistance for Tribes — .187732.1
creates a program to provide tribes with technical assistance in identifying, applying for and administering federal and private grants;
- Uranium Decision-Makers Conference — .187809.1
makes an appropriation for a decision-makers conference regarding uranium;
- Native American Veterans' Income Tax Settlement Fund — .187821.1
makes an appropriation to the Native American Veterans' Income Tax Settlement Fund;
- Rio Arriba Adult Daycare Center — .187826.1
makes an appropriation for a regional adult daycare center in Rio Arriba County;
- Native American Suicide Prevention — .187822.1
makes an appropriation for a clearinghouse and technical assistance program on Native American suicide prevention; and
- Promote Fort Sill Apache Tribe Economic Development — .187824
requests the state of New Mexico to promote the cultural and economic development of the Fort Sill Apache Tribe's aboriginal territory in southwest New Mexico.

2011 WORK PLAN AND MEETING SCHEDULE

**2011 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
Rep. Sandra D. Jeff
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom

Sen. Richard C. Martinez
Sen. George K. Munoz
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. James E. Smith

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Ernest H. Chavez
Sen. Eric G. Griego
Sen. Stuart Ingle
Sen. Timothy Z. Jennings

Rep. Ben Lujan
Rep. Antonio "Moe" Maestas
Rep. Debbie A. Rodella
Rep. Nick L. Salazar
Sen. William E. Sharer

Work Plan

The Indian Affairs Committee (IAC) was again created by the New Mexico Legislative Council to address issues that affect Native Americans in New Mexico. The IAC 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. Moreover, meeting at the various nations, tribes and pueblos facilitates government-to-government cooperation.

Because the issues that affect Native Americans transcend any one subject matter, the committee will coordinate, as needed, with other committees regarding presentations of subject matters of common concern.

The committee proposes to explore and discuss the topics in each major issue area affecting Native Americans during the 2011 interim, as follows:

A. State-Tribal Relations:

1. the recent developments and implications of Mount Taylor being designated a traditional and cultural property;

2. the coordinated multi-agency five-year plan to address uranium legacy and cleanup of abandoned uranium mining and milling sites led by the federal Environmental Protection Agency;

3. the recent development of the Nuclear Regulatory Commission granting Hydro Resources Inc. a license to mine near Church Rock and Crownpoint;

4. the settlement of state income tax refund claims from the Native American Veterans' Income Tax Settlement Fund;

5. the feasibility of locating a veterans' memorial honoring New Mexico's Native American veterans in Santa Fe pursuant to HM 25;

6. the feasibility and requirements for the legislature to transfer ownership and control of the lands owned or controlled by the state in the Jemez State Monument heritage area to the Pueblo of Jemez pursuant to HJM 7;

7. the study of the process to establish recognition of Indian nations, tribes and pueblos in New Mexico; and

8. the demographic results for Native Americans in the 2010 census.

B. Health:

1. health care for Native Americans and in Native American communities;

2. statewide Native American health care reform planning pursuant to HJM 40; and

3. the implementation of a statewide clearinghouse for Native American suicide prevention and culturally based suicide prevention initiatives for Native Americans as mandated by SB 417.

C. Courts and Corrections:

1. the increase in hate crimes against Native Americans in recent years;

2. the implications of *Garcia v. Gutierrez*, 2009-NMSC-044, in state and tribal jurisdiction on domestic matters;

3. implementation of the increased penalties pursuant to the Indian Arts and Crafts Sales Act;

4. the disproportionate incarceration of Native Americans in relation to the

population; and

5. establishment of a public defender's office in Gallup.

D. Economic Development in Indian Country:

1. capital outlay, including tracking the expenditure of allocated funds, alternative funding sources and coordination with the Navajo Nation;

2. the funding of projects from the Tribal Infrastructure Project Fund, including projections of allocated amounts pursuant to Section 7-27-10.1 NMSA 1978; and

3. the funding of Indian water rights settlements, including the Navajo, Aamodt Taos Pueblo and Abeyta Indian water rights settlements, including the use of severance tax bonding capacity.

E. Education:

1. the implementation of the Indian Education Act and the improvement of Native American education, including performance and effectiveness pursuant to SM 52;

2. the study of Indian education impact aid money pursuant to SJM 35;

3. the support for tribal language survival pursuant to SJM 24; and

4. the feasibility of providing lottery scholarships to otherwise eligible students who attend tribal colleges pursuant to HM 72.

2011 Approved Meeting Schedule

<u>Date</u>	<u>Location</u>
June 13	State Capitol, Santa Fe
July 21	Gallup
July 22	Pueblo of Zuni
August 17	Truth or Consequences
August 18	Pueblo of Acoma
August 19	Tohajiilee Chapter
October 6	Southwestern Indian Polytechnic Institute
October 7	Pueblo of Sandia
November 1	Pueblo of Santa Clara
November 2	State Capitol, Santa Fe

AGENDAS

Revised: June 6, 2011

**TENTATIVE AGENDA
for the
FIRST MEETING IN 2011
of the
INDIAN AFFAIRS COMMITTEE**

**June 13, 2011
Room 322, State Capitol**

Monday, June 13

- 9:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair
- 9:05 a.m. **Committee Protocol**
—Raúl E. Burciaga, Director, Legislative Council Service (LCS)
- 9:15 a.m. **2011 Legislation — Summary**
—Tessa Ryan, Law Student Intern, LCS
—Damian R. Lara, Staff Attorney, LCS
- 10:00 a.m. **Indian Affairs Department — Priorities and Initiatives**
—Arthur P. Allison, Secretary-Designate, Indian Affairs Department
- 11:00 a.m. **Human Services Department — Priorities and Initiatives; Medicaid Waiver
for Native Americans**
—Sidonie Squier, Secretary, Human Services Department
- 12:00 noon **Lunch**
- 1:00 p.m. **Public Education Department — Priorities and Initiatives**
—Hanna Skandera, Secretary-Designate, Public Education Department
- 2:00 p.m. **Navajo Nation Election Administration — Goals and Objectives**
—Edison Wauneka, Executive Director, Navajo Nation Election Administration
- 3:00 p.m. **Discussion of Focus Areas, Work Plan and Meeting Schedule**
—Damian R. Lara, Staff Attorney, LCS
- 4:00 p.m. **Adjourn**

Revised: July 18, 2011

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

July 21, 2011

Gallup-McKinley County School District Administration Building, Gallup

July 22, 2011

Bureau of Indian Affairs Forestry and Fire Management Building, Pueblo of Zuni

Thursday, July 21 — 640 South Boardman, Gallup

- 10:00 a.m. **Call to Order**
—Senator John Pinto, Chair, Indian Affairs Committee
- 10:05 a.m. **Welcome and Introductions**
—Ben Shelly, President, Navajo Nation
- 10:20 a.m. **Churchrock Chapter — Status Update**
—Johnnie Henry, Jr., President, Churchrock Chapter
- 11:00 a.m. **Mariano Lake Chapter — Status Update**
—Anthony Begay, President, Mariano Lake Chapter
- 11:20 a.m. **Indian Water Rights Settlements: Funding the State's Share**
—John D'Antonio, State Engineer
—Estevan Lopez, Director, Interstate Stream Commission
- 12:00 noon **Lunch**
- 1:00 p.m. **Improving Native American Student Achievement: Teach for America**
—Landon Mascareñaz, Executive Director, Teach for America
—Lindsey Cross, Managing Director of Programs, Teach for America
- 1:45 p.m. **Improving Native American Student Achievement: Save the Children**
—David Neff, Regional Director, Save the Children
—Janice Lillard, Program Specialist, Save the Children

2:30 p.m. **Adequate Yearly Progress: The Navajo Nation Alternative Formula**
—Timothy Benally, Assistant Superintendent, Department of Diné
Education
—Dr. Calvin White, Education Administrator, Department of Diné
Education

3:30 p.m. **Indian Education Division: Closing the Native American Student
Achievement Gap**
—Dr. José Z. Garcia, Secretary of Higher Education
—Glenn Walters, Deputy Secretary of Higher Education
—Ricky Serna, P-20 Policy Analyst, Higher Education Department

4:30 p.m. **Navajo Nation Emergency Management**
—John Billison, Executive Director, Navajo Nation Division of Public
Safety
—Johnny Johnson, Program and Project Specialist, Crownpoint Office
—James Sorrelhorse, Program and Project Specialist, Shiprock Office

5:30 p.m. **Recess**

Friday, July 22 — Route 301 North, Building 54, Pueblo of Zuni

9:30 a.m. **Call to Order**

9:35 a.m. **Welcome and Status Update — Pueblo of Zuni**
—Arlen Quetawki, Sr., Governor, Pueblo of Zuni

10:30 a.m. **Results of the 2010 Census: Making Native Americans Count**
—Vicki McIntire, Deputy Director, Denver Regional Census Center,
United States Census Bureau
—Amadeo Shije, Tribal Partnership Data Specialist, Denver Regional
Census Center, United States Census Bureau

11:30 a.m. **State Land Office: The Mt. Taylor Traditional Cultural Property
Memorandum of Understanding**
—Ray Powell, State Land Commissioner

12:15 p.m. **Lunch**

1:30 p.m.

Licensing of Uranium In-Situ Leaching: The State's Role

—Jim Davis, Resource Protection Division, Department of Environment

—Jerry Schoepner, Ground Water Quality Bureau, Department of
Environment

2:30 p.m.

Public Defender Office: A Gallup Location

—David Eisenberg, Contract Counsel, Public Defender Department

3:30 p.m.

Adjourn

**DIRECTIONS
for the
SECOND MEETING
of the
INDIAN AFFAIRS COMMITTEE**

Thursday, July 21 — 640 South Boardman Drive, Gallup

From Albuquerque:

Head west on I-40 for approximately 130 miles.

Take exit 26, I-40 Business West Gallup.

Turn left onto I-40 Business West/I-40 Frontage and continue for two miles.

Turn left onto Boardman Drive.

The Gallup-McKinley County School District administration building will be on the right.

Friday, July 22 — Route 301 North, Building 54, Pueblo of Zuni

From Gallup:

Take I-40 toward exit 20.

Take exit 20 toward Mumaz Blvd.

Turn onto NM-602 South and continue for two miles.

Take a slight right toward NM-602 South (look for signs for State Route 602 S).

Continue on NM-602 South for approximately 29 miles.

Turn right onto NM-53 West and continue for seven miles.

Turn right onto B Ave/Indn Service Route 301 N/Rte 301 N/Rte 3015 and continue for less than a mile.

The BIA Forestry and Fire Management Building will be on the right, across from Zuni High School and UNM - Zuni Campus.

Revised: August 11, 2011

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

**August 17, 2011
Elephant Butte Inn and Spa, Truth or Consequences
August 18, 2011
Sky City Casino, Pueblo of Acoma
August 19, 2011
To'hajiilee Desidero Center, To'hajiilee**

Wednesday, August 17 — 401 Highway 195, Truth or Consequences

- 10:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair
- 10:05 a.m. **Chihene Nde Nation of New Mexico**
—Manny Sanchez, Chair, Chihene Nde Nation
—Gil Apodaca, Tribal Administrator, Chihene Nde Nation
- 11:00 a.m. **The Hot Springs Land Development Company (HSLD)**
—Greg Neal, Chief Executive Officer, HSLD
- 11:45 a.m. **Lunch**
- 12:45 p.m. **Tour of HSLD/Chihene Nde Business Development Center**
- 1:30 p.m. **Fort Sill Apache**
—Jeff Houser, Chair, Fort Sill Apache
- 2:30 p.m. **Mescalero Apache Tribe**
—Mark R. Chino, President, Mescalero Apache Tribe
- 3:30 p.m. **Indian Child Welfare Act of 1978, Section 1917: Adopted Indian
Children to Receive Tribal Affiliation Information**
—Bernie Teba, Tribal Liaison, Children, Youth and Families Department
(CYFD)
—TBD, Child Protective Services, CYFD
- 4:30 p.m. **Recess**

Thursday, August 18 — Pino Room, Sky City Casino, Pueblo of Acoma

- 9:00 a.m. **Welcome and Status Update — Pueblo of Acoma**
—Randall Vicente, Governor, Pueblo of Acoma
- 10:00 a.m. **Native American Tourism**
—Monique Jacobson, Secretary of Tourism
—Mark Trujillo, Indian Tourism Program Director/Tribal Liaison,
Tourism Department
- 10:15 a.m. **Indian Affairs Department (IAD) Special Projects**
—Rebecca Martinez, Capital Outlay Manager, IAD
- 11:00 a.m. **Tribal Infrastructure Fund Projects: Looking Ahead**
—Arthur Allison, Secretary-Designate, IAD
—Rebecca Martinez, Capital Outlay Manager, IAD
—Stephanie Schardin Clarke, Interim Director, Board of Finance Division,
Department of Finance and Administration
- 12:00 noon **Lunch**
- 1:00 p.m. **State-Tribal Collaboration on Cigarette Taxes and Escrow Payments**
—Wayne H. Bladh, Attorney, Nordhaus Law Firm, LLP
- 2:00 p.m. **Tobacco Mater Settlement Agreement and Collection of Escrow
Payments**
—Nan E. Erdman, Assistant Attorney General
- 3:00 p.m. **Use of Impact Aid Set-Aside: A 50-State Comparison**
—Barbara J. Alvarez, Policy Analyst, IAD
- 3:30 p.m. **Recess**

Friday, August 19 — Desidero Center, To'hajiilee

- 9:30 a.m. **Call to Order**
- 9:35 a.m. **Welcome and Status Update — To'hajiilee Chapter**
—Raymond Secatero, President, To'hajiilee Chapter
- 10:30 a.m. **Alamo Chapter — Status Update**
—Scott Apachito, President, Alamo Chapter

**DIRECTIONS
for the
THIRD MEETING
of the
INDIAN AFFAIRS COMMITTEE**

Wednesday, August 17, 2011 — 401 Hwy. 195, Elephant Butte

From Albuquerque

Take I-25 south for approximately 140 miles

Take exit 83 toward NM-181

Turn left onto NM-181

Take the first left onto NM-195 south

Elephant Butte Inn and Spa will be on the left

Thursday, August 18, 2011 — I-40 Exit 102, Sky City Casino

From Truth or Consequences

Take I-25 north toward Albuquerque for approximately 125 miles

Take exit 203 toward Los Lunas

Turn left onto Main Street SW and continue for approximately 11 miles

Make a sharp left onto NM-6 W and continue for approximately 20 miles

Turn left to merge onto I-40 West toward Grants

Take exit 102 toward Acoma

Turn right at Indian Service Route 30

Sky City Casino will be on the right

Friday, August 19, 2011 — Desidero Center, To'hajiilee

From Albuquerque

Take I-40 going west from Albuquerque

Exit 131 between Route 66 Casino and Laguna. Exit will say To'hajiilee

Travel approximately 7 miles

Just past the housing area up the hill, past the lagoon, turn left

(If you go to the school, turn around back up the hill. You will see a water tower)

You will be traveling on a dirt road for a few yards and at the "Y" make a left

The courthouse has flag poles and is right next door to the Desidero Center

Revised: October 3, 2011

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

**October 6, 2011
Pueblo of Sandia, Albuquerque**

**October 7, 2011
Southwestern Indian Polytechnic Institute (SIPI), Albuquerque**

Thursday, October 6 — Roadrunner Room, Sandia Resort & Casino, Pueblo of Sandia

- 9:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair
- 9:05 a.m. **Welcome and Status Update — Pueblo of Sandia**
—Malcolm Montoya, Governor, Pueblo of Sandia
- 10:00 a.m. **Benefits of Indian Gaming Compacts — Present and Future**
—Charlie J. Dorame, Chair, New Mexico Indian Gaming Association,
Inc.
- 11:00 a.m. **Refund Anticipation Check Abuses in Indian Country**
—Marvin Ginn, Executive Director, Native Community Finance
- 12:00 noon **Lunch**
- 1:00 p.m. **Assisting Native Language Survival Programs**
—Christine P. Sims, American Indian Language Policy Research and
Teacher Training Center, University of New Mexico (UNM)
- 2:00 p.m. **Improving Access to Dental Services in Tribal Communities**
—Pamela K. Blackwell, J.D., Project Director, Oral Health Access,
Health Action New Mexico
—Michael E. Bird, M.S.W., M.P.H., Public Health Consultant
—Terry Batliner, D.D.S., Associate Director, Center for Native Oral
Health Research, Colorado School of Public Health
—Ronald J. Romero, D.D.S.
—DezBaa Altaalkii Damon, D.M.D., Sage Memorial Hospital

3:00 p.m. **Improving Access to Dental Services in Tribal Communities**
—Mark Moores, Executive Director, New Mexico Dental Association
—Stephanie Poston, Consultant, Poston and Associates, LLC

3:30 p.m. **Public Comment**

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

Friday, October 7 — Cultural Resource Center, SIPI, 9169 Coors Blvd. NW, Albuquerque

9:00 a.m. **SIPI Status Update**
—Dr. Sherry Allison, President

10:00 a.m. **Recruitment and Retention of Native American Students: Status of
Legislative Lottery Scholarships and American Indian
Post-Secondary Education Fund**
—Dr. José Z. Garcia, Secretary of Higher Education
—Glenn Walters, Deputy Secretary of Higher Education
—Karen Kennedy, Financial Analyst, Higher Education Department

11:00 a.m. **Gaining Early Awareness and Readiness for Undergraduate
Programs (GEAR UP)**
—Theresa L. Acker, Outreach Coordinator

12:00 noon **Lunch**

1:00 p.m. **Enhancing the Ability of American Indian Students to Succeed**
—Pamela Agoyo, Director, American Indian Student Services; Special
Assistant to the President for American Indian Affairs, UNM

2:00 p.m. **American Indian Student Center**
—Justin McHorse, Director, American Indian Program, New Mexico
State University

3:00 p.m. **Tour of SIPI Campus**

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

DIRECTIONS
for the
FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE

Thursday, October 6, 2011 — 30 Rainbow Road NE, Albuquerque

From Albuquerque:

From I-25, take Exit 234 for NM-556/Tramway Road toward Roy Ave.

Turn right on NM 556 E/Tramway Road NE.

Turn left onto Rainbow Road.

At the traffic circle, take the second exit; destination will be on the right.

Friday, October 7, 2011 — 9169 Coors Blvd NW, Albuquerque

From Albuquerque:

From I-40 take Exit 1558 for Coors Boulevard N/Coors Boulevard S.

Keep right at the fork; follow the signs for Frontage Road.

Keep left at the fork; follow signs for Coors Boulevard N and merge onto Coors Boulevard NW.

Continue for approximately 5.4 miles. Destination will be on the right.

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

**October 28, 2011
Room 307, State Capitol**

Friday, October 28 — Room 307, State Capitol

- 10:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair
- 10:05 a.m. **Permitting of In Situ Leaching Uranium Mining**
—Jerry Schoeppner, Acting Bureau Chief, Ground Water Quality Bureau,
Department of Environment (NMED)
—Jim Davis, Division Director, Resource Protection Division, NMED
—Ryan Flynn, General Counsel, NMED
- 11:00 a.m. **Geology of In Situ Leaching Uranium Mining**
—Nathan C. Myers, United States Geological Survey (USGS), U.S.
Department of the Interior
—J. Michael Timmons, Associate Director for Mapping Programs, New
Mexico Bureau of Geology and Mineral Resources, New Mexico
Institute of Mining and Technology (NM Tech)
—Danna S. Ulmer-Scholle, Associate Research Professor, NM Tech
- 12:00 noon **Lunch**
- 1:00 p.m. **An Industry Perspective**
—Mark Pelizza, Vice President for Health, Safety, Environment and
Public Affairs, Uranium Resources, Inc.
—Rich Van Horn, Vice President of Operations, Uranium Resources, Inc.
—Daniel W. Erskine, Principal Geologist and Geochemist, INTERA, Inc.
- 2:00 p.m. **A Community Special Interest Perspective**
—Leona Morgan, Coordinator, Eastern Navajo Diné Against Uranium
Mining
—Eric Jantz, Staff Attorney, New Mexico Environmental Law Center
—Jason John, Hydrologist, Navajo Nation Department of Water
Resources
- 3:00 p.m. **Public Comment**
- 4:00 p.m. **Adjourn**

Revised: October 31, 2011

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

**November 1-2, 2011
Room 322, State Capitol**

Tuesday, November 1 — Room 322, State Capitol

- 10:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair
- 10:05 a.m. **Recovery Work at the Pueblo of Santa Clara: The Aftermath of Las Conchas Fire**
—Walter Dasheno, Governor, Pueblo of Santa Clara
—Michael S. Duvall, Secretary of Homeland Security and Emergency Management
- 11:00 a.m. **Jemez State Monument Heritage Area — HJM 7**
—Rudy Acosta, Interim Director of the State Monuments Division, Cultural Affairs Department
- 12:00 noon **Lunch**
- 1:00 p.m. **Implementation of SB 417 — Addressing Native American Suicides**
—Steven Adelsheim, Director, Center for Rural and Community Behavioral Health, University of New Mexico
- 2:00 p.m. **Indian Water Settlements**
—Estevan Lopez, Director, Interstate Stream Commission
—Arianne Singer, Managing Attorney, Northern New Mexico Bureau, Office of the State Engineer
- 3:00 p.m. **Long-Term Aging Services in Indian Country**
—Ray Espinoza, Director, Office of Indian Elder Affairs, Aging and Long-Term Services Department
—TBD, Navajo Nation Agency on Aging
- 4:00 p.m. **Native American Veterans' Income Tax Settlement Fund — Update**
—Alan Martinez, Deputy Secretary, Veterans' Services Department
- 4:30 p.m. **Recess**

Wednesday, November 2 —Room 322, State Capitol

- 9:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair
- 9:15 a.m. **Gaming Revenue: Addressing Compulsive Gambling Issues**
—Frank Baca, Interim Executive Director, Gaming Control Board
—Daniel Blackwood, Executive Director, the Evolution Group, Inc.
—Armando Graham, President, Responsible Gaming Association of New Mexico
—Kandace S. Blanchard, Executive Director, New Mexico Council on Problem Gambling
- 10:45 a.m. **A Community and Special Interest Perspective on In Situ Uranium Mining**
—Leana Morgan, Coordinator, Eastern Navajo Dine Against Uranium Mining
—Jason John, Hydrologist, Navajo Nation Department of Water Resources
- 11:30 a.m. **Indian Affairs Department — Personnel Status Update**
—Arthur P. Allison, Secretary-Designate of Indian Affairs
- 11:45 a.m. **Tribal-State Summit Report and State Agency Reports**
—Arthur P. Allison, Secretary-Designate of Indian Affairs
- 12:15 p.m. **Lunch**
- 1:00 p.m. **Native American Veterans' Transportation Issues**
—Marvin Trujillo, Co-Chair, Veteran's Committee, All Indian Pueblo Council
- 2:00 p.m. **Navajo Nation Department of Emergency Management (DEM)**
—Herbert Tsosie III, DEM Acting Program Manager
—Julie Wauneka, Emergency Service Liaison, DEM
—Marilyn Becenti, Emergency Service Liaison, DEM
- 3:00 p.m. **Legislative Endorsements**
—Damian Lara, Staff Attorney, Legislative Council Service

MINUTES

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

**June 13, 2011
Room 322, State Capitol**

The first meeting of the Indian affairs committee (IAC) for the 2011 interim was called to order by Senator John Pinto, co-chair, at 9:25 a.m. on Monday, June 13, 2011, in room 322 of the state capitol in Santa Fe.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair
Rep. Ray Begaye
Rep. Sandra D. Jeff
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez

Absent

Sen. George K. Munoz
Sen. John C. Ryan
Rep. James E. Smith

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Ben Lujan
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Rep. Ernest H. Chavez
Sen. Eric G. Griego
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Rep. Antonio "Moe" Maestas
Sen. William E. Sharer

Staff

Damian Lara
Peter Kovnat
Teresa Ryan

Guests

The guest list is in the meeting file.

Handouts

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

Monday, June 13

Committee and staff members introduced themselves.

Committee Protocol

Representative James Roger Madalena, co-chair, welcomed all present. He explained that Raúl E. Burciaga, director, legislative council service (LCS), would not present committee protocol because most members have already heard his presentation at other interim committee meetings.

Summary of 2011 Legislation

Ms. Ryan, law student intern, LCS, gave a summary of the 2011 legislation related to Indian affairs.

2011 LEGISLATION SUMMARY

Bill No.	Summary
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Bills Chaptered

SB 417	This bill establishes, through the interagency behavioral health purchasing collaborative, a statewide clearinghouse for Native American suicide prevention and three culturally based suicide prevention initiatives for Native Americans.
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Memorials Signed

HJM 6	This joint memorial requests congress to fund the Indian health service (IHS) as an entitlement program.
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HJM 7	This joint memorial requests the cultural affairs department to conduct a feasibility study on returning control and operation of the Jemez state monument heritage area to the Pueblo of Jemez.
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HJM 40	This joint memorial requests Indian pueblos, tribes and nations to establish a mechanism to engage in planning and to capitalize on opportunities to reform health care for Native Americans in New Mexico.
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HM 67, SM 81	These memorials request congress to fund the construction of the Navajo Indian irrigation project.
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- HM 72 This memorial requests the New Mexico legislative council (LC) to create a task force to study the feasibility of permitting students at tribal colleges to qualify for legislative lottery scholarships.
- SJM 35 This joint memorial requests the legislative education study committee (LESC) to study the use of impact aid set-aside money for Indian education.
- SM 52 This memorial requests the LESC and the IAC to convene a joint subcommittee to assess the effectiveness of the Indian Education Act (IEA).

Actions Postponed Indefinitely

- HB 92, HB 601 These bills would have allowed students who are otherwise eligible for the lottery scholarship but attend a tribal college to receive the scholarship.
- HB 403, SB 224,
SB 238, SB 510 These bills would have attempted to address the funding issues of capital projects for chapters of the Navajo Nation by allowing certain chapters or organizations to receive direct funding or use an alternative fiscal agent.
- HB 515, SB 376 These bills would have provided for six percent of severance tax bonding capacity to be used to satisfy the state's obligations to pay the state's portion of the costs necessary to implement the Aamodt, Taos and Navajo Nation Indian water rights settlements.
- HB 554 This bill would have allowed an applicant for a commercial driver's license to test without limit and would have required the facilitation of Native Americans residing on reservations where no physical address exists to establish state of domicile.
- HJM 8 This joint memorial would have requested the children, youth and families department (CYFD), the human services department (HSD) and the Indian affairs department (IAD) to provide technical assistance and support to the Navajo Nation in developing a foster care and subsidized adoption program plan eligible for federal reimbursement; and would have further requested the department of finance and administration (DFA) to study the fiscal impact of implementing that plan.

Ms. Ryan and Mr. Lara stood for questions.

Committee members raised concerns related to SJM 35 (2011) and the impact aid funds distributed to school districts with Native American students. Because the federal government provides these funds, it is not clear that the LESC is the appropriate body to study the funds' distribution. Mr. Lara responded that the state equalization grant formula takes into account federal funding.

A committee member suggested that the IAD conduct the study. Mr. Lara responded that he would communicate with the LESC to discuss its intended response to SJM 35. A committee member commented that the Navajo Nation conducted a study and passed legislation on impact aid, so it would be prudent to learn how the Navajo Nation did this. Another member recommended that legislators work on this issue with congressional leaders. That member also pointed out that, unlike those in New Mexico, school districts serving Native American students in Utah and Arizona receive state funds in addition to federal impact aid. In those states, the amount of federal impact aid is not deducted from the amount of state funding the school district would otherwise receive and therefore those districts have abundant resources.

A committee member commented that legislation relating to the lottery scholarship program and students at tribal colleges has been introduced many times, yet has failed to pass. That member asked whether the task force proposed by HM 72 (2011) has been created. Mr. Lara responded that it has not, partly because simple memorials are not as weighty as joint memorials, but that the issue can be addressed during the interim. A member observed that these bills tend to pass in the house of representatives but die in the senate. Furthermore, late in sessions, questions and concerns that arise in senate committees frequently are not satisfactorily addressed. Thus, the member suggested that this bill be introduced in the senate and be analyzed by both the DFA and the LESC.

Commenting on HJM 40 (2011), a committee member remarked that tribal leaders are inadequately involved in the state's American Indian health care reform. Upon a motion by Representative Lundstrom and seconded by Senator Lovejoy, the committee voted without opposition to write a letter to the state's tribal leaders encouraging the leaders' participation in health care reform for New Mexico's Native Americans.

IAD — Priorities and Initiatives

Arthur Allison, secretary-designate of Indian affairs, introduced himself in both Navajo and English. He highlighted his background in private industry and his past involvement in Navajo economic development. He introduced Lillian Brooks, administrative services director, and Rima Krisst, policy analyst, along with all members of his staff present at the meeting. Secretary-Designate Allison noted that his staff comprises seven employees, eight fewer than a year ago.

Having recently started in his position, Secretary-Designate Allison has been meeting with representatives of New Mexico's pueblos, tribes and nations as well as representatives of state departments and work groups. He and his staff have been developing new policy initiatives

and building on the department's recent achievements, including the State-Tribal Collaboration Act (STCA).

Secretary-Designate Allison listed features of the STCA. Among them, the act requires that the IAD host a state-tribal leaders summit. Secretary-Designate Allison and his staff are planning the July 20 event.

Secretary-Designate Allison described Governor Martinez's support of state-tribal collaboration, particularly in economic development and her recent participation in the first state-tribal planning meeting. He cited some of their mutual concerns: equitable and efficient distribution of public resources; the provision of basic health care, education and law enforcement services; and environmental protection balanced against the need for economic strength and jobs.

Secretary-Designate Allison reviewed responsibilities and focus areas of the IAD. The department serves as a resource center for information and technical assistance. The department's staff collaborates with other cabinet-level department staff to assist and monitor tribes with capital outlay projects. Secretary-Designate Allison described aspects of the economic development department's involvement with tribes.

Lastly, Secretary-Designate Allison highlighted areas where he would like to focus his staff's efforts. These areas include addressing tribes':

- barriers to economic opportunity;
- weak ability to compete for funding; and
- underdeveloped broadband infrastructure.

These areas include promoting:

- the IAD's energy policy recommendations;
- cultural entrepreneurship;
- economic enterprises that respect tribes' cultures and family and community orientation;
- tourism on tribal lands;
- sustainable self-sufficiency through agriculture and irrigation development;
- creative and cultural capital; and
- the fundamental needs and rights of tribal members in areas such as health care and education.

In response, committee members described what they perceive to be challenges that the state, the IAD and New Mexico pueblos, tribes and nations face. Those challenges include:

- working with the 22 tribes and tribal groups, including the federally recognized, but not state-recognized, tribes within the state that wish to collaborate with the state: the Ute Mountain Ute and two bands of the Chiricahua Apache;

- improving coordination with the veterans' services department, the CYFD, the public education department (PED) and the public regulation commission; and
- distributing capital outlay appropriations to tribes, especially to the Navajo Nation, as its related laws conflict with those of New Mexico.

Committee members also expressed concerns about the IAD's staffing status. One member emphasized that the staff forms the backbone of the IAD and that staff persons who fill the vacancies should possess high skill and energy levels. Secretary-Designate Allison responded that he has had to adjust to many changes, which include staffing, associated with the new administration. He is approved to maintain a total of 15 staff persons, including a deputy secretary. He is looking among tribes for the most capable staff persons concerned with the common good. A committee member recommended that the secretary-designate promptly hire a deputy secretary a tribal leader experienced in politics. Also, other staff should be hired promptly in order to eliminate the risk that positions might be eliminated.

The committee requested that the secretary-designate provide a personnel update and department profile — including an organizational chart, the budget, a list of priorities and the secretary-designate's contact information — at the next meeting.

Committee members addressed concerns in other areas, such as capital funding. One member recounted his difficulty getting data from the IAD on an infrastructure project. Secretary-Designate Allison responded that many projects' funding has been frozen. The capital outlay manager, Rebecca Martinez, can provide information on the funding status of any project.

A committee member observed that the secretary-designate appears to have an ambitious agenda and then asked the secretary-designate to identify priorities. Secretary-Designate Allison replied that his priorities will be determined largely at the state-tribal summit, which Governor Martinez and tribal leaders will attend. Topics planned for the summit include economic development, education, infrastructure and gaming compacts. One of the secretary-designate's central goals is to build strong relationships with cabinet-level departments' state-tribal liaisons.

Committee members also cited the following concerns: veteran services, including mental health, substance abuse and housing; unemployment and inadequate economic development; and the uranium issue in the Navajo Nation.

Committee members made several recommendations for Secretary-Designate Allison. IAD staff should work closely with tribal governments and pay particular attention to pueblos with smaller land bases for which economic enterprise is more limited. Further, the secretary-designate should promote business and entrepreneurship, communicate with the former IAD secretary and collaborate with local governments. Staff should also work closely with the Navajo Nation to address the conflict between New Mexico's and the Navajo Nation's procurement laws. The secretary-designate should consider encouraging sustainable enterprises, such as energy. Lastly, tribal infrastructure funds should be used for new projects as soon as those funds become

available, and staff should encourage tribal governments to request the funds. The committee requested for its next meeting an update on the funds and tribal requests for funds.

HSD — Priorities and Initiatives; Medicaid Waiver for Native Americans

Secretary of Human Services Sidonie Squier introduced herself and members of her staff. She highlighted her background with the United States department of health and human services. Secretary Squier proceeded to review four large program areas affecting Native Americans: income support, child support enforcement, behavioral health services and medical assistance.

Secretary Squier provided updates to the income support programs. The total number of recipients in the supplemental nutrition assistance program and the temporary assistance for needy families (TANF) program has risen across all populations. One of her strategic initiatives is to update ISD2, the computer system that determines eligibility and processes payments for all food, cash, energy and medicaid programs. Should ISD2 fail, all benefits delivery would cease and crucial information would be lost. Another initiative is to increase the number of TANF-recipient workers. Though there is a "transition bonus" incentive attached to employment for these recipients, this bonus has been suspended since January 31, 2011. Among other developments, the HSD has managed to station income support workers in IHS hospitals. In addition, cash assistance for the TANF and education works cash assistance benefit programs has been reduced by 15%, and the annual clothing allowance program has been cut altogether. Governor Martinez has considered using stimulus funds to pay for part of the clothing allowance program.

Secretary Squier commented on the HSD's child support enforcement division (CSED) program. Tribes operate their own child support enforcement programs, but certain tribes have invited the HSD into child support enforcement partnerships. The HSD welcomes these invitations. In certain cases, the CSED works on child support cases in tribal courts. Since the start of fiscal year 2010, record child support amounts have been collected.

Secretary Squier commented on the behavioral health services division (BHSD) of the HSD and its programs. The BHSD strategic initiatives include opening two wellness centers on tribal lands. BHSD staff is working with the Navajo Nation and tribal organizations to combine western and tribal methods of treatment for improved behavioral health outcomes. Five of the 18 local behavioral health collaboratives are dedicated to Native American populations. BHSD staff has expanded the telebehavioral health project, designed for those in rural areas and in need of mental health services. Secretary Squier remarked on Totah, a Navajo pilot project to break the cycle of homelessness, and the federally funded access to recovery (ATR) program's new service office in Gallup.

Responding to a committee member's question on whether ATR is focused on helping veterans and their families, Secretary Squier noted that members of the national guard are a priority group and that she would email to the committee data on the program's recipients. The secretary added that New Mexico's ATR is a model program in the nation. Responding to a

committee member's worry that not all state funds directed to the Navajo Nation remain within the state, the secretary said that she would also provide the committee with this fund distribution information.

Secretary Squier commented and provided updates on the medical assistance division of the HSD. Native Americans must voluntarily enroll in SALUD!, New Mexico's medicaid managed care program. Program offices feature kiosks that applicants may use to determine eligibility for health care benefits, and HSD staff is trying to understand the reasons that the kiosks are used less here than in other states. The coordination of long-term services program promotes home-based — as opposed to nursing home — elder care. Medicaid cost containment measures would not affect Native Americans in IHS or tribal 638 programs, though future cuts are possible. Because there have been no cuts, the "waiver" designed by the 2010 state-tribal group to protect Native Americans from cost containment measures has not been submitted to the federal centers for medicare and medicaid services for approval. Lastly, HSD staff needs more input from stakeholders before a modernization plan is developed. Nevertheless, four principles guide the plan: integrated services, increased personal responsibility, pay for performance and increased administrative efficiencies.

Secretary Squier responded to committee members' requests for clarification on the second medicaid strategic initiative: the program offering rewards for healthy behaviors. The rewards would probably take the form of deposits to accounts dedicated to defraying health care costs. No individual failing to demonstrate healthy behaviors would be excluded from health coverage. HSD staff has not yet determined at what point an individual would qualify to receive the benefit. A committee member commented that large businesses have successfully employed this health savings account model for a long time. Secretary Squier replied that the model has proved to be effective; however, the HSD will not pursue the plan without evidence of its effectiveness.

Secretary Squier responded to committee members' other questions and concerns. She noted that Native American patients who cannot receive care at IHS hospitals and who are medicaid-eligible are covered for private hospital care in full by federal and state medicaid funds. Also, though the HSD maintains a system involving the office of the inspector general and the office of the attorney general for investigating fraud and medicaid reimbursement abuse, HSD staff endeavors to prevent fraudulent payments from ever being made.

A committee member related a family member's experience of having an emergency medical service team respond to a non-emergency medical need, and that member expressed a concern that medicaid funds, when used in this manner, are wasted.

The committee requested of the secretary an organizational chart and phone numbers for staff persons who provide consumer services. A committee member clarified that the date for the HSD's tribal consultation is August 3, not August 2, 2011.

PED — Priorities and Initiatives

Hanna Skandera, secretary-designate of public education, introduced herself and Cathie Carothers, chief of staff. Secretary-Designate Skandera briefly described her background in federal service. She indicated that she would like Ms. Carothers to serve as deputy secretary.

Secretary-Designate Skandera briefly reviewed some of the funding sources for school districts serving Native American students: Title VII Indian education formula grants; Title VII impact aid; bureau of Indian education (BIE) Johnson O'Malley aid; and grants from the IEA. A matching grant of \$300,000 from IEA funds supports the save the children rural literacy program. This program has substantially improved student participants' literacy. A \$400,000 IEA grant supports a teaching support program contracted through teach for America. The secretary-designate praised teach for America's positive impact in New Mexico, especially at Tsé Yí Gai high school.

Secretary-Designate Skandera discussed the low achievement levels of New Mexico's Native American students. She would like to reverse this trend, which she views as both a challenge and an opportunity. The graduation rate for Native American students has improved, though the PED has not identified the factors contributing to this improvement. According to the national assessment of educational progress, New Mexico ranks forty-ninth in the nation in student performance, but this survey only measured changes in rates of progress. That is, New Mexico has improved its students' performance, but at a rate lower than most other states. Responding to a committee member's question, the secretary-designate said that other western states with high Native American populations have better student performance than New Mexico and that she would provide related statistics later.

The secretary-designate emphasized certain of the PED's policies and initiatives. They include implementing a system of school grading, making changes in failing schools, implementing a task force to retain and attract good teachers and improving communication and collaboration with schools.

The committee raised some concerns and questions. In response to a question about opportunities for PED staff to address Native American education, the secretary-designate named four upcoming events. A committee member expressed concern both that certain IEA grantees had recently experienced uncertainty prior to the grants' distribution and that recent IEA grants were distributed in a piecemeal fashion. The secretary-designate responded that the Indian education division of the PED is being reorganized and is working to establish its focus. Committee members asked the secretary-designate about the Native American dropout rate, about the proficiency of public schools compared with Indian schools and which four school districts receive all forms of Native American student funding. She responded that she did not have data on the dropout rate and that she would later supply information on the schools' proficiency and the names of the four school districts. Committee members also asked why certain schools are high-performing, what services are offered to gifted Native American students and the number of PED personnel lost due to budget cuts. The secretary-designate responded

that she would collect information on practices of high-performing schools. Also, PED staff is expanding virtual schooling to connect gifted students in rural areas to advanced courses and connecting those students to dual credit programs. Lastly, the PED faces across-the-board cuts, reflecting a 24.5% smaller budget.

A committee member identified two audience members, Keith Franklin, president of the Albuquerque metro Native American coalition, and Norman Ration, executive director of the national Indian youth council, inc. In their work, they focus on literacy and work force programs and have developed proposals for improving Native American youths' success. Secretary-Designate Skandera said that she would welcome Mr. Franklin's and Mr. Ration's input and ideas.

Committee members made other suggestions. One offered that BIE schools' curricula should align with state requirements so that students who transfer between the systems face less difficulty adjusting. Also, the secretary-designate should select four goals to promote progress.

Navajo Nation Election Administration (NNEA) — Goals and Objectives

Edison Wauneka, executive director of the NNEA, introduced himself and Kimmeth Yazzie, program and project specialist. Secretary of State Dianna J. Duran also stood before the committee. She introduced herself and her staff in the audience: Mary Quintana, deputy secretary, Bobbi Shearer, bureau of elections director, and Savaleah Begay-Tsosie, Navajo elections coordinator.

Mr. Wauneka described the NNEA's functions, which include overseeing elections in the Navajo Nation and providing election-related information to Navajos who are not bilingual. Mr. Wauneka briefly described New Mexico's unique history of maintaining a Native American voting rights coordinator program. Because Navajo is predominantly an oral language and many Navajos who are not bilingual do not read it, these coordinators provide an important service. Mr. Wauneka came before the committee because the secretary of state's office had recently moved Ms. Begay-Tsosie's position from Crownpoint to Santa Fe in order to cut costs. He requested the committee's help in preventing this relocation and keeping Ms. Begay-Tsosie's position in the field closer to the Navajo Nation.

The secretary of state responded that this was the first time that she had heard Mr. Wauneka's plea. She assured the committee that her office's Native American election information program (NAEIP) is not being cut; rather, the entire office is being reorganized. The office is reassessing its goals and determining its programs' effectiveness. It has determined that for the past two years, Ms. Begay-Tsosie has not been working closely enough with the secretary of state. The secretary of state indicated that she wishes to engage in dialogue with Mr. Wauneka.

Committee members expressed concerns in response to the testimony. One member felt that this matter should not have reached the committee before being addressed by the secretary of

state. The secretary of state's office should be permitted to change its Native American program as it sees fit. Another member expressed concerns about whether funds appropriated by New Mexico were used for services provided to Navajo voters in other states. Members voiced concern over whether Ms. Begay-Tsosie's activities have been politically charged and whether her work has been properly documented. Other committee members articulated that the secretary of state should submit to the interest of a tribe only in response to a formal agreement — such as a memorandum of understanding or a joint powers agreement — between the tribe and the state; without such an agreement, the two entities should maintain a strict separation of powers. A committee member also voiced concerns that the voter turnout for the last two Navajo elections flat-lined following the termination of a highly qualified employee based in Crownpoint. Another committee member stressed that Mr. Wauneka had a right to come to the committee and that no one should be discouraged from seeking the committee's support.

Secretary of State Duran responded to committee members' concerns and questions. She indicated that Ms. Begay-Tsosie had provided some general work reports, but the office had no detailed record of Ms. Begay-Tsosie's activities. Office staff endeavors to create a more detailed work-product and goals-assessment record. Further, office staff plans to transfer Ms. Begay-Tsosie's position to Santa Fe, but once staff completes the assessment, the position might be returned to Crownpoint.

A committee member suggested that the secretary of state's office compare past years' voter turnout numbers to evaluate the effectiveness of the NAEIP.

Mr. Wauneka responded to the committee and the secretary of state. He apologized for possibly having used the wrong channel to bring attention to his concern. He indicated that he had spoken with a representative of the secretary of state's office and understood that there would be an opportunity for discussion of the matter prior to Ms. Begay-Tsosie's transfer. This opportunity never arose. Further, a work-product record, including a glossary, translations of constitutional amendments and radio station recordings, exists. His office has received a consent decree from the United States department of justice that allows his office staff to monitor state- and local-level voting programs. Lastly, Mr. Wauneka emphasized that the NNEA relies heavily on the NAEIP coordinator to conduct field work because Navajo is predominantly an oral, not written, language.

Discussion of Focus Areas, Work Plan and Meeting Schedule

Mr. Lara went over the proposed work plan items.

The committee proposed to explore and discuss the topics in each major issue area affecting Native Americans during the 2011 interim, as follows:

A. State-Tribal Relations:

1. the recent developments and implications of Mount Taylor being designated a traditional and cultural property;

2. the coordinated multi-agency five-year plan to address uranium legacy and cleanup of abandoned uranium mining and milling sites led by the federal environmental protection agency;

3. the recent development of the nuclear regulatory commission granting hydro resources inc. a license to mine near Church Rock and Crownpoint;

4. the settlement of state income tax refund claims from the Native American veterans' income tax settlement fund;

5. the feasibility of locating a veterans' memorial honoring New Mexico's Native American veterans in Santa Fe pursuant to HM 25;

6. the feasibility and requirements for the legislature to transfer ownership and control of the lands owned or controlled by the state in the Jemez state monument heritage area to the Pueblo of Jemez pursuant to HJM 7;

7. the study of the process to establish recognition of Indian nations, tribes and pueblos in New Mexico; and

8. the demographic results for Native Americans in the 2010 census.

B. Health:

1. health care for Native Americans and in Native American communities;

2. statewide Native American health care reform planning pursuant to HJM 40; and

3. the implementation of a statewide clearinghouse for Native American suicide prevention and culturally based suicide prevention initiatives for Native Americans as mandated by SB 417.

C. Courts and Corrections:

1. the increase in hate crimes against Native Americans in recent years;

2. the implications of *Garcia v. Gutierrez*, 2009-NMSC-044, in state and tribal jurisdiction on domestic matters;

3. implementation of the increased penalties pursuant to the Indian Arts and Crafts Sales Act;

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

5. establishment of a public defender's office in Gallup.

D. Economic Development in Indian Country:

1. capital outlay, including tracking the expenditure of allocated funds, alternative funding sources and coordination with the Navajo Nation;

2. the funding of projects from the tribal infrastructure project fund, including projections of allocated amounts pursuant to Section 7-27-10.1 NMSA 1978; and

3. the funding of Indian water rights settlements, including the Navajo, Aamodt, Taos Pueblo and Abeyta Indian water rights settlements, including the use of severance tax bonding capacity.

E. Education:

1. the implementation of the IEA and the improvement of Native American education, including performance and effectiveness pursuant to SM 52;

2. the study of Indian education impact aid money pursuant to SJM 35;

3. the support for tribal language survival pursuant to SJM 24; and

4. the feasibility of providing lottery scholarships to otherwise eligible students who attend tribal colleges pursuant to HM 72.

After some deliberation, the committee proposed to request the following meeting dates and locations:

<u>Date</u>	<u>Location</u>
June 13	Santa Fe
July 21	Gallup
July 22	Pueblo of Zuni
August 17	Truth or Consequences
August 18	Tohajiilee Chapter
August 19	Pueblo of Acoma
October 6	Southwestern Indian Polytechnic Institute, Albuquerque
October 7	Pueblo of Sandia
November 1	Pueblo of Santa Clara
November 2	Santa Fe

Upon a motion by Senator Pinto and seconded by Senator Lovejoy, the committee voted, without objection, to submit the proposed work plan and meeting schedule as amended for approval by the LC.

Adjournment

There being no further business before the committee, the first meeting of the IAC for the 2011 interim was adjourned at 4:25 p.m.

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

**July 21, 2011
Gallup-McKinley County School District Administration Building
Gallup**

**July 22, 2011
Bureau of Indian Affairs Forestry and Fire Management Building
Pueblo of Zuni**

The second meeting of the Indian Affairs Committee (IAC) was called to order by Representative James Roger Madalena, co-chair, at 10:18 a.m. on Thursday, July 21, 2011, at the Gallup-McKinley County School District administration building in Gallup.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair (7/22)
Rep. Ray Begaye
Rep. Sandra D. Jeff (7/21)
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Sen. George K. Munoz
Rep. Jane E. Powdrell-Culbert (7/21)
Sen. Nancy Rodriguez
Rep. James E. Smith (7/21)

Absent

Sen. John C. Ryan

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Ernest H. Chavez
Rep. Debbie A. Rodella (7/21)

Sen. Eric G. Griego
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Rep. Antonio "Moe" Maestas
Rep. Nick L. Salazar
Sen. William E. Sharer

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

Staff

Damian Lara
Teresa Ryan
Cassandra Jones

Guests

The guest list is in the meeting file. The visitor sign-in sheet from the Bureau of Indian Affairs forestry and fire management building at the Pueblo of Zuni is also included.

Handouts

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

Thursday, July 21 — Gallup-McKinley County School District Administration Building, Gallup

Committee and staff introduced themselves. Johnnie Henry, Jr., Churchrock Chapter (CRC) president, gave an invocation.

Welcome and Introductions

Ben Shelly, president of the Navajo Nation, introduced himself. He expressed hope of a continued strong relationship between the State of New Mexico and the Navajo Nation and pointed out that the relationship had allowed the Navajo Nation to make headway in several areas, including infrastructure, development and strong tribal relations. President Shelly reported that the reason that many Navajo people cannot get jobs or pay taxes is that they do not have a trade. He expressed a desire for Navajo youths to train in construction and industrial manufacturing.

President Shelly requested that the legislature observe the federal Voting Rights Act of 1965 when addressing the issue of redistricting in the special session. The Navajo Nation will advocate for the fair representation of its citizens.

President Shelly indicated that delegates and chapter officials would represent the Navajo Nation for the rest of the meeting.

Navajo Nation Division of Community Development

Arbin Mitchell, director of the Navajo Nation Division of Community Development, introduced himself. He stated that the Navajo Nation had been appropriated \$3.8 million for capital outlay projects for FY11 and that a balance of approximately \$15,000 remained. He also told the committee that there are still six projects pending, and he asked the committee to encourage the Department of Finance and Administration to begin spending for these projects.

Tourism Department

Senator Martinez introduced Mark Trujillo, North American tour trade director from the Tourism Department, and invited him to speak. Mr. Trujillo introduced himself and spoke about his new position as the head of Native American tourism. He stated that he represents all 22 tribes in New Mexico and that he honors and respects all of the tribes. He mentioned that he wants to meet with the tribes in order to learn what he can and cannot do. He stated that he plans to promote the tribes cautiously, and he asked for assistance from tribal leaders.

Navajo Nation Council

Former New Mexico Senator Leonard Tsosie from the Navajo Nation Council spoke about having learned a lot as a member of the New Mexico Legislature. He told the committee that the Navajo Nation Council has downsized from 88 members to 24. He is pleased with the change and the new government system. For instance, he said, when an amendment is proposed at the committee level and fails, it is not introduced at the legislative level. The only exception to this rule is if a majority of the committee gives written permission. Senator Tsosie gave the committee an example of this government system, which comes from a Navajo phrase meaning "let's talk it out".

On behalf of Johnnie Naize, speaker of the Navajo Nation Council, and the Navajo Nation Council, Senator Tsosie thanked the State of New Mexico for helping with projects over the years. Senator Tsosie asked for fairness in the redistricting special session by ensuring that the composition of districts in Indian Country allows for Indians in those districts to have a representative of their choice.

Senator Tsosie asked the committee to represent concerns of the native people. He stated that New Mexico courts and state administrative tribunals are beginning to disregard Indian jurisdiction. For instance, over 99 percent of the population in Crownpoint is Navajo, but state figures disagree. Lastly, Senator Tsosie endorsed the idea of an Indian center located in Gallup.

Churchrock Chapter — Status Update

Mr. Henry introduced Louise Jim, CRC treasurer; Alvin Billie, community services coordinator; and Titus Nez, senior planner/staff assistant. Mr. Henry also acknowledged Larry King, community member and representative of Eastern Navajo Diné Against Uranium Mining (ENDAUM). Mr. Henry expressed his pleasure with working with the IAC and the Indian Affairs Department (IAD) on projects over the past two years. He told the committee that the CRC is close to being certified under the Navajo Nation's Local Governance Act (LGA), which will give the chapter more power to bring in business. He said that the CRC will be the largest chapter in the eastern region of the Navajo Nation after the 2010 census count.

Mr. Henry told the committee about the Sundance-Rehoboth Powerline Extension Project. He said that the cost of the project is approximately \$1.2 million and that it will be completed over 26 months. The project will serve more than 100 families. Mr. Henry said that the Navajo

Area Indian Health Service (NAIHS) is working on a 6.9-mile water line project. Some families will have running water and bathroom services for the first time as a result of this project.

The CRC is seeking money for a new senior center and to renovate the Head Start center. Only one of the four Head Start facilities in the CRC is functioning. Mr. Henry expressed the need for the community to reopen Head Start centers or to build a new one. He described conditions within the CRC: water lines often break and sewers often leak. The cost to renovate vital buildings is between \$200,000 and \$750,000. He stated that the CRC also needs a veterans' facility, which would cost between \$1.5 million and \$3 million. The CRC house has been there since 1963, and the chapter is close to shutting it down because the building does not comply with code. The CRC would like a new complex. Mr. Henry said that he is looking forward to working with the state, the IAD and the Navajo Nation to achieve these long-term goals. He indicated that the new county commissioner has not been in contact with the CRC and that several road projects cannot move forward without the county commissioner's approval. Mr. Henry requested the state's help in improving roads and buildings, and he told the committee that the CRC will soon be home to more than 3,000 residents.

A committee member inquired into the chapter's position on the federal district court's decision concerning uranium mining. Mr. Henry replied that CRC officials have taken a neutral position until the community expresses its preference. CRC officials are hoping to bring in Hydro Resources, Inc., and Uranium Resources, Inc., to explain how the community might benefit if uranium mining returns to the area.

Another committee member asked Mr. Henry how much it will cost to complete the water line project. Mr. Jim stated that the NAIHS considers the water line to be part of the project that it is fully funding. In response to a committee member's inquiry, Mr. Henry stated that some roads are paved but most of them are gravel and that the county is responsible for the roads' maintenance.

A committee member told CRC representatives that perhaps trying to access federal funds would be the best approach to meet their needs.

Mariano Lake Chapter — Status Update

Anthony Begay, president of the Mariano Lake Chapter, introduced himself. He expressed disappointment that HB 467 and HB 218 were postponed indefinitely. He told the committee that his chapter was the first to acquire its own right of way and name, and he described the chapter's recent progress. The chapter has a plant for making asphalt, and community members have volunteered to help with road maintenance.

Mr. Begay expressed dissatisfaction with financial institutions in New Mexico and indicated that the Mariano Lake Chapter bank is in Arizona. He said that New Mexico banks do not treat the chapter fairly and that programs at the chapter's current bank in Arizona oversee the chapter in order to keep it financially accountable. The chapter has created a Facebook page to

communicate with members of the community. The chapter meeting structure has also been streamlined, and regular meetings no longer last more than two hours.

Mr. Begay told the committee that the chapter has finished 2.5 miles of a road project with \$22,000 of Navajo Nation general fund money. Another project underway is a \$2 million waterway that will serve 52 homes.

A committee member extended an invitation to all chapter officials to join the Redistricting Committee at its August 3-5 meeting.

Another member of the committee asked Mr. Begay to elaborate on why the chapter is dissatisfied with New Mexico banking institutions. Mr. Begay replied that these institutions make it difficult to access government accounts and that they often charge \$6.00 or \$7.00 to cash one of the bank's own checks.

Indian Water Rights Settlements: Funding the State's Share

John D'Antonio, New Mexico state engineer, and Estevan Lopez, director of the Interstate Stream Commission, presented the status of the proposed Indian water rights settlement. The state's share of the total cost of \$870 million is approximately \$120 million; \$50 million goes toward the Navajo Nation settlement, \$50 million is for the *Aamodt* settlement and approximately \$20 million is for the Taos settlement. Mr. D'Antonio noted that on page four of his handout, in the second paragraph under the subheading "state contribution", the date should be February 7, 2011 instead of June 7, 2011.

A member of the committee asked Mr. D'Antonio if money the state has already appropriated toward certain projects would count toward New Mexico's part of the cost. Mr. D'Antonio responded that state-appropriated money will be considered for credit toward the cost-share. He mentioned that he has been working with the City of Gallup to coordinate efforts to maximize state credit.

A member of the committee requested that Mr. D'Antonio update the Legislative Finance Committee on, and explain the legal issues associated with, the pending water rights settlement funds.

Mr. D'Antonio explained that the spreadsheet on the last page of the handout has an overview of each of the settlements. He said that it is reasonable to assume that the state will receive \$20 million in credit for past contributions, which leaves approximately \$90 million that the state still is required to contribute. He also explained that the \$60 million attributed as the state's share of the Navajo Nation settlement includes \$10 million for non-mandatory funding for non-Indian ditch rehabilitation. He recommended that the state appropriate \$90 million over six years, the equivalent of \$15 million per year, in order to avoid cost increases due to inflation indexing and putting the infrastructure in place. Committee members discussed funding options and said that they will think about the issue carefully in order to arrive at a solution.

A committee member asked whether, because the governor of New Mexico may replace Mr. D'Antonio, his staff would be able continue working on this important project without him. Mr. D'Antonio explained that the agency has 77 vacancies but that water rights are one of its highest priorities.

Senator Munoz made a motion requesting that the committee write a letter to the governor in support of Mr. D'Antonio. The motion was seconded by Senator Rodriguez and passed without opposition.

Members of the committee asked if water can be sold to other states. Mr. D'Antonio explained that statutes allow for the sale of water with a permit from the state engineer. In order to get a state engineer's permit, the state engineer must assess the public welfare. A state that has a limited water supply, such as New Mexico, can deny requests from other states. He assured the committee that no additional legislation need be presented in order to keep water in the state.

Minutes

Upon a motion by Senator Martinez, seconded by Senator Rodriguez, the committee approved the minutes from the first meeting of the IAC for the 2011 interim.

Navajo Nation Legislative Branch

Speaker Naize told the committee that the 2010 census indicated that more than 300,000 Navajos live on the reservation and that the population and voter base are increasing. He asked for fairness from the legislature regarding redistricting. He stated that Native Americans greatly respect Mt. Taylor, and he asked the state to help protect it as a sacred site. Lastly, he mentioned that the Navajo Nation has been working with the federal government on uranium cleanup, and he asked that the state support measures to make New Mexico safe from all radioactive materials. A member of the committee requested information from the speaker about the Navajo Nation's growth demographics.

Improving Native American Student Achievement: Teach for America and Save the Children

David Neff, regional director, Save the Children, explained that there are three regional offices in the United States that deliver programs. The largest encompasses California, Washington, New Mexico, Colorado and other states. The most essential component of Save the Children is the literacy program, which works with struggling readers that are at least one grade level behind to achieve at least grade-level reading. Save the Children focuses its efforts on economically disadvantaged areas where parents are generally not well-educated. Mr. Neff told the committee about the program's literacy block, an after-school program that is offered four days a week and throughout the summer. The program will cost \$600,000 this year, and half will come from the state's Indian education provision. Save the Children's match will double the investment.

A member of the committee suggested that Teach for America participate in a partnership with Northern New Mexico College, and she mentioned that she would help facilitate a relationship.

Representative Begaye made a motion to write a letter to Governor Martinez suggesting that she support the retention and full funding of the services provided by Teach for America and Save the Children programs in her recommendation for the education budget through an independent line item in the general appropriation bill of 2012. The motion was seconded by Representative Smith and passed with no opposition.

Adequate Yearly Progress: The Navajo Nation Alternative Formula

Timothy Benally, assistant superintendent of the Department of Diné Education, and Dr. Calvin White, education administrator of the Department of Diné Education, introduced themselves. They spoke to the committee about the Navajo student achievement gap and asked why public schools have not consulted the Navajo Nation on how best to work with Navajo children. The presenters asked the committee to consider an alternative adequate yearly progress formula. They told the committee that New Mexico does not share state data with the Navajo Nation and that tribal education agencies are seeking to amend laws that preclude this data collection. Mr. Benally and Dr. White expressed a concern that New Mexico school districts do not communicate with the Navajo Nation even though they collect money for the attendance of Native American students. The presenters also noted that the Indian Education Act needs more funding.

A member of the committee requested that the Department of Diné Education make a presentation before the Legislative Education Study Committee. Another member advised the Department of Diné Education to bring its concerns to the New Mexico Indian Education Advisory Council.

Closing the Native American Student Achievement Gap

Dr. José Z. Garcia, secretary of higher education, Glenn Walters, deputy secretary of higher education, and Ricky Serna, P-20 policy analyst, Higher Education Department (HED), introduced themselves to the committee. The HED representatives told the committee that the department plans to change the funding formula for the first time in 30 years because the current formula rewards institutions for attracting students. This system worked well when the need was to get students into schools, but because demographics have changed, it no longer makes sense to reward universities for competing with one another for students.

Secretary Garcia explained that the new funding formula would encourage a work force that would be beneficial to New Mexico. Major employers in the state will make suggestions to the department regarding work force projections. That information will be compiled and called a consensus work force projection. The HED will change the formula to reflect that information. The new formula will reward institutions for reducing the gap between today's work force and that of the future. The new formula would also give specific rewards every year to institutions

that are successful in reducing the achievement gap. Secretary Garcia noted that for the first time in New Mexico history, the population between the ages of 45 and 64 is better educated than the population between the ages of 25 and 44. Lastly, he stressed the importance of closing the achievement gap in New Mexico.

Deputy Secretary Walters said that the HED may not have all the answers, but it is looking for effective, statewide programs that help students succeed. Mr. Serna told the committee that he is responsible for reviewing legislation aimed at increasing Indian education achievement across New Mexico. Deputy Secretary Walters stated that a major concern of the department is how credits transfer from one institution to another. The department has begun to look at matriculation. The secretary mentioned that he would like to consult with the tribes and their representatives to determine what kind of relationship they would like with the HED.

Deputy Secretary Walters told the committee that department staff will meet with the boards of regents on August 3 to discuss major issues. He stressed the importance of leadership in dealing with issues such as matriculation between institutions.

Navajo Nation Emergency Management

John Billison, executive director of the Navajo Nation Division of Public Safety (NNDPS), Johnny Johnson, program and project specialist from the Crownpoint office, and James Sorrelhorse, program and project specialist from the Shiprock office, introduced themselves. Mr. Billison told the committee that the NNDPS is responsible for community outreach, training meetings and mediation, and he stressed that adequate funding is vital. The following are critical expenses: personnel salaries, vehicle rental, mileage and insurance. The Navajo Nation is actively seeking external funds to augment its Emergency Management Division (EMD). Mr. Billison expressed appreciation for the state's financial assistance. Mr. Johnson told the committee that the NNDPS is funded through the IAD and special appropriations. Mr. Sorrelhorse explained that the personnel budget will be reduced by over \$19,000 this year. He said that the NNDPS is responsible for mitigation, prevention, response and recovery. His office gives presentations at various chapters to teach incident prevention. It also responds to emergencies and works with families after an incident has occurred. Mr. Johnson told the committee that, though the community expects emergency management always to be available, the NNDPS lacks the necessary financial resources. He stated that disaster has no boundaries and can occur at any time or place.

A member of the committee asked if Arizona has the same system of funding. Mr. Billison explained that Arizona and Utah receive general funds for their emergency management. The committee member asked how much Arizona and Utah appropriate from their general funds. He was told that Arizona appropriates \$290,000, an amount adequate for three staff persons, one liaison and one office manager. The member requested a spreadsheet of costs and supplies, including insurance, so that New Mexico can see how much money the Navajo Nation is contributing to the EMD.

The secretary-designate of the IAD, Arthur P. Allison, asked to comment. He stated that a key element of emergency management is preparation. He discussed recent issues in the state concerning small fires in key areas and the need to move the elderly and the infirm. He expressed a need to develop homeland security within the Navajo Nation and told the committee that emergency management is critical.

A member of the committee remarked that the division's budget should be restored to \$300,000 in the governor's recommendations. Another member asked Secretary-Designate Allison why his department had decided to allocate only \$225,000. Rebecca Martinez, capital outlay manager for the IAD, introduced herself and stated that the department's budget had been cut by 30 percent. Reductions were made in all cost categories. She explained that the special project line item was reduced from \$1.2 million to \$900,000 and that cuts were necessary.

A member of the committee suggested that the EMD might be able to collaborate with other organizations in order to continue looking after the health, safety and welfare of Navajos.

Following the presentation by the NNDPS, Representative Madalena recessed the meeting at 5:33 p.m.

Friday, July 22 — Bureau of Indian Affairs Forestry and Fire Management Building, Pueblo of Zuni

Senator Pinto reconvened the meeting at 9:43 a.m. at the Bureau of Indian Affairs forestry and fire management building at the Pueblo of Zuni. Zuni Governor Arlen Quetawki, Sr., gave an invocation.

Welcome and Status Update — Pueblo of Zuni

Governor Quetawki told the committee that the main priority of the Zuni tribe is economic development. The tribe has a 67 percent unemployment rate. He said that other issues such as health, infrastructure and education are also very important. He introduced Andrew Othole, director for the Office of Planning and Development at the Pueblo of Zuni, and Dr. Loretta DeLong, superintendent of the Zuni Public School District.

Representative Madalena asked that Representative Alcon chair the meeting because it was taking place in his district.

Mr. Othole told the committee that his office has been seeking economic opportunities and initiatives locally and regionally. The pueblo has been trying to get funding for a new water system, a project that is now completed. The wells and reservoirs connect to the water system to provide water to the community and have allowed for housing development. The tribe now needs \$5 million in order to construct an additional wastewater system.

Mr. Othole told the committee that the pueblo would also like to build a restaurant and travel center. He said that Zuni is almost the same size as Grants, with a population of more than 10,000 people. He thinks that hospitality-based businesses would attract tourists, provide a facility for meetings and promote tax generation. The facility would provide service space and quality goods and allow the tribe to develop. He told the committee that he is happy to report that the tribe's state capital outlay and tribal infrastructure fund is empty. The tribe has used the entire \$1.7 million for the projects he described.

Representative Lundstrom proposed a motion to write a letter to Rick Martinez of the New Mexico Finance Authority requesting that he be mindful of Indian nations. The motion was seconded by Representative Begaye and passed without opposition.

Dr. DeLong told the committee that Zuni was once a part of the Gallup School District, but the Zuni people formed their own school district approximately 30 years ago. She said that there are 1,365 students in pre-kindergarten through twelfth grade and that the public school district employs more than 350 staff members. She has spent the last year working on a strategic plan to engage the community in a five-year plan. Though many positive things have happened, there have also been obstacles since the time Zuni pulled away from the Gallup school district. Zuni is the only public school district located entirely on Indian lands, and because Zuni does not have a tax base, the district never has enough resources to provide the kind of programming that the community needs.

A member of the committee commented that a lot of progress has been made as a result of the *Zuni* lawsuit. The member offered to recommend that the Public School Capital Outlay Oversight Task Force add to its agenda Dr. DeLong and the topic of impact aid. The member also asked that Dr. DeLong explain impact aid to the committee and offer suggestions that might equalize the formula for the Zuni tribe.

Dr. DeLong said that the funding formula was in place before the Zuni School District was established and when no one anticipated that schools would be located entirely on tribal lands. She suggested that the state view Zuni differently from other school districts. The Zuni tribe has facts, figures and statistics in a packet that Dr. DeLong will submit to the committee at another time. The superintendent explained that impact aid is federal money that comes through the state, and it is intended to supplement, not replace, existing funding. She said that other states do not take any part of the impact aid.

A member of the committee suggested that Dr. DeLong give the committee a presentation on the fiscal impact of the state giving Zuni all of its impact aid as well as complete state funding. The presentation should also illustrate ways the state could replenish the lost funding. Dr. DeLong explained the process that allows the school to receive impact aid.

Secretary-Designate Allison introduced Barbara Alvarez, a policy analyst with the IAD. Ms. Alvarez said that she has done research on impact aid and has found that any change in the

formula must be made at the federal level. She mentioned that Arizona schools receive all of the impact aid that they generate and that New Mexico is one of only three states that does not do this. Dr. DeLong also suggested that the state pay a tribal employment rights ordinance tax for contracts executed on Zuni land.

A member of the committee asked that the secretary-designate and his staff provide an analysis and the fiscal impact of a waiver or exception to the regular funding formula for school districts that are wholly located within the external boundaries of a federally recognized Indian reservation or trust land and do not have a property tax base. The committee member also requested a recommendation, analysis or position from the department on the impact of tribal employment rights offices on state contracts imposed by the Pueblo of Zuni for public school capital outlay projects.

Mr. Othole said the state should pass a law or policy that would provide certificates to tribes so they are not taxed on reservations. Another member of the committee suggested that the committee ask the secretary of public education to include this issue in her reform considerations so that the Public Education Department can take into consideration the uniqueness of the Zuni district.

Results of the 2010 Census: Making Native Americans Count

Amadeo Shije, tribal partnership data specialist from the Denver Regional Census Center, introduced himself. He told the committee that the U.S. Census Bureau has dropped six regional offices, leaving six in operation. The region encompassing New Mexico now also includes Kansas, Texas and Oklahoma. In the fall of 2012, data will be released concerning tribes, tribal affiliation and the population of tribal individuals in certain cities, counties, states and municipalities. Questions that have been on the census in previous decades have been removed, but they are now part of the American community survey, a continuously updated survey that includes questions that have been cut from the census. The information on the survey will be released on a yearly basis. Mr. Shije discussed different programs that have helped educate tribal leaders and community members on 2010 census information and in navigating the census web site.

A member of the committee expressed concerns about people in his community that were not included in the census count due to their choice not to participate, and he asked if incarcerated Native Americans were included in the count. Mr. Shije responded that information on incarcerated individuals was collected. Another member asked if duplicate forms are counted twice. Mr. Shije explained that the national processing center has a system for eliminating duplicate forms. A member of the committee asked what would define a member of the population as "hard to count", and Mr. Shije noted that people who receive mail at places other than their homes are difficult to count. Committee members discussed the fact that many Native Americans do not receive mail at their homes and expressed concern that the committee is responsible for a population often considered to be hard to count.

State Land Office: The Mt. Taylor Traditional Cultural Property Memorandum of Understanding

Ray Powell, commissioner of public lands, introduced himself. He explained that the State Land Office (SLO) is trying to be as transparent as possible. He spoke about the status of the SLO when he took over, and he expressed concern for Native American tribes. He assured the committee that he would confer with the tribes about decisions regarding land that is important to them, whether or not that land is covered by the memorandum of understanding (MOU) he presented to the committee. A member of the committee asked that Commissioner Powell provide information on all land exchanges. Another member suggested that the SLO might be able to help the state replenish funds lost if a waiver system were put in place for Zuni schools.

A member of the committee asked if cultural property protection is determined by elevation. Commissioner Powell explained that it is, but that he is determined to work with tribes on any issue of land that they consider important, and he stated that he is always willing to visit with any of the nations about any issues that concern them.

Governor Randall Vicente of the Pueblo of Acoma stated that he would like to work closely with other entities involved with the development of uranium mining around Mt. Taylor, and he also expressed a desire to speak with Commissioner Powell about the possibility of a land swap with the State of New Mexico. He invited the commissioner and the committee to the St. Esteban feast day at the Pueblo of Acoma on September 2, 2011.

Mark Mitchell, governor of the Pueblo of Tesuque, introduced himself to the committee and stated that his pueblo is financially poor but culturally rich, and he expressed a need for the tribe to exercise its sovereignty and a desire to work cooperatively with the state.

First Lieutenant Governor Harry Antonio, Jr., of the Pueblo of Laguna asked the state to be mindful of collaboration efforts and to understand that Indian communities do not put a dollar value on sacred sites.

Chandler Sanchez, senator and former governor of the Pueblo of Acoma, thanked Commissioner Powell for the MOU and for opening a dialogue with the tribes. He told the committee that five tribes nominated Mt. Taylor as a sacred site and that more also consider it sacred.

A member of the committee expressed a desire to accommodate the interests of all with respect to Mt. Taylor.

Mr. Othole said that non-Native Americans do not always understand the importance of sacred sites, and he stated that the issue is complex and sensitive.

Licensing of Uranium In-Situ Leaching: The State's Role

Jerry Schoeppner from the Ground Water Quality Bureau of the New Mexico Department of Environment (NMED) and Charles Lundstrom, Native American liaison, NMED, introduced themselves. They explained the differences between in-situ leaching methods of mining and conventional methods as well as the risks and benefits involved with each. They also explained to the committee the process for a company to receive a discharge permit for mining purposes. A member of the committee asked where the HRI mining company is located and was told that it is north of the CRC.

The committee invited Leona Morgan of ENDAUM to speak. Ms. Morgan told the committee that an injunction has recently been filed against the NMED, citing the department's failure to follow its own policies in regard to its communication with HRI representatives. The injunction would stop any action that would cause damage to drinking water aquifers on Navajo lands. Ms. Morgan presented the committee with a copy of the injunction. Mr. Schoeppner told the committee that the NMED's future actions regarding the injunction are under consideration and that he has not been a part of the conversation. Ms. Morgan explained the reasons for the injunction and pointed out specific examples from the exhibits attached to the injunction. The committee asked representatives from the NMED about communication with HRI and requested that the NMED explain the findings of independent studies on uranium mining.

Mr. Schoeppner explained that in order to receive a discharge permit, a company must prove financial solvency and its ability to clean up a site once mining is completed. A member of the committee asked about water at the site that is contaminated before in-situ leach mining takes place. Mr. Schoeppner told the committee that in most cases, the water is previously contaminated. Members of the committee discussed the health and safety issues involved in in-situ leaching mining as well as the positive consequences.

Representative Lundstrom made a motion to request one additional meeting from the New Mexico Legislative Council so the committee can become more informed on the issue of uranium mining. The motion was seconded by Senator Lovejoy. A member of the committee requested that aquifer mapping be included in the meeting. The motion passed with opposition by Senator Adair.

Members of the committee questioned the CRC's neutral position on uranium mining with regard to the Navajo Nation. Mr. Henry of the CRC told the committee that the issue has not been fully presented to the chapter by both sides and that conflicting reports of the risks and benefits involved have caused chapter officials to take a neutral position until members of the community have had a chance to voice their opinions. Members of the audience voiced their opinions on uranium mining.

Public Defender Office: Gallup Location

David Eisenberg, contract counsel from the Public Defender Department, told the committee that the public defender has been trying to open an office in Gallup since 2009 but has experienced setbacks. Mr. Eisenberg explained that the public defender is hoping to open a

temporary office in the vacant McKinley County sheriff's building until the new McKinley County magistrate building is completed. He told the committee that studies show that 80 percent of public defender clients in Gallup are Native American.

The committee asked Mr. Eisenberg where public defenders for McKinley County currently work. Mr. Eisenberg explained that public defender services are provided by private lawyers who have contracts with the Public Defender Department. This costs between \$250,000 and \$500,000 annually. The public defender will use money not spent on contracts to pay the lease on the new building and to fund personnel. Mr. Eisenberg also spoke about personnel currently working in Albuquerque in order to train as public defenders for the Gallup office.

Adjournment

There being no further business before the committee, the second meeting of the IAC for the 2011 interim adjourned at 4:15 p.m.

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

**August 17, 2011
Elephant Butte Inn and Spa
Elephant Butte**

**August 18, 2011
Sky City Casino — Piñon Room
Pueblo of Acoma**

**August 19, 2011
To'hajiilee Chapter/District Court**

The third meeting of the Indian Affairs Committee (IAC) was called to order by Representative James Roger Madalena, co-chair, on August 17, 2011 at 10:06 a.m. at the Elephant Butte Inn and Spa in Elephant Butte.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair (8/17)
Rep. Ray Begaye (8/17)
Rep. Sandra D. Jeff
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Jane E. Powdrell-Culbert (8/18, 8/19)
Sen. Nancy Rodriguez
Sen. John C. Ryan (8/17, 8/19)

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Ernest H. Chavez
Rep. Debbie A. Rodella

Absent

Sen. George K. Munoz
Rep. James E. Smith

Sen. Eric G. Griego
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Rep. Antonio "Moe" Maestas
Rep. Nick L. Salazar
Sen. William E. Sharer

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

Staff

Damian Lara
Peter Kovnat
Cassandra Jones

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Wednesday, August 17 — Elephant Butte Inn and Spa, Elephant Butte

Committee members and staff introduced themselves. Paul Ortega gave an invocation.

Chihene Nde Nation of New Mexico

Manuel P. Sanchez, chair of the Chihene Nde Nation, introduced himself and tribal members in attendance. He explained that *chihene* is Apache for "Red Paint People" and that the name is derived from red rocks that can be found in a local cave. Mr. Sanchez elaborated on the history of the Chihene Nde people and listed well-known Chihene Nde people. The Chihene Nde people have been relocated several times throughout history and now have no land of their own and are not a federally recognized tribe. Mr. Sanchez explained that the Chihene Nde people are currently seeking federal re-recognition of their tribal status through legislative action by Congress. Economic development and land components are the only two requirements missing from the Chihene Nde's application for federal recognition. A partnership with the Hot Springs Land Development (HSLD) Company will fulfill those requirements. Mr. Sanchez explained that the tribe has support from United States Senator Tom Udall and Congressman Steve Pearce and is seeking support from the New Mexico Legislature in the form of a joint memorial to urge the New Mexico congressional delegation to support federal recognition of the Chihene Nde Nation of New Mexico.

Pablo Martinez, a member of the audience, expressed support for the Chihene Nde Nation and requested that the state legislature support the nation's federal recognition through a joint memorial.

In response to a question from a committee member, Gil Apodaca, tribal administrator for the Chihene Nde Nation of New Mexico, explained that before the Chihene Nde Nation changed its name, the Chihene people were known as the Warm Springs Band of the Chiricahua Apache.

In response to a question from a member of the committee, Mr. Sanchez explained that in order for a person to be a member of the Chihene Nde Nation, a historian from the nation must be able to trace family lineage back to one of the four Apache *rancherias* established under the Spanish Court. DNA testing is also considered as supportive documentation. Mr. Sanchez and Mr. Apodaca expressed their belief that recognition is essential to the tribe's ability to move forward economically.

The HSLD

Greg Neal, chief executive officer, HSLD, explained the HSLD plan for economic development and job creation. He told the committee that the HSLD has 10,500 acres of zoned land that can be used for development. The HSLD wants to create a new city in south-central New Mexico with the Chihene Nde Nation as the company's partner — an arrangement that is mutually beneficial because the HSLD will provide the development and land, which will be put in a trust and given to the Chihene Nde Nation, while the tribe will provide tax benefits. In order to receive tax benefits, the Chihene Nde Nation needs to be federally recognized.

Mr. Neal explained that a land exchange was made with the State of New Mexico under Commissioner of Public Lands Patrick Lyons. The HSLD previously traded 9,200 acres of ranch land in Tatum for 7,387.46 acres of public land near Truth or Consequences.

In response to a question from a committee member, Mr. Neal explained that the amount of land that would be considered for the trust depends on how many projects that the HSLD engages in with tribal partnership. Each business opportunity will be evaluated, and as tribes partner with the HSLD, which will provide the capital, the land will be given to the participating tribe.

A member of the committee asked Mr. Neal if the HSLD plans would change if the Chihene Nde Nation is unable to receive federal recognition. Mr. Neal said that the HSLD is able to develop the businesses without a tribal partner but that a partnership is preferable. If the Chihene Nde Nation is unable to receive recognition, other tribal entities will be invited to help develop the property.

In response to a question from a committee member, Mr. Apodaca confirmed that those requesting membership in the Chihene Nde Nation will be required to detach themselves from any other tribes. Mr. Neal told the committee that plans for economic development had been presented to the local community in 2008 and had received its support. The company has not communicated with other tribes but is prepared to do so in the future. In response to a question from a committee member, Mr. Sanchez explained that the location of the proposed land trust will not support a gaming operation but that manufacturing is an option that is being considered.

Representative Lundstrom made a motion to request an opinion letter from Commissioner of Public Lands Ray Powell regarding how the land trade with the HSLD would benefit the state. The motion was seconded by Representative Rodella and passed without opposition.

Minutes

Upon a motion by Representative Begaye, seconded by Senator Rodriguez, the committee approved the minutes from the second meeting of the IAC for the 2011 interim.

Fort Sill Apache Tribe

Jeff Houser, chair of the Fort Sill Apache Tribe, told the committee that the Fort Sill Apache Tribe has filed an application to put into trust 20 acres of land that the tribe considers to be sacred. This application is being processed by the United States Department of the Interior (DOI). Mr. Houser briefly explained the history of the Fort Sill Apache Tribe.

In response to questions from members of the committee, Mr. Houser explained that the 20 acres of land to which he referred are located south of Dusty, New Mexico. The land is not conducive to gaming or development but has cultural significance to the tribe.

A member of the committee asked if the Fort Sill Apache Tribe is related to the Chihene Nde Nation. Mr. Houser clarified that the groups are separate. The Fort Sill Apache Tribe has achieved federal recognition and has trust land in Arizona, Oklahoma and New Mexico. Mr. Houser stated that the Fort Sill Apache Tribe could not comment on the legitimacy of claims made by the Chihene Nde Nation. He explained that many of the Fort Sill Apache people had been taken as prisoners of war in the past and that meticulous records of those people exist.

A member of the committee asked Mr. Lara, staff attorney, Legislative Council Service, to explain why the Fort Sill Apache group was put on the agenda for the meeting. Mr. Lara explained that some members of the committee requested that the Fort Sill Apache Tribe be present in order to clarify questions about the similarity of names and ancestors between the Fort Sill Apache Tribe and the Chihene Nde Nation and to express their position concerning the federal recognition of the Chihene Nde Nation. Mr. Houser told the committee that the DOI has a well-used process to determine tribal recognition and that the Fort Sill Apache Tribe will support the Chihene Nde Nation if it can achieve federal recognition based on DOI federal regulations.

Mr. Houser stated that the Fort Sill Apache people do not have equal standing with other tribes in Oklahoma or New Mexico because their ancestors were prisoners of war, and he expressed a desire for tribal members to be able to return to their original homeland in New Mexico.

Mescalero Apache Tribe

Mark R. Chino, president of the Mescalero Apache Tribe, stated that the Chihene Nde Nation people are not a tribe, despite their distant genetic connections to Indians, because they do not live as Indians. He said that if their ancestors were Apache, members of the Chihene Nde Nation made a conscious decision to abandon the Apache way of life. The Mescalero Apache Tribe represents the Chiricahua, Lipan and Mescalero Apache. The Chiricahua include the Warm Springs Apache people, who are also known as Chihene. President Chino expressed his suspicion that the Chihene Nde Nation is seeking recognition from the State of New Mexico as a first step to open a casino. He said that the group does not meet the rigid requirements laid out by the federal government for tribal recognition.

President Chino stated that the members of the Fort Sill Apache Tribe are Indians but are not New Mexicans. Members of the Fort Sill Apache Tribe have not shown any inclination toward settling on trust land that they own in New Mexico. Their ancestors made the conscious decision to stay in Oklahoma, and their descendants have affirmed that decision. President Chino stated that the Fort Sill Apache people want to open a casino and that allowing non-New Mexico Indian tribes to open casinos in New Mexico would disturb the delicate balance that tribes in New Mexico have with the state.

A member of the committee commented that it is sad that the Apache tribe does not have the ability to welcome people of their own blood into the Native American community.

Another member of the committee stated appreciation for the Mescalero Apache Tribe's dedication to tradition. Some Indian nations have only been interested in claiming their heritage since gaming became a possibility.

Several members of the committee discussed the need for more education about, and more discussion on, the possibility of endorsing the Chihene Nde Nation of New Mexico. However, a committee member expressed reluctance to endorse the Chihene Nde Nation of New Mexico because economics seems to be the driving force of the Chihene Nde Nation's desire to be a recognized tribe. After some discussion, the committee decided that this issue requires further contemplation before any action can be taken.

Indian Child Welfare Act (ICWA) of 1978, Section 1917: Adopted Indian Children to Receive Tribal Affiliation Information

Bernie Teba, tribal liaison for the Children, Youth and Families Department (CYFD), explained the history of the ICWA. The act allows adopted persons over the age of 18 to request adoption information in order to identify their tribal affiliation. If biological parents sign an affidavit of anonymity, enough information can still be released to the adoptee for the adoptee to determine eligibility for membership and enrollment into a tribe. People who were adopted before the ICWA will still have access to their adoption information. New Mexico law reaffirms that the state will comply with the federal law as it relates to the ICWA.

A committee member introduced Melissa Smith, a member of the audience, and asked her to speak. Ms. Smith told the committee that she was adopted, and she believes that she is Native American. Ms. Smith explained that the CYFD has not been able to locate her records. She would like to inquire about tribal enrollment, but she does not know the tribe of which her biological parents were members. Mr. Teba told Ms. Smith that he would be happy to work with her to try to facilitate her requests.

Following the presentation by the CYFD, Representative Madalena recessed the meeting at 4:08 p.m.

Thursday, August 18 — Piñon Room, Sky City Casino, Pueblo of Acoma

Senator Pinto reconvened the meeting at 9:39 a.m. Members of the committee introduced themselves. Randall Vicente, governor of the Pueblo of Acoma, gave an invocation.

Welcome and Status Update — Pueblo of Acoma

Governor Vicente introduced himself and other members of the tribal administration. He told the committee that the Acoma gaming industry employs 500 people, including Indians and non-Indians. Governor Vicente said that because of the Sky City Casino and the Pueblo of Acoma tribal offices, the Pueblo of Acoma is the largest employer in Cibola County. He went on to update the committee on the Pueblo of Acoma. The new bridge at Exit 102, off of Interstate 40, won an award at an Indian awards ceremony. Pueblo of Acoma gaming revenue dropped in 2008, which caused the casino to lay off staff and cut back services. The 2009 census indicated that the unemployment rate in Acoma was 35%. The Pueblo of Acoma hires people from Grants as well as from neighboring land grants and tribes. The tribal council is planning to turn an area in the Pueblo of Acoma into an industrial park and is looking for help with economic

development. The council does not support any measures by the New Mexico Legislature that would undo gas or cigarette tax agreements with tribes. The governor also expressed concern about the inability of public schools to educate Native American children. School districts should assure pueblos that their students are being prepared for future opportunities.

Governor Vicente also stressed the importance of cultural sites to the Pueblo of Acoma people, citing Mount Taylor as one of the tribes most valued cultural properties. The governor asked that the legislature help protect Mount Taylor and other cultural properties.

In response to a question from a committee member, Governor Vicente stated that there are approximately 5,034 members of the Pueblo of Acoma. He stated that this population is comparable to many of the other pueblos in the area and that many members of the Pueblo of Acoma reside in those areas that surround the pueblo. The Pueblo of Acoma offers hotel amenities and a restaurant. It also owns a convenience store, franchises of Subway and McDonald's and information system services that wire buildings for electronics. The Pueblo of Acoma also has a ranching business with the potential to run more than 2,000 head of cattle.

A member of the committee asked if the Pueblo of Acoma had considered issues of uranium mining concerning traditional cultural property. The governor stated that the Pueblo of Acoma is always in favor of the protection of traditional cultural property. The pueblo supports economic development but not at the expense of traditional cultural property or the contamination of water. Governor Vicente and members of the committee discussed some of the consequences of past uranium mining in the area. The governor also told the committee that the Economic Development Department has been a part of the planning process for the industrial park at the Pueblo of Acoma. He expressed a need for collaboration with Governor Susana Martinez.

Native American Tourism

Monique Jacobson, secretary, Tourism Department (TD), told the committee that Indian tourism is one of the most important aspects of tourism in New Mexico. Indian tourism differentiates New Mexico from other states. Tourists look for authentic experiences like those found in New Mexico. Secretary Jacobson stressed the importance of state relations with Indian tribes.

Mark Trujillo, Indian tourism program director and tribal liaison, TD, said that he has met with nine tribes and is still trying to schedule meetings with the remaining tribes in New Mexico. He is also redesigning New Mexico's Native American guide.

Indian Affairs Department (IAD) Special Projects

Rebecca Martinez, capital outlay manager for the IAD, outlined the special projects that receive funding from the Tribal Infrastructure Project Fund (TIPF). She stated that the budget for FY 2011 provided over \$1.2 million for projects but that the budget for FY 2012 had cut back the amount of funding, which meant that budgets for individual special projects had to be cut as well.

TIPF Applications: Looking Ahead

Stephanie Schardin Clarke, interim director, State Board of Finance, explained to the committee that on January 15, 2012, the board will inform the legislature of the maximum

severance tax bonding capacity for FY 2013. The July estimate of the maximum severance tax bond capacity was \$264.3 million. The TIPF is allocated 5% of the maximum capacity, which is equivalent to \$13.2 million.

Arthur Allison, secretary-designate, IAD, told the committee that a problem with capital outlay is that funds tend to get tied up while waiting for authorizations from various tribal systems. Secretary Allison is the chair of the Tribal Infrastructure Board, which is looking at ways to streamline the tribal approval process in order to make capital outlay more effective.

Ms. Martinez said that the IAD has revised its policies and guidelines for the TIPF. These guidelines are likely to be made available to the tribes in September, pending approval by the Tribal Infrastructure Board. The IAD will provide outreach training and technical assistance to the tribes in October and the deadline for proposals will be in November. The IAD plans to work with the community to put proposals together and get them ready for review by the Tribal Infrastructure Board. Ms. Martinez said that the new guidelines make the TIPF system more equitable than it has been in the past. The IAD expects decisions to be made by the Tribal Infrastructure Board regarding TIPF awards by May 1. The contracting process should begin by June 1.

Ms. Martinez referred members of the committee to the handout provided by the IAD and explained that handouts in the TIPF section that are highlighted in blue are under way, while those highlighted in green have been completed. She also said that the IAD has identified 33 additional funding streams to assist those that apply for TIPF money. In response to a question from a member of the committee, Ms. Clarke explained that any capital outlay bills passed during the special session in September and during the 2012 regular session would be taken from the same bonding capacity. In response to a question from a committee member, Secretary Allison said that he hopes to fill two positions on his staff very soon.

A member of the audience, Robert Ortiz, planner for the Pueblo of Santa Ana, was introduced and invited to speak by a member of the committee. Mr. Ortiz said that the TIPF program is beneficial to the tribes, but the Pueblo of Santa Ana does not have access to the program because the program requires that the pueblo release its financial statements. The tribal council will not allow the Pueblo of Santa Ana to release the pueblo's financial statements. He stated that tribes should be allowed to use a tribal council resolution to show that funds have been obligated to match the TIPF without releasing their financial information.

Ms. Martinez stated that the IAD has looked into this issue and that it has developed new policies that it believes will provide a solution. These policies will be explained after the new guidelines are approved and released in September.

Rick Martinez, chief of client services, New Mexico Finance Authority (NMFA), told the committee that the NMFA is working with federal agencies in order to access every possible revenue stream. The NMFA is also looking at phasing in processes and making other changes that may make the system more effective. In response to a question from a committee member, Mr. Martinez said that he would be meeting with the Pueblo of Zuni soon to discuss a wastewater system and that the pueblo has asked for approximately \$5 million. The NMFA is trying to access various resources in order to obtain the requested amount.

State-Tribal Collaboration on Cigarette Taxes and Escrow Payments

Wayne H. Bland, attorney at the Nordhaus Law Firm, LLP, which represents the pueblos of Taos, Santo Domingo, Santa Ana and Laguna, as well as Indian Pueblo Marketing, Inc., expressed concerns about statements made in a letter addressed to the governor concerning a cigarette business that may be connected to Secretary Allison. Mr. Bland said that the statements misrepresent the applicable law and affect state authority over taxation issues on tribal land. The letter stated that New Mexico has no authority to regulate sales on tribal land to non-tribal members. Mr. Bland said that his largest concern is that this approach is not consistent with the tax policy decisions that the legislature has made. He outlined two different approaches to taxation on tribal lands. He called one the "power approach" and the other the "policy approach". Carolyn J. Abeita, an attorney at VanAmberg, Rogers, Yepa, Abeita & Gomez, LLP, asked the committee to be mindful of outside influences that try to affect New Mexico policy.

Tobacco Master Settlement Agreement and Collection of Escrow Payments

Albert J. Lama, chief deputy attorney general, told the committee that Attorney General Gary King understands the structure of New Mexico as it relates to tax issues and tribal sovereignty. He explained how the cigarette tax system works in New Mexico. The excise tax on cigarettes is the responsibility of the distributor, and the escrow is the responsibility of the manufacturer. There is no tribal responsibility regarding the collection of taxes. Mr. Lama stated that it is important to collect escrow on sales from the manufacturer because that collection protects funding from the Master Settlement Agreement (MSA). The legislature relies on money from the MSA to fund various programs. The Attorney General's Office (AGO) is not attempting to change the structure that the legislature has put in place. The AGO seeks to ensure that statutes regarding collection of escrow are not open to interpretation. Mr. Lama stressed that the AGO is supportive of New Mexico tribes.

Upon a motion by Representative Rodella, seconded by Representative Madalena, the committee voted without objection to send a letter to Attorney General King requesting the continued support of tribal sovereignty, current tax policy in New Mexico and efforts for the state to continue receiving payments from the MSA.

Use of Impact Aid Set-Aside: A 50-State Comparison

Barbara J. Alvarez, a policy analyst at the IAD, told the committee that 29 states out of 50 are eligible to apply for impact aid based on Indian population. Ms. Alvarez contacted each of these states in order to create her presentation. Eleven states did not respond. Fourteen states reported that money received from impact aid goes directly to the school districts and does not flow through their respective public education departments. New Mexico is the only state that has a state equalization guarantee distribution. Districts turn in vouchers for impact aid to the Public Education Department, which uses the equalization formula to determine how much goes to the districts and how much stays at the state level. Out of 89 districts in the state, 69 districts receive some funding from impact aid.

In response to questions from the committee, Mr. Lara clarified that almost all other states fund education through property taxes. Because New Mexico funds education through its general fund, it has chosen to receive a credit for the impact aid that specifically makes up for the lack of property taxes on federal trust land.

Following the presentation by the IAD, Senator Pinto recessed the meeting at 4:06 p.m.

Friday, August 19 — To'hajiilee Chapter/Family Court, To'hajiilee Chapter

Senator Pinto reconvened the meeting at 9:38 a.m. Members of the committee introduced themselves. Raymond Secatero, president of the To'hajiilee Chapter, gave an invocation.

Senator Pinto invited Representative Chavez to chair the meeting because it took place in his district.

Welcome and Status Update — To'hajiilee Chapter

President Secatero told the committee that in the past, the To'hajiilee Chapter has been located in several different districts in New Mexico. He stated that every time the chapter becomes familiar with a new legislator, the chapter is shifted to a different district. The To'hajiilee Chapter currently has 17 projects under Navajo Nation programs. The president introduced Jim Platero, executive director of the Canoncito Band of Navajos Health Center, Inc., and asked him to elaborate on current health projects in the chapter.

Mr. Platero expressed concerns about projects that are stalled due to difficult processes within the Navajo Nation. He said that the new clinic allows for extended services on a limited basis. There are specific services that are only offered one or two days each week. The clinic would like to use third-party billing to provide revenue for increased services and infrastructure. He asked for funding assistance for planning and construction of roads and other forms of infrastructure.

In response to a question from a committee member, Mr. Platero stated that there are 1,600 residents served by the clinic and that people from the pueblos of Laguna and Acoma also visit the Canoncito clinic because of its modern equipment. Because the clinic can only serve approximately 30 people each day, this hinders the clinic's ability to serve the local community.

Delores Apache, president of To'hajiilee Economic Development, Inc., told the committee that the To'hajiilee Chapter has received money from the United States Department of Energy and the United States Department of Agriculture for a solar energy project. The To'hajiilee Chapter has responded to a request for proposals put out by PNM for 100 megawatts of energy, and the chapter is confident that its proposal will be strongly considered.

Nora Morris, community services coordinator for the To'hajiilee Chapter, asked the committee for support on projects proposed by the community. To'hajiilee Chapter students are sometimes bussed to school in Albuquerque because of the limited capacity of the To'hajiilee schools. Water and roads are also main priorities for the chapter.

Alamo Chapter — Status Update

Annabell Pino, vice president of the Alamo Chapter, asked for support from the committee. Ms. Pino stated that roads are very important to the Alamo Chapter because travel is required for many essential services, including health and education services. Power lines need to be upgraded in the Alamo Chapter, as well. Vice President Pino introduced Steve Wera, director of the Alamo Navajo School Board, Inc., who told the committee that the company is divided into

five divisions: school, early childhood, community service, a clinic and a radio station. The company also runs a water program. Mr. Wera expressed concerns about insufficient water and electrical systems and roads that are in terrible condition.

Vice President of the Navajo Nation

Rex Lee Jim, vice president of the Navajo Nation, said that he shares concerns with the people of the chapters of To'hajiilee and Alamo. He also said that the president of the Navajo Nation has charged him with education and health issues of the Navajo people. He emphasized the need for partnership and collection of resources in order to assist the To'hajiilee and Alamo chapters. The Navajo government is working on streamlining the project approval process to ensure that money is not returned to the state or federal governments due to the lengthy Navajo Nation approval process. There is a task force in place to address these issues.

Addressing the Needs of Native American Children

Daniel G. Moquin, staff attorney for the Judicial Branch of the Navajo Nation, told the committee that resource meetings are held periodically so that members of the community and others that can offer resources have an opportunity to work together to solve problems that cannot be solved by a single entity. Mr. Moquin also told the committee that the only Navajo Nation juvenile facility is located in Arizona. There are many Navajo children in New Mexico state juvenile facilities. Mr. Moquin recommended that a regional juvenile facility be built in the area so that Navajo children can return to their community and get culturally based resources. The To'hajiilee and Alamo chapters have very low per capita income and an unemployment rate of 72.5%. In the To'hajiilee Chapter, a new truancy protocol has been put in place as well as a number of other programs meant to benefit local Navajo youth. Mr. Moquin expressed concern about the road between the Alamo and To'hajiilee chapters, a dirt road that requires a lot of extra time for police officers and other emergency services. The legislative branch of the Navajo Nation would also like to see minor changes in the TIPF program so that regional projects are considered separately from individual community projects.

Jess Kirwin from the Navajo Nation Division of Social Services told the committee that many staff members have to travel between the Alamo and To'hajiilee chapters because there are not enough resources for them to have permanent positions in either place. In 2008, there were 937 domestic violence calls in eastern Navajo land, which has a population of approximately 36,000 people.

Regina Begay-Roanhorse, court administrator for the Judicial Branch of the Navajo Nation, told the committee that the chapters of To'hajiilee and Alamo share one prosecutor. There are only two police officers on duty at a time to serve the two communities. There is only one jail space, located in Crownpoint, that is used for sentencing, holding and pre-holds. Officers have to travel more than eight hours to transfer one person. Access to all resources includes extensive travel and often involves many flat tires because of damaged roads.

Ms. Begay-Roanhorse discussed the high crime rate in the community with the committee. The legislative branch is developing a Tribal Healing to Wellness Court and needs to hire a care coordinator. The branch hopes to receive funding through the CYFD. Ms. Begay-Roanhorse asked for additional funding to develop school-based programs to prevent substance abuse.

In response to a question from the committee, Mr. Moquin expressed concern that members of the community do not call police because it takes the officers too long to arrive. He stated that it is very difficult to quantify a problem with data because people have lost faith in the system. He also explained that the regional juvenile facility that he recommended would be used by all 52 Navajo Nation chapters located in New Mexico.

Senator Lovejoy made a motion for the committee to write a letter to the CYFD, requesting that it help fund and support a care coordinator for the Tribal Healing and Wellness Court in the To'hajiilee and Alamo chapters. The motion was seconded by Representative Madalena and passed without opposition.

Ramah Chapter — Status Update

Alvin Rafelito, director of community development for the Ramah Chapter, said that the chapter is looking at various funding sources for preplanning, planning, design and construction of projects, including a road project and school development. There are also several projects that have been initiated but cannot be completed due to lack of funds. Members of the committee offered suggestions about various funding sources that may be available to the chapter.

Cross-Commissioning Agreements

Regina Holyan, senior staff attorney for the Department of Justice, outlined various cross-commissioning agreements between the Navajo Nation and various state agencies. The Navajo Nation has cross-commissioning agreements with the McKinley County Police Department and the New Mexico State Police Division. The agreements allow agents from those departments and divisions to enforce Navajo traffic and criminal laws and allow officers from the Navajo Nation to enforce state laws. Ms. Holyan expressed a need for increased resources. In response to questions from members of the committee, Ms. Holyan clarified that if a person is pursued onto Navajo Nation land by a non-Navajo officer and apprehended, and that person is Navajo, then the person will be held until Navajo officers arrive.

Adjournment

There being no further business before the committee, the third meeting of the IAC for the 2011 interim adjourned at 3:03 p.m.

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

**October 6-7, 2011
Albuquerque, New Mexico**

The fourth meeting of the Indian Affairs Committee (IAC) was called to order by Representative James Roger Madalena, co-chair, on October 6, 2011 at 9:30 a.m. at the Sandia Resort & Casino at the Pueblo of Sandia.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair (10/7)
Rep. Ray Begaye
Rep. Sandra D. Jeff (10/6)
Sen. Lynda M. Lovejoy
Sen. Richard C. Martinez
Sen. George K. Munoz (10/6)
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez (10/6)
Rep. James E. Smith (10/6)

Absent

Sen. Rod Adair
Rep. Patricia A. Lundstrom
Sen. John C. Ryan

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Ernest H. Chavez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Sen. Eric G. Griego
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Rep. Antonio "Moe" Maestas
Sen. William E. Sharer

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

Staff

Damian Lara
Peter Kovnat
Cassandra Jones

Guests

The guest list is in the meeting file.

Handouts

Handouts and written testimony are in the meeting file.

Thursday, October 6 — Sandia Resort & Casino, Pueblo of Sandia

Committee members and staff introduced themselves. Governor Malcolm Montoya of the Pueblo of Sandia gave an invocation.

Status Update — Pueblo of Sandia

Governor Montoya outlined three educational areas of concern to the Pueblo of Sandia, the first two being truancy and dropouts. The federal Family Educational Rights and Privacy Act of 1974 allows for student records to be disclosed to tribal entities for the purposes of support and accountability of students and parents. Governor Montoya expressed concern that most public schools do not provide this information in a timely manner. The next issue addressed related to tribal language initiatives. The Pueblo of Sandia has developed and implemented two language programs using tribal, state and federal funds. Governor Montoya requested that the IAC continue to support the direction of Indian Education Act funding for the development and maintenance of language programs.

Governor Montoya also recommended that the Public Education Department (PED) ensure that federal impact aid funds are used to benefit Native American students.

Governor Montoya expressed concern about water resources in the area. He referred to a map provided to the committee, which illustrates the threat of depleted water supply due to the cumulative effect of existing wells and the potential for more wells in the area.

Governor Montoya also expressed concerns about "free play" in the Sandia casino. There are concerns that New Mexico tribal casinos may have to pay taxes on free play, a promotion offered at some casinos to patrons that allows them to play a limited amount without spending money.

Benefits of Indian Gaming Compacts — Present and Future

Charlie Dorame, executive director of Native Community Finance and former governor from the Pueblo of Tesuque, gave an overview of gaming compacts in New Mexico. The federal Indian Gaming Regulatory Act (IGRA) created a regulatory structure for Indian gaming in the United States and requires tribal-state compacts. Mr. Dorame outlined benefits of the 2007 amendments to the gaming compact, including extending the compacts for an additional 30 years, adding gaming machines, increasing hours of operations and reducing liability insurance requirements, as well as providing more transparency for compulsive gambling funds. Mr. Dorame also outlined the five purposes for which tribal governments use revenues from tribal gaming: (1) to fund tribal government services; (2) to promote tribal welfare; (3) to promote tribal economic development; (4) to make charitable donations; and (5) to help fund local government agencies.

Maxine Velasquez, general counsel for the Pueblo of Tesuque, was invited to help clarify free play. Ms. Velasquez told the committee that issues of free play will be worked out between each gaming tribe and the Gaming Control Board. In response to a question from a committee member, Ms. Velasquez stated that there are tribal liaisons present at meetings of the Gaming Control Board. Ms. Velasquez also explained that casinos are required to have specific amounts of insurance if they sell liquor. Mr. Dorame told the committee that tribal casinos paid \$63

million to the state last year and that three percent of every dollar given to capital outlay is from tribal gaming. Ms. Velasquez explained that .25 percent of the tribes' net winnings are used annually for compulsive gambling prevention in New Mexico. Mr. Dorame stated that he would like to come before the committee with representatives from the Responsible Gaming Association of New Mexico to provide committee members with more information.

A committee member expressed concern about how gambling prevention money is spent by some of the casinos and made suggestions for better use of the money. A member of the committee asked how lawsuits with non-tribal members are handled. Ms. Velasquez told the committee that gaming compacts protect casinos and their visitors. A committee member expressed a desire to see a Native American serving on the Gaming Control Board. In response to a question from the committee, Mr. Dorame explained that the 2001 gaming compact will expire in 2015 while the 2007 compact will expire in 2037. Mr. Dorame also explained that the revenue share is calculated based on net winnings and that payments are made to the state every quarter.

Refund Anticipation Check Abuses in Indian Country

Marvin Ginn, executive director of Native Community Finance, told the committee that there are four certified community development financial institutions in New Mexico. These institutions offer community-oriented loans as well as education and assistance to communities. Mr. Ginn told the committee that the majority of refund anticipation loans and refund anticipation checks are issued in Guadalupe, Cibola, Eddy and McKinley counties, which all have high Native American populations.

The First Nations Development Institute (FNDI) requested that some of its clients file their taxes through other tax agencies and report their experiences. Their expenses were paid by the FNDI. Twelve clients had their taxes prepared by different businesses. Mr. Ginn stated that overall tax preparation was very poor and included inaccuracies, failures to include pertinent information and failures to account for money earned on a reservation by a member of a tribe.

Mr. Ginn recommends that tax preparers be required to disclose all fees, and he recommends more stringent state requirements for tax preparers. He also recommends that tax preparers should have a code of conduct. In response to questions from the committee, Mr. Ginn stated that most service fees for basic tax preparation range between \$50.00 and \$150. He also told the committee that the Volunteer Income Tax Assistance Program (VITA) prepared 682 state and federal tax returns in New Mexico last year. Information on the VITA can be found on the web site for Tax Help New Mexico.

Assisting Native Language Survival Programs

Christine P. Sims from the American Indian Language Policy Research and Teacher Training Center at the University of New Mexico (UNM) told the committee members that tribes need additional resources to begin developing language immersion programs. The center focuses on five performance areas: (1) conducting workshops; (2) maintaining a database of key participants and programs; (3) planning training curricula; (4) providing technical assistance for communities, tribes and programs; and (5) collecting evaluation survey data to determine future needs. The center receives grants from the United States Health and Human Services Department as well as the Indian Education Division of the PED. Seventeen New Mexico tribes

have signed a memorandum of understanding with the PED to put in place a process that certifies native language speakers as proficient so they can apply for certification to teach in public schools. The center has also discussed concerns about native language programs with the Children, Youth and Families Department and the Indian Affairs Department (IAD). The center is seeking IAD support for continuing native language training services as well as a certificate program for native speakers that teach language at the UNM College of Education. The center is also seeking funding to support native internships, to develop a web site dedicated to native language issues, to support the development of a local statewide organization of native language teachers and to pursue federal and private foundation grants.

In response to questions from members of the committee, Ms. Sims stated that the center has received a \$25,000 grant from the IAD. Arthur P. Allison, secretary-designate of Indian affairs, told the committee that the grant comes out of IAD general funds. A member of the committee suggested that Ms. Sims recommend some Native Americans with appropriate qualifications to fill positions in the PED. A committee member expressed concern about limited resources and the necessity of prioritizing needs and stressed the importance of creating appropriate legislation to address the needs of Native American children in the public school system. Dick Howell, dean of the UNM College of Education, expressed his support for the American Indian Language Policy Research and Teacher Training Center. In response to questions from committee members, Sandra Freeland, education administrator, PED, stated that the PED is working to create a strategic plan that incorporates Indian education into every division within the PED instead of separating Indian education from the department.

Improving Access to Dental Services in Tribal Communities

Barbara Webber, executive director, Health Action New Mexico, related personal stories to the committee in order to illustrate the need for dental health providers in New Mexico. New Mexico is ranked forty-ninth in the United States in the number of dentists per capita. Thirty percent of New Mexico's dental work force is over the age of 60. Ms. Webber explained that dental therapists are dental providers that can provide cost-effective dental services to rural and tribal communities. Their training involves three years of education, training and clinical experience. A state law would be required in order to allow dental therapists to practice in New Mexico. Michael E. Bird, a public health consultant and member of the Pueblo of Santo Domingo, told the committee that Alaska has implemented a dental therapist program with positive results. Terry Batliner, D.D.S., associate director for the Center for Native Oral Health, explained in detail the scope of a dental therapist and gave a brief overview of the educational requirements, which include periodic recertification, 400 hours of preceptorship and two years of training. Ron Romero, D.D.S., told the committee that the primary reasons reported for Native Americans not getting dental care include long waits for appointments and cultural issues. Dr. Romero reported several challenges to oral health in New Mexico, including an aging work force, lack of dental schools and disparities in access to dental care. Dr. Romero recommended that New Mexico expand oral health prevention and education services as well as improve access to dental care. DezBaaAltaalkii Damon, a staff dentist with the Sage Memorial Hospital dental clinic in Ganado, Arizona, and a previous employee of the Yukon-Kuskokwim Health Corporation in Bethel, Alaska, related her personal experience while working with dental therapists in Bethel. Dr. Damon told the committee that dental therapists are culturally competent providers that participate in a strong support and mentoring system to help them succeed.

A member of the committee expressed concern about difficulties dentists and dental hygienists encounter when trying to become licensed to work in New Mexico. The committee member asked for clarification regarding the different scopes of practice of dental hygienists and dental therapists. Dr. Romero told the committee that dental therapists are mid-level providers. They can do simple fillings and extractions, as well as other procedures that cannot be performed by a hygienist, but they would not be able to perform surgeries or other complicated procedures.

Improving Access to Dental Services to Tribal Communities

Mark Moores, executive director, New Mexico Dental Association (NMDA), told the committee that the NMDA hosted a large charitable event last year that gave away \$1.3 million in dental services over two days. Stephanie Poston, a consultant with Poston and Associates, LLC, worked with native communities to make them aware of the Mission of Mercy charitable event. She expressed concerns about oral health care and the lack of funding for the Indian Health Service.

Dr. Shelly Fritz, president, NMDA, stated that it is difficult for a dentist to come to New Mexico. UNM has created pre-dental programs in order to encourage enrollment in dental school. The NMDA has also increased the number of programs in the state. Dr. Fritz expressed a desire for an expanded residency program at UNM. A member of the committee asked the presenters about their positions on dental therapists. Dr. Fritz stated that the NMDA is addressing state problems regarding oral health without new programs and that creating a program for dental therapists is unnecessary. Hygienists are now able to work without a dentist present. Legislation has passed that provides for a health coordinator position that will focus on preventive dentistry. Members of the committee suggested that the dental therapist approach, and various other approaches suggested by the NMDA to meet the concerns of the state, should be looked at and considered carefully. Kristin Christy from the Union County Health and Wellness Network expressed her support for a dental therapist program in New Mexico and stated that the dental therapist program will meet the needs of Union County as well as other rural areas.

Public Comment

Dr. Howard Rhoads from the De Baca Family Practice Clinic in Fort Sumner expressed support for the dental therapist program. He related his personal account of the program in Alaska.

Stephen Moffat told the committee a story about a young man from Crownpoint who was unable to get immediate dental care and ended up in a coma as a result. Mr. Moffat stated that the NMDA has no reason to oppose the dental therapist program and that the program would help to address the needs of New Mexicans.

Jerry Harrison with New Mexico Health Resources said that neither the NMDA nor the dental therapist program can solve all of New Mexico's needs. He told the committee that 340 of a total of 700 dentists practicing in New Mexico live in Albuquerque.

Mim Dixon, a consultant, stated that a dental therapist program would provide good opportunities for New Mexico but would not negate the need for the NMDA. She stated that

tribes closest to Albuquerque are able to afford dentists while those that are remote are not able to afford dentists.

Bob Giannini, president, WREB, a national dental and dental hygiene testing agency, expressed support of the dental therapist program. Dr. Giannini also suggested that New Mexico needs a dental school.

Representative Madalena recessed the meeting at 5:16 p.m.

Friday, October 7 — Southwestern Indian Polytechnic Institute (SIPI)

Representative Madalena reconvened the meeting at 9:25 a.m. Committee members and staff introduced themselves. Raymond Gachupin, former governor of the Pueblo of Jemez, gave an invocation.

SIPI Status Update

Dr. Sherry Allison, president of SIPI, introduced her staff. She told the committee that this year is the fortieth anniversary of SIPI, which is a federally operated school that is funded by the federal government, and the student population of SIPI is entirely Native American. Approximately 65 different tribes are represented in the student body, and students do not pay tuition, but they do pay fees. SIPI's accreditation status was revoked in July 2010, but SIPI was awarded candidacy status, which allowed the school to remain funded and to continue educating students. Students remain eligible for financial aid. SIPI is also able to transfer credits to other institutions, providing that those institutions will accept them. President Allison told the committee that SIPI has now met all of the requirements to regain accreditation and that the staff is still working to improve the education and administration at SIPI.

A member of the committee asked President Allison why SIPI's accreditation had been revoked. President Allison told the committee that SIPI lost its accreditation due to inconsistent leadership and lack of adequate funding. In response to a question from a committee member, Valerie Montoya, vice president of academic programs, SIPI, stated that SIPI has sent letters to other colleges and universities to verify that those institutions will continue to accept SIPI credits. Only one institution has denied SIPI credits. Ms. Montoya also told the committee that students receive state scholarships but are not entitled to lottery scholarships. President Allison told the committee that SIPI has the only vision care program in the state and that SIPI is working to increase job placement and job success. Several members of the committee asked about SIPI funding. Monte Monteith, vice president of college operations, SIPI, told the committee that SIPI is funded through general obligation bonds. Several members of the committee suggested that SIPI look into requirements for tribal infrastructure funds. In response to a question from a member of the committee, Mr. Monteith stated that SIPI had undergone changes in its accounting system that allow SIPI to better account for where and how money is spent. President Allison told the committee that SIPI receives \$6.4 million in funding regardless of enrollment. SIPI is funded by the United States Department of the Interior, and only enrolled members of federally recognized tribes are eligible for attendance.

Minutes

Upon a motion by Representative Powdrell-Culbert, seconded by Representative Smith, the committee approved the minutes from the third meeting of the IAC for the 2011 interim.

Recruitment and Retention of Native American Students: Status of Legislative Lottery Scholarships and American Indian Post-Secondary Education Fund

Dr. Jose Z. Garcia, secretary of higher education, told the committee that the Higher Education Department (HED) has created a new funding formula for higher education. The formula focuses on measuring performance rather than the cost of education and addresses the number of degrees and certificates that a university issues. Colleges and universities receive incentives for closing the achievement gap. Glenn Walters, deputy secretary, HED, told the committee that the HED has been working with Secretary Allison of the IAD to address issues that relate to Native Americans. Karen Kennedy, a financial analyst for the HED, told the committee that the primary financial aid source is the federal Pell Grant, which is \$5,550 for a student with no expected family contribution. The Pell program is beginning to limit the number of semesters that a student is allowed to receive Pell money. Other financial aid programs include the Robert C. Byrd Honors Scholarship, which expired in fiscal year 2010, and Science and Mathematics Access to Retain Talent (SMART) grants. Last year, \$53 million was spent on lottery scholarships, which was \$12 million over lottery revenues for the year. There is still money available for the lottery scholarship because in prior years, scholarship expenditures were less than lottery revenue.

In response to a question from a committee member, Secretary Garcia stated that the funding formula provides extra monetary incentives to colleges and universities when a person is considered an "at risk" graduate. This includes Hispanics, Native Americans, African Americans and other minorities and Caucasians that are at risk of not succeeding. The new funding formula also encourages degrees in science, technology, engineering and math.

Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP)

Theresa L. Acker, outreach coordinator, GEAR UP, told the committee that there are 29 GEAR UP programs across the state. The programs have followed students from middle school through graduation. Twenty-two percent of the 5,000 students in GEAR UP are Native American. GEAR UP schools have a higher graduation rate than the statewide average and higher promotion rates from grade 10 to grade 11. Student leadership programs allow students to spend \$5,000 to create and implement a program for their schools. In response to a question from a committee member, Ms. Acker stated that GEAR UP offers credit recovery programs, usually in the form of online courses or software, that allows students to catch up during the regular school day. Ms. Acker told the committee that \$900,000 is spent every year on administrative costs, and \$2 million is distributed among the 22 school districts. GEAR UP has 10 staff members, a director, an outreach director and several regional coordinators.

Enhancing the Ability of American Indian Students to Succeed

Pamela Agoyo, director of American Indian student services and special assistant to the president for American Indian affairs at UNM, told the committee that Native American students comprise six percent of the student body on the main campus. In 1999, UNM made an agreement with the Navajo Nation that the Navajo Nation would provide funding to assist in acclimating students to college life before they begin attending college. UNM has used this

money to provide a program that allows students to live on campus and take classes while earning eight hours of college credits. Staff for the program includes two graduate students and eight undergraduate students. In response to a question from the committee, Ms. Agoyo stated that most Native American students prefer to live off-campus after their first year.

American Indian Student Center

Justin McHorse, director, American Indian Program, New Mexico State University, told the committee that the American Indian Program focuses on assisting and educating students to enable them to get the most out of their college experience. The program offers academic advising and encourages a sense of professionalism. Scholarships are available to Native American students through the program. The American Indian Student Center (AISC) has been constructed to house the program and to serve as an alternative home for Native American students. The facility is 7,451 square feet and includes a common room, a kitchen and a dedicated study area.

In response to questions from the committee, Mr. McHorse stated that the original facility plans included 18,600 square feet and that there is a plan to expand the existing facility in the future. A member of the committee suggested that the AISC seek art for the facility through the state's Art in Public Places Program. Mr. McHorse stated that there is a member of the financial aid department that assists Native American students. The American Indian Program has three full-time staff members as well as two student employees. The AISC has recently updated all of the computers in the center.

Adjournment

There being no further business before the committee, the fourth meeting of the IAC for the 2011 interim adjourned at 2:45 p.m.

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

**October 28, 2011
State Capitol, Room 322
Santa Fe**

The fifth meeting of the Indian Affairs Committee was called to order by Representative James Roger Madalena, co-chair, on October 28, 2011 at 10:10 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Rep. James Roger Madalena, Co-Chair
Sen. Rod Adair
Rep. Ray Begaye
Rep. Sandra D. Jeff
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. James E. Smith

Absent

Sen. John Pinto, Co-Chair
Sen. George K. Munoz

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Ernest H. Chavez
Rep. Ben Lujan
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Sen. Eric G. Griego
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Rep. Antonio "Moe" Maestas
Sen. William E. Sharer

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Staff

Damian Lara
Peter Kovnat
Cassandra Jones

Guests

The guest list is in the meeting file.

Handouts

Handouts and written testimony are in the meeting file.

Friday, October 28

Committee and staff members introduced themselves.

Permitting of In Situ Leaching (ISL) Uranium Mining

Jerry Schoeppner, acting bureau chief of the Ground Water Quality Bureau of the Department of Environment (NMED), told the committee that a company must have a radioactive materials license from the Nuclear Regulatory Commission (NRC), an aquifer exemption from the United States Environmental Protection Agency (EPA) and a groundwater discharge permit, also known as an underground injection control (UIC) permit, from the NMED in order to begin ISL mining in New Mexico. The NMED considers protection of water aquifers, aquifer restoration and financial assurance throughout the permitting process. During ISL mining of uranium, wells are set up in a way that is designed to manage the flow of groundwater to eliminate contamination of the water surrounding the ISL site. Uranium resources, Inc., (URI) was issued a radioactive materials license from the NRC and an aquifer exemption from the EPA in 1989. A UIC permit from the NMED was issued the same year. A renewal application for the 1989 permit is currently under consideration by the NMED. URI submitted a revised renewal application to the NMED in April 2011. The administrative portion of the application is complete, and the NMED is conducting a technical review. Consultations with the Navajo Nation, the Hopi tribe and the Pueblo of Acoma have been initiated or scheduled. Mr. Schoeppner presented a map to the committee that showed the site, Section 8, that is under consideration for URI's permit. Five wells in the site have been sampled, four of which had water with uranium levels higher than the drinking water standards established by the EPA.

Mr. Schoeppner told the committee that 27 ISL mines have been permitted in Texas. There have been 80 production authorization areas (PAAs), 76 that have been operated. Fifty-one of the 76 PAAs have been restored to acceptable values of contaminants and total dissolved solids (TDS). Fifty of the PAAs required an amendment to close. Amendments are issued when the maximum contaminant level (MCL) is higher than the baseline values established before mining. Mr. Schoeppner told the committee that there are limitations to the data set that determine baselines before the mining operation begins.

In response to questions from members of the committee, Mr. Schoeppner explained that water can be restored by pumping out the fluids that have been injected so that they are replaced by fresh water. The water is treated and injected back into the ground. The goal for site restoration is for the water to be at baseline values or drinking water standards set by the EPA. The NMED's permitting process involves constant communication between the department and the applicant. There is no maximum length of time for the NMED permitting process. The NMED provides oversight for the work done by the applicant, but it does not test or take independent measurements. The ore body in Section 8 is approximately 800 feet deep. When a company installs wells, it is required to block off areas of an aquifer that mingle naturally to prevent contamination outside the ISL site. Mr. Schoeppner told the committee that uranium currently sells for around \$48.00 per pound. The NMED is currently evaluating only one application for ISL mining in New Mexico.

A member of the committee asked Mr. Schoeppner to identify changes in regulations that have occurred since the 1989 permit was issued. Mr. Schoeppner told the committee that

maximum uranium content of uranium in drinking water allowed by EPA standards has changed from five milligrams per liter to .03 milligrams per liter. Information about restoration has also increased since the initial issuance of the UIC permit to URI. In response to questions from a member of the committee, Ryan Flynn, general counsel for the NMED, clarified that in order for the EPA to issue an aquifer exemption, it must first determine that the water in the aquifer is not drinking water and is not likely to serve as a source of drinking water in the future because of the physical characteristics of the aquifer. Mr. Schoeppner stated that water in New Mexico is protected by law if it contains less than 10,000 milligrams per liter of TDS. Texas and Wyoming also have ISL mining operations but do not protect water with similar levels of TDS.

Mr. Schoeppner told the committee that ISL sites have data that support the belief that the water in the aquifer has elevated levels of uranium. Additional data are not collected until permits are issued. The Navajo Nation has a five-year plan to address legacy sites from conventional uranium mining. These legacy sites are separate from the ISL permitting process and have been funded by the EPA. Water that contains high levels of uranium has been linked to cancer as well as to kidney problems. EPA standards for drinking water were determined based on the conclusions of multiple toxicological studies.

In response to a question from a member of the committee, Mr. Flynn stated that the NMED's tribal liaison is Charles Lundstrom. The NMED has met with the Navajo Nation to discuss concerns regarding URI's ISL mining permit. Mr. Flynn also expressed the willingness of the NMED to consider any information that tribal entities would like to submit to the department. The NMED considers historical data as well as current data to determine the viability of a site for ISL uranium mining. After an area has been mined, the company is required to monitor the area for an additional two years to ensure that contaminant levels do not rise above restoration goals.

A member of the committee remarked that ISL mining companies would contribute to the state economy and that the mining industry should not be held to unreasonable standards. A committee member stated that the permitting process should be scientific and that if ISL mining is allowed in New Mexico, standards should be set and restoration tables should not be amended. The member also stated that restoration tables should be set at a policy level rather than at an appointed board level.

Geology of ISL Uranium Mining

Dr. Dana S. Ulmer-Scholle, associate research professor with the Department of Earth and Environmental Science at the New Mexico Institute of Mining and Technology, told the committee that uranium is highly mobile, naturally occurring and easily oxidized. New Mexico is highly enriched in uranium that naturally occurs in rocks and soils on the surface as well as underground. Not all ore bodies can be mined with ISL technology. The environment in which an ore body exists is very complex, and research must be done to identify bodies and their relationship to one another before ISL should be considered. The United States Geological Survey (USGS) conducted some research in the 1960s and 1970s, but that information is outdated due to better equipment, models and technologies that are available today.

The ISL process involves an injector well that injects oxidizing fluid into the ground in order to dissolve an ore body. These liquids can include hydrogen peroxide, carbon dioxide or oxygen.

ISL operations in the United States generally use alkaline solutions that include sodium bicarbonate-carbonate and ammonium carbonate. Recovery wells pump an amount of water out of the ground that is greater than the amount that was pumped into the ground by the injector wells. This process creates a cone of depression that minimizes the chance of off-site escape of oxidizing fluids. Monitor wells are placed outside of this area to detect any fluids that may escape the ISL site. Fluid containing dissolved uranium is then pumped out of the ground and is passed through uranium-specific ion-exchange pellets to remove the uranium from the solution. Fluid chemistries are checked, and the water is injected back into the ground. Reducing agents or other methods are used to bring ground water back to baseline conditions after ISL mining.

Dr. Ulmer-Scholle told the committee that New Mexico would benefit from more studies that concentrate on ISL mining remediation. Small-scale ISL tests would also provide useful information. Additional research could provide a means for making methods of remediation more effective and less costly. These methods could then be applied to water that is impaired from natural causes as well as those that are impaired from ISL mining. Dr. Ulmer-Scholle listed positive aspects of ISL, including minimal surface impact, short-term site usage, less expensive remediation, less radiation exposure and the employment of a small, highly trained work force. Negative aspects of ISL mining include possible local contamination of aquifers, diminished ground water quality, necessary disposal of wastewater and possible radon and radium exposure problems, as well as the difficulties of returning a site to baseline conditions. Dr. Ulmer-Scholle recommended that the state take certain precautions before allowing ISL mining, including expanded and continued research on the geology, hydrology and geochemistry in the state, more studies that concentrate on the remediation of well fields, increased monitoring terms of well fields, regulations that protect aquifers and small-scale ISL tests. Dr. J. Michael Timmons, associate director for mapping programs at the New Mexico Bureau of Geology and Mineral Resources of the New Mexico Institute of Mining and Technology, told the committee that research should specifically concentrate on the pathways between ore bodies.

A member of the committee suggested that the New Mexico Institute of Mining and Technology hold a decision-makers conference regarding uranium mining. Dr. Timmons told the committee that the program has run out of funding but would focus on uranium mining if state funding is appropriated.

In response to a question from a member of the committee, Dr. Ulmer-Scholle stated that New Mexico conducts all of its own research regarding uranium mining. Because the states that participate in uranium mining are different geologically, a model that is appropriate for one may not be appropriate for another. Regional and site-specific studies must be done by each state.

A member of the committee asked if New Mexico is less prepared for ISL mining than other states that currently allow ISL mining. Nathan Myers, supervising hydrologist from the USGS, told the committee that studies conducted by companies prior to mining are site-specific. Because the company does not study the entire aquifer, important details may go unnoticed. Mr. Myers stated that New Mexico may need a comprehensive set of data that can provide a framework for site-specific studies.

A member of the committee asked if it was possible for water contaminated with uranium due to the injection of oxidizing agents to travel. Dr. Ulmer-Scholle stated that underground

fractures can move fluids. In response to a question from the committee, Mr. Myers stated that because mines are different, each instance of mining must be treated differently. While some techniques and technologies are transferable, there must be allowances for a difference in process based on a specific mine. In response to a question from a member of the committee, Dr. Ulmer-Scholle stated that uranium naturally occurs in New Mexico and would likely reoccur after it had been mined out of a specific area.

Mr. Myers stated that while studies have been done on a site-specific scale, there is only a small amount of information about the geology of the state. In response to a question from a committee member, Dr. Ulmer-Scholle told the committee that uranium mining is more controversial in New Mexico than in other states because of New Mexico's unique history with conventional mining. ISL mining is less invasive and causes less damage to the landscape, but it is still a matter of concern for many residents of New Mexico. A member of the committee remarked that some of these fears are unfounded and that ISL mining could be as successful in New Mexico as it has been in other states. In response to a question from a committee member, Dr. Ulmer-Scholle stated that the private sector generally stops monitoring mining sites eighteen months to two years after mining stops. She suggested that long-term monitoring of these sites, by the company or an independent entity, could be beneficial.

A member of the committee stated that several incidents have occurred in other states due to ISL mining. Surface spills have occurred at three sites in Wyoming, three sites in Texas and one site in Nebraska. In response to a question from a committee member, Dr. Ulmer-Scholle stated that Texas has drilled approximately 88 wells, one of which was brought back to baseline. Eighty-seven of the wells had some value, though not necessarily uranium, that was not recovered to baseline conditions. Dr. Ulmer-Scholle also told the committee that Diné College has done a study with the Navajo Nation that addresses uranium as it relates to cancer populations and kidney disease.

Indian Affairs Department Report on Uranium Mining

Rebecca Martinez, capital outlay manager for the Indian Affairs Department (IAD), outlined the amount of money spent on the Navajo Nation for a uranium workers compensation program. The program assists 40 chapters where miners, millers and others affected by radiation are registered. Participants in the program are offered home and nursing home visits to update claims. Six hundred fifteen thousand people have been served by the program since 2005. The program budget was cut in 2011. A member of the committee requested that the IAD provide information regarding the cost of the uranium workers compensation since 1998.

An Industry Perspective

Rich Van Horn, vice president for health, safety, environment and public affairs at URI, told the committee that URI has been in business since 1977. URI currently has three operations in the restoration phase, and it has completely restored two other operations. The Section 8 project, located near Church Rock, will employ approximately 100 people and will be the first uranium production in New Mexico in more than thirty years. The company provides high-paying and high-quality jobs. Mr. Van Horn also remarked that ISL mining does not generate legacy issues like conventional mining. URI hires a staff of geologists and engineers to investigate a site and address the concerns of community members. URI will work in a small pocket of the aquifer, which is studied in detail.

Section 8 was purchased by URI in 1986. A permit for UIC was issued by the NMED in 1989. Litigation regarding ISL mining by URI has gone on for more than 10 years since the issuance of the permit. URI has been conducting ISL mining in Texas since 1978. Wells that are drilled in order to mine a site are also used for site restoration. Contaminated water is pumped through a reverse osmosis unit during restoration and then injected back into the ground.

Dr. Daniel Erskine, principal geologist and geochemist at INTERA, Inc., told the committee that wells are installed prior to ISL mining in order to define a baseline and provide a restoration target. More wells are installed as the mining process proceeds. Because baseline values are highly variable within an ore body, an average baseline calculated from all of the wells may not give an accurate picture of the condition of the site prior to mining. In response to a question from a committee member, Mr. Van Horn told the committee that current regulations provide a framework for safe ISL mining in New Mexico. He also stated that those ISL mining operations conducted in other states have been conducted very safely. He said that New Mexico is ready to move forward with the ISL mining of Section 8.

A committee member asked the presenters why New Mexico has not had ISL mining before, even though ISL has been occurring in other states for approximately 30 years. Mr. Van Horn told the committee that when ISL was initially developed, uranium was being mined in New Mexico by conventional mining methods. An ISL test was conducted in a small portion of Section 9. ISL mining would likely have developed in New Mexico at that time if the uranium market had not suffered. Once the market recovered, URI tried to begin mining, but it has not been able to do so due to ongoing litigation. Mr. Van Horn told the committee that Texas does allow amendments to restoration tables, but only after a process that determines that the benefit of amending the restoration table outweighs the consequences. Often, the restoration table is amended to conserve water. In response to a question from a committee member, Mr. Van Horn stated that conventional mining costs at least three times more than ISL mining. Mr. Van Horn also told the committee that URI has worked to help clean up Section 17, a historic site, even though URI has never mined in that area.

A Community Special Interest Perspective

Leona Morgan, coordinator for Eastern Navajo Diné Against Uranium Mining (ENDAUM), told the committee that ENDAUM is a nonprofit organization led by the Navajo Nation. ENDAUM works with the Multicultural Alliance for a Safe Environment (MASE) to serve a large constituency of northwestern New Mexico through advocacy for a safe environment. ENDAUM was established in 1994 as a response to URI's proposed ISL uranium mining near Crownpoint and Church Rock. Ms. Morgan said that ENDAUM is focused on protecting the water of the eastern region of the Navajo Nation from uranium mining and processing. Ms. Morgan told the committee that many community members live within two miles of the URI processing plant. The MASE is requesting that several agencies conduct comprehensive health studies before any mining occurs. The MASE also works to ensure that cultural uses of Navajo land and water are respected. Ms. Morgan told the committee that indigenous people have a culture and a way of life that focuses on living in harmony with the environment. Indigenous people in New Mexico have been left with a legacy of uranium mining and milling activities. On the Navajo Nation, there are more than 1,100 uranium sites associated with approximately 520 abandoned uranium mines. A five-year plan was developed to assess and remediate uranium

contamination on the Navajo Nation. Because ENDAUM is a grassroots organization, it does not have the resources to test and monitor water quality and to do health studies. The MASE advocates for funding to do studies in the region. ENDAUM is concerned that new mining will create more contamination. Ms. Morgan requested that future committee meetings regarding uranium mining be held in the areas where mining would occur so that community members have the ability to express their concerns.

A member of the committee expressed concern that Ms. Morgan was the last presenter on the agenda. Several members of the committee echoed this sentiment. Members of the committee requested that Ms. Morgan and other representatives of the eastern region of the Navajo Nation be placed on the agenda for the sixth meeting of the IAC. Representative Madalena invited Ms. Morgan to speak to the committee at 11:00 a.m. on Wednesday, November 2, 2011. Ms. Morgan accepted the invitation.

Public Comment

Stephen B. Etsitty, executive director of the Navajo Nation Environmental Protection Agency (NNEPA), told the committee that URI believes it has acquired all licenses and permits necessary to conduct ISL mining in Section 8, though the NMED has not issued a renewal permit to URI. Section 17, which is located immediately south of Section 8, is on Navajo Nation trust land. When uranium mining is planned on private lands located near Navajo lands, it is essential that the State of New Mexico work cooperatively with the Navajo Nation to ensure that human health and shared environments are protected. While the Navajo Nation does not have direct regulatory control over the land in Section 8, it does have an interest in protecting the health and welfare of people and lands located near the proposed ISL location. Mr. Etsitty told the committee that the Navajo Nation understands the process of ISL mining and is concerned about the potential for contamination that accompanies the process. It is critical to establish a reliable baseline measure for future comparisons of the ground water. The historic lack of solid baseline values at conventional mining sites has made it difficult for the NNEPA to dispute arbitrary cleanup standards that do not correlate with conditions prior to mining. One of the most critical parts of the ISL process is to control the movement of the chemical solutions within the aquifer. When chemical solutions escape the site, it is considered to be an excursion, which can lead to the contamination of the surrounding ground water systems. The most common causes of excursions are old exploration holes that are not plugged properly. Because Section 8 has been mined for uranium before, there are likely many old exploration holes, which could potentially compromise the ISL mining process. Mr. Etsitty requested that the committee and the legislature carefully consider ISL mining in Section 8. He suggested that URI and the NMED should reexamine the proposed mine site and the surrounding communities. The Navajo Nation has discovered radioactive waste materials on lands that URI mined in the past. The NNEPA has worked with URI to characterize these waste materials. Mr. Etsitty told the committee that the NNEPA strongly recommends that URI and the NMED fully characterize and clean up this waste before issuing a UIC permit for ISL mining in Section 8. Mr. Etsitty also requested that if ISL mining is allowed, regulations and protective controls be built into legislation to ensure that the surrounding community and environment are protected from the types of devastation that was caused by previous owners and operators of uranium mines.

Don Hyde requested that the committee amend New Mexico law to extend requirements for restoration, stabilization and independent monitoring of closed mines to a time span greater than

two years. He also suggested that New Mexico law should change regulations to require companies to restore ISL mining sites to the lesser baseline value or to EPA drinking water standards. He told the committee that, as a resident of Gallup, he is very concerned about the quality of water in the area. He requested that the NMED deny the renewal UIC permit for URI.

Adjournment

There being no further business before the committee, the fifth meeting of the IAC for the 2011 interim adjourned at 6:05 p.m.

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

**November 1-2, 2011
Room 322, State Capitol
Santa Fe**

The sixth meeting of the Indian Affairs Committee (IAC) was called to order by Senator John Pinto, co-chair, on November 1, 2011 at 10:02 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair (11/1)
Rep. Ray Begaye
Rep. Sandra D. Jeff (11/2)
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Sen. George K. Munoz (11/2)
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez

Absent

Sen. John C. Ryan
Rep. James E. Smith

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Ernest H. Chavez
Rep. Ben Lujan
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Sen. Eric G. Griego
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Rep. Antonio "Moe" Maestas
Sen. William E. Sharer

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

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Staff

Damian Lara
Peter Kovnat
Cassandra Jones

Guests

The guest list is in the meeting file.

Handouts

Handouts and written testimony are in the meeting file.

Tuesday, November 1

Committee and staff members introduced themselves. Walter Dasheno, governor of the Pueblo of Santa Clara, gave an invocation.

Recovery Work at the Pueblo of Santa Clara: Aftermath of the Las Conchas Fire

Governor Dasheno told the committee that the Pueblo of Santa Clara was devastated by the Las Conchas fire, the largest fire in New Mexico history. Seventeen thousand acres of the pueblo's spiritual sanctuary were affected by the fire. Many of the culturally significant plants, herbs and wildlife species have been affected. Governor Dasheno stated that the Las Conchas fire has drastically altered the pueblo's traditional way of life.

Due to the Las Conchas fire, soil at the Pueblo of Santa Clara is hydrophobic. The soil repels rather than absorbs water, which drastically increases the risk of floods with heavy debris. The pueblo has installed safety measures with the assistance of the United States Army Corps of Engineers. The pueblo experienced a flood on August 21, 2011, which trapped four heavy equipment personnel in over six feet of water. The flood also damaged over 20 miles of road. Governor Dasheno told the committee that the Pueblo of Santa Clara has been pursuing and implementing measures to adequately protect the people and land of the pueblo.

Michael S. Duvall, secretary of homeland security and emergency management, told the committee that the Las Conchas fire began on June 26, 2011. The state activated its Emergency Operations Center to begin supporting response operations in Sandoval, Los Alamos and Rio Arriba counties as well as the surrounding pueblos. On June 28, Governor Susana Martinez signed an executive order declaring a state of emergency for the Las Conchas fire. On July 1, the first reports of fire spotting on the Pueblo of Santa Clara's land were reported. On July 7, the executive order was amended to include the Pueblo of Santa Clara in the list of disaster areas. Pueblo officials and tribal members were included on the firefighting team. It is estimated that two-thirds of the agricultural watershed on pueblo lands was affected by the Las Conchas fire. The Homeland Security and Emergency Management Department (HSEMD) has worked to obtain funding from sources such as the Federal Emergency Management Agency (FEMA) in the form of fire management assistance grants (FMAG) to respond to the Las Conchas fire. Insurance, federal entities and FMAGs are funding much of the restoration efforts for jurisdictions affected by the Las Conchas fire. The Pueblo of Santa Clara's documented costs under the FMAG are approximately \$120,000, 75 percent of which is covered by the FMAG.

Burned area emergency rehabilitation teams composed of specially trained professionals were deployed to address the threat posed by burn scars. On July 8, 2011, Governor Martinez signed an executive order to provide emergency state funds for flood mitigation efforts. The executive order made \$750,000 in emergency funds available through the HSEMD to assist local jurisdictions. The Pueblo of Santa Clara has claimed approximately \$78,000 in emergency flood mitigation costs. Seventy-five percent of these costs are covered under the executive order. The Pueblo of Santa Clara has experienced flooding, which has been exacerbated by the Las Conchas

burn scar. The largest flood events on the Pueblo of Santa Clara occurred on August 22, 23 and 26. On August 26, partial evacuations were ordered by the pueblo. The areas protected by emergency mitigation efforts did not sustain significant damage. However, the floods damaged roads and water control infrastructure on pueblo lands. Assessments and estimates are still in progress due to the dangerous conditions that exist in the damaged area.

Several committee members expressed their sympathy to Governor Dasheno. In response to a question from a member of the committee, Secretary Duvall stated that the Pueblo of Santa Clara is the central communication point for all of the various agencies that assist response and recovery. The HSEMD helps to facilitate the pueblo's initial communication with appropriate agencies.

Jemez State Monument Heritage Area — HJM 7

Veronica N. Gonzales, secretary of cultural affairs, told the committee that a study concerning the feasibility of transferring the Jemez State Monument to the Pueblo of Jemez had been conducted at the request of the legislature. Rudy Acosta, interim director of the State Monuments Division of the Cultural Affairs Department (CAD), presented three options examined within the study: (1) no transfer, and the state would continue full operation of the site; (2) a partial transfer, which would require that the state and the Pueblo of Jemez co-manage the site; and (3) a full transfer, which would require the Pueblo of Jemez to assume management of the entire site. Secretary Gonzales told the committee that a full transfer of the site to the Pueblo of Jemez could have some negative legal implications and that the CAD is recommending a co-management structure. With this structure, the state will retain property ownership, and site management will be shared by the state and the pueblo. Specific co-management arrangement can be specified in a memorandum of understanding. In preliminary discussions between the State Monuments Division and the Pueblo of Jemez, pueblo representatives have indicated that this would be an acceptable solution.

Representative Madalena accepted the report on behalf of the Pueblo of Jemez. Secretary Gonzales encouraged members of the committee to visit the Jemez State Monument.

Implementation of Senate Bill 417 — Addressing Native American Suicides

Steven Adelsheim, M.D., director, Center for Rural and Community Behavioral Health (CRCBH) at the University of New Mexico (UNM), told the committee that suicide rates for young people are higher in New Mexico than in the rest of the United States. Among New Mexico youths, Native Americans have the highest rate of suicide. The CRCBH has partnered with the Pueblo of San Felipe, the Navajo Nation Department of Behavioral Health Services and the Mescalero Apache Tribe. Senate Bill 417, enacted on March 31, 2011 without funding, created a suicide prevention clearinghouse. The CRCBH became the coordinating site for the clearinghouse. The CRCBH has informed and engaged tribes, initiated a joint data work group, developed a web site and provided grant-writing support, consultation and training.

Marsha Azure, program manager for the UNM Department of Psychiatry, discussed the importance of culturally competent providers of mental health services. Dr. Adelsheim told the committee that the CRCBH has made a lot of progress, but additional work needs to be done in the future. The CRCBH hopes to develop a partnership that includes tribal entities, the state, the

Indian Health Service (IHS) and medical professionals to develop agreements in order to share information.

A member of the committee asked the committee to consider endorsing a \$150,000 appropriation to UNM to further develop the suicide prevention clearinghouse.

In response to questions from members of the committee, Dr. Jerry Kinkade, a psychologist who works with the Pueblo of San Felipe, stated that Native American mental health treatment should place an emphasis on group and family counseling rather than individual counseling. Often, mental health providers will offer in-home counseling to Native American patients, which has proven to be effective. The CRCBH consists of 30 staff and faculty members, some of whom are part time, that work on issues such as tribal partnerships, health consultation, training and school-based work. Students also assist with some program work. A member of the committee requested that Dr. Adelsheim provide literature about suicide prevention to IAC committee members.

Upon a motion by Senator Lovejoy, seconded by Representative Rodella, the committee voted without objection to direct staff to draft legislation to make an appropriation of \$150,000 for a clearinghouse and technical assistance program for Native American suicide prevention.

Indian Water Settlements

Estevan Lopez, director of the Interstate Stream Commission, told the committee that Section 72-1-11 NMSA 1978 requires that the Office of the State Engineer (OSE) report to the legislature by November 15 of each year regarding certain aspects of Indian water rights settlements. The report must include the status of proposed settlements that require financing and recommendations of funding. New Mexico currently has three pending settlements. In response to a question from a committee member, Mr. Lopez stated that the OSE is working to receive credit toward water settlement payments from the federal government for expenses. Documents have been submitted, and the U.S. Bureau of Reclamation is asking for additional information. The OSE expects to receive 75 percent of the expended money in credit. Mr. Lopez presented a time line of suggested appropriations to meet the state share of each Indian water rights settlement. The OSE has recommended that \$15 million be appropriated every year for the next five years in order to meet funding deadlines. A member of the committee requested that the OSE provide information about aquifers that provide water to the Gallup area.

Long-Term Aging Services in Indian Country

Ray Espinoza, director, Office of Indian Elder Affairs, Aging and Long-Term Services Department, told the committee that New Mexico has two state planning and service areas. The area agencies provide technical assistance, program development and oversight for tribal providers and others serving Indian elders. The agencies also conduct outreach at the community level to identify Indian elders that are eligible for assistance under the federal Older Americans Act of 1965 as well as other private and public programs. Funding for the area agencies has been reduced by approximately 11 percent over four years. Mr. Espinoza stated that the main concerns of New Mexico's Indian elders can be grouped into four categories: transportation, nutrition, long-term care and social support services. Indian elders in New Mexico are specifically concerned about the role of the IHS in providing long-term and geriatric care. Mr.

Espinoza also indicated that New Mexico needs a coordinated system of health and social services to meet the needs of Indian seniors.

Members of the committee discussed specific needs of Native American seniors, including the Manuelito Senior Center located in Gallup. In response to questions from members of the committee, Retta Ward, secretary-designate of aging and long-term services, stated that there are 41 senior centers located in the Navajo Nation. Secretary Ward told the committee that it is difficult to oversee funds that are allocated to tribal entities. The committee discussed the processes and regulations that affect state-purchased vehicles that are donated to tribal entities.

Native American Veterans' Income Tax Settlement Fund — Update

Alan Martinez, deputy secretary of the Veterans' Services Department (VSD), told the committee that the department is required to determine whether Native American veterans who were domiciled on tribal lands during their active military duty had state personal income taxes withheld from their pay and to determine the amount of state personal income taxes that was improperly withheld from those individuals. More than 1,000 applications have been received by the VSD and forwarded to the Taxation and Revenue Department (TRD). The TRD has processed 665 claims and paid out over \$800,000 in principal and interest. The Native American Veterans' Income Tax Settlement Fund has a remaining balance of approximately \$173,000. The VSD estimates that 7,000 Native American veterans had income taxes improperly withheld, and it needs more funding in order to continue reimbursing those individuals.

In response to questions from committee members, Deputy Secretary Martinez stated that the average individual return has been approximately \$2,300. The department cannot distinguish tribal affiliation of the applicants.

Upon a motion by Senator Lovejoy, seconded by Representative Lundstrom, the committee voted without objection to draft legislation to appropriate \$500,000 from the general fund to the TRD for fiscal year 2013 to fund the Native American Veterans' Income Tax Settlement Fund.

Following the presentation by the VSD, Representative Madalena recessed the meeting at 5:20 p.m.

Wednesday, November 2

Senator Pinto reconvened the meeting at 9:10 a.m. Members of the committee introduced themselves. Representative Jeff gave an invocation.

Gaming Revenue: Addressing Compulsive Gambling Issues

Tom Fair, Audit and Compliance Division director for the Gaming Control Board (GCB), told the committee that an amended section of the 2001 tribal-state class III gaming compacts requires that gaming enterprises spend at least one-fourth percent of their net winnings to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico who patronize New Mexico gaming facilities.

Armando Graham, president, Responsible Gaming Association of New Mexico (RGANM), told the committee that the RGANM is a collaboration of many Native American-owned casinos

in New Mexico. The RGANM produces educational materials about problem gambling and funds treatment and counseling services. A 2006 New Mexico study funded by the RGANM found that nine percent of New Mexico adults gamble at least once each week. In New Mexico, approximately 10,000 to 20,000 people can be classified as pathological gamblers, and the same number of people can be classified as problem gamblers. Approximately 70,000 to 95,000 New Mexico residents can be classified as at-risk gamblers. The RGANM focuses its efforts on prevention, education and treatment.

Daniel Blackwood, executive director, Evolution Group, Inc., told the committee about two programs offered by the Evolution Group. The Compulsive Gambling Treatment Center opened in 2002 and is located in Albuquerque. The program consists of a 12-month intensive outpatient program designed for individuals diagnosed with compulsive gambling. These services are offered at no charge due to the financial support of the casino industry. Integrity Recovery is a gambling-specific recovery program that combines intensive outpatient treatment with structured recovery living, which provides accountability and support from peers and professionals.

Kandace S. Blanchard, executive director, New Mexico Council on Problem Gambling (NMCPG), told the committee that the NMCPG receives more than 25,000 phone calls every year. Help is offered in English and Spanish. The NMCPG offers counseling services, as well as training to counselors and referral services, free of charge. The NMCPG has three offices and 66 counselors.

Gabriela Rodriguez Gutierrez, Laguna Development Corporation (LDC), told the committee that the mission of the LDC is to address problem gambling by providing referral assistance and training to employees as well as providing information to customers. The LDC is committed to promoting public awareness of problem gambling. The LDC ensures that employees are aware of the seriousness of problem gambling, and it educates employees about available resources. The LDC also participates in a self-exclusion policy, which allows customers to voluntarily exclude themselves from LDC gaming properties. A financial assistance program is in place to support projects, programs and agencies that develop or provide prevention initiatives, education, training or treatment pertaining to problem gambling.

Upon a motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee voted without objection to direct staff to draft legislation requesting that the GCB provide recommendations on additional amendments to the Indian gaming compacts coming up for renegotiation.

In response to a question from a member of the committee, Frank Baca, interim executive director, GCB, stated that there is currently no member of the GCB that is Native American.

Upon a motion by Representative Jeff, seconded by Senator Lovejoy, the committee voted without objections to send a letter to Governor Martinez requesting that she consider appointing a Native American to the GCB.

Representative Madalena invited members of the audience to make public comments regarding tribal gaming. Richard Hughes, an attorney in Santa Fe who represents several pueblos, including the Pueblo of Santa Ana, told the committee that those entities that are issued

liquor licenses are not required to fund alcoholism treatment or prevention programs. He stated that New Mexico should allow tribes to spend gambling prevention and treatment money at their discretion and in the ways that will be the most beneficial to their communities.

Members of the committee discussed programs and agencies that are eligible for treatment funds from casinos. In response to questions from committee members, Mr. Blackwood stated that casino funds for gambling prevention and treatment are sent to individual organizations and are reported. Casinos issue requests for proposals to programs that wish to receive funding. Committee members discussed the benefits of a central organizational point for gambling treatment and prevention funds. Members of the committee also discussed the benefits of funding gambling treatment and prevention programs that are operated by Native Americans.

A Community and Special Interest Perspective on In Situ Uranium Mining

Leona Morgan, coordinator, Eastern Navajo Diné Against Uranium Mining (ENDAUM), stated that the IAC should support amendments to the Water Quality Act to ban pollution of underground drinking water. Ms. Morgan requested that the committee hold future meetings regarding uranium mining in the areas where mining will occur so that the local community can attend.

George Rice, a geologist and geochemist that works with the ENDAUM, told the committee that baseline water quality measurements are determined from samples collected from baseline wells. Because most baseline wells are screened in or near uranium ore bodies, the concentrations of hazardous constituents in these areas are not representative of the entire aquifer. Mr. Rice stated that the time required to restore ground water quality is unknown and that there is potential for off-site migration of contaminated water after ground water restoration is concluded.

Chris Shuey, an environmental health specialist with the Southwest Research and Information Center, told the committee that the wells drilled by Uranium Resources, Inc., (URI) before the issuance of a permit from the Department of Environment were drilled for the purpose of understanding the ore body rather than characterizing the quality of water. Because monitor wells are not used to determine baseline measurements, the baseline does not characterize the body of water accurately.

In response to questions from members of the committee, Mr. Shuey stated that the water quality in Gallup is good. Mr. Shuey told the committee that wells within three miles of the URI in situ leaching mining site meet drinking water standards. Ms. Morgan told the committee that communities are often divided on uranium mining because information is not always readily available. The ENDAUM tries to protect communities and resources.

Indian Affairs Department

Arthur P. Allison, secretary-designate of Indian affairs, told the committee that the Indian Affairs Department (IAD) currently has nine staff members, and he discussed recent initiatives of the IAD. The IAD hosted a state-tribal leaders summit to discuss Indian education, economic development and infrastructure, Indian health care, natural resources and water rights. Secretary Allison also stated that the IAD is currently compiling the annual report required by the State-Tribal Collaboration Act, which will be submitted to the governor on December 1, 2011. The

IAD trained more than 300 state employees in cultural competency in 2010 and aims to train approximately 400 employees during the first half of 2012.

Rebecca Martinez, capital outlay manager, IAD, told the committee that the department is using a uniform funding application form in order to assess the viability and readiness to proceed with potential tribal infrastructure funds (TIF) projects. Projects that are not ready for funding in a specific fiscal year will be prepared and considered again the following year.

In response to questions from committee members, Ms. Martinez told the committee that applications for TIF funding must be received by November 15. Secretary Allison clarified that the governor does not influence decisions about TIF.

Native American Veterans

Marvin Trujillo, Jr., director, Laguna Veterans' Office, Pueblo of Laguna, told the committee that five pueblos in the state have a veterans' service office. The Laguna Veterans' Office was established in 2007 and is located in the Laguna tribal administration building. It is the only veterans' office in New Mexico that is operated exclusively by a tribe. Future goals of the Laguna Veterans' Office include increased transportation, a Native American liaison position within the VSD, continued veteran service officer training and a Native American veterans' memorial.

In response to a question from a member of the committee, Mr. Trujillo stated that Native American veterans need a system of transportation for health care visits and required visits to veterans' affairs offices.

Navajo Nation Department of Emergency Management

Julie Wauneka, emergency service liaison for the Navajo Nation Department of Emergency Management (DEM), told the committee that the DEM is requesting an additional \$75,000 to its operating budget. The DEM has decreased personnel and vehicles due to TIF funding cuts.

Upon a motion by Senator Lovejoy, seconded by Representative Begaye, the committee voted without objection to send a letter to the Navajo Nation President Ben Shelley requesting emergency supplement grant money for operations of the DEM.

Martin Vigil, director of emergency management, Santa Fe County, told the committee that all emergency responders are familiar with the "National Response Framework", a document that explains the role of each federal agency in an emergency. States distribute money to tribes in emergency situations. Mr. Vigil stated that policies should change to reinforce governmental relationships for FEMA.

Upon a motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee voted without objection to direct staff to draft a memorial requesting that Congress revise the Robert T. Stafford Disaster Relief and Emergency Assistance Act so that tribes may deal directly with the federal government.

Legislative Endorsements

Mr. Lara addressed the committee regarding proposed legislation for the 2012 legislative session.

Legislation

.187732

Sponsored by Senator Lovejoy, the bill creates a program to provide tribes with technical assistance in identifying, applying for and administering federal and private grants and makes an appropriation of \$75,000.

Upon a motion by Senator Lovejoy, seconded by Representative Lundstrom, the committee voted without objection to endorse the bill.

.187809

Sponsored by Representative Madalena, the bill makes an appropriation of \$75,000 for a decision-makers conference regarding uranium.

Upon a motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee voted without objection to endorse the bill.

.187821

Sponsored by Senator Lovejoy, the bill makes an appropriation of \$500,000 to the Native American Veterans' Income Tax Settlement Fund.

Upon a motion by Senator Lovejoy, seconded by Representative Powdrell-Culbert, the committee voted without objection to endorse the bill.

.187826

Sponsored by Representative Rodella and Senator Martinez, the bill makes an appropriation of \$250,000 for a regional adult daycare center in Rio Arriba County.

Upon a motion by Senator Martinez, seconded by Senator Lovejoy, the committee voted without objection to endorse the bill.

.187822

Sponsored by Senator Lovejoy, the bill makes an appropriation of \$150,000 for a clearinghouse and technical assistance program on Native American suicide prevention.

Upon a motion by Senator Lovejoy, seconded by Senator Rodriguez, the committee voted without objection to endorse the bill.

.187824

Sponsored by Representative Begaye, the memorial requests that the executive branch promote the cultural and economic development of the Fort Sill Chiricahua-Warm Springs Apache Tribe's aboriginal territory in southwest New Mexico.

Upon a motion from Senator Martinez, seconded by Representative Begaye, the committee voted without objection to endorse the memorial.

Minutes

Upon a motion by Representative Lundstrom, seconded by Representative Begaye, the committee voted without objection to approve the minutes from the fourth meeting of the IAC for the 2011 interim.

Adjournment

There being no further business before the committee, the sixth meeting of the IAC for the 2011 interim adjourned at 4:52 p.m.

ENDORSED LEGISLATION

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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO INDIAN AFFAIRS; CREATING A PROGRAM TO PROVIDE TRIBES WITH TECHNICAL ASSISTANCE IN IDENTIFYING, APPLYING FOR AND ADMINISTERING FEDERAL AND PRIVATE GRANTS; MAKING AN APPROPRIATION.

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

SECTION 1. Section 9-21-1 NMSA 1978 (being Laws 2004, Chapter 18, Section 1 and Laws 2004, Chapter 24, Section 1) is amended to read:

"9-21-1. SHORT TITLE.--~~[Sections 1 through 15 of this act]~~ Chapter 9, Article 21 NMSA 1978 may be cited as the "Indian Affairs Department Act"."

SECTION 2. Section 9-21-3 NMSA 1978 (being Laws 2004, Chapter 18, Section 3 and Laws 2004, Chapter 24, Section 3) is amended to read:

.187732.1

underscored material = new
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1 "9-21-3. DEFINITIONS.--As used in the Indian Affairs
2 Department Act:

3 A. "department" means the Indian affairs
4 department; [~~and~~]

5 B. "secretary" means the secretary of Indian
6 affairs; and

7 C. "tribe" means a federally recognized Indian
8 nation, tribe or pueblo located wholly or partly in New
9 Mexico."

10 SECTION 3. Section 9-21-12 NMSA 1978 (being Laws 2004,
11 Chapter 18, Section 12 and Laws 2004, Chapter 24, Section 12)
12 is amended to read:

13 "9-21-12. PROGRAM SERVICES DIVISION--DUTIES.--

14 A. The program services division shall provide
15 program implementation and support for field programs and
16 services.

17 B. The program services division shall implement
18 and support a technical assistance program for tribal grants.
19 The program services division shall:

20 (1) identify federal and private grant funding
21 opportunities that address tribal needs;

22 (2) notify a tribe of federal and private
23 grant funding opportunities that address the needs of the
24 tribe; and

25 (3) provide technical assistance to a tribe

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1 applying for or administering a federal or private grant,
2 including assistance with writing the grant application,
3 reviewing the grant application, submitting the grant
4 application, administering the grant and complying with the
5 grant requirements."

6 SECTION 4. APPROPRIATION--FULL-TIME GRANT SPECIALIST.--

7 Seventy-five thousand dollars (\$75,000) is appropriated from
8 the general fund to the Indian affairs department for
9 expenditure in fiscal year 2013 for a full-time-equivalent
10 position to provide tribes with technical assistance in
11 identifying, applying for and administering federal and private
12 grants. Any unexpended or unencumbered balance remaining at
13 the end of fiscal year 2013 shall revert to the general fund.

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HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A DECISION-MAKERS CONFERENCE
REGARDING URANIUM.

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

SECTION 1. APPROPRIATION.--Seventy-five thousand dollars (\$75,000) is appropriated from the general fund to the board of regents of New Mexico institute of mining and technology for expenditure in fiscal years 2013 and 2014 to hold a decision-makers conference regarding uranium. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the general fund.

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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE NATIVE AMERICAN VETERANS' INCOME
TAX SETTLEMENT FUND.

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

SECTION 1. APPROPRIATION.--Five hundred thousand dollars
(\$500,000) is appropriated from the general fund to the Native
American veterans' income tax settlement fund for expenditure
in fiscal year 2013 and subsequent fiscal years to make
settlement payments to certain Native American veterans who had
state personal income taxes withheld from their military
income. Any unexpended or unencumbered balance remaining at
the end of any fiscal year shall not revert to the general
fund.

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HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A REGIONAL ADULT DAYCARE CENTER IN
RIO ARRIBA COUNTY.

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

SECTION 1. APPROPRIATION.--Two hundred fifty thousand
dollars (\$250,000) is appropriated from the general fund to the
aging and long-term services department for expenditure in
fiscal year 2013 to provide operational funding for a regional
adult daycare center in Rio Arriba county. Any unexpended or
unencumbered balance remaining at the end of fiscal year 2013
shall revert to the general fund.

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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A CLEARINGHOUSE AND TECHNICAL ASSISTANCE PROGRAM ON NATIVE AMERICAN SUICIDE PREVENTION.

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

SECTION 1. APPROPRIATION.--One hundred fifty thousand dollars (\$150,000) is appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2012 and 2013 to fund a clearinghouse and technical assistance program and provide culturally appropriate suicide prevention, intervention and post-event assistance statewide to Native American individuals and families and tribes, nations and pueblos living with suicide, attempted suicide or the risk of suicide. Any unexpended or unencumbered balance remaining at the end of fiscal year 2013 shall revert to the general fund.

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HOUSE JOINT MEMORIAL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

A JOINT MEMORIAL

REQUESTING THE EXECUTIVE BRANCH TO PROMOTE THE CULTURAL AND ECONOMIC DEVELOPMENT OF THE FORT SILL, CHIRICAHUA-WARM SPRINGS APACHE TRIBE'S ABORIGINAL TERRITORY IN SOUTHWEST NEW MEXICO.

WHEREAS, members of the federally recognized Fort Sill, Chiricahua-Warm Springs Apache Tribe are the descendants of the Mogollon Apaches, Mimbres Apaches, Copper Mine Apaches, Warm Springs Apaches and Chiricahua Apaches tribes whose aboriginal territory, former reservation and Indian title lands included much of southwest New Mexico; and

WHEREAS, those tribes maintained aboriginal and Indian title to their land in New Mexico and Arizona until the final surrender of the great Apache, Geronimo, his war party and the remaining tribal members to the United States military on September 4, 1886; and

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1 WHEREAS, the entire tribe was taken into captivity in 1886
2 and remained in captivity until 1913, when the surviving
3 members were released, with two-thirds of the members
4 transferred to the Mescalero Apache Tribe reservation, thus
5 becoming members of that tribe, and the remaining members
6 released in Oklahoma, becoming federally recognized as the Fort
7 Sill Apache in 1976; and

8 WHEREAS, the members of the Fort Sill, Chiricahua-Warm
9 Springs Apache Tribe continuously sought to return to their
10 aboriginal homelands in New Mexico, which were the lifeblood
11 and heritage of the tribe; and

12 WHEREAS, the spirits of the ancestors of the Fort Sill,
13 Chiricahua-Warm Springs Apache Tribe, including Cochise,
14 Geronimo, Victorio, Lozen, Naiche and Mangas Coloradas, are
15 interwoven into the fabric of New Mexico's history and culture;
16 and

17 WHEREAS, a major triumph for the Fort Sill, Chiricahua-
18 Warm Springs Apaches in returning to their homeland was the
19 purchase of thirty acres in Akela Flats, Luna county, New
20 Mexico, which was subsequently taken into trust by the federal
21 government on behalf of the Fort Sill, Chiricahua-Warm Springs
22 Apaches in 2002; and

23 WHEREAS, the tribe has operated a cultural awareness
24 center, restaurant and smoke shop since 2007 on the tribe's
25 federal Indian trust land at Akela Flats in Luna county, New

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1 Mexico; and

2 WHEREAS, the Fort Sill, Chiricahua-Warm Springs Apaches'
3 federal Indian trust land at Akela Flats and the surrounding
4 lands have significant cultural and historical importance for
5 the tribe and surrounding communities; and

6 WHEREAS, the Fort Sill, Chiricahua-Warm Springs Apache
7 Tribe encourages involvement and participation by working hard
8 to educate citizens of the area by providing cultural awareness
9 of the heritage of southwest New Mexico and the tribe's
10 historical significance; and

11 WHEREAS, the tribe is working to increase cultural
12 awareness, tourism and economic development in southwest New
13 Mexico through collaboration with local, state and federal
14 partners; and

15 WHEREAS, the tribe has possession and access to
16 significant cultural and historic artifacts, which it will
17 display to the public to provide an attraction in Luna county;

18 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
19 STATE OF NEW MEXICO that it request the executive branch,
20 through its departments and agencies, to promote the cultural
21 and economic development of the Fort Sill, Chiricahua-Warm
22 Springs Apache Tribe within the tribe's legally defined
23 homelands, as held in the United States court of claims in *Fort*
24 *Sill Apache Tribe v. United States*, and throughout southwest
25 New Mexico; and

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BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the chair of the Fort Sill, Chiricahua-Warm Springs Apache Tribe, Governor Susana Martinez, the leaders of the other twenty-two Indian nations, tribes and pueblos located in New Mexico and the New Mexico congressional delegation.