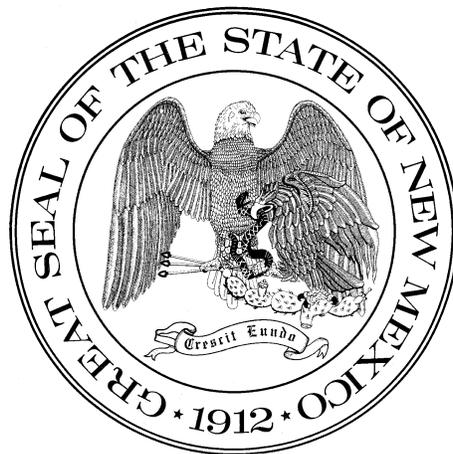


INDIAN AFFAIRS COMMITTEE

2014 INTERIM FINAL REPORT



New Mexico Legislative Council Service
Santa Fe, New Mexico
December 2014

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2014 Interim Summary

INDIAN AFFAIRS COMMITTEE 2014 SUMMARY

Since its inception in 1989, the Indian Affairs Committee (IAC) has addressed issues that affect Native Americans residing in New Mexico. In fulfillment of its mission, the IAC held six meetings during the 2014 interim, conducted at the Pueblos of Laguna, Jemez, Zia and Cochiti; the Red Lake and Pinedale chapters of the Navajo Nation; the Fort Sill Apache Reservation; University of New Mexico-Gallup; New Mexico State University (NMSU); and the Albuquerque Indian Center.

Members of the IAC heard presentations from executive agencies to learn of their efforts on behalf of New Mexico's Indian tribes, pueblos and nations. The Indian Affairs Department (IAD) provided a summary of the annual State-Tribal Summit and the IAD's priorities. The Aging and Long-Term Services Department (ALTSD) highlighted its outreach to Native American communities around the state, including the ALTSD's collaboration with the Navajo Area Agency on Aging to maintain senior citizen centers. The secretary of state talked about outreach efforts to Native American communities. The state engineer and the acting director of the Interstate Stream Commission provided an annual update on Indian water rights settlements. The Human Services Department illuminated its new rules regarding the Supplemental Nutrition Assistance Program and discussed mental and behavioral health programs and services available to Native Americans. The Public Regulation Commission gave a presentation on issues surrounding access fees and trespass fines paid by electric distribution companies to Native American governments.

The IAC held a joint meeting with the Military and Veterans' Affairs Committee that focused on health care for Native American veterans in light of the federal Patient Protection and Affordable Care Act.

After hearing a presentation on the small loan industry in New Mexico, the IAC convened a working group to coalesce people from the industry, consumer advocates and legislators. The working group met but was unable to come to a consensus on what the appropriate next steps would be, but there was general agreement of the importance of including financial literacy in middle school and high school curricula.

Other major issues that the IAC considered in the 2014 interim included changes to the Tribal Infrastructure Board's guidelines and procedures; services provided to the urban Indian population in Albuquerque; the condition of rural roads in McKinley County; the potential for a bi-state charter school in Navajo, New Mexico; a discussion of a potential liver transplant institute; outreach efforts for homeless Native American veterans; updates on the Jicarilla Apache Nation power authority; dental therapists; and the American Indian Program at NMSU.

Finally, the IAC endorsed four bills for the 2015 legislative session.

Work Plan and Meeting Schedule

**2014 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
INDIAN AFFAIRS COMMITTEE**

Membership

Rep. Sandra D. Jeff, Co-Chair
Sen. John Pinto, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. Sharon Clahchischilliage
Rep. Patricia A. Lundstrom
Rep. James Roger Madalena

Sen. Richard C. Martinez
Sen. Cliff R. Pirtle
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez
Sen. John C. Ryan
Sen. Benny Shendo, Jr.
Sen. William P. Soules

Advisory Members

Rep. Ernest H. Chavez
Sen. Carlos R. Cisneros
Rep. Zachary J. Cook
Sen. Stuart Ingle
Sen. Daniel A. Ivey-Soto
Rep. Georgene Louis

Rep. Antonio "Moe" Maestas
Sen. Cisco McSorley
Rep. Debbie A. Rodella
Rep. Patricia Roybal Caballero
Rep. Nick L. Salazar
Sen. Clemente Sanchez

Work Plan

The New Mexico Legislative Council created the Indian Affairs Committee (IAC) on May 5, 2014. The IAC addresses issues and policies that affect Native Americans in New Mexico. Since the IAC aims to address issues and policies relating principally to New Mexico's Native American population, the IAC strives to conduct its meetings in locations that are accessible to the state's tribal members and their leaders. Moreover, meeting at the various Indian nations, tribes and pueblos in New Mexico facilitates government-to-government cooperation. The IAC meetings are essential to the work of the legislature in addressing the issues affecting this segment of its constituency.

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 matter of common concern. The IAC proposes to explore and discuss the topics in areas affecting Native Americans during the 2014 interim as follows.

A. State-Tribal Relations:

1. receive a report from the Local Government Division of the Department of Finance and Administration regarding the Leasehold Community Assistance Act;
2. review the updates from the state and the seven tribes currently negotiating to operate Class III gaming operations;

3. assess state and federal resources for recovery assistance to pueblos affected by severe wildfires and subsequent flooding;
4. review state-tribal jurisdiction on domestic affairs matters, including full faith and credit and enforcement of protective orders;
5. discuss outreach efforts conducted by the Veterans' Services Department to Native American veterans;
6. review the process for requesting early voting sites in Indian country, providing voting materials in Native American languages and the participation of Native American youth working at the polls; and
7. discuss the cross-deputization/dual endorsement of tribal police.

B. Health:

1. assess health care, including dental care, for Native Americans and in Native American communities;
2. assess Native American suicide prevention efforts and discuss culturally based suicide prevention initiatives for Native Americans as mandated by Senate Bill (SB) 417 (2011 regular session) and SB 447 (2013 regular session);
3. review mental health programs and services for Native Americans;
4. explore issues of domestic violence against Native American women and children;
5. assess elderly care and services available to the elderly Native American community;
6. review the effect of health care coverage expansions on the Indian Health Service and tribal health programs;
7. receive a report on matters relating to the provision of Medicaid coverage to recipients who identify as Native American; make information available on the web site; and report in writing and in person on specific questions (House Memorial (HM) 84, 2014, regular session);
8. receive an update on the proposed creation of a liver transplantation institute in New Mexico (HM 48, 2013); and

9. discuss drug and alcohol recovery issues and efforts to curb drivers from driving while intoxicated.

C. Development in Indian Country:

1. discuss capital outlay concerns, including tracking the expenditure of allocated funds and alternative funding sources;
2. review the funding of projects from the Tribal Infrastructure Project Fund, including the projections of allocated amounts pursuant to the Severance Tax Bonding Act;
3. compare and contrast the funding of projects in Indian country through the Tribal Infrastructure Project Fund and capital outlay and the impacts of tribal capital outlay reversions pursuant to the Tribal Infrastructure Act;
4. explore tribal utility projects on Indian lands, including gas and electric projects, and the Jicarilla Apache Utility Authority;
5. review transportation issues, including railroad crossings and road projects;
6. discuss telecommunications issues, including double charging, access and broadband for higher education institutions; and
7. receive a report by the Public Regulation Commission on the allocation and recovery of access fees, charges and trespass fines paid by electric distribution cooperatives to any Native American governmental entity (HM 17, 2014 regular session).

D. Education:

1. evaluate the implementation of the Indian Education Act, the American Indian Post-Secondary Education Act and the general education of Native Americans, including efforts to improve student performance;
2. review Native American study programs and resources at higher education institutions and tribal colleges;
3. study the feasibility of providing lottery scholarships to otherwise eligible students who attend tribal colleges and examine state programs, policies, procedures and budget and funding requests, including the legislative lottery tuition program, to identify where tribal colleges are excluded (HM 37, 2014 regular session);

4. consider the establishment of a bi-state charter school;
5. evaluate how the federal Impact Aid Program works in New Mexico and explore ways to improve it;
6. assess resources for students with special needs and their parents; and
7. evaluate proposals for school consolidation.

E. Reports from State Agencies:

1. receive a report from the state engineer and the Interstate Stream Commission regarding:
 - (a) the status of proposed Indian water rights settlements requiring state financing;
 - (b) the distribution of funds from the Indian Water Rights Settlement Fund to implement approved settlements; and
 - (c) recommendations on the level of funding for the Indian Water Rights Settlement Fund necessary to timely implement Indian water rights;
2. receive a report from the Indian Affairs Department regarding the compiled reports from all state agencies on activities pursuant to the State-Tribal Collaboration Act, including information on policies, plans, contact individuals, training and programs and services from each agency;
3. receive a report from the Taxation and Revenue Department on the department's estimates of the amount of state personal income taxes withheld from the military income of Native American veterans domiciled on their respective tribal lands, the number of Native American veterans or their survivors affected by such withholding of state personal income taxes, total expenditures for the previous fiscal year and the anticipated appropriations needed to pay for settlements to be entered into for the next fiscal year;
4. receive a report from the Tribal Infrastructure Board regarding the total expenditures from the Tribal Infrastructure Project Fund for the previous fiscal year, the purposes for which expenditures were made, an analysis of the progress of the projects funded and proposals for legislative action in the subsequent legislative session;

5. receive a report from the Cultural Affairs Department regarding who has the right to use the Zia sun symbol and if there are any restrictions on how it may be used (Senate Memorial (SM) 1, 2014 regular session); and
6. receive a report from the secretary of health and the secretary of human services to discuss Medicaid reform issues and the New Mexico Health Insurance Exchange and how it relates to Native Americans.

**Indian Affairs Committee
2014 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
May 29	State Capitol, Room 322, Santa Fe
July 14-16	Navajo, Pinedale and Gallup (joint meeting with the Military and Veterans' Affairs Committee)
August 28-29	Albuquerque Indian Center, Pueblo of Laguna
September 29-October 1	Pueblos of Jemez, Zia and Cochiti
October 30-31	Akela Flats, Las Cruces
November 20-21	State Capitol, Room 322, Santa Fe

AGENDAS

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

**May 29, 2014
Room 322, State Capitol
Santa Fe**

Thursday, May 29

- 10:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (1) [Indian Affairs Department: Programs and Priorities](#)
—Arthur P. Allison, Secretary, Indian Affairs Department (IAD)
—Duane Duffy, Deputy Secretary, IAD
- 11:15 a.m. (2) [2014 Legislation: Summary](#)
—Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
- 11:45 a.m. (3) [Discussion of Focus Areas, Work Plan and Meeting Schedule](#)
—Peter Kovnat, Staff Attorney, LCS
- 12:30 p.m. **Adjourn**

Revised: July 18, 2014

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

**July 14-16, 2014
Navajo, Pinedale, Gallup**

Monday, July 14 — Navajo Pine High School

- 10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs,
Indian Affairs Committee
- 10:10 a.m. (1) **Welcome, Invocation and Status Update**
—Arval T. McCabe, President, Red Lake #18 Chapter
—Frank Chiapetti, Superintendent, Gallup-McKinley County School
District (GMCS D)
—Pauletta White, Principal, Navajo Pine High School
- 11:00 a.m. (2) **Senior Citizen Centers in Indian Country**
—Rosyllynn Curtis, Health Services Administrator, Navajo Area Agency
on Aging
—Myles Copeland, Deputy Secretary, Aging and Long-Term
Services Department (ALTSD)
—Rebecca S. Martinez, Capital Outlay Bureau Chief, ALTSD
- 12:00 noon **Lunch**
- 1:00 p.m. (3) **Rural Roads in McKinley County**
—Bruce Swingle, County Manager, McKinley County
—Genevieve Jackson, County Commissioner, McKinley County
—Frank Chiapetti, Superintendent, GMCS D
- 2:00 p.m. (4) **Navajo Bistate Charter School**
—DeAlva Calabaza, General Manager, Indian Education Division, Public
Education Department
—Frank Chiapetti, Superintendent, GMCS D
- 3:00 p.m. **Tour of Red Lake #18 Chapter**
- 4:00 p.m. **Recess**

- 1:00 p.m. (9) [Critical Issues for Providers on Homeless Veterans](#)
—Teddy Nez, Homeless Vietnam Veterans
- 2:00 p.m. (10) [Update on Veterans Helping Veterans](#)
—David Cuellar, Founder, Veterans Helping Veterans
- 3:00 p.m. **Public Comment**
- 4:00 p.m. **Adjourn**

Revised: August 27, 2014

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

**August 28-29, 2014
Albuquerque Indian Center and Pueblo of Laguna**

Thursday, August 28 — Albuquerque Indian Center, 105 Texas SE, Albuquerque, New Mexico 87108

- 10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs, Indian Affairs Committee (IAC)
- 10:10 a.m. (1) **Welcome and Status Update**
—Mary Garcia, Executive Director, Albuquerque Indian Center, Inc.
- 11:00 a.m. (2) **Tribal Infrastructure Funds: Board Funding and Funded Projects**
—Arthur P. Allison, Secretary, Indian Affairs Department; Chair, Tribal Infrastructure Board
- 12:30 p.m. **Lunch**
- 1:30 p.m. (3) **Honoring Native Life: Native American Suicide Prevention Clearinghouse**
—Sheri Lesensee, Program Manager, Center for Rural and Community Behavioral Health, Native American Behavioral Health Program, Department of Psychiatry, University of New Mexico
—Robyn Atencio, Chair, Tribal Advisory Council, Honoring Native Life: Native American Suicide Prevention Clearinghouse
—Doreen Bird, Program Specialist, Honoring Native Life: Native American Suicide Prevention Clearinghouse
- 2:45 p.m. (4) **Mental and Behavioral Health Programs and Services Available to Native Americans**
—Sidonie Squier, Secretary, Human Services Department (HSD)
—Wayne Lindstrom, Ph.D., Director, Behavioral Health Services Division (BHSD), HSD
—Barbara Alvarez, Tribal Liaison, BHSD, HSD
- 4:00 p.m. **Recess**

Friday, August 29 — Pueblo of Laguna, Route 66 Casino Hotel

- 10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs, IAC
- 10:05 a.m. (5) **[Welcome, Invocation and Status Update](#)**
—Richard B. Luarkie, Governor, Pueblo of Laguna
- 11:00 a.m. (6) **[The Process for Requesting Early-Voting Sites in Indian Country, Providing Voting Materials in Native American Languages and Participation of Native American Youth Working at the Polls](#)**
—Dianna J. Duran, Secretary of State (SOS)
—Bobbi Shearer, Director, Bureau of Elections, SOS
- 12:00 noon **Lunch**
- 1:00 p.m. (7) **[Jicarilla Apache Nation Power Authority](#)**
—Leon Reval, Councilman, Jicarilla Apache Nation
- 2:00 p.m. (8) **[Update on the PNM/Navajo Nation Workforce Training Program](#)**
—Cathy Newby, Director, Tribal Government and Customer Engagement,
Public Service Company of New Mexico
- 2:30 p.m. **Adjourn**

Revised: September 16, 2014

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

**September 29-30 and October 1, 2014
Pueblo of Jemez, Pueblo of Zia, Pueblo of Cochiti**

Monday, September 29 — Pueblo of Jemez, Community Resource Center

- 10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs,
Indian Affairs Committee (IAC)
- 10:10 a.m. (1) **Welcome and Status Update**
—Joshua Madalena, Governor, Pueblo of Jemez
- 11:00 a.m. (2) **Native Outreach, Education and Enrollment in the New Mexico Health Insurance Exchange**
—Roxane Spruce Bly, Director of Healthcare Education and Outreach,
Native American Professional Parent Resources, Inc.
- 12:30 p.m. **Lunch**
- 1:30 p.m. (3) **Supplemental Nutrition Assistance Program**
—Brent Earnest, Deputy Secretary, Human Services Department
- 3:00 p.m. (4) **Dental Therapists**
—Pamela Blackwell, Project Director, Oral Health Access, Health Action
New Mexico
—Terry Batliner, D.D.S., Associate Director, Centers for American Indian
and Alaska Native Health, Colorado School of Public Health
—Mary Altenberg, M.S., C.H.E.S., Executive Director, Community Dental
Services
- 4:00 p.m. **Recess**

Tuesday, September 30 — Pueblo of Zia, Zia Pueblo Tribal Office

- 10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs, IAC
- 10:05 a.m. (5) **Welcome, Invocation and Status Update**
—David Pino, Governor, Pueblo of Zia

11:00 a.m. (6) [Use of the Zia Sun Symbol](#)
—Senator Michael Padilla
—David Pino, Governor, Pueblo of Zia
—Eric Ruiz, Lieutenant Governor, Pueblo of Zia
—Erin McSherry, General Counsel, Cultural Affairs Department and
Tourism Department

12:30 p.m. **Lunch**

1:30 p.m. (7) [Appropriations and Capital Outlay in Indian Country](#)
—Kelly Zunie, Deputy Secretary, Indian Affairs Department (IAD)
—Graham Knowles, Infrastructure Manager, IAD

2:30 p.m. **Tour of Pueblo of Zia**

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

Wednesday, October 1 — Pueblo of Cochiti, Cochiti Community Center

10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs, IAC

10:05 a.m. (8) [Welcome, Invocation and Status Update](#)
—Joseph H. Suina, Ph.D., Governor, Pueblo of Cochiti

11:00 a.m. (9) [Fire, Flood Protection, Mitigation and Restoration Management:
Tribal, State and Federal Fiscal Challenges](#)
—Phoebe Suina, Consultant Engineer, Highwater Mark
—Robert Apodaca, Government Consultant, Motiva Corporation
—Oscar K. Lovato, Governor, Pueblo of Santo Domingo
—Everette Chavez, Former Governor, Pueblo of Santo Domingo
—Kevin Shendo, Lieutenant Governor, Pueblo of Jemez
—Brian Williams, Recovery Unit Manager, Homeland Security and
Emergency Management Department

12:00 noon **Working Lunch: Continue Previous Presentation**

2:30 p.m. (10) [Bridge at Sile: Challenges and Solutions](#)
—Joseph H. Suina, Ph.D., Governor, Pueblo of Cochiti
—Merril Yazzie, Cochiti Department of Transportation
—George Rael, Sile Representative
—Everette Chavez, Former Governor, Pueblo of Santo Domingo

3:30 p.m. **Tour of the Bridge at Sile**

4:15 p.m. **Adjourn**

Revised: October 28, 2014

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

**October 30-31, 2014
Akela Flats and Las Cruces**

Thursday, October 30 — Akela Flats, Apache Homelands Entertainment Center

- 10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs, Indian Affairs Committee
- 10:10 a.m. (1) **Welcome and Status Update**
—Jeff Houser, Chair, Fort Sill Apache Tribe
- 11:00 a.m. (2) **Report on Native American Veterans' Income Tax Settlement Fund**
—Timothy L. Hale, Secretary, Veterans' Services Department
—Elisa Walker-Moran, Chief Economist, Taxation and Revenue Department
- 12:00 noon (3) **Working Lunch: Allocation and Recovery of Access Fees, Charges and Trespass Fines Paid by Electric Distribution Cooperatives to Native American Governmental Entities**
—S. Vincent Martinez, Chief of Staff, Public Regulation Commission
- 1:00 p.m. (4) **Discussion of the Leasehold Community Assistance Act**
—Sanjay Bhakta, Interim Director, Local Government Division, Department of Finance and Administration
- 2:00 p.m. (5) **Tribal Infrastructure Board Guidelines and Procedures: Anticipated Changes**
—Graham Knowles, Infrastructure Manager, Indian Affairs Department
- 2:30 p.m. **Tour**
- 4:30 p.m. **Recess**

Friday, October 31 — New Mexico State University (NMSU), American Indian Student Center

- 10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs, Indian Affairs Committee
- 10:05 a.m. (6) **Welcome and Status Update**
—Justin McHorse, Director, American Indian Program, NMSU
—Jeanelle A. Chavez, Program Specialist, Indian Resource Development, NMSU
- 11:00 a.m. (7) **Report on New Mexico's Small Lending Industry**
—Cynthia Richards, Director, Financial Institutions Division (FID), Regulation and Licensing Department (RLD)
—David Mora, Small Loan Lead Examiner, FID, RLD
—David Gee, Industry Manager, FID, RLD
- 12:00 noon (8) **Working Lunch: Services Provided by First Nations Community HealthSource**
—Linda Son-Stone, Chief Executive Officer, First Nations Community HealthSource
- 1:00 p.m. (9) **Update on Indian Water Rights Settlement**
—Scott Verhines, P.E., State Engineer, and Secretary, Interstate Stream Commission (ISC)
—Amy Haas, Acting Director, ISC
- 2:00 p.m. (10) **Stakeholder Perspective on Indian Water Rights Settlement**
—Terry L. Aguilar, Governor, Pueblo of San Ildefonso
- 2:30 p.m. (11) **A Stakeholder's Perspective of the Aamodt Settlement and Regional Water System**
—Beverly Duran-Cash, President, Northern New Mexicans Protecting Land, Water, and Rights Inc.
—Dave Neal, Vice President, Northern New Mexicans Protecting Land, Water, and Rights Inc.
- 3:00 p.m. **Adjourn**

Revised: November 19, 2014

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

**November 21, 2014
Room 322, State Capitol
Santa Fe**

Friday, November 21

- 10:00 a.m. **Call to Order**
—Senator John Pinto and Representative Sandra D. Jeff, Co-Chairs, Indian
Affairs Committee
- 10:10 a.m. (1) **[Santa Fe Indian School: Academic Performance and Capital Outlay
Utilization](#)**
—Roy M. Herrera, Superintendent, Santa Fe Indian School
- 11:00 a.m. **Consideration of Legislation for Endorsement**
- 12:00 noon **Adjourn**

MINUTES

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

**May 29, 2014
Room 322, State Capitol
Santa Fe, NM**

The first meeting of the Indian Affairs Committee (IAC) for the 2014 interim was called to order by Representative Sandra D. Jeff, co-chair, on May 29, 2014 at 10:15 a.m. at the State Capitol in Santa Fe.

Present

Rep. Sandra D. Jeff, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. Sharon Clahchischilliage
Rep. Patricia A. Lundstrom
Rep. James Roger Madalena
Sen. Richard C. Martinez
Rep. Jane E. Powdrell-Culbert
Sen. John C. Ryan
Sen. Benny Shendo, Jr.
Sen. William P. Soules

Absent

Sen. John Pinto, Co-Chair
Sen. Cliff R. Pirtle
Sen. Nancy Rodriguez

Advisory Members

Rep. Ernest H. Chavez
Sen. Carlos R. Cisneros
Rep. Zachary J. Cook
Sen. Cisco McSorley
Rep. Patricia Roybal Caballero
Sen. Clemente Sanchez

Sen. Stuart Ingle
Sen. Daniel A. Ivey-Soto
Rep. Georgene Louis
Rep. Antonio "Moe" Maestas
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Staff

Peter Kovnat, Legislative Council Service (LCS)
Michelle Jaschke, LCS
Mark Edwards, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, May 29

Welcome and Introductions

Representative Jeff welcomed the committee and members of the audience and asked everyone to introduce themselves. Arthur P. Allison, secretary of Indian affairs, delivered an invocation. The agenda was then rearranged to allow the committee to discuss its own organizational aspects first and then have the presentation by the Indian Affairs Department (IAD).

Discussion of Focus Areas, Work Plan and Meeting Schedule

Meeting Schedule

Mr. Kovnat presented a tentative meeting schedule for the IAC and noted that the proposed July 16 meeting would be a joint meeting with the Military and Veterans' Affairs Committee (MVAC). Several requests and comments regarding the schedule were raised by the committee, including:

- Veterans health care provider agency presentation. If possible, include a panel presentation from all of the governmental health care providing agencies (federal, tribal and state) during the joint IAC/MVAC meeting to clarify what services are available for veterans and where veterans can go to receive them. A particular question was raised regarding the ability of the federal Department of Veterans Affairs (VA) to provide services on reservation lands.
- A VA presenter experienced in providing health services across jurisdictional boundaries. Include a hospital administrator-level representative from the VA in the health agency presentation, particularly someone that can act or has acted as a liaison to tribal governments.
- Farmington as a meeting location. A committee member proffered a suggestion that Farmington be substituted as a July meeting location given its accessibility to northern Navajo Nation chapters. It was noted that this might conflict with the Legislative Education Study Committee (LESC) meeting already scheduled for Farmington. However, staff has been in contact with the Navajo Nation for suggested meeting places and will work on it.
- Meetings outside the State Capitol after September. A question was raised about whether the New Mexico Legislative Council would need to approve committee meetings scheduled outside of the State Capitol after September. Mr. Kovnat acknowledged that while that is the standard rule, given the IAC's intergovernmental

outreach function, approval for field hearings into late fall is generally approved by the New Mexico Legislative Council.

- Timing of Middle Rio Grande pueblos meetings. A question was raised by a committee member about possibly switching the dates for the meeting in southern New Mexico and the meetings at the Pueblos of Jemez, Cochiti and Zia. Mr. Kovnat stated that the proposed dates had been chosen to avoid conflicts with autumn ceremonies at the pueblos.

Motion

Representative Lundstrom moved that the committee approve the tentative schedule as reviewed and discussed by the committee. Senator Martinez seconded the motion, and it was adopted by a vote of nine in favor and two opposed.

Work Plan

Mr. Kovnat presented a tentative work plan to the committee and asked for comments as each category was reviewed. A copy of the committee work plan as approved by the New Mexico Legislative Council is posted on the New Mexico Legislature web site.

A. Proposed Issues to be Examined Relating to State-Tribal Relations

A question was raised by a committee member concerning whether capital outlay funding for Indian communities should be incorporated within this category. It was noted that capital outlay concerns had instead been included as a work plan issue under the topic of development in Indian country.

Committee members discussed the consolidation of the schools within McKinley County and noted that the issue would be included under the topic of education.

B. Proposed Issues to be Examined Relating to Health

Committee members discussed how DWI issues are part of this category and requested that a presentation be included during the interim.

C. Proposed Issues to be Examined Relating to Development in Indian Country

During the review of this category, committee members requested that the following three issues be included or expanded upon as part of the committee's work for the year:

- broadband for higher education;
- a report on the newly chartered Dulce/Jicarilla Apache Nation utility project, including presenters from the utility and from federal regulatory agencies; and
- a joint presentation from the Tourism Department and Economic Development Department along with tribal development agencies.

D. Proposed Issues to be Examined Relating to Education

During the review of this category, the committee entered into an extended discussion regarding funding for tribal colleges and scholarships for students attending tribal colleges. Suggestions and ideas raised during this discussion included the following.

- Lottery scholarship funds are sent to the college that a student attends, not to the individual student; so with regard to those funds, it is a question of whether a tribal college is eligible.
- Funding for tribal colleges may be precluded by the Constitution of New Mexico. A constitutional amendment might be needed to address the problem.
- Have the secretary of higher education give a report to the committee on the participation of Native American students in the lottery scholarship program.
- Develop legislation for a separate scholarship program for Native American students to be introduced as a committee bill.
- Would it move the issue forward to request an attorney general opinion on the constitutional obstacles to current funding statutes? Alternatively, should the committee take the obstacles as a given and either develop legislation that works through those obstacles or propose a constitutional amendment?
- Tribal colleges provide educational value for Native American students that state colleges have not been able to provide. Maybe providing funding for tribal colleges could become incorporated into the College Affordability Act.
- The committee should have a presentation from the tribal colleges on what they need or recommend to address the education funding needs of Native American students.
- If a share of Indian gaming proceeds were to be directed to tribal colleges, it would have to be specified within the gaming compacts, which would require reopening all of the compacts.

In regard to the potential for creating a separate scholarship fund for Native American students, it was noted that the Lottery Tuition Fund for all New Mexico students is running out of money. The committee discussed how to engage the LESC and the Legislative Finance Committee (LFC) in a general effort to develop a funding solution for scholarships that would include Native American scholarships. It was pointed out that both the LESC and the LFC had set their meeting calendars earlier in the year, so having the IAC participate in a formal joint meeting with them would not be possible. However, the LESC and the LFC have scheduled a joint committee meeting in August. A member suggested that the IAC request time on the agenda for that meeting for a co-chair and other IAC members to give a presentation.

Additional education issues discussed by the committee included:

- whether the Santa Fe Indian School is open to both native and non-native students and, therefore, is eligible for state funding; and
- the sometimes baffling results of the *Zuni* lawsuit and how that affects getting funding to school districts. Last year, the committee received a presentation from Robert

Gorrell, director of the Public School Facilities Authority, but members cited the need to follow up on questions concerning:

- (1) how the restructuring of services under the Indian Education Act is working (for example, at Church Rock); and
- (2) how to include districts like the Zuni Public School District into the general budget increases for other schools around the state.

Staff requested committee members to suggest potential presenters on these topics who might offer a different perspective from the presenters who have previously appeared before the committee.

E. Proposed Presentations from State Agencies

During the review of potential presentations to the committee, the following were requested to be added to this interim's agendas:

- a presentation regarding the state's relationship with schools run by the federal Bureau of Indian Affairs. Particularly, the presentation should clarify which entities are eligible for state funding assistance and which ones are not;
- a presentation from the Department of Health on the number of people signing up for the health insurance exchange under the federal Patient Protection and Affordable Care Act and the progress of this program within Native American communities; and
- a presentation from the secretary of state regarding voting issues, including early voting opportunities and Native American language options.

Motion

Representative Lundstrom moved that the IAC approve the work plan as amended. Senator Martinez seconded the motion. The motion was adopted unanimously.

2014 Legislation — Summary

Mr. Kovnat reviewed a list of committee-endorsed legislation for the 2014 legislative session. He then provided an update on which measures passed and which did not.

Presentation from the IAD

General Departmental Overview and Government-to-Government Efforts

Secretary Allison introduced his staff. He stated that the IAD has four current vacancies for policy analyst and the chief financial officer positions. He then gave a brief overview of some issues on which the IAD is working.

Touching upon the IAD's efforts with regard to infrastructure, Secretary Allison noted that the IAD recently hired Graham Noles to oversee the tribal infrastructure funds (TIF) and capital outlay projects. He further explained that the IAD had retained a consultant to help resolve issues related to annual TIF and capital outlay audits and that outstanding audit issues

had been reduced from eight issues to one. Responding to a request for a listing of the audit findings, Secretary Allison stated that the IAD could provide them or that they could be found on the state auditor's web site. Secretary Allison also related that the IAD had been working with a business management firm, Impresario Global Solutions, in looking for international funds for tribal communities. He said that \$615,000 had been raised as a special project fund. The IAD has turned this funding into a request-for-proposals process. Selected projects will be notified in mid-June.

Speaking about the IAD's tobacco-cessation program, Secretary Allison noted that the program had been budgeted at the same rate as last year, but 50% of the funding had to be returned this year due to prior problems with the tobacco settlement disbursement.

Deputy Secretary of Indian Affairs Duane Duffy then reviewed some of the IAD's efforts on state-tribal relations. He said that the IAD would be offering a cultural competency program for state agency tribal liaisons on Friday, May 30, and that committee members were all welcome to attend. Responding to a question about the content of the program, he said that it would cover the history of state-tribal relationships, general rules for working with tribal governments and some of the differences between the various tribal governments in New Mexico.

Deputy Secretary Duffy then thanked the committee for supporting funding for the annual state-tribal leadership summit. He said that this year's summit would be held at the Route 66 Casino on July 18 and 19. He indicated that a particular value of the summit is the chance for cabinet secretaries to interact with tribal leaders and that an executive networking session was planned for an entire day.

In preparation for the summit, Deputy Secretary Duffy said that the IAD had sent surveys to 22 tribal governments on the issues they would like to discuss with Governor Susana Martinez. So far, the IAD has received nine responses, and the following four topics were common themes:

- (1) consultation: a discussion to create a framework for the future, including the process of consultation, and how to follow up on issues;
- (2) water and water rights settlements: a discussion concerning drought conditions, senior water rights, call-on-the-river rights and water rights settlements;
- (3) economic development: a discussion on diversifying tribal economies; and
- (4) education: a discussion of issues surrounding impact aid and the Public Education Department.

Deputy Secretary Duffy said that the IAD was conducting a more focused survey with the tribal governments to facilitate the discussion on these topics and would be developing issue papers on them for the summit.

Concluding his remarks on the summit, Deputy Secretary Duffy noted two new changes to the state-tribal summit. First, the Fort Sill Apache Tribe will be a new participant in the summit this year. Second, the IAD is surveying cabinet secretaries to find out the issues they would like to discuss with tribal leaders, such as which agency programs may be underutilized.

Secretary Allison was then asked if IAC members would be invited to the summit. The secretary said that the IAD would extend invitations, but in past years, tribal leaders wanted time for private discussions with the governor.

Turning to a brief review of the IAD's role during the 2014 legislative session, Secretary Allison said that the department had commented on 185 bills that affected Native Americans. He also thanked the committee members for supporting Indian Day at the Legislature as part of the efforts to promote good state-tribal relations. Secretary Allison said that the IAD was in the process of developing its legislative priorities for the 2015 session, and two issues were already pinpointed:

- (1) support for traditional farming; and
- (2) the use of Native American mascots within the state.

Secretary Allison stated that the IAD would come back to brief the committee when the priorities were finalized. Responding to a committee request to highlight economic development issues, he said that two baseline goals are to preserve tribal infrastructure and to keep funding flowing out to projects and not sitting in various accounts.

A committee member noted that many questions came up during the course of IAC meetings, and she requested that someone from the IAD attend as many committee meetings as possible to respond to them.

Economic Development and TIF

The IAD presentation turned to economic development issues and project funding through the TIF. The presenters frequently referenced two IAD documents: *IAD Economic Development: Partners in Advancing the Economics and Well-Being of the Native American Peoples*; and *Tribal Infrastructure Fund*.

Jerry Sandoval, IAD director for economic development, noted that the IAD has 54 active initiatives within the 12 categories listed in the *IAD Economic Development* handout and 44 infrastructure planning projects under the TIF. He highlighted the following categories on which the IAD is working:

- (1) housing programs: Mr. Sandoval made special mention that the IAD hired a Mr. Padilla from the federal Department of Housing and Urban Development (HUD) to examine available housing programs. He also highlighted that the IAD and HUD were working to make more traditional housing available. He thanked Senator Shendo for getting this effort started;
- (2) funding for comprehensive development planning;
- (3) energy development, including wind and solar projects, but in particular oil production on Navajo Nation allottee lands in the San Juan Basin. He said that the IAD was partnering with oil companies to work on public safety issues arising from this production;
- (4) transportation: Mr. Sandoval highlighted the potential intermodal freight rail site at Thoreau, noting that 14 companies had expressed interest in renting property there;
- (5) water issues: using the Pueblo of Zuni as an example, Mr. Sandoval noted that the wells there are going dry and that the IAD is working with New Mexico State University (NMSU) to study wells on tribal lands;
- (6) ranching and farming studies on tribal lands with NMSU; and
- (7) working with tribal enterprises, such as the NOVA Corporation.

Secretary Allison expanded on the issue of energy development, noting that over \$108 million in oil bonuses have been paid out to allotment owners within the last four months. He said that those bonuses could grow to over \$500 million, and the influx of wealth could cause social dislocations in the area. In an ensuing discussion with a committee member, Secretary Allison reflected that there is tension between protecting culturally significant sites like Chaco Culture National Historic Park and economic advantages for allottees. He remarked that a typical allottee with 160 acres could receive over \$300,000 in oil bonuses and that if production is possible throughout the Mancos shale formation, that development would be extensive.

Secretary Allison also pointed out the connection between the IAD's efforts on agriculture and water infrastructure. He said that, given soaring beef and lamb prices, Native Americans have a great opportunity to lease lands to grow herds, but water infrastructure needs to be in place.

Remarking on the IAD's process, a committee member raised a concern that the IAD needs to focus on building expertise that would be internal to each tribe, instead of bringing in outside help to work on issues. There was a suggestion that the IAD have a goal to build capacity within the tribal governments. Deputy Secretary Duffy acknowledged the issue and noted efforts to have Native American college graduates return to their tribes to provide that pool

of expertise. He said that IAD efforts with tribal governments are based on the tribes' particular strategic plans and the services they request from the IAD to implement those plans.

Moving the discussion to the operations of the TIF, Deputy Secretary Duffy gave a quick review of the handout provided by the IAD. He noted that since 2006, when the TIF started receiving a fixed 5% of New Mexico's severance tax revenues, \$54 million had been channeled to projects on tribal lands.

Explaining the process for spending TIF funding, Deputy Secretary Duffy discussed an executive order issued by the governor last year regarding TIF accounts. The IAD spent the last year consulting with the tribes on how to meet the accounting processes required to comply with that order. He said that each tribe is eligible for a project in each TIF category. Applications are then evaluated against a set of criteria, including whether the project is included in the state's infrastructure and capital improvement plan (ICIP) and whether it meets a critical need. Deputy Secretary Duffy said that 117 TIF projects are currently within the state's ICIP.

For fiscal year (FY) 2015, Deputy Secretary Duffy said that the review of projects occurred in April and May and that the Tribal Infrastructure Board would make its recommendations on June 4. Applications for the FY 2016 cycle start this fall.

Responding to a committee member's question, Secretary Allison explained that project funding awards had been changed to spread funding out to more tribes. Currently, an individual TIF award cannot be more than 10% of the total funding available. The IAD is encouraging the phasing of projects and using TIF awards to leverage other funding. A concern was raised that capping awards in this manner slows down project completion. Secretary Allison acknowledged the concern and said that the IAD has an ongoing review of the TIF process and outcomes.

With regard to a concern about confusion over which projects meet the requirements of the executive order, Secretary Allison remarked that the IAD has a different challenge than other agencies. Because it works with sovereign nations, the IAD wants to consult with the tribes before implementing the order. He said that it has taken time, but the process should be much faster this year.

Adjournment

There being no further business before the committee, the IAC adjourned at 1:25 p.m.

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

**July 14-16, 2014
Navajo
Pinedale
Gallup**

The second meeting of the Indian Affairs Committee (IAC) was called to order at 10:30 a.m. by Representative Sandra D. Jeff, co-chair, on July 14, 2014 at the Navajo Pine High School in Navajo.

Present

Rep. Sandra D. Jeff, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. Sharon Clahchischilliage
Rep. Patricia A. Lundstrom
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Cliff R. Pirtle (7/15, 7/16)
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez (7/15, 7/16)
Sen. John C. Ryan
Sen. Benny Shendo, Jr.
Sen. William P. Soules

Absent

Sen. John Pinto, Co-Chair

Advisory Members

Rep. Ernest H. Chavez
Sen. Carlos R. Cisneros
Rep. Zachary J. Cook (7/14, 7/15)
Sen. Cisco McSorley (7/15, 7/16)
Rep. Debbie A. Rodella
Rep. Patricia Roybal Caballero (7/15, 7/16)
Rep. Clemente Sanchez (7/15, 7/16)

Sen. Stuart Ingle
Sen. Daniel A. Ivey-Soto
Rep. Georgene Louis
Rep. Antonio "Moe" Maestas
Rep. Nick L. Salazar

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

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Mark Edwards, Staff Attorney, LCS
Michelle Jaschke, Researcher, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, July 14**Welcome, Introduction and Invocation**

Representative Jeff welcomed the committee and members of the audience and introduced Arval McCabe, president, Red Lake Chapter. President McCabe welcomed the committee and introduced Edmund Ciccarello, who delivered an invocation in Diné. Representative Jeff asked audience members to introduce themselves.

The audience included many members of the Red Lake Chapter, state, local and tribal officials and members of neighboring communities, notably the Crystal Chapter. Arthur P. Allison, secretary, Indian Affairs Department (IAD), and Kelly K. Zunie, deputy secretary, IAD, were in attendance.

Some of the nearly 60 audience members identified issues and concerns, including district grazing, the recent forest fire, senior citizen needs, capital outlay concerns, Medicaid, housing and food assistance, ground water pollution, township applications, economic development and area roads and infrastructure needs.

Committee members introduced themselves and thanked members of the community for the warm welcome. Many commented on the spectacular scenery and geology of the area.

A motion to approve the minutes of the meeting of May 29, 2014 was made by Representative Madalena. Representative Baldonado seconded the motion, and the motion was unanimously approved.

Status Update

President McCabe was joined by Frank Chiapetti, superintendent, Gallup-McKinley County School District (GMCS D), and Pauletta White, associate superintendent, GMCS D, and welcomed all who came together to "improve the lives of our future generations and the citizens of our community". President McCabe said Red Lake has a population of 2,557 members and that 1,201 of those members are under 17 and have educational needs. Further, President McCabe reported high levels of substandard or unoccupied housing in the area and high levels of unemployment and poverty. He asked that the committee partner with the community to reestablish the economic vitality the community enjoyed when the Navajo Forestry Products Industry (NFPI) was in operation in the area.

The following priorities were identified by President McCabe:

- the Navajo Lake irrigation canal;
- the Red Lake community recreation park;
- an office park;
- a water tank;
- upgrades to utility lines, streets and bridges;
- renovation of the Red Lake Head Start building;
- improvements to the United States Bureau of Indian Affairs (BIA) Route 112;
- purchase of a road grader; and
- renovation of the chapter's administration building.

President McCabe reported a number of other initiatives under consideration or in process in the area, including a charter school partnership, funding to reconstruct the damaged Red Lake Dam, assistance with reestablishment of the NFPI and recovery measures for forest-fire-afflicted lands.

President McCabe thanked the president of the Navajo Nation and the offices of the federal Environmental Protection Agency (EPA) and the Navajo Nation Division of Economic Development for local environmental clean-up efforts. He asked the committee for help to overcome the damage from the Assayii Lake fire.

Superintendent Chiapetti said that the district continues to experience problems transporting students. Bridges that serve the area are not safe to hold the existing school buses, and many parents find it prohibitively expensive to deliver students to the "feeder routes". If students are not attending school, they are not learning.

Superintendent Chiapetti described the difficulties that the Public Education Department's (PED's) reimbursement process presents. He reported that some facilities built prior to the implementation of the standards-based process have serious maintenance needs. Six of the top 25 schools ranked for replacement in the weighted New Mexico Condition Index are in the GMCSD. Legislation that would have provided funding for maintenance needs was not passed during the 2014 legislative session. Although voters in the district approved school bonds, the district lacks the required matching funds to be able to utilize the funding.

Superintendent Chiapetti noted that several schools now under development are asking for design money from the Public School Capital Outlay Council. Schools facing severe challenges in the district are partnering with the PED Priority Schools Bureau, and 12 schools have joined the Principals Pursuing Excellence program.

Navajo Pine High School and Navajo Middle School currently serve only about one-fourth of the number of students for which they were designed. In addition, the district now offers a cyber academy for rural area students and other alternative credit programs for high

school students. The State of Arizona has been picking up students to take to out-of-state districts, despite being asked to stop. Superintendent Chiapetti expressed concern that the memorial to assess the feasibility of starting a charter school in Red Lake had resulted in an effort to establish a charter school rather than to actually study the feasibility of doing so. He worried about the effect of opening a charter school in a small community with existing schools operating under capacity.

A legislator suggested exploring other funding sources to assist in fire recovery efforts, including ensuring that economic and community development needs are included in the Infrastructure Capital Improvement Plan (ICIP).

Audience members expressed concerns about preserving Diné language and culture in school curricula through the fifth grade; currently these programs are offered from kindergarten through third grade.

One member asked Superintendent Chiapetti if he supported merit pay for teachers. Superintendent Chiapetti said the only way to access the funding is to apply for it, and even if one does not agree with the concept in principle, the money will go elsewhere if a district does not apply. He reported that many teachers are frustrated by the merit pay formula, which may not accurately reflect their accomplishments. It was noted that some districts are not going to pursue merit pay for teachers.

President McCabe clarified that the State of Arizona will cooperate in maintaining needed road improvements for the BIA road leading to the Head Start building, but so far, the chapter and the Navajo Department of Transportation (NDOT) have paid for all of the road improvements. He stated that the BIA does not have funding for improvements to the BIA routes. Members expressed concern that any funding approved for area road improvements might be vetoed because of crossover issues near the state and sovereign nation lines.

President McCabe provided additional clarification regarding the need for funding for economic recovery in the area. Representative Madalena moved to write a letter of support for paving BIA Route 112 and to attach that letter to a memorial to come before the legislature during the upcoming session. Senator Martinez seconded the motion, and the motion was unanimously approved.

Members discussed children being bused to Arizona and were told that Arizona has not responded to a request to desist. A legislator observed that many small towns do not meet ICIP requirements and so they may be underserved and suggested that the committee consider options for meeting small school and rural educational needs before the next legislative session.

Other members discussed the extent of declining enrollment at area schools. Overall enrollment in the district has declined by about 300 students over the past two years, Superintendent Chiapetti noted. Members discussed the fact that the Crystal Chapter was

recently determined to lie within the boundaries of the Central Consolidated School District (CCSD) instead of the GMCSO.

One member asked if students and parents can choose where to go to school. It was suggested that the district ask the Legislative Education Study Committee about adding a factor to the school funding formula to quantify the lack of infrastructure, with the intent to bring standards up. Discussion ensued regarding how to make roads and bridges safe to serve children in the area, and who should be engaged in this process at the state and local levels.

Superintendent Chiapetti averred that public schools are not playing by the same rules as private and charter schools. The PED must approve GMCSO bus routes, but charter schools and the BIA need no approval and can cross bridges that are illegal under PED guidelines. Superintendent Chiapetti suggested that the legislature level the playing field with regard to transportation regulations and local matching fund requirements.

Representative Jeff suggested that the committee write a letter to the governor regarding transportation for schoolchildren and questioned why the governor had vetoed legislation that would have addressed school busing issues.

Representative Jeff expressed concern that students are being moved to other areas and observed that economic development is needed to keep people in the area and to limit the influence of gangs. She further noted the conundrum that chapters face with both the Navajo Nation's and the executive branch's red tape. Chapters can request funding, but many projects are idling because of newly imposed audit requirements.

Presenters responded to questions regarding staffing changes in the GMCSO. Superintendent Chiapetti stated his intention to "put the right people in the right seats on the bus" using a business model that includes seven competencies intended to match administrators with student needs. Some employees have chosen not to stay with the district as a result of these and related curriculum changes, and some have been moved to other positions within the GMCSO. Members noted that this has created some stress in the community.

A member observed that perhaps the new model needs an introduction period with opportunities for staff to work on their competencies. The member noted five recent school closures in the district and the mostly empty building housing the high school, and opined that allocating money for new facilities may not be the right option where there are existing underutilized facilities.

Senior Citizens in Indian Country

Roslynn Curtis, health services administrator, Navajo Area Agency on Aging (NAAA), presented a brief overview of NAAA services. The agency cooperates in a tri-state service agreement with New Mexico, Arizona and Utah, and it also receives Navajo Nation trust funds to help meet senior citizen medical needs.

Ms. Curtis asked for the committee's support for fire recovery efforts and to complete renovations to the Torreon, Church Rock and Ramah senior centers. It was noted that the agency will request additional funding in fiscal year (FY) 2016 for adult protection, caregiving and emotional health needs.

A member asked for information about completing the Torreon senior center. Ms. Curtis noted that it has been under construction for five years and that paving and installation of sewage lines are holding up completion. The member responded that no requests for funds for the Torreon project were received in FY 2014 and that it is up to the chapter to request needed funds.

Another member questioned how individuals affected by the closing of the senior center in Vicente are being served. Ms. Curtis affirmed that only four people attended the center at the time it closed but that 25 residents remain on home meal delivery service in the area. The Mitten Rock Senior/Head Start Center located on the state line closed because of low attendance and issues that often arise in serving areas that cross state lines.

Myles Copeland, deputy secretary, Aging and Long-Term Services Department (ALTSD), described four agencies on aging serving the area and the services they provide. Mr. Copeland introduced Rebecca S. Martinez, Capital Outlay Bureau chief, ALTSD, who presented on changing demographics in the state, the challenges those changes present and how the ALTSD is meeting those challenges. Ms. Martinez provided a detailed handout for the committee and audience members.

Ms. Martinez reported that by 2030, New Mexico will have the fourth-largest percentage of population age 65 and over in the nation, doubling its current 65 and over population. Issues of senior hunger, food insecurity and related health issues will intensify. Ms. Martinez described programs to meet these challenges, including promoting healthy aging and independent living to reduce health care costs, tribal innovation to provide culturally appropriate services to the elderly and ensuring that caregivers also have the assistance they need.

An overview of the status of capital outlay for senior citizen centers in Indian country revealed that some projects continue to be stalled by insufficient funding and/or planning and project management challenges. Ms. Martinez elaborated on the curriculum that the ALTSD has developed to help chapter officials understand and participate in the funding process as well as to better manage assets. Emphasis is being placed on project management, and the ALTSD is promoting partnerships with other capital outlay bureaus in counterpart agencies to build capacity statewide.

Ms. Martinez reported that equipment items under \$5,000 will no longer be eligible for capital outlay requests. The ALTSD is looking at other means to meet the need for these critical items that are unsuited for funding under the general obligation or severance tax bond processes. Additionally, Ms. Martinez stated that the planning and design phases of a project must now be complete before the agency will request funding for construction.

Representative Jeff expressed concern about the executive order regarding audit requirements for receipt of capital outlay funds, which particularly affects Navajo Nation aging projects. She asserted that the executive has created obstacles specifically to prevent the use of capital outlay funding by certain programs. Representative Jeff then passed the chair duties to Representative Lundstrom.

One member asked what the ALTSD priorities are for funding projects. Mr. Copeland stated that projects addressing building and safety code compliance are the top priority. The member asked how funding for vehicles is prioritized and whether or not funding appropriated for the senior center in the Pueblo of Jemez in FY 2010 has been spent. Ms. Martinez responded that buses, vans and trucks for hot meal services are prioritized but that vehicles for administrative services are not prioritized. She reported that the FY 2010 money for the Pueblo of Jemez has been encumbered.

In response to member questions, Ms. Martinez clarified that capital outlay money requested by a chapter for senior centers flows through the ALTSD and that funds reverting to the state have generally been unused for four years. In some cases, she observed, not enough funding was allocated to pursue the project, or for multiple other reasons, a community may not have been ready to receive the money.

Mr. Copeland offered that refreshing the capital outlay process as described by Ms. Martinez is partially motivated by the problem of stalled projects. Efforts are now being directed to commit local governments to project completion, in part so that locally approved general obligation bonds can be spent.

Some members addressed the issue of funding that had been appropriated for the Pueblo of Santa Clara adult daycare center that was subsequently stricken from the budget. Senator Martinez moved that the committee write a letter to the secretary of aging and long-term services requesting funding for the Pueblo of Santa Clara adult daycare center. Representative Powdrell-Culbert seconded the motion, and the motion passed without opposition.

One member asked if the asset management curriculum requirements would apply to all centers and expressed hope that this program was not just another way to withhold funding from certain projects. In the legislator's view, the executive has found ways to withhold capital outlay for certain projects. Ms. Martinez responded that the new curriculum is intended to protect assets, track the life of those assets and improve management.

Another member questioned how the increasing population of baby boomers, generally more wealthy than previous generations, will qualify for Medicaid. Mr. Copeland responded that the ALTSD has not reviewed income levels but that most services are provided without income requirements under the federal Older Americans Act of 1965, although special emphasis is placed on services to those with economic need.

A member clarified that the dollar amount reverting from NAAA programs in FY 2014 is under \$75,000, not millions of dollars as another member had indicated, and suggested looking at other means to secure funding for small equipment items.

A member requested a spreadsheet from the ALTSD detailing projects that are stalled or inactive. Legislators expressed concern that the deadline for inclusion in the ICIP is so early and removed from the funding process that many communities are unaware of the deadline and, thus, are excluded from the process.

Senator Soules moved that the committee write a letter in support of pushing back the deadline for inclusion in the ICIP. Representative Alcon seconded the motion, and the motion passed unanimously.

Rural Roads in McKinley County

Genevieve Jackson, county commissioner, McKinley County, presented an update on the need for road improvements in the county. Commissioner Jackson outlined challenges, including substandard bridges, flooding and washouts, and the difficulties involved in securing rights of way for road improvements, particularly on native lands. In addition, she observed that the county faces difficulties in securing funding for road improvements in the many areas that cross multiple jurisdictions.

Jeff Irving, road superintendent, McKinley County, presented a summary of funding for county road improvements and reported success with a combination of funding sources to make road improvements to Coyote Canyon. He asserted that substandard bridges continue to be a major issue in McKinley County. Mr. Irving reported that the road department is working closely with the GMCSO to provide turnarounds for school buses in front of bridges and to get smaller buses. Jeff Bond, director of transportation, GMCSO, observed that the district will be getting smaller buses, but these buses will then be making more trips.

The presenters noted that the road department does maintain some of the BIA roads, particularly those that serve school-age children. The state is now inspecting bridges and working with the road department to design and develop roads and bridges in the county. Mr. Bond said that the GMCSO has 190 school buses traveling extensively on dirt roads.

Senator Soules moved that the committee write a letter in support of redirecting \$10 million from the Severance Tax Permanent Fund, traditionally used for public school capital outlay, to rural road and bridge improvements in McKinley County. Representative Alcon seconded the motion, and the motion passed unanimously.

Navajo Bistate Charter School

A final report on House Memorial 43 (2013) was presented by members of the feasibility study group. Kayla Begay, charter study group member, related that when the town of Navajo was a site for the NFPI, it became a boom town but subsequently has suffered from a lack of

industry of any sort. Nearly 50% of the current population is under the age of 20, and many of the area's children now attend BIA schools in Arizona. The intent of the study group, she reported, is to explore educational options for the area.

The group surveyed the community to assess educational needs. Ms. Begay reported that many in the area would like to see native culture and language emphasized in the curriculum. Recommendations include providing opportunities to revitalize the farming and animal husbandry culture in the area, increasing access to holistic health support for students, developing leadership skills and strengthening community relations. Ms. Begay reported that the study group had submitted a letter of intent to pursue establishing the Dzil Dit Looi School of Empowerment, Action and Perseverance (DEAP). Study group members Kara Bobroff and Prestene Garnenez also spoke about the issues of local self-determination, community engagement and cultural preservation in support of establishing the DEAP.

Superintendent Chiapetti objected to the methods used by the study group. He expressed concern that no effort had been made to communicate specific educational needs to the GMCSO. He noted that existing facilities are underutilized and that a new school would further drain limited transportation, construction and maintenance budgets in the district. He asked that all parties look at how local needs can best be met.

Members questioned why the group had chosen to apply through the state charter process and not the GMCSO. Ms. Begay reported that the group has not received support for a district charter and is therefore pursuing a state charter. Superintendent Chiapetti responded that the question of whether or not the district can meet the identified needs was never addressed. One committee member pointed out that every district he has worked with works hard to meet local needs. Here, he noted, there are underutilized facilities, and yet the charter school group proposes bringing in portable buildings. He wondered whether the proposed school will meet needs that the district cannot meet.

Ms. Garnenez stated that the intent of the charter school is to be responsive to the community. She asserted that children and parents do not feel safe in the present system, that they are not challenged by the curriculum and that their special needs are not being served. She noted that she had not felt prepared for college by Navajo Pine High School.

Members made a number of suggestions to bring the community together to address local concerns and to ensure self-determination. Study group members and GMCSO representatives ultimately agreed that they would look for ways to work together to meet local educational needs. Ms. Begay observed that the community wants economic sustainability as well as a stake in defining its educational future.

Public Comment

Dr. Ferlin Clark, former secretary for Indian education, PED, and resident of the Crystal Chapter, spoke about the efforts of the community to meet local educational needs. He stated

that, as a farmer, he had observed the black runoff from the forest fire and urged the committee to help with fire recovery efforts and with the issues of school transportation and road improvements.

Pauline Garnenez, Red Lake Chapter member, spoke in support of having a pilot program for a charter school and noted that she was part of the original group to study the need for a charter school.

Raymond Tsosie, vice president, Crystal Chapter, said that the charter school movement had started a few years back in response to an unresponsive former district superintendent. He declared that the economic situation and cultural differences in Navajo make education a totally different process than that found in urban schools. He related how he had consulted with one of the elders in the area about the charter school. The elder asked him why he had not corrected the problems in the existing school system. She further asked him where he thought a charter school will be in a year or 10 years and wondered if this is not a road to another school closure.

Mr. Tsosie said that the area needs to fix problems with the GMCSD. He elaborated on the difficulties the community has had in finding support from either the district or the Navajo Nation as it pursues remedies for the local educational system. If Superintendent Chiapetti is filling the seats on the bus, he observed, then he must be the bus driver. In summary, he expressed his hope that rural area schools would receive more support at all levels.

Tour

President McCabe offered a tour of the Red Lake area to members following the meeting.

With the day's work completed, the committee recessed at 4:40 p.m.

Tuesday, July 15

Representative Jeff reconvened the meeting at 10:04 a.m., thanked the chapter for hosting the meeting in the Pinedale Chapter house and asked the audience and committee members to introduce themselves.

Welcome, Introduction and Invocation

Pinedale Chapter President Willie Norton described uranium mining operations in the area and the problem of uranium tailings. He outlined the following new projects listed under the ICIP:

- improvements to Indian Service Route 7054;
- construction of an administration building;
- construction of bathroom additions;
- fire station bay construction;
- renovation of the Head Start building;

- solid waste transfer station construction;
- chapter compound parking lot upgrade;
- construction of a heavy equipment parking garage for chapter vehicles;
- improvements to County Road 49;
- purchase and installation of solar panels for homeowners;
- installation of a skateboard park ramp and other recreational facilities and equipment;
- and
- development of a green energy water treatment facility.

Council Delegate Edmund Yazzie asked the committee for follow-up on the projects outlined by President Norton. Mr. Yazzie said that the chapter had been working for years to get Route 7054 chipsealed. He noted that it is a school bus route and that right now, the NDOT is just throwing gravel on the road when possible. He asked for legislative support for a \$2 million appropriation for improvements to the road and observed that the Pinedale Chapter is working with the BIA, McKinley County and others to secure the road improvements.

Anselm Morgan, director, Local Governance Support Center, Eastern Navajo Agency, reported that he is charged with community development for 29 Navajo Nation chapters in the Eastern Navajo Agency. He assists the chapters in listing projects on the ICIP and in prioritizing projects before the legislative session. Mr. Morgan reported that many projects are pending due to lack of local matching funds. He described other system challenges to rural community development, including a need for improved project management and comprehensive land use planning. Further, he asserted that climate change and drought present new demands in the areas of education and land management.

In response to committee member questions, Mr. Morgan discussed the difficult process of passing local projects funds through the Navajo Nation. He noted that in cooperation with the New Mexico Legislature, he had proposed establishing a local administrative center in Crownpoint for the Eastern Navajo Agency, although that proposal remains on the back burner. Mr. Morgan informed the committee that he has helped two chapters become certified to enter into project agreements with other entities directly. Other chapters are also pursuing certification with Mr. Morgan's assistance. In these cases, the chapters are seeking to streamline all aspects of New Mexico projects in cooperation with counties and the state. One impediment to this is the state reimbursement process.

A legislator noted that sovereignty is always an issue and many chapters are trying to reorganize to become more independent. The legislator expressed concern regarding the executive order audit requirements and noted that this slows down the process and hinders Navajo Nation projects. The legislature appropriated money for ICIP projects, including a new senior center at Church Rock, but that funding may be lost as a result of the new requirements.

Mr. Yazzie suggested that the requested \$2 million be channeled through McKinley County. He stressed the importance of getting chapters certified to execute their own

agreements. Mr. Yazzie and President Norton stated that Route 7054 is owned by the BIA and that area bridges require upgrading as well. The NDOT and the BIA would likely be amenable to entering into memoranda of understanding with the state to ensure that any funding allocated for the project would go directly to that project. Mr. Morgan indicated that discussions about transferring ownership of the road to the county had taken place.

Tony Tanner, commissioner, McKinley County, stated that the county does have agreements in place to work with the chapters to do road improvements. The county is maintaining the roads, but it does not have rights of way needed for improvements. Without rights of way, the county cannot use Federal Emergency Management Agency funding for those roads. Right now, he noted, the county's fiscal agent is the local council of governments due to 2013 audit failures. He asserted that those failures, which did not occur during his tenure, will soon be corrected, and the county's direct fiscal agent status should be restored.

Discussion ensued regarding how to get projects prioritized and funded in the face of all of the reimbursement, executive order and ownership obstacles. Mr. Yazzie indicated that capital outlay funds of up to \$4 million are on hold.

One member suggested that if the Navajo Nation knows in advance that a certain amount of money will be allocated for ICIP projects, the council can set up a revolving capital fund in an amount appropriate to facilitate project execution. An average amount is given to the Navajo Nation each year, he noted, and a revolving fund would be a logical mechanism to move projects forward.

Numerous other suggestions for funding the \$2 million road improvement request were entertained. It was recommended that the request be prioritized through the ICIP and the state Department of Transportation processes and that the county provide assurances regarding ownership so that the committee can move forward to help place the request at the top of those lists.

A legislator commented on the tremendous natural beauty and expanse of the Pinedale area and asked how much it costs to run power lines to a house on the Navajo reservation. Mr. Morgan estimated that it costs roughly \$2 million per mile, depending upon the route. The member suggested that the chapter partner with a solar panel producer to employ area youth in the construction of solar panels and thereby secure the panels at a lower cost to the Navajo Nation and pledged capital outlay funding to support a pilot program to bring electricity and jobs to the area.

Storefront Small Lending in Native American Communities

Steve Fischmann of the New Mexico Fair Lending Coalition presented information on storefront lending and the practices of the mostly out-of-state-owned industry that frequently locates in rural and poverty-stricken areas and is prevalent around the Navajo Nation. Mr. Fischmann described how he posed as an unemployed worker on government disability and

applied for both title and installment loans at different storefront lenders. The products he was offered at up to a 600% annual percentage rate (APR) roll over frequently and he believes are designed to trap people in a never-ending payment cycle. Mr. Fischmann presented 2012 New Mexico statistics on loans carrying over 175% APR. More than 650 stores made 396,000 loans amounting to \$216 million with an average APR of 350%. More than 80% of these stores are owned by national chains and are located in some of the weakest economic areas in the state.

Typically, storefront loan consumers are low-income individuals, single mothers, veterans, renters and people of color. Mr. Fischmann noted that government support payments such as disability, temporary assistance and social security are treated as income to pay off these loans. In essence, a lot of government assistance money goes to paying interest and fees on the loans. According to Mr. Fischmann, raising the minimum wage to \$9.50 per hour would put \$100 million in New Mexico's low-income pockets annually. Mr. Fischmann also reported that capping loan interest and fees at 36% would keep at least \$89 million in those pockets annually while adding no expense to business.

Mr. Fischmann stated that New Mexico law allows high-cost lending with minimal requirements to secure a small-loan license. Lenders can charge any interest rate over any length of time on all but the narrowly defined category of payday loans. There are no restrictions on security for loans or other terms. Mr. Fischmann observed that a lawsuit brought against a lender charging 1,500% APR had been thrown out as unenforceable.

Mr. Fischmann said that most such loans are not made for emergencies but rather for everyday expenses; that individuals using these loans are not knowledgeable consumers; and that storefront loans actually create more financial difficulties than they solve. Members heard testimony describing the loss of jobs, homes, vehicles and legal standing for New Mexico families as a result of the industry's practices. The New Mexico Fair Lending Coalition recommends endorsing legislation to enact across-the-board interest and fee caps of 36% on non-bank loans in New Mexico and supporting lower-cost credit alternatives such as community development financial institutions (CDFIs).

Ona Porter, president and chief executive officer, Prosperity Works, presented information on programs offered through her organization, which seeks to build the capacity of families, organizations and communities to advocate for policies that generate economic prosperity for all New Mexicans. The program works with organizational partners to provide financial education and asset planning to help establish individual development accounts for families throughout New Mexico.

Ms. Porter noted that these accounts help to increase homeownership, business activity and earning power and further contribute to work force development efforts and economic stimulation. The program helps families establish good credit scores. Ms. Porter referred to storefront lenders as death-trap lending organizations ripping assets and income from

communities. The asset services and education provided by her organization are successful in moving 90% of participants back to financial health.

According to Ms. Porter, the storefront loan industry has repeatedly gotten around regulatory efforts. She stated that the market serves itself as it devastates individuals and families. The real profit in the industry and what storefront lenders depend upon is flipping the loans, trapping people into continually paying high interest rates and fees without ever paying off the initial loan. Ms. Porter referred to CDFIs as saviors in this scenario, offering people a fair rate with transparent terms.

Marvin Ginn, executive director, Native Community Finance, reported that access to capital is a big challenge in Indian country. It may be 50 miles to the nearest bank, he noted, and in addition to storefront lenders that make themselves easily accessible in these areas, there are internet lenders also charging high rates. The constant flipping of high-interest loans compounds the financial difficulties of these consumers. Many wind up with multiple other loans to try to pay off the first loan. People come to CDFIs to try to get their lives back, he stated, and he noted that Native Community Finance underwrites loans based on the individual's ability to repay.

Mr. Ginn presented information on a high-interest loan that his organization had refinanced. The APR on the loan amounted to 719.037%. The borrower paid \$1,837.50 in finance charges on an initial \$700 loan. Mr. Ginn asserted that storefront lenders do not create jobs but rather hinder economic development and limit access to real capital. Mr. Ginn reported that Native Community Finance, a not-for-profit organization, seeks to expand its services statewide and offers loans at 16% APR as opposed to the average 350% APR of the storefront lenders.

According to the presenters, about 83% of households in McKinley County qualify for the earned income tax credit, which can be a great way for them to build emergency funds early in the year. However, the panel reported, many of these individuals take out "holiday loans" around November, which are based on estimated tax refunds for the following year. By January, they have already signed away large chunks of that money in the form of finance charges and tax preparation fees. Many of those who have taken out holiday loans are then unable to get free help with their taxes from low-income taxpayer clinics because holiday lenders are holding their social security cards and their children's birth certificates as collateral.

Committee members asked how a new law regulating the industry would differ from the legislation that was passed in 2007. Mr. Fischmann stated that in 2007 payday loans were the main product, and that was what New Mexico regulated. Now the industry has invented new products to get around the interest cap on payday loans. Mr. Fischmann observed that unless regulation spans all financial products, loopholes will be found. The only real solution, he stated, is to put an industry-wide cap on interest and fees.

Members observed that the industry is well-armed to fight legislation and that a constitutional amendment to achieve the desired result is a non-starter. Mr. Fischmann replied that amending the current statute would likely be the simplest and easiest solution. Amending the New Mexico Small Loan Act of 1955 would create an opportunity to simplify the law. He noted that such an amendment could not be applied retroactively to existing loans and that there may be a need to consider how to inform people with existing loans. There are around 15 states with similar legislation now, he reported, and there are models and solutions.

Discussion ensued surrounding the limited visibility of CDFIs in the community. Mr. Ginn reported that various community-based organizations and community colleges offer similar types of financial counseling and related services. He reported a return on investment of \$157 for each dollar invested in a CDFI. His organization, Native Community Finance, is a member of the American Indian Chamber of Commerce and has worked with numerous reservations and pueblos. The organization's visibility is limited, he noted, because as a nonprofit organization, it does not have an advertising budget. At present, the organization's funding is 100% committed. He further explained that a CDFI is chartered by the federal government and is a fully regulated financial institution. Members requested that they be provided a list of CDFIs in New Mexico.

Members discussed private sector initiatives to offer alternatives to high-cost loans and the need to review information that the Regulation and Licensing Department (RLD) was to have collected with regard to payday loans. Members also discussed internet lending, the ability of tribes to establish their own lending programs and how to regulate bank overdraft fees.

Mr. Fischmann reported that the newly chartered federal Consumer Financial Protection Bureau is already cracking down on checking overdraft fees. He also observed that the 36% cap rate is arbitrary and is derived from the United States Department of Defense (DOD) effort to regulate interest rates on loans made to military personnel. In this instance, the DOD regulations only covered loans of 90 days or shorter, and the industry then created longer loans to get around the regulations. Mr. Fischmann said that the DOD will soon institute an across-the-board 36% cap.

One member suggested establishing a program to use state funds to provide funding for CDFIs to meet the estimated \$28 million to \$40 million in loan needs in New Mexico and noted that even with a net return of only 2%, the new investment in housing and jobs for New Mexicans would help the state and could be coordinated with the New Mexico Finance Authority to increase bonding capacity and housing opportunities.

One member stated that a lot of other issues enter into the lending process, and he strongly encouraged all groups to get together to work out solutions for people who do not qualify for traditional banking services. He also stressed the need to review information from the RLD, and he asked about the factor of risk for these loan companies and the personal responsibility individuals should assume for their own financial well-being.

Mr. Ginn acknowledged that there are lots of risks and challenges in bringing standard banking practices to this issue. He reported a very low default rate, less than 1%, on his loans, but noted that his organization is not trying to make a huge profit. The storefront lenders can lose a good percentage of loans, he asserted, and still make a lot of money because of the interest rates they charge. His organization looks at ability to repay and provides counseling and education for borrowers. He urged the committee to work to control interest rates. Mr. Fischmann observed that payday lenders do not look at any ability to repay and are giving a very dangerous loan to people who do not understand the potential consequences, leading to very high interest rates.

A legislator asked Commissioner Tanner to address the number of native employees working with his lending business.

Commissioner Tanner thanked members for their efforts and reported that he has around 12 local employees. He stated that he is a native of Gallup and did not move there to target Native Americans with his lending business. He pledged to work with the committee to help put the predatory lenders out of business but asked the committee to listen to other lenders as well. He asserted that some banks ultimately charge more than some of the storefront lenders, as they charge hefty loan origination and other fees. He noted that lenders assume risk even if they do not charge fees, and he asked the committee not to lump all lenders together.

A member reiterated his belief that personal responsibility is a key to this issue, and he objected to certain characterizations that had been applied to the lending industry as a whole. Mr. Fischmann responded that the panel members do not believe in welfare and are trying to teach personal responsibility through the financial education programs they provide, but that it is important to have a cap for the industry to assure that the industry is not hurting people.

One member characterized the interest rates of up to 1,500% as unimaginable. Basic economics reveal that when money moves, the economy improves, and churning money through the economy is good policy. By removing so much out of the economy, this industry's activity "not only doesn't churn but drags".

Another member asserted that New Mexico has a high rate of disenfranchisement in the population as a whole. The banking industry is not accessible to everyone, and yet there is a desire to increase purchasing power across the board. The member lauded the work of community-based organizations in empowering individuals and helping families to develop their assets. The member urged the committee to close loopholes that the storefront lending industry will continue to find and to act to reinvest state money in New Mexico families. Mr. Fischmann was asked to provide information regarding the sources of his data.

Another member asked for more information about payday loans in comparison to title loans. Mr. Fischmann noted that products offered by the industry tend to be regional and that frequently there is crossover in the types of loans offered. Discussion ensued about assuring that

the committee has all of the information needed and that all stakeholders are involved in order to proceed. Representative Jeff moved that IAC members serve on a small loan working group to review and bring information to the full committee. Representative Baldonado seconded the motion, and it was unanimously approved.

Representatives Lundstrom, Baldonado and Rodella, and Senators Soules and McSorley, volunteered to serve on the working group, and Representative Baldonado was appointed to chair the working group.

One member asked why the committee had not received a list of the projects funded under the Tribal Infrastructure Project Fund as discussed during the last meeting. Many members expressed concern that despite multiple requests to the IAD to provide a representative at each meeting of the IAC, no one was at the meeting to speak for the IAD.

Representative Madalena moved that the committee write a letter to the IAD requesting that a staff member be present at each meeting. Representative Powdrell-Culbert seconded the motion, and the motion was unanimously approved.

Liver Transplant Feasibility Study

Pam Demarest, chief nursing officer, University of New Mexico (UNM) Sandoval Regional Medical Center, reported that the results of a liver transplant feasibility study had been posted on the UNM web site. The study recommends that New Mexico join with other states' transplant groups mainly because of the United Network for Organ Sharing (UNOS) directives regarding organs and New Mexico's relatively small population base. Ms. Demarest noted that California has many more transplant recipients on its lists and that as a result, New Mexico is a liver exporter. That would not change even if there were a transplant center in New Mexico because of the UNOS guidelines. She said the best idea appears to be to enter into agreements to do pre- and post-operative work-ups in New Mexico and send patients to the big centers out of the state for the actual transplant. Medicaid requirements and private insurance will dictate where those patients go.

One member observed that New Mexico, and the member's district in particular, have a high rate of liver disease, including cirrhosis and heavy metal contamination, and hopes that New Mexico will start leading the way in health care with a transplant center. Members expressed their disappointment that Steve McKernan, chief executive officer, UNM Health System, did not appear before the committee today and that very little information had been presented. Members asked that Mr. McKernan appear, and they expressed the desire to reexamine this issue, as well as other organ transplant center options. It was noted that audience members had come expecting to hear more information about the study and were disappointed as well.

Public Comment

Dudley Byerley, businessman and community member, addressed the committee regarding the need for a liver transplant facility. Mr. Byerley's wife required a liver transplant,

but at the time there was no multi-organ transplant surgeon in the state. Over \$1.7 million later, Mr. Byerley reported, his wife had received her transplant. He described suffering tremendous losses in his businesses as a result of having to go to another state for the transplant and recovery period, and he asserted that there are many others in need in the community and on transplant lists. He stated that he feels the feasibility study is flawed and urged the committee to be forward thinking.

Rafael Martin, vice chair of the Eastern Navajo Veterans Organization and former president of the Pinedale Chapter, revisited the issue of ground water contamination from uranium mines in the area. Although water decontamination efforts have been made, the area has artesian wells that may still be contaminated. He worried about the effects of the contaminated water on livestock and the likelihood that the contamination will travel up the food chain. Plans are under way, he noted, to pipe water from Shiprock to Gallup. He asked that taxes not be imposed on that water. Mr. Martin also recommended shutting down liquor stores in the area to address the high levels of alcoholism in Gallup and McKinley County. As a veteran and a representative of the local veterans' organization, he said, he is still waiting for information on how to get tax breaks promised to veterans. In addition, he described veteran needs in the areas of food assistance, housing and paving for the parking lot of the Crownpoint veterans center.

Dorothy Harjo, secretary, Elders First!, said that meal service is only available to seniors in the afternoons. The Elders First! program is trying to establish senior daycare centers across the Navajo Nation to provide meal and recreation services as well as transportation for Navajo elders. Ms. Harjo stated that, the many storefront loan companies in Gallup prey upon the elderly. She likened pawn shops to the payday loan companies, and she also suggested banning liquor stores in the area, noting their detrimental effect on the local population. Ms. Harjo urged support for bringing high-tech companies to the area as part of Pinedale's 50-year strategic plan.

Julio Sokolich, M.D., Liver Transplant Institute, testified to the need for a liver transplant center in New Mexico. He stated that he is the only multi-organ transplant doctor in the state and that the information he has presented to study groups continues to be excluded from transplant center feasibility studies. He provided statistics on the high numbers of individuals infected with hepatitis C in the state and the high percentage of those who will develop cirrhosis and require a transplant. Two transplant programs exist in state hospitals, he noted, but they perform only about 12 kidney transplants per year. He asserted that New Mexico has a very high rate of liver failure and not enough organ donors. The proposal from the transplant institute is to have a statewide facility serving the entire state but not exclusive to any given hospital. He acknowledged that the center will be expensive to establish, but it will ultimately bring jobs and money to the state.

Tour

A planned tour of the Pinedale Chapter was canceled due to recent heavy rains and resulting mud and poor road conditions.

The committee recessed at 3:30 p.m.

Wednesday, July 16

Reconvene

The IAC reconvened in a joint meeting with the Military and Veterans' Affairs Committee at 9:20 a.m. in Room 200 of the Science and Technology Center at the Gallup branch campus of UNM.

Welcome

Christopher Dyer, Ph.D., executive director, UNM-Gallup, welcomed the committees and explained various initiatives on the campus that benefit Native American and veteran students. The school administration actively recruits students from the Navajo Nation, and the campus' diverse population is reflected in the 14 languages other than English that are spoken by students. A veterans' center will open in the fall semester on campus, with counseling services provided at the center through a collaborative effort with Western New Mexico University. Included among the campus' veteran-specific projects are a program that incorporates gardening as part of treatment for posttraumatic stress disorder (PTSD) and a work force development initiative, in collaboration with a national nonprofit organization, that helps veterans access federal grants.

On questioning, Dr. Dyer was joined by Mathew Muñoz, government relations specialist, UNM, and Calvert Curley, field representative for United States Senator Tom Udall, to clarify that:

- there are veterans' centers on UNM's main campus in Albuquerque and its branch campus in Taos;
- UNM-Gallup conducts outreach in rural communities and collaborates with local veterans organizations such as Veterans Helping Veterans; and
- Senator Udall's office is working with UNM-Gallup, the federal Department of Veterans Affairs (VA) hospital and VA clinics to develop and expand programs for veterans.

LoRenzo Bates, speaker pro tem of the Twenty-Second Navajo Nation Council, and Leonard Tsosie, former New Mexico legislator and current Navajo Nation Council delegate, also welcomed the committees and thanked legislators and the governor for recent highway funding and firefighting support. They urged committee members to revise the state's one-size-fits-all approach to gaming compacts; address double taxation of mining operations on Navajo land; and revisit provisions from a vetoed 2014 bill concerning school transportation for Native American students.

Health Care for Native American Veterans

Jason Sandel, New Mexico Health Insurance Exchange (NMHIX) board member; Scott J. Atole, Native American coordinator, NMHIX; Jim Toya, American Indian veterans program

coordinator, New Mexico VA health care system; Anslem Roanhorse, chief executive officer, Crownpoint health care facility, Indian Health Service (IHS); and Leonard Thomas, M.D., chief medical officer, Albuquerque Area IHS, gave presentations on health care issues for Native American veterans as addressed by their respective agencies.

The NMHIX, which was created in law in 2013, serves as a central point of contact for individuals and businesses seeking health care coverage under the federal Patient Protection and Affordable Care Act (ACA). To date, the NMHIX has operated via the federal exchange; in late July, however, the NMHIX board will decide whether to continue operating through the federal exchange or to activate the state's own exchange and web site in November. If the state hosts its own exchange, everyone who signed up for coverage through the federal exchange in the last year will be disenrolled from their coverage and will need to re-enroll through the NMHIX.

Native Americans are not required under the ACA to obtain health coverage, though the NMHIX has been encouraging them to enroll, in part because the services they receive through the IHS are not considered "qualified coverage" under the ACA. This lack of standing as qualified coverage, which is currently under review by the NMHIX board, puts businesses that employ Native Americans at risk of violating the ACA's minimum coverage requirements. As part of its efforts to inform and enroll Native Americans, the exchange has established a Native American outreach network that includes Native American Professional Parent Resources, Incorporated (NAPPR), which sends health care guides into tribal communities to explain health care options.

Veterans are also not required to obtain health insurance under the ACA because VA coverage is considered qualified coverage, though veterans may enroll in private coverage through the NMHIX if they choose. Veterans' family members, however, generally are not covered by the VA or its associated programs and may obtain coverage through the NMHIX.

Native Americans who are veterans are eligible for services under both the IHS and the VA; however, the two systems have not historically shared health care information or worked smoothly in tandem. A recent memorandum of understanding between the two agencies incorporates several objectives aimed at correcting these and other problems, including reimbursement to the IHS for services provided to Native American veterans — a critical issue because the IHS is underfunded by nearly one-half. The VA is now training IHS personnel to identify veterans and steer them into the VA system and training tribal representatives to conduct outreach in rural communities. The Navajo Area IHS system is working with the NMHIX to implement the ACA and has received inquiries lately regarding private health coverage and Medicaid enrollment. Native Americans who remain in the IHS system have access to certain culturally sensitive programs, including a program that incorporates traditional healing to help veterans reintegrate following deployment.

On questioning, the presenters, committee members and Alan Martinez, deputy

secretary of veterans' services, who spoke from the audience on invitation of the chairs, addressed the following topics.

Medicaid. A Native American veteran whose income is no more than 138% of the federal poverty level (FPL) qualifies for Medicaid. Anyone whose income exceeds 138% of the FPL but is less than 400% of the FPL qualifies for a subsidy to purchase private health insurance.

Albuquerque Area IHS. The Albuquerque Area IHS currently serves 86,000 patients from 27 tribes on a budget of \$4.4 billion, which is approximately 60% of the agency's need. To fill the budget gap, the agency is increasingly going after reimbursement from the VA, Medicaid and Medicare and encouraging eligible patients to enroll for services in those systems.

VA-IHS interaction and collaboration. Not all services provided by the IHS qualify for VA reimbursement, and some services are not available through either the IHS or the VA — patients are referred elsewhere for those. The VA makes certain loans to the IHS, such as a loan in 2005 for purchasing x-ray equipment. The IHS and VA jointly host an annual symposium for veterans regarding benefits; this year's symposium will be held on November 16.

PTSD, behavioral health and substance abuse treatment. The VA is focusing on new approaches to PTSD treatment for veterans, including traditional healing. The VA trains tribal first responders and providers to recognize signs of PTSD and will soon expand the training to family members. PTSD treatment and other behavioral health services are available to varying degrees in all plans offered through the NMHIX, and certain behavioral health services are available through the VA to veterans' family members.

Health care guides. NAPPR currently employs 30 health care guides to help Native Americans enroll in the NMHIX and is in the process of hiring 50 additional guides, all of whom speak Navajo, to begin working on the Navajo Nation in August. The guides are trained to explain all choices available — private insurance, VA, IHS, Medicaid and Medicare.

NMHIX enrollment. The goal for the NMHIX initial enrollment period in the winter of 2013-2014 was 84,000; actual enrollment for that period was 34,000. Veterans are not restricted to the exchange's open enrollment period and may enroll at any time during the year. Native American enrollment outreach efforts cover urban as well as tribal areas.

Community-based outpatient clinic (CBOC). The IHS does not have a CBOC in the Navajo Nation, and a recent request for a CBOC was denied even though the facility potentially would serve more than 11,000 Native American veterans.

Tribal veteran services. New Mexico's system of tribal veteran service officers helps veterans access health care, housing and other services — a system that might be unique among states. The NMHIX is considering adding a Native American liaison to work with the VA and

the IHS and adding links on its web site to the Veterans' Services Department (VSD) and tribal groups.

Traditional healing. Traditional healing is used in various treatments covered by the VA and the IHS, but some private insurance companies in the NMHIX do not pay for such treatments. The NMHIX plans to address the issue. The state's veteran jail diversion project, which requires participants to undergo substance abuse treatment, allows veterans to seek treatment either through the VA or through traditional healing.

As follow-up to the discussion:

- ★ Mr. Sandel will provide:
 1. the NMHIX board's final decision on whether it will recognize IHS services as qualified coverage;
 2. the percentage of New Mexicans covered by Medicaid and by private insurance, including a comparison of New Mexico against other states on the issue;
 3. the percentage of New Mexicans enrolled in Medicaid versus those who qualify for Medicaid but are not enrolled, including a comparison of New Mexico against other states on this issue;
 4. the percentage of New Mexico veterans whose entire health care needs are met by the VA; and
 5. the percentage of Native American veterans who are not receiving the care they were promised when they joined the military, including a comparison of New Mexico against other states on this issue;

- ★ Mr. Toya will provide:
 1. information on the VA's veterans justice outreach program, including information on Native Americans in the program and the services provided;
 2. a list of the VA's tribal veteran representatives and their phone numbers;
 3. the number of Native American veterans served at VA facilities in New Mexico; and
 4. information on VA transportation available to veterans;

- ★ IAC staff will invite a representative from NAPPR to make a presentation at the committee's next meeting on the new health care guides hired for outreach in the Navajo Nation; and

- ★ Mr. Curley will convey to Senator Udall a request for expansion of services to Native American veterans in western and northwestern New Mexico.

Minutes

On a motion duly made, seconded and unanimously adopted, the minutes from the June 18, 2014 meeting of the Military and Veterans' Affairs Committee were approved.

Public Comment

Henry Haskie, M.S., Navajo Division of Health (NDOH), spoke about a proposed veterans' wellness initiative that would establish a transitional housing facility in the Navajo Nation for Navajo veterans. The initiative is a collaborative effort among the NDOH and various tribal and federal agencies. He also spoke in favor of enacting federal legislation similar to the Older Americans Act of 1965, with a focus on Native American communities.

Jackson Gibson, a veteran, described problems he has had accessing services and obtaining travel reimbursements from the VA, and he noted that although the VA referred him to a local dental clinic for treatment in May, the clinic has still not received authorization from the VA to proceed with that treatment.

Franklin Freeland, M.D., commander of the Eastern Navajo Veterans Organization, spoke of the differences between the IHS and the VA systems as they apply to Native American veterans. He presented several proposals to improve services for Navajo veterans and their families, including establishment of a veterans' center in the area and purchase of a mobile outreach vehicle. Speaking from the audience on invitation of the chair, Timothy Hale, secretary of veterans' services, noted that the VSD is discussing with the VA an expansion of rural outreach efforts and is working with the National Guard of New Mexico to develop a "one-stop shop" for accessing information on veterans' services. He also described the VSD's veteran business outreach center initiative, which includes the Navajo Nation in its mobile outreach efforts and will have Native American business owners speaking at its next event.

On a motion duly made, seconded and unanimously adopted, the committees directed staff to draft legislation appropriating funds to the VSD for veterans' services and a mobile outreach vehicle.

Albert Shirley, a former New Mexico legislator, described the Navajo Nation as a "dead zone" for veterans' services from both the state and the federal government. He described problems with the Navajo Housing Authority and noted that certain federal appropriations to the Navajo Nation earmarked for veterans and for the homeless have not been spent to benefit those populations.

Tommie Yazzie, a veteran, spoke of problems with past outreach efforts in the Navajo Nation that were conducted entirely in English; the need for transportation assistance for travel to the VA hospital in Albuquerque; the merits of reinstating a system of alcohol ration cards; the need to upgrade the status of veterans who have been dishonorably discharged; and the need to pass legislation in the Navajo Nation Council to help veterans. He also seconded Mr. Shirley's concerns about the Navajo Housing Authority.

Paul George, a member of the Navajo Veterans Organization in Shiprock, spoke of staffing shortages at the Shiprock CBOC and the need for benefits counselors at the San Juan Regional Medical Center and the Rehoboth and Shiprock hospitals. He seconded concerns regarding

transportation to the VA hospital and homeless Navajo veterans not receiving earmarked federal assistance. He also urged legislators to appropriate funds for planning and design of a veterans' cemetery in San Juan County.

Critical Issues for Providers Regarding Homeless Veterans

Teddy Nez, Homeless Vietnam Veterans, and David Begay, Ph.D., presented a white paper outlining points of concern and issues for homeless veterans. The four major concerns noted in the paper center on the need for:

- long-term planning to serve at-risk veterans;
- a focus on housing for veterans, with policies developed based on local rather than national demographic data;
- better communication among providers, local governments, the Navajo Nation, the state and the federal government; and
- better attention to issues faced by female veterans, including military sexual trauma.

The presenters described the benefits of using traditional healing to help veterans and noted that the VA needs to expand its use of, and reimbursement for, this treatment method. They also called for a comprehensive study of homeless veterans and the services available to them and for full staffing at the VA facility in Gallup.

On a motion duly made, seconded and unanimously adopted, the committees directed staff to conduct an analysis of Mr. Nez's presentation and develop recommendations based on the issues presented in his white paper, to be shared with the Mortgage Finance Authority Act Oversight Committee.

Update on Veterans Helping Veterans

David Cuellar, founder of Veterans Helping Veterans, gave a presentation on his organization's efforts since its inception a decade ago to assist veterans not only in accessing VA and other services, but also with other issues. The group, which meets every other week in Gallup on Friday mornings, has grown to more than 1,500 members and draws meeting participants from as far away as Belen. The group has made a proposal to the legislature to fund publication of a catalog listing all entities statewide that provide services to veterans. It also suggests that the state more closely monitor the conditions faced by veterans in Gallup and other remote parts of the state. Such monitoring could be done by a veteran service officer, but no such officer is currently based in the Gallup area.

On a motion duly made, seconded and unanimously adopted, the committees directed staff to draft a letter to Secretary Hale recommending that he attend a meeting of the Veterans Helping Veterans organization.

Announcement

Representative Martinez announced that the Military and Veterans' Affairs Committee members and staff are invited to a reception on the evening prior to the committee's meeting scheduled for Silver City in late August.

Adjournment

The committees adjourned at 4:10 p.m.

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

**August 28-29, 2014
Albuquerque Indian Center and Pueblo of Laguna**

The third meeting of the Indian Affairs Committee (IAC) was called to order at 10:20 a.m. on Thursday, August 28, by Senator John Pinto, co-chair, at the Albuquerque Indian Center in Albuquerque.

Present

Sen. John Pinto, Co-Chair
Rep. Sandra D. Jeff, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. Sharon Clahchischilliage
Rep. Patricia A. Lundstrom (8/29)
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Cliff R. Pirtle (8/29)
Sen. Nancy Rodriguez
Sen. John C. Ryan (8/29)
Sen. Benny Shendo, Jr. (8/28)
Sen. William P. Soules

Absent

Rep. Jane E. Powdrell-Culbert

Advisory Members

Rep. Ernest H. Chavez
Sen. Carlos R. Cisneros
Rep. Georgene Louis
Sen. Cisco McSorley
Rep. Debbie A. Rodella
Rep. Patricia Roybal Caballero
Rep. Nick L. Salazar
Sen. Clemente Sanchez

Rep. Zachary J. Cook
Sen. Stuart Ingle
Sen. Daniel A. Ivey-Soto
Rep. Antonio "Moe" Maestas

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

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Mark Edwards, Staff Attorney, LCS
Michele Jaschke, Researcher, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, August 28 — Albuquerque Indian Center

Invocation and Introductions

Senator Pinto called the meeting to order at 10:20 a.m. Kelly K. Zunie, deputy secretary, Indian Affairs Department (IAD), gave an invocation, and the committee members and members of the audience introduced themselves.

Albuquerque Indian Center (AIC) Status Update

Ki Tecumseh, board chair, AIC, and Mary Garcia, executive director, AIC, presented an overview of the services that the center provides and how it functions. The AIC facility was originally built with federal Department of Housing and Urban Development funding, and the AIC provides services to a homeless population that is composed of predominantly urban Native Americans. However, the AIC is open to, and used by, people from various backgrounds. A client must pay a \$2.00 per month co-pay to use the services. Aside from helping to pay the center's bills, AIC staff have found that this fee requirement builds a sense of co-ownership within their client base.

Ms. Garcia stated that currently the AIC is mostly providing basic living assistance to clients, including food distribution, provision of a mailing address and provision of a place to keep files for personal identification and other legal documents. The AIC serves lunches daily to between 120 and 150 people, and a larger population of 750 to 800 people use the center for their mailing addresses. Ms. Garcia then thanked the members for supporting \$20,000 in capital outlay to purchase computers for the center.

Mr. Tecumseh highlighted that the mailing address and record-keeping functions are critical services for homeless people. He cited a recent example where two homeless people, Kee Thompson and Allison Gorman, had been murdered in Albuquerque. Mr. Tecumseh said that the AIC's records had been used to help identify the victims.

Ms. Garcia then noted some of the challenges facing the AIC. One key concern is personal safety. The center is in an area noted for violence, and this poses real safety challenges for AIC clients and staff. A second challenge is that the AIC is struggling to provide basic services. In the past, the AIC received a combination of state and city funding, but the city funding was cut. As a result, AIC's payroll for its staff is typically delayed by three to four weeks. The center has also been in danger of losing water service, a critical service for the AIC as it maintains a garden to provide fresh vegetables as part of its lunch program. Mr. Tecumseh highlighted the funding challenge, stating that the center survives because of a lot of volunteer help.

Looking to the future, Ms. Garcia expressed a desire to reestablish services that the AIC traditionally has been able to provide. She said that for many years, the AIC has been able to provide a variety of counseling and job-search services. At the height of its operations in 2010, the AIC had five certified counselors on staff who were able to provide tobacco-prevention programs, substance abuse counseling and a variety of personal counseling services. Current funding only permits the AIC to maintain a few sessions of group counseling, and the limited counseling is proving inadequate.

In conclusion, Ms. Garcia stated that AIC staff has met with outgoing Navajo Nation President Ben Shelly, who had pledged to provide financial support for the center. However, Ms. Garcia expressed concern that that support might be lost as the Navajo Nation changes administrations. In order to meet its service goals, the AIC is requesting that the legislature increase state funding for the AIC to \$210,000 annually.

In the ensuing general discussion, the presenters stated that the center did not have a particular program to help people move back into their communities. However, they stated that AIC staff tries to help people return to their communities for cultural and religious events. Asked to list the specific services that were cut when the AIC lost city funding, the presenters listed employment training, job placement, assisting people in getting high school equivalency degrees and counseling (particularly a prevention program for substance abuse and a program that provided domestic violence therapy).

As the discussion turned to available assistance programs, the presenters said that the Medicaid program has recently dedicated a staff person to help AIC clients fill out Medicaid service forms. The presenters also said that the AIC has had success in getting federal Community Development Block Grant (CDBG) funding to rehabilitate and expand the AIC facility. However, CDBG funding is limited to bricks-and-mortar projects and cannot be used to fund services.

Regarding funding from other sources, the presenters stated that last year the AIC had received \$20,000 in funding from the Navajo Nation. Based on their meeting with President Shelly, they believe that funding will go up to \$50,000 for next year. In regard to funding from pueblos, the AIC has had one personal contact with a pueblo official but has relied mostly on mailed requests to the pueblo governments. So far, the AIC has not received a response.

Similarly, the AIC has not received positive responses from the City of Albuquerque or Bernalillo County. The presenters expressed puzzlement about Albuquerque funding decisions. They stated that the AIC had received city funding for 15 years prior to the funding being cut off in 2010. At that point, the City of Albuquerque went to a bid process for homeless services. Originally, the AIC was the only entity to make a bid, but the city was dissatisfied with the bid for reasons it did not explain. The presenters stated a belief that Albuquerque's current funding for homeless services is going to First Nations Community HealthSource.

Asked to explain the difference in services provided by the AIC and First Nations Community HealthSource, the presenters explained that First Nations Community HealthSource is solely a health-service provider. In contrast, while the AIC provides many other services, it does not provide health services. A committee member requested that a representative of First Nations Community HealthSource be invited to a future meeting to give a presentation to the committee about their organization's services and to participate in a discussion about possible collaboration with the AIC to provide coverage for the range of service needed.

Motion

Representative Madalena made a motion to draft a \$210,000 funding bill for AIC operations, with the IAD designated as the fiscal agent. The motion was seconded by Representative Jeff and passed without objection.

Responding to the AIC's concern about the upcoming change in administration in the Navajo Nation, a committee member voiced a belief that the Navajo Nation Council should be informed about the AIC's programs and that 70% of AIC's clientele is Navajo. A committee member recommended that the AIC presenters immediately contact interim Navajo Nation Council Speaker LoRenzo Bates' office to request that the AIC give a presentation to the Naabik' iyati' (Let's Talk) committee.

Committee members also thanked the AIC presenters for highlighting the issues raised by the recent murders of homeless Native Americans in Albuquerque.

Tribal Infrastructure Funds (TIF): Board Funding and Funded Projects

Arthur P. Allison, secretary, IAD, and Graham Knowles, infrastructure manager, IAD, began their report on the TIF program by giving an overview of the Native American communities that are eligible for the program. They noted that New Mexico contains all or part of 24 different Indian nations, including 54 chapters of the Navajo Nation. Mr. Knowles pointed out that the IAD had worked with the staff of the Legislative Finance Committee to come to an agreement on the population figures listed in the IAD's handout.

Mr. Knowles pointed to figures in the handout stating that, since its inception in 2006, 156 projects have been funded through the TIF program, totaling nearly \$70 million. He said that in a typical year, the TIF program funds 17 projects, totaling about \$7 million. The TIF board reserves at least 10% of its funding for project planning. In allocating funds, the TIF board evaluates projects using four criteria: 1) will a project meet a critical need within a community; 2) is the project listed as a priority in the Infrastructure Capital Improvement Plan (ICIP) for the requesting entity; 3) are there matching funds from project beneficiaries or from the communities that the project will benefit; and 4) is the project ready to proceed and is it able to use at least 85% of the funds within 18 months and all of the funds within 24 months. This last criterion is a federal tax requirement for the bonds that fund the TIF program.

Responding to questions from committee members, Mr. Knowles explained that the TIF program funds a variety of projects, including adult daycare centers, affordable housing, economic development enterprise zones and water/wastewater projects. He said that the distribution of projects among communities has been driven by the capacity of those communities to bring projects forward. He noted that a number of pueblos have strong organizational capacities and, therefore, have outpaced others in developing robust project proposals. Mr. Knowles said that the IAD is looking for ways to place all of the TIF-eligible communities on an equitable playing field for TIF funding.

Responding to a question about project size, the presenters acknowledged that the TIF program has a funding-size limitation. The TIF board restricts funding of any one project to no more than 10% of the TIF. Effectively, that creates a \$1.4 million cap for an individual project. The \$3 million Pueblo of Santa Clara water/wastewater project is a notable exception to the TIF board's preference for small projects. The TIF board also has placed a \$200,000 cap for project planning. However, the board is reexamining this policy because many requesters are simply asking for the maximum funding without performing a proper analysis of what amount of funding a project really needs.

The committee then entered into a general discussion on accuracy and completeness of the various figures and charts included in the IAD's handout. The presenters noted that staff turnover at the IAD may have been a factor in explaining why the pie charts are incomplete. Several committee members also questioned the validity of the population figures for the different tribal communities listed in the handout. The presenters acknowledged that getting accurate figures is an ongoing concern. They stated that tribal governments tend to view their own census tracking as proprietary information. Therefore, unless a given tribe volunteers its internal data, the IAD is limited to federal census figures. Mr. Knowles further stated that the IAD is working hard to build an accurate database for projects and populations. He appreciated the committee's feedback and said that the IAD will, in the future, cite the source materials it uses when presenting information.

Noting the questions about the data in the handout, Representative Jeff requested that the IAD revise the handout for the committee and include a list of all projects submitted to the TIF program and reasons why the projects were either approved or denied.

The discussion then turned to why TIF funding has not been used for road projects. Secretary Allison noted that roads are extremely expensive, and the state and the Navajo Nation have separate, dedicated road funds. He said that the IAD tries to work with the New Mexico and Navajo departments of transportation (DOTs) about their respective priorities so that the IAD can partner with them when appropriate. Secretary Allison noted that the Navajo DOT's focus is on school routes. A committee member remarked that road funding had been purposefully left out of TIF legislation because road costs would overwhelm the TIF program.

A committee member then asked a specific question about operating funds for the Regional Adult Daycare Center at the Pueblo of Santa Clara. Secretary Allison said that he would contact the Aging and Long-Term Services Department to follow up on that question.

More generally, Secretary Allison stated that the IAD tracks all of the legislative bills that focus on Native American communities and, prior to the governor's review of bills, submits a report to the governor on the bills that passed. An issue arises when a particular project authorization is not listed in the Department of Finance and Administration's ICIP.

Commenting that the committee needs to see the whole picture of state funding going into Indian Country, a committee member requested that the IAD create a chart of all state appropriations to Native American communities, not just a chart of TIF projects. Particularly, the IAD was requested to list projects that have funding but are likely to lose that funding before it is used because the funds will revert back before being used. A committee member questioned why there is such a high rate of turnover at the IAD. A committee member said that the IAD needs to retain institutional knowledge.

In response, Secretary Allison said that the staffing picture has improved. At one point, the IAD had only 53% of available staff positions filled. Now, only the chief financial officer position remains open. However, he said, the IAD has an ongoing problem of matching opportunities available with experienced staff.

Honoring Native Life (HNL): Native American Suicide Prevention Clearinghouse

Robyn Atencio, acting health services director, Five Sandoval Indian Pueblos; Sheri Lesensee, program manager, Center for Rural and Community Behavioral Health (CRCBH), University of New Mexico (UNM); and Doreen Bird, program specialist, CRCBH, UNM, gave a presentation on a new collaborative program for suicide prevention that was created in 2013 by Senate Bill 447 (Section 9-7-11.5 NMSA 1978).

As an initial point, citing United States census and Albuquerque epidemiology data, the presenters stated that New Mexico suicide rates rank second in the United States.

The presenters outlined that the Native American Suicide Prevention Advisory Council established by the new law includes representatives from pueblo, Apache, Navajo and urban Native American communities and from the UNM Board of Regents. They stated that the HNL program is developing a suicide prevention toolkit for communities that is based on wrap-around services, including alcohol and substance abuse counseling and culturally based suicide prevention therapies. They also said that the HNL program, with its inclusion of a state university medical program in a culturally based suicide prevention program, is receiving attention around the country as a model that may be copied elsewhere.

Ms. Lesensee said that the law requires that the Native American Suicide Prevention Advisory Council meet at least two times per year and that it has only had the opportunity to

meet three times thus far. She indicated that the HNL is currently in the process of establishing its infrastructure and programs. Noting that part of the HNL's mandate is to provide training and technical assistance to Native American communities, she highlighted the HNL's outreach efforts. As a foundational element, UNM has established an HNL web site that is being continually modified based on feedback from client communities. In addition, she said that HNL staff have met with the Gallup methamphetamine addiction treatment program; worked with the Pueblo of Isleta behavioral health program on a statewide youth meeting; received assistance from the Pueblo of Zuni, the Navajo Nation and the New Mexico Inter-Tribal Community Services Council; and helped develop a town hall meeting to be held in September on Native American Veteran suicide prevention in collaboration with the Native American Veterans Association.

Ms. Lesensee noted that the HNL is currently developing program evaluations for various community suicide prevention programs and is also developing a crisis response team. A priority for the HNL is grant writing for educational presentations and student mentorship programs. These programs will start with college student groups, but the HNL intends to include high school and middle school student groups as the programs grow.

Ms. Lesensee noted that programs designed to follow up from an initial suicide intervention, named "post-vention" programs, are still in the works. The HNL aims to help build an intervention/post-vention team in each community. However, the bulk of work this year has been on technical assistance to Native American communities.

Ms. Atencio said that the next steps for the HNL would be to create partnerships between UNM and the Native American Suicide Prevention Advisory Council to develop tribal programs with services aimed at local capacity building, including training, model program development and internship programs for high school through postgraduate students.

The presenters stated that the HNL will be requesting funding for the coming year to build community-based programs and to create a student development program.

The committee then entered into a general discussion, and Dr. Mauricio Tohen, chair, Department of Psychiatry, UNM, and Dr. Caroline Bonham, assistant professor, CRCBH, UNM, joined the presenters to help answer committee questions. Responding to a question about how many lives the HNL program has or could save, Dr. Bonham indicated that addressing the need for data is one of the outcomes that the HNL hopes to accomplish. The issue is two-fold: many community programs had not been gathering data; and for other programs, the data is proprietary. She said that the HNL is in the process of establishing the relationships that will foster the creation of a database.

Responding to questions by a committee member about available resources, Dr. Tohen said that the HNL has received \$100,000 per year from the state and has been able to leverage \$60,000 to \$80,000 from other sources. Dr. Bonham followed up this point by noting that UNM

is partnering with Native American communities to write grants, but those grants go directly to those communities and are not reflected in the HNL's budget. On a related funding point, Dr. Tohen stated that UNM's administrative cost for the HNL program is \$5,000 of the \$100,000 annual budget.

A committee member then asked about the HNL's remaining outreach needs. Ms. Lesansee said that she is still working to get an advisory council member from the Mescalero Apache Tribe. Also, although she has been in contact with the Navajo Nation's president's office, the HNL is still in need of an advisory council member from the Eastern Navajo Nation. A committee member suggested that the HNL send a request directly to either the Naabik'iyati' committee or the health committee of the Navajo Nation Council.

Mental and Behavioral Health Programs and Services Available to Native Americans

Wayne Linstrom, Ph.D., director, Behavioral Health Services Division (BHSD), Human Services Department (HSD), introduced himself to the committee. He stated that he had only become director three months ago, but he had 43 years of experience in behavioral health programs in eight different states. Barbara Alvarez, tribal liaison, BHSD, HSD, also introduced herself, stating that she oversees six programs and is in contact with all other BHSD programs.

Dr. Linstrom then described the state's Interagency Behavioral Health Purchasing Collaborative (IBHPC). He said that the IBHPC is an initiative designed to coordinate service delivery among different behavioral health populations by integrating services from 17 different agencies. He said that the IBHPC is seeking to address two main goals: 1) how to give children the resiliency to work through challenges; and 2) how to move adults into actual recovery behavior rather than just maintaining a prescribed drug regimen. He said that a key problem for the IBHPC is that only three of the agencies, the BHSD, the Children, Youth and Families Department and the Corrections Department, have allocated funding to the collaborative.

Ms. Alvarez noted that local collaboratives (LCs) for each judicial district have included a Native American in the LC in the past. However, funding was lost over time and some of the LCs have dissolved as a result.

Dr. Linstrom then noted that the state's behavioral health contract with OptumHealth ended in 2013 and that Centennial Care took over at that time. He said that the funding for behavioral health programs has shifted under the federal Patient Protection and Affordable Care Act (ACA) and that Medicaid is now the main funding source, aside from programs within the penal system. He stated that the question now is how the IBHPC will be managed under the Centennial Care contract and the provisions of the ACA. He indicated that the challenge for the IBHPC will be the integration of the provisions for physical and mental health. Concluding his remarks, Dr. Linstrom said the fiscal year 2015 budget for the BHSD was developed with the idea that savings created by the ACA could be shifted to supportive and preventive services and away from the current mental-health-as-an-illness type of funding that has traditionally come from Medicaid.

Ms. Alvarez then turned the committee's attention to the handout provided by the BHSD — a chart on behavioral health contracts. She noted that the chart lists who receives the contracts, what the contractors are contracted to do and who provides oversight on the contracts. She said that the BHSD is working with tribal agencies on behavioral health contracts, particularly by giving assistance to agencies to work through the state's process. She indicated the need for the BHSD to meet with tribal agencies before contract requests are finalized to make the process more transparent.

The committee then moved into a general discussion of behavioral health issues. One member noted that the Criminal Justice Reform Subcommittee is working to rewrite the Criminal Code and is looking at a program created by South Dakota for Native American offenders. Committee members indicated that South Dakota has determined that some violations are caused by behavioral health issues. Further, in those cases, South Dakota has had success in returning offenders to their communities where their behavioral health issues can be addressed using cultural methods unavailable in the state's penal system.

Following a discussion about the South Dakota program, Dr. Linstrom stated that he would research that program. He also indicated that he would try to return to the committee to report on his analysis of the program and how appropriate it might be for New Mexico.

The discussion then turned to behavioral health funding in Native American communities. Some committee members opined that behavioral health needs do not receive enough resources. Committee members also voiced concern that, when funds are allocated to address behavioral health needs in Native American communities, much of the funding is not effectively distributed and, therefore, is unused and reverts back.

Committee discussion then moved to concern about how behavioral health issues have been shifted from a treatment system to a penal system. Dr. Linstrom stated that other states were facing the same problem. He believes that successfully addressing the issue would require approaching different facets of the problem with separate solutions. Returning to his opening remarks, he said he would like to turn the focus from treatment to programs for children that build capacity to work through problems. He said that for adults already in treatment, he believes that a step-down system would be needed to move those adults off treatment. However, both ideas would take work to implement incremental programs for those populations.

The committee then recessed at 4:05 p.m.

Friday, August 29 — Pueblo of Laguna, Route 66 Casino Hotel

Representative Jeff called the meeting to order at 10:10 a.m.

Welcome Invocation and Status Update

Richard B. Luarkie, governor, Pueblo of Laguna, gave an invocation. He thanked the IAC for holding a meeting at the pueblo's facility and noted that business is going well. He then indicated that the Pueblo of Laguna has no outstanding issues to report.

Motion

The minutes of the July 14-16, 2014 IAC meeting were approved without objection.

Motion

Senator Soules moved to hold the October 30-31, 2014 IAC meeting at the Fort Sill Apache facility at Akela Flats instead of in Las Cruces. Representative Lundstrom seconded the motion and the motion passed without objection.

Discussion of Small Loan Working Group Issues

The committee was informed that the presenters for the next agenda item had been delayed, so the committee moved into a discussion of issues on small loans examined by its working group.

Committee members commented that the issue is complex. A committee member noted that the process of rolling over small, short-term loans can result in effective annual percentage rates ranging from 150% to over 1,000%. Conversely, a member commented that overly restrictive legislation might block some population groups from access to credit. Committee members noted that the United States Department of Defense has promulgated a regulation limiting military personnel to a 36% rate on short-term loans of less than 90 days. However, the result was that the loan industry moved to 91-day loans, thus making the limitation ineffective. Some committee members voiced an interest in having a representative of the Attorney General's Office who works on matters regarding financial institutions give a presentation to the committee. Several committee members commented that resolving the competing goals of consumer protection and credit access would require careful crafting of legislation. One committee member commented that the only issue that appeared to find agreement during the working group discussion was a need to increase financial education in school.

Discussion of Gaming Compacts

The committee then turned to a general discussion of the five Indian gaming compacts that are up for renewal. Representative Madalena said that he expects to hold a meeting of the Committee on Compacts in October or November. However, he said, setting a date is dependent on if and when the governor and the tribes involved reach a proposed agreement. He noted that the two areas that the Committee on Compacts would focus on would be: 1) any changes in the renewed compacts; and 2) potential complications due to the Pueblo of Pojoaque's move to settle its compact through the federal Department of the Interior.

A member noted that the New Mexico Legislative Council had directed the IAC to dedicate a day to testimony on gaming issues that would be open for all legislators to attend. That day was scheduled as the last day on the committee's work plan, November 21, 2014.

The Process for Requesting Early-Voting Sites in Indian Country, Providing Voting Materials in Native American Languages and Participation of Native American Youth Working at the Polls

Dianna J. Duran, secretary of state (SOS), and Bobbi Shearer, director, Bureau of Elections, SOS, gave a presentation on various methods that have been used in New Mexico to serve the diversity of cultures in New Mexico on election day. They reported that election public-service announcements are being broadcast in seven different languages. They also reported that new voting machines have been purchased that can accommodate up to 10 languages. The SOS is also trying to retain language translators. The expectation for the November election is that the constitutional amendments and general obligation bonds questions will be translated into Navajo but not other Native American languages.

Responding to questions from committee members, Secretary Duran stated that:

- early voting across the state would start two Saturdays before the election; however, some voting locations in Native American communities move around during those two weeks;
- all the tabulators are in place, but new voting machines are going through extensive testing. The SOS will conduct another round of training on September 9, 2014;
- the SOS is training county clerks. The county clerks in turn train their poll workers. Most county clerks hold their training sessions close to an election so that training stays fresh in the minds of the poll workers;
- the SOS has developed a risk-management plan that is updated on a continual basis. Secretary Duran noted that the SOS is getting good feedback on the new tabulators; and
- a Tewa translation was uploaded to machines in Sandoval County. However, the SOS is still trying to get Tewa translations uploaded for the northern pueblos.

Committee members then asked about election coordinators for Native American communities. Secretary Duran noted that the SOS currently has only one Native American coordinator but has been advertising to bring in more. The SOS is looking for native language speakers with election experience. Responding to a question about court-ordered or federally required election monitors, Secretary Duran said that Cibola County has a Native American coordinator to monitor elections and Bernalillo County has an election monitor for the Pueblo of Isleta and the To' hajiilee Chapter of the Navajo Nation.

A committee member asked if the SOS will allow voters to use stencils printed with a person's name to use to vote for write-in candidates. Ms. Shearer said that the use of stencils is not prohibited by statute, so, therefore, stencils will be allowed. The committee then had a general discussion on whether stencils would be considered a form of campaign material or electioneering. During this discussion, Secretary Duran noted that a poll worker, as opposed to a voter, would not be allowed to possess a stencil while on official duty. This would be a similar to how poll workers are not allowed to wear clothing with a candidate's name printed on it. She said that in the case of a voter wearing an election T-shirt, the voter is typically asked to remove the shirt and then return to the polling place to vote.

Responding to other questions by committee members, Secretary Duran stated the following.

- Candidates that loan money to their own campaigns are required to report that loan, but the SOS has no ability to follow up. No supporting documents are required, so the candidates are bound by the honor system.
- During the primary election in McKinley County, representatives from the SOS did not go to the polling places. Secretary Duran said that she heard that the sheriff had shown up because of some issue, but that no charges were ever filed.
- Third-party registration groups are liable under statute for marking party affiliations incorrectly. The SOS turns over reports of those instances to the local district attorneys or the Attorney General's Office. Secretary Duran said that she has heard of one instance where a third-party group had fired someone for this type of activity, but she has not heard of any court cases or convictions on this matter.

A committee member raised a question about residency requirements for candidates. Another committee member noted that the New Mexico Supreme Court had interpreted the statute to allow a candidate to have a second home outside of the candidate's district, provided that the candidate could demonstrate an "intent to return" to the district. However, Secretary Duran cited an example where a district court had determined that a warehouse was not valid for residency purposes within a candidate's district.

A committee member then asked Secretary Duran if the SOS would provide data on the number of people who used early voting sites for the primary election.

Jicarilla Apache Nation Power Authority

Ty Vicenti, president, Jicarilla Apache Nation; Nann Winter, Stelzner, Winter, Warburton, Flores, Sanchez and Dawes, P.A., special counsel, Jicarilla Apache Nation; and John Wheeler, general manager, Jicarilla Apache Nation Power Authority (JANPA), gave a presentation on the development of JANPA.

President Vicenti said that for years, the Northern Rio Arriba Electric Cooperative, Inc., (NORA) had supplied electricity to the Jicarilla Apache Nation. However, NORA's system started breaking down over time and was never rebuilt. The incident that prompted the Jicarilla Apache Nation to pursue its own electric system was a big snowstorm in Dulce. The resulting power outages and blocked highways convinced the Jicarilla Apache Nation that it needed its own electric system.

President Vicenti said that the Jicarilla Apache Nation chose to connect to the Public Service Company of New Mexico's (PNM's) electric grid. He indicated that competing power-supply options may have been less expensive but would have created power line problems with private property owners.

Ms. Winter and Mr. Wheeler then detailed some of the infrastructure that the Jicarilla Apache Nation had to acquire or build in order to establish its own power company, including: acquiring parts of the NORA line system; building 60 miles of new system line; getting rights of way from the federal Bureau of Indian Affairs; and acquiring lots of power lines, meters and switching yards. However, JANPA is now up and running and has been supplying a stronger current than the old system since April of this year.

Mr. Wheeler said that the next phase of the JANPA power plan is in process. JANPA is bringing in journeyman linemen to train apprentices from the Jicarilla Apache Nation community. He said that the intention is to eventually replace every JANPA employee, including himself, with a Jicarilla Apache Nation member.

Responding to questions from a committee member, Mr. Wheeler stated that JANPA is examining how it might incorporate alternative power sources, such as a solar field or multiple small solar installations.

In response to a question about JANPA's ownership model, Ms. Winter said that JANPA currently functions as a department of the Jicarilla Apache Nation government but that it might convert to an enterprise model once it is fully established.

Responding to a separate question about the Jicarilla Apache Nation's expectations for the Navajo/Gallup water supply project, President Vicenti stated that the Jicarilla Apache Nation would be transporting some of its water through the Cutter line portion of the project and would tap into the line on the southwest corner of the Jicarilla Apache Nation.

Update on the PNM/Navajo Nation Workforce Training Program

Cathy Newby, director, Tribal Government and Customer Engagement, PNM, and Michael D'Antonio, director, Governmental Affairs, PNM Resources, Inc., gave a presentation on the PNM/Navajo workforce training program. They said that the program was an outcome of a regional haze determination made by the federal Environmental Protection Agency (EPA). Pursuant to the National Environmental Policy Act, in promulgating its regulations, the EPA was

required to consult with the Navajo Nation on economic impacts as well as the environmental impacts of PNM's generating plants.

Mr. D'Antonio noted that shutting down the plant would eliminate a lot of jobs from a community that already has a 25% unemployment rate. Ms. Newby then outlined the workforce training program, stating that it is a \$200,000 a year program that provides scholarships for students to go to Navajo Technical University or to San Juan College to train for jobs outside of the coal industry. She said the program would be in effect for five years.

Responding to a question about the environmental regulation promulgated by the EPA, Mr. D'Antonio said that two of the four units at PNM's San Juan Generating Station would be shut down and that PNM was putting emission controls on the remaining units.

A committee member then asked whether PNM has looked into capturing methane gas from its mines. Mr. D'Antonio said that PNM has not done so because its mines were underground as opposed to open-pit mines.

Responding to questions about PNM's service area and system, Mr. D'Antonio stated that:

- PNM supplies power to eight pueblos from the Pueblo of Isleta to the Pueblo of Tesuque. It also provides power to the Route 66 Casino Hotel, but does not supply power further west to the Pueblo of Laguna community;
- PNM has two huge lines that go up to Bloomfield; and
- if the Pueblo of Jemez wants to pursue an agreement with PNM similar to the one that the Jicarilla Apache Nation developed, it would have to formalize a finding of abandoned service. PNM and New Mexico electric cooperatives are bound by service boundaries. PNM cannot recruit customers outside of its service area.

Adjournment

There being no further business before the committee, the committee adjourned at 3:52 p.m.

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

**September 29-30 and October 1, 2014
Pueblo of Jemez, Pueblo of Zia, Pueblo of Cochiti**

The fourth meeting of the Indian Affairs Committee was called to order at 10:28 a.m. by Senator John Pinto, co-chair, on Monday, September 29, 2014, at the Community Resource Center in the Pueblo of Jemez.

Present

Rep. Sandra D. Jeff, Co-Chair (9/29, 9/30)
Sen. John Pinto, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. Sharon Clahchischilliage
Rep. James Roger Madalena
Sen. Richard C. Martinez (9/29, 9/30)
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez (9/30, 10/1)
Sen. John C. Ryan
Sen. Benny Shendo, Jr. (9/29, 9/30)

Absent

Rep. Patricia A. Lundstrom
Sen. Cliff R. Pirtle
Sen. William P. Soules

Advisory Members

Rep. Ernest H. Chavez
Sen. Carlos R. Cisneros (10/1)
Rep. Georgene Louis
Sen. Cisco McSorley (9/29, 9/30)
Rep. Patricia Roybal Caballero (9/29, 9/30)
Rep. Nick L. Salazar (9/30, 10/1)

Rep. Zachary J. Cook
Sen. Stuart Ingle
Sen. Daniel A. Ivey-Soto
Rep. Antonio "Moe" Maestas
Rep. Debbie A. Rodella
Sen. Clemente Sanchez

Guest Legislator

Sen. Michael Padilla (9/30)

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

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Mark Edwards, Staff Attorney, LCS
Michelle Jaschke, Researcher, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Monday, September 29 — Pueblo of Jemez Resource Center

Welcome, Introduction and Invocation

Senator Pinto welcomed the committee and members of the audience and asked committee members and guests to introduce themselves. Representative Madalena and Senator Shendo were asked to co-chair the meeting in acknowledgment of the committee convening in their native pueblo. Vincent Toya, tribal administrator, Pueblo of Jemez, delivered an invocation and welcomed members, guests and staff to the pueblo.

Status Update

Mr. Toya presented a brief update on the status of the pueblo and introduced Chamisa Radford, director, Planning and Development Department, Pueblo of Jemez. Ms. Radford described the proposed bypass to New Mexico Highway 4 to be located parallel to and east of the existing highway that now runs directly through the Pueblo of Jemez. Access for the existing road was appropriated without the pueblo's consent through an eminent domain condemnation in the 1930s that was later overturned by the New Mexico Supreme Court.

The pueblo has explored numerous means to fund the bypass to solve the many safety and flooding issues that the current route presents. Although the project is ready to move forward, no funds have been forthcoming. Pueblo officials asked for the committee's support for funding for the bypass.

Chris Toya, tribal historic preservation officer, Pueblo of Jemez, reported that the tribe now has its own tribal cultural preservation status designation from the National Park Service. The pueblo is working to document and preserve cultural and historic properties on the three noncontiguous land grants that constitute tribal lands. An anthropological survey and global positioning system mapping will be used to develop a database accessible to tribal and religious leaders. There is also a movement to establish an independent Jemez historic register.

Work is ongoing to properly steward ancestral lands, including a restoration of the historic plaza district. The pueblo wants to maintain the historic architectural value of homes in that area and has purchased an adobe maker to help in reconstructing the area with traditional materials. Vincent Toya asked for the committee's help in funding restoration activities. Committee members congratulated the pueblo on this new designation, which invests more power in the tribe to preserve and protect its cultural heritage.

Discussion ensued regarding water rights cases on native lands. Pueblo officials are frustrated by the failure to adjudicate water rights but recognize the difficulties presented by the scarcity of water resources. The pueblo is party to a joint letter to the state engineer requesting reentry into negotiations over water rights.

Pueblo officials also asked the committee to intervene with the Public Regulation Commission to assure a more equitable rate structure and payments from Jemez Mountain Electric Cooperative, Inc. Members requested that they be apprised of all developments regarding the bypass and options for electric service. Darryl Madalena, chair, Sandoval County Commission, offered to write letters of support from the county for the pueblo's objectives.

Native Outreach, Education and Enrollment in the New Mexico Health Insurance Exchange (NMHIX)

A team from Native American Professional Parent Resources, Inc. (NAPPR), presented an update on a Native American health care education and outreach project. Jane Z. Larson, chief executive officer (CEO), NAPPR, described the program's role as a navigator entity under the federal Patient Protection and Affordable Care Act (ACA). The presentation focused on the American Indian-specific provisions of the ACA and on NAPPR's efforts to create a "culture of coverage", encouraging Native Americans to enroll in affordable health care programs.

Roxane Spruce Bly, director of healthcare education and outreach, NAPPR, reported that in a little over a year, the program has overcome a number of challenges to recruit and train health care guides and outreach specialists in communities throughout the state. Distinct roles have been developed for the guides and specialists to facilitate expansion of Indian health systems. A measure of the program's success is that the Navajo Nation has recently consented to have NAPPR provide health insurance outreach, education and enrollment activities on the Navajo Nation.

Members observed that while the NMHIX has expended a lot of money on largely unsuccessful television recruitment ads, the success of NAPPR seems to rest with its personal outreach efforts. Ms. Bly reported that the program has worked with each community it serves to identify the best outreach methods for that area. It was further reported that services to the Navajo Nation have lagged behind other areas due to its late entry into the program and that services for Native American veterans remain a challenge.

Ms. Bly clarified that the ACA has permanently reauthorized the federal Indian Health Care Improvement Act. NAPPR's charge is to help people find coverage. The practical effect of NAPPR services is to stretch Indian Health Service (IHS) dollars. Many more people are now being served by the IHS and in fact are receiving higher levels of service. She acknowledged that coverage problems still exist, but with health insurance coverage available for some Native Americans for as little as 32 cents a month, there are unprecedented opportunities for affordable health care.

NAPPR reported that the program has made considerable progress in enrolling some of the most coverage-resistant groups, including Native American men. The program currently provides many of the services that the planned Native American health center will provide, but questions remain as to when and if such a center will materialize. Members discussed what the problems may be with finding guides and outreach specialists in the northeastern corner of the state, and they also discussed the confusion that private providers have created in trying to sell their insurance plans. NAPPR does not promote any one provider.

Ms. Bly requested help from the committee in including pediatric oral health benefits as a standard of care in health coverage and clarified that this would fall within the purview of the Office of Superintendent of Insurance. She noted that the Consumer Advisory Board has already met with the superintendent of insurance to start the process. Committee members thanked Ms. Larson for her many years of service as CEO of NAPPR, noting that her superlative efforts to assist Native American families and communities throughout the state will be missed as she moves on to other things. Representative Madalena thanked the NAPPR staff for a very informative presentation and invited NAPPR to seek help from the committee as it moves forward.

Supplemental Nutrition Assistance Program

Brent Earnest, deputy secretary, Human Services Department (HSD), presented an update on planned changes to the Supplemental Nutrition Assistance Program (SNAP) rules. The program provides assistance for the purchase of food to eligible low-income residents of New Mexico. Proposed changes to SNAP eligibility include mandatory employment and training requirements that will affect some 90,000 work registrants (adults on SNAP). Mr. Earnest outlined allowable work activities for the two categories of participants in the program (with and without dependents), allowable exemptions and limited waivers assigned to high unemployment areas.

Mr. Earnest asserted that the rule phases in removal of a temporary waiver of the work requirements and includes numerous exemptions. He stated that the changes promote work readiness and only apply to those who are physically able to meet the requirements. Committee members objected to the plan to use community service as a "work-like" experience, noting that it can severely tax the resources of those organizations supervising SNAP community service workers. Some members noted that there was no consultation with tribal entities regarding the proposed change. Members also observed that this appears to be a very significant change that will heavily affect low-income children and their ability to receive nutrition assistance. Another member noted that many state agencies have unfilled positions and raised questions as to how SNAP job-training services will be linked to available jobs.

Other members noted that the state is eligible for at least another year for a waiver of the work requirements due to high unemployment rates and that if such rates persist, the state may continue to qualify for a waiver. Discussion ensued regarding the roughly \$2 million contract awarded to out-of-state contractor SL Start to implement Temporary Assistance for Needy

Families and SNAP monitoring. Mr. Earnest reported that the HSD has not made any estimates of cost savings that might be realized as a result of the rule change. He reported that SL Start, a Washington-based company, will hire some 35 people to monitor the New Mexico program and that many of these workers are intended to be New Mexico residents.

Mr. Earnest did not have information on national caseload standards or what the actual caseload will be in New Mexico. Further questions arose regarding compliance with public review and comment requirements. One member asked that the HSD's review of the SNAP statute be forwarded to committee staff. The member also requested that the HSD send an overview of the expectations for SL Start's employees who will engage in the contracted regulatory activities with SNAP participants.

Members raised questions with regard to the monthly allotments for dependent care and transportation for SNAP participants occupied in work-requirement activities. Mr. Earnest clarified that adults with children under the age of six are exempt from the work requirements. One member questioned how services to the 60,000 people estimated to require skills training will be prioritized. It was noted that if these individuals are at high risk of removal from nutrition assistance, there is some urgency to their need and that it is important for policymakers to have a full picture of how services will be provided. Members questioned how regulatory decisions can be made without study to determine the economic impact on families as well as state agencies.

Discussion ensued regarding the absence of some previously reported statistics related to tribal populations in the new HSD report and the unique situations of the tribes with respect to the HSD rules. One member asked that a list of tribal entities affected by the work-requirement rules be sent to committee staff. Another member expressed frustration that the current administration has repeatedly ignored tribal concerns and called for more public input in the HSD process. Members also suggested that the HSD reevaluate reported unemployment rates in some areas.

A resolution from the All Pueblo Council of Governors (APCG) was presented. It states "that the APCG urges the State of New Mexico, to work collaboratively with all the Tribes of New Mexico, in the spirit and in accordance with the State Tribal Collaboration Act, in the current and future administration of SNAP to ensure adequate and meaningful consultation with Tribes before proposing changes to the SNAP program in New Mexico".

Dental Therapists

Pamela Blackwell, project director, Oral Health Access, Health Action New Mexico, reported on the efforts that have been made to refine aspects of the proposed Dental Therapist Licensure Act (DTLA) to assure safe, effective services to underserved populations in New Mexico. Ms. Blackwell observed that the proposed DTLA responds to past legislative recommendations and customizes the best of other states' efforts in the arena of dental therapy to

serve New Mexico. The DTLA has received the endorsement of the Legislative Health and Human Services Committee for the third year in a row.

Wide-ranging testimony from a panel of experts on dental health addressed members' concerns for client safety, the need for dental therapists and the interchange between dental therapists and dentists. One member asked if the New Mexico Dental Association (NMDA) had commented on the new proposal. Ms. Blackwell reported that, consistent with past experience, the NMDA has not responded to any calls. Members expressed support for the concepts presented but observed that they would have to defer endorsement until a copy of the proposed legislation was before them.

Public Comment

Several audience members spoke in support of the DTLA and urged the committee to endorse the legislation. Evelyn Lance Blanchard, M.W.S., Ph.D., Native Family Study Institute, also asked the committee for support to establish a Native American social work program at New Mexico Highlands University (NMHU). She observed that the Hispanic studies program at NMHU resulted from a legislative initiative and emphasized the need to study social work models for Native American communities. The co-chairs directed committee staff to work with Ms. Blanchard to draft proposed legislation.

Sovereign Hager, New Mexico Center on Law and Poverty, addressed the issue of SNAP requirements. She asserted that contrary to state and federal statutes, no consultation had taken place with tribal entities regarding the proposed rule change. Ms. Hager reported that a federal waiver is available to exempt the entire state from the proposed time limit for childless adults. The proposed time limit would limit such participants to three months of SNAP in three years unless participants work 20 hours a week. Further, she reported that the proposed employment and training requirements would heavily affect Native Americans, especially in areas with high unemployment, and that this program can be voluntary under federal law.

The committee recessed at 4:30 p.m.

Tuesday, September 30 — Pueblo of Zia Tribal Office

Welcome, Invocation and Status Update

Representative Jeff reconvened the meeting at 10:15 a.m. David Pino, governor, Pueblo of Zia, delivered the invocation and provided an update on the pueblo's needs. A new public safety building housing fire and police stations is the top priority. Governor Pino listed other needs that are now in the Infrastructure Capital Improvements Plan, including water lines, a youth center and tribal community center upgrades. He noted that bids will soon be solicited for a new two-story governor's facility.

Governor Pino recapitulated the pueblo's history and the pueblo's emergence over 1,000 years ago. The strongly traditional pueblo is seeking outside help for education and other

services. Keres is the native language at the Pueblo of Zia, and a Keres language curriculum is in development. Governor Pino observed that lack of funding is always the biggest problem for educational programs, and he lamented the loss of native language skills among the pueblo's young people. He stated that the tribal council is now intent on promoting native language development.

Ken Lucero, director of operations, Pueblo of Zia, spoke about the need to teach the Keres language to children at an early age and the pueblo's plan to develop a holistic child development center encompassing native and traditional educational methods. Governor Pino later pointed out the astronomical cost of education for pueblo youth, who generally must travel to other areas for higher education. Committee members encouraged the tribe to contact the Indian Affairs Department (IAD) for information on grants to support education. The pueblo, with around 880 tribal members, is using a variety of methods to try to raise money to send about 20 children to college.

Robert Medina, tribal counsel, Pueblo of Zia, addressed the issue of Indian water rights, noting the scarcity of water resources. While the pueblo has senior water rights, it is at the bottom of the water ladder. The pueblo now has to ration water to ranchers and farmers and then decide whether to irrigate or to water horses. Some tribal members who were farmers now have to travel to Albuquerque for work. He further noted that tribal boundaries imposed by Spain and, later, by the state, have left some of the tribe's sacred sites off of federally designated pueblo lands. The tribe views its boundaries in a different way.

Governor Pino reported that the pueblo has made significant progress in expending capital outlay funding available to the tribe. A breezeway and parking for the senior center have been installed, and improvements to two tribal society houses are in progress. The tribe is working with Sandoval County on emergency services needs and with the Aging and Long-Term Services Department on senior citizen needs. He stated that an additional \$35,000 in capital outlay funding is needed to complete towers to expand wireless service in the area.

Several members commented that they are committed to continuing to provide needed capital outlay funding to the pueblo. One member stated that until job growth turns around in the area, the state should not be "taking food off the table" with the proposed changes to SNAP. Members discussed the fact that the Pueblo of Zia will be exempted from the SNAP proposed rule changes initially but that other tribes will be affected.

Dental Therapist Licensure

A copy of the previously discussed DTLA was presented to members. Senator Shendo moved to endorse the proposed DTLA. Representative Madalena seconded the motion, and endorsement of the legislation passed with one member voting no.

Minutes of the Meeting of August 28-29, 2014

On a motion duly made and seconded, the minutes of the meeting of August 28-29, 2014 were approved and passed without objection.

Use of the Zia Sun Symbol

Mr. Medina informed the committee of the sun symbol's religious and cultural significance to the Pueblo of Zia and related the story of how the symbol had been taken without the tribe's permission. Eric Ruiz, lieutenant governor, Pueblo of Zia, told the committee that the people of the Pueblo of Zia thank the sun for coming up every morning. The Zia sun symbol is emblematic of the tribe's positive approach to life and holds other important and sacred associations for the people of the pueblo. Tribal officials object to the many inappropriate and offensive iterations of the sun symbol that are being used as marketing tools by nontribal entities. The tribe has granted permission to use the symbol to some organizations that have specifically and respectfully requested tribal authorization to do so.

Governor Pino presented a resolution from the National Congress of American Indians (NCAI) that recognizes the Pueblo of Zia's cultural property rights to the Zia sun symbol. The resolution was adopted at the 2014 mid-year session of the NCAI held in Anchorage, Alaska. Further, the resolution recognized the Pueblo of Zia's concerns that "the unauthorized, widespread and commercial use of the Zia Sun Symbol cheapens its religious and cultural meaning and disregards its origins".

Senator Padilla reviewed Senate Memorial 1 from the 2014 legislative session. It directs the Cultural Affairs Department (CAD) to prepare a report for the upcoming legislative session to delineate who has the right to use the Zia sun symbol and if there are any restrictions on how it may be used. Erin McSherry, general counsel, CAD, reported on legal issues affecting the Zia sun symbol's use.

Members discussed means of protecting the symbol as cultural property and heard the tribe's many concerns with regard to desecration and inappropriate use of the symbol. Mr. Medina noted that there is law that supports protection of the symbol. Ms. McSherry clarified that the tribe does not want to trademark the symbol for commerce. Many members expressed support for the idea that if a symbol originates with a tribe and is used religiously or culturally by that tribe, then it belongs to the tribe. Members and tribal officials also discussed the use of the Zia sun symbol in the state flag without the tribe's permission.

Senator Pinto moved to draft legislation to request permission from the Pueblo of Zia to use the Zia sun symbol in the state flag. Representative Powdrell-Culbert seconded the motion, and it passed without objection.

One member asserted that there is precedence for repatriation of sacred cultural items and that there should be further recourse for the tribe in this instance. The member stated that the

member would propose legislation to develop a new flag for New Mexico to correct the expropriation of the sun symbol.

Senator Shendo moved to amend the motion to request permission from the Pueblo of Zia to use the Zia sun symbol in the state flag to include acknowledgment of the Pueblo of Zia's ownership of the Zia sun symbol and to request that the Pueblo of Zia provide direction to the committee with regard to how it wishes the committee to proceed with proposed resolutions or legislation. Representative Madalena seconded the motion.

Some members objected to what they felt would be the costly processes involved in developing a new state flag and favored establishing a cooperative resolution with the Pueblo of Zia. Representative Powdrell-Culbert moved to table the amendment, and Senator Ryan seconded the motion. A roll-call vote was held on passage of the motion to table. The motion failed on a vote of six to two, with two abstaining. The committee returned to a roll-call vote on passage of the proposed amendment. The amendment passed on a vote of nine to one.

Governor Pino stated that the office of the tribal governor is not empowered to make decisions on behalf of the tribe. Decision-making authority will come from tribal medicine and consultations that will include the war chief and other tribal officials. The governor said that the tribe will inform the committee of its findings.

Appropriations and Capital Outlay in Indian Country

Arthur P. Allison, secretary, IAD, introduced the IAD's new chief financial officer, Marilu Casillas. He reported that the IAD has been asked to provide additional details to the committee regarding the tribal infrastructure funds (TIFs) and capital outlay projects administered by the IAD. Secretary Allison reported that because the TIFs operate on a reimbursement basis, it may appear that a project is not progressing because the IAD has not yet been billed. Sometimes, TIFs and capital outlay grantees do not have enough money of their own to cover start-up costs, and funding remains idle. He also observed that, in some instances, if federal matching funds are not available, funding may be held up for a couple of years.

Graham Knowles, tribal infrastructure manager, IAD, presented the TIFs funding priority list for 2014 and related information regarding the process for ranking projects under the planning, design and construction categories. Mr. Knowles provided information regarding the status of current TIFs, capital outlay and special projects administered by the IAD. He also outlined the TIFs Executive Order 2013-006 process, describing the executive order audit review that must be completed before projects can proceed, to establish intergovernmental agreements and project budgets.

Members expressed concern that tribes or chapters do not have the money necessary to start a project under the reimbursement process and suggested finding a new approach to project initiation. Committee members also asked whether or not the audit findings that are holding up the flow of funding are material findings or if they are internal control items that can be

addressed by the IAD with the grantees. Secretary Allison stated that almost all of the findings relate to capital assets inventory. Some findings relate to procurement issues and accounts payable.

Secretary Allison stated that the IAD is looking at terms and conditions for agreements with grantees. He observed that the IAD reviews the most recent single federal audit submitted to the federal audit clearinghouse to establish whether or not the tribal entity is compliant with the executive order requirements. The time line for filing such audits conflicts with the timely release of funding from the IAD. Mr. Knowles stated that the reversion date on TIFs is essentially compressed into a 24-month period because of the audit review and contract requirements. The secretary noted that Navajo Nation grantees with audit exceptions are now required to hire an outside certified public accounting firm to establish internal controls.

Kelly K. Zunie, deputy secretary, IAD, reported on the Tribal Tobacco Cessation and Prevention Program (TTCPP). She provided a list of fiscal year 2014 and fiscal year 2015 programs funded under the TTCPP. Ms. Zunie noted that special emphasis is given to prevention among Native American youth.

There being no further business, the committee recessed at 4:09 p.m.

Wednesday, October 1 — Pueblo of Cochiti Community Center

Reconvene

Senator Pinto reconvened the meeting at 10:09 a.m.

Welcome, Invocation and Status Update

Joseph H. Suina, Ph.D., governor, Pueblo of Cochiti, welcomed the committee members, staff and guests to the pueblo and delivered the invocation. The Pueblo of Cochiti is the farthest north Keres-speaking community. It has a local population of about 1,000, with some 300 to 400 tribal members living in other areas. Governor Suina noted that many tribal members commute to jobs in urban areas and that the pueblo has been consistently occupied for well over 800 years. The kiva and clan systems at the pueblo are intact, and the traditional calendar runs year-round.

Governor Suina observed that the tribal governor is selected for service by the tribe and that the responsibility is bestowed on everyone to help everyone understand the issues affecting the tribe from a personal point of view. Gubernatorial responsibilities include local affairs as well as coordination with local governments and the state. The governor related that Catholicism and native dances and customs are combined in an intimate and beautiful way in pueblo tradition and that Cochiti tribal members enjoy rich layers of culture.

Interest in returning to the pueblo to participate in pueblo traditions has revived. The pueblo has started a Montessori Keres language immersion program, free of state and federal

money, for children ages two through four. The program includes a parental-involvement component.

The governor noted that even "latecomers" to the area, with the exception of the community of Cochiti Lake, have been in the area for 300 years and that there is a rich interaction between Hispanic and Native American cultures. The nearby communities of the Pueblo of Santo Domingo, Peña Blanca, Sile and others are working together to meet the challenges of wildfires, flooding and other issues affecting rural residents. Members asked about reports of sewage seeping into ground water in the area. The governor stated that the pueblo is working with other agencies to solve that problem as well.

Regis Pecos, former governor, Pueblo of Cochiti, provided another layer of history with regard to mitigation of damage to natural and cultural resources resulting from the development of federal lands in the area. Mr. Pecos noted his many years of experience with state government in his capacity as chief of staff to the late Speaker of the House of Representatives Ben Lujan. He lamented the loss of many of the tribe's elder statesmen as well.

Mr. Pecos related some of the needs relative to the remarkable natural and cultural resources of the area. Access to the Kasha-Katuwe Tent Rocks National Monument runs for three miles across the reservation, presenting maintenance and security challenges. The monument, which is one of the natural wonders of the world, was established in 2001 and resulted in the Pueblo of Cochiti becoming one of the first tribes to enter into a federal-tribal agreement to protect cultural resources.

National forest lands and the boundary with the National Park Service's Bandelier National Monument lie to the north. Los Alamos National Laboratory and U.S. Department of Energy (DOE) facilities also bound pueblo lands. The Pueblo of Cochiti and three other pueblos are part of an agreement with the federal government to conduct ongoing air, water and soil quality monitoring as well as to facilitate ongoing mitigation of damage to such resources resulting from the DOE presence.

Mr. Pecos gave a brief history of the development of Cochiti Lake, one of the largest earthen-dam man-made lakes in the world. The construction phase took nearly 10,000 acres of land from the pueblo, for which the tribe received around \$12.00 an acre. Seepage from the dam initially destroyed all of the agricultural lands on the pueblo. Subsequent litigation resulted in a three-part settlement addressing damages, maintenance of the mitigation efforts and restoration. Settlement costs exceeded the initial cost of the lake.

The solution to the seepage was an underground system to adjust the water table and push water back into the ground, which Mr. Pecos described as a major scientific and hydrological accomplishment. One part of the three-part settlement is a 50-year trust fund to maintain that system. Now, halfway through that 50-year period, the pueblo is seeking to continue discussions to safeguard the maintenance system for the future.

Approximately 80 percent of the pueblo's agricultural lands have now been restored. During the lengthy course of litigation surrounding the dam seepage, a major socioeconomic experiment was implemented to look at private investment on pueblo land. Mr. Pecos stated that the pueblo was forced into an experiment to build a retirement community on pueblo lands that at the time required the concession of fully one-half of the tribal lands. The experiment required the pueblo to lease the land for 99 years and to allow a municipal form of government in the retirement development. Residents of the community do not really own their homes but, rather, have entered into the 99-year lease agreement.

The development company was ultimately bankrupted by a confluence of factors; however, the pueblo expended millions of dollars and an enormous amount of natural resources to try to mitigate its losses. The pueblo was successful in limiting the footprint of the retirement community to a small area of the pueblo, and the pueblo inherited the Cochiti Golf Club through the developer's bankruptcy proceedings. Cochiti Lake's lease agreement will expire in 2068, and the pueblo is now under tremendous pressure to extend the lease and is incurring ongoing legal expenses.

In summary, Mr. Pecos stated that the pueblo, motivated by its deep love of the land and concern for the future of the tribe, has devoted an enormous amount of time, energy and money to preservation and restoration of area resources. He thanked the legislators for their help and continuing support. He noted that the Pueblo de Cochiti Community Library is one of the first capital outlay projects approved by the legislature for a tribal entity and that many activities inclusive of surrounding communities are held at the commodious Cochiti facilities.

Fire, Flood Protection, Mitigation and Restoration Management; Tribal, State and Fiscal Challenges

Phoebe Suina, consulting engineer, High Water Mark, LLC, told the committee that many communities in addition to the Pueblo of Cochiti, including the Pueblos of Santo Domingo, San Ildefonso, Nambe, Jemez and others, were affected by fire and flood disasters over the past few years. Funding from the Federal Emergency Management Agency (FEMA) to address disaster needs has been flowing to the state, but the state has been extremely slow in releasing the funds. This delay has heavily affected low-income communities working on very small operating budgets. It has taken almost two years for the Homeland Security and Emergency Management Department (HSEMD) to reimburse the Pueblo of Cochiti for disaster-related expenses and then reportedly only as a result of coercive measures.

Everett Chavez, former governor, Pueblo of Santo Domingo, noted that three tripartite (federal, state and tribal) emergency declarations have been issued as a result of the devastation that began with the Las Conchas fire in 2011. That fire was followed by repeated flooding through the fire-devastated areas as well as a subsequent fire. He noted that the tribe is just now beginning to receive some of the FEMA money that was awarded to mediate the problems the pueblo is experiencing regarding flooded and now deteriorating housing (161 homes housing

some 300 families); serious damage to irrigation infrastructure on the east and west sides of the river (some 20 miles of infrastructure); damage to the network of 25 to 30 miles of unpaved roads; breached levees and berms; and the washout of the crossing at neighboring Sile.

The Pueblo of Santo Domingo homes affected are concentrated in the traditional tribal area and are of native construction. FEMA estimates of what will be required to correct the damage are in many instances far less than one-fourth of what the pueblo has determined the actual costs will be. Mr. Chavez and other panel members expressed concern that the existing FEMA framework does not include provisions to assess traditional architectural and construction materials and methods. He noted that disaster-remediation funding has been released by FEMA to the state but, again, has only recently begun to be released to the tribe. The apparent holdup is with the HSEMD. Further, he indicated that the serious safety concerns that have persisted for so long with regard to the compromised housing have now been complicated by time. For example, toxic mold and dangerous decay from repeated rains and flooding have resulted from the inability to repair the housing during the long delay.

Mr. Chavez told the committee that the Pueblos of Jemez, Cochiti and Santo Domingo have jointly appealed the FEMA award of roughly \$500,000 to mitigate damage to those 161 homes at the Pueblo of Santo Domingo. Local estimates to repair the damage range up to \$14 million. The affected families have reportedly lost faith in the tribal government's ability to help them with this issue. Mr. Chavez and other panel members reported that mobilization of the FEMA resources now requires legislative intervention. Josh Sanchez, a native of the Pueblo of Acoma and a field representative for U.S. Senator Tom Udall, reported that Senator Udall has worked to get the FEMA money to the state but that it is up to state representatives to see that the money is disbursed. Panel members reported that a meeting with FEMA is scheduled for next week.

Robert Apodaca, government consultant, Motiva Corporation, asked that the committee look at how the emergency funds are being handled by the HSEMD. He also requested that the legislature look at the state emergency fund that needs to be reauthorized and that the state consider how economic development efforts may be furthered by improving the flow of FEMA funds. Mr. Apodaca stated that the immediate need is to get funding flowing from the HSEMD.

Mr. Pecos suggested establishing funds to address the need to move from one phase of disaster assistance to another. He also noted that previous administrations had maintained a separate and fully funded line item for fire and flood mitigation. He advocated having two avenues to address crisis situations: (1) a fund to get disaster relief projects started; and (2) a fund to address mitigation needs directly. Mr. Pecos stated that phasing disaster relief could improve future mitigation efforts.

Merril Yazzie, transportation planner, Cochiti Department of Transportation, presented information on the washed-out culverts at Sile and the proposals for a Sile bridge. He showed graphic details of the damage from the Las Conchas fire and subsequent flooding affecting the

Peralta watershed and the "pinch point" of the watershed at Sile. Trees, rocks and other debris from the fire and flooding continue to plague efforts to improve and maintain the crossing.

Two different bridge proposals have been developed. The preferred proposal is a bridge with a full span of 90 feet and an estimated combined design and construction cost of around \$3 million. A twin-cell precast bridge has also been proposed at roughly half the cost but would still be subject to damage from the very large trees and other debris that continue to wash through the watershed. A resident of the community of Sile detailed the problems that the continuing washouts of the crossing present for transportation of schoolchildren, those in need of medical assistance and the general population in the area. Community and panel members requested that the committee assist in prioritizing funding for the full-span bridge.

Committee members toured the washed-out crossing at Sile, and the meeting was adjourned at 4:40 p.m.

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

**October 30-31, 2014
Akela Flats and Las Cruces**

The fifth meeting of the Indian Affairs Committee was called to order at 10:35 a.m. by Senator John Pinto, co-chair, on Thursday, October 30, 2014, at the Fort Sill Apache offices at Akela Flats, New Mexico.

Present

Sen. John Pinto, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado (10/30)
Rep. James Roger Madalena
Sen. Richard C. Martinez
Rep. Jane E. Powdrell-Culbert (10/31)
Sen. Nancy Rodriguez
Sen. Benny Shendo, Jr.
Sen. William P. Soules

Advisory Members

Rep. Ernest H. Chavez
Rep. Georgene Louis
Sen. Cisco McSorley
Rep. Patricia Roybal Caballero

Absent

Rep. Sandra D. Jeff, Co-Chair
Rep. Sharon Clahchischilliage
Rep. Patricia A. Lundstrom
Sen. Cliff R. Pirtle
Sen. John C. Ryan

Sen. Carlos R. Cisneros
Rep. Zachary J. Cook
Sen. Stuart Ingle
Sen. Daniel A. Ivey-Soto
Rep. Antonio "Moe" Maestas
Rep. Debbie A. Rodella
Rep. Nick L. Salazar
Sen. Clemente Sanchez

Guest Legislators

Rep. Phillip M. Archuleta (10/31)
Rep. Rodolpho "Rudy" S. Martinez (10/30)

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

Staff

Peter Kovnat, Legislative Council Service (LCS)
Mark Edwards, LCS
Michelle Jaschke, LCS

Thursday, October 30 — Fort Sill Apache Offices — Akela Flats

Senator Pinto welcomed the committee and asked the committee members to introduce themselves. Representative Madalena was asked to be acting co-chair. Leland Michael Darrow, tribal historian and secretary-treasurer, Fort Sill Apache Tribe, gave an invocation in the traditional Chiricahuan Apache dialect.

Welcome and Status Update — Fort Sill Apache Tribe

Jeff Houser, chairman, Fort Sill Apache Tribe, welcomed the committee to the Fort Sill Apache lands at Akela Flats. Mr. Houser told the committee that this year marks the one hundredth anniversary of the release of the Fort Sill Apaches from captivity by the United States government, and that the tribe held a celebration marking the event in March 2014. He then gave the committee a brief history of the tribe. Mr. Houser noted that while Geronimo is commonly thought of as one of the principal historical Apache leaders, he was not a tribal leader at all, he was a healer, a medicine man. However, when the Mexican army killed his wife and children, Geronimo became a dedicated fighter and an influential advocate for armed resistance to Mexican and American incursions into Apache lands. Mr. Houser said that in 1886, Geronimo, Chiricahuan leader Naiche and their followers surrendered to the United States Army with the understanding that they would be held as prisoners of war for two years. Subsequently, the army sent them and their families to Florida, separating families by holding the women and children in a different prison camp from the men. Up to 50% of the tribal members died of malaria in Florida, eventually prompting the army to move them to camps in Alabama and, in 1894, to the military reservation at Fort Sill, Oklahoma.

Mr. Houser then explained that in the early 1900s, the United States offered to release the Fort Sill Apaches if they would relocate to the Mescalero Apache reservation and give up any claim to a reservation homeland of their own. He said that about two-thirds of tribal members accepted the offer, including Geronimo's then wife and children. While it is thought that the addition of the Fort Sill people helped strengthen the Mescalero Apaches' hold on their reservation land, it came at the cost of diluting the population of Chiricahuan dialect speakers. Today, the Chiricahuan dialect is in danger of disappearing.

Mr. Houser related that the Fort Sill Apaches' current situation is a result of the circumstances of their release in 1914. He said that during captivity, the territorial and state governments of New Mexico would not allow the creation of a reservation homeland for the Fort Sill Apaches. Therefore, upon their release, the remaining Fort Sill Apache families settled upon abandoned farmland allotments around Apache and Fletcher, Oklahoma. The tribe has since been working to return to a homeland in New Mexico. For two generations, its efforts were focused on getting action from the federal government; however, it acquired land at Akela Flats in 2002 and had it moved into trust status.

Responding to a question from a committee member, Mr. Houser said that the Fort Sill Apache Tribe now has a total of 300 acres of land in Oklahoma and New Mexico. However, the lands are scattered, and only 30 acres are in New Mexico. Not having a cohesive landholding has created problems for the tribe. A major challenge is that the federal Bureau of Indian Affairs has narrowly interpreted the area of "administrative jurisdiction" of the Fort Sill Apache Tribe, resulting in limiting the use of federal funds on the tribe's scattered holdings. The tribe's business headquarters is in Oklahoma.

Turning to the Fort Sill Apache Tribe's current goals and aspirations, Mr. Houser indicated that several members want to return to, and settle their families in, their ancestral home in New Mexico. The key element that will foster a return is job creation. To that end, the tribe has sought to become a gaming tribe in New Mexico. Economic development analyses contracted by the tribe indicate that a casino at Akela Flats will be a job creator for both tribal members and non-Indian residents in the area. However, Mr. Houser said that the Fort Sill Apaches need the federal agencies and the governor to agree to allow the tribe to move forward on a gaming compact, but that getting a decision has been difficult. He told the committee that the tribe filed suit in June 2014 seeking to force the National Indian Gaming Commission to make a determination under the federal Indian Gaming Regulatory Act.

Report on Native Veterans' Income Tax Settlement Fund

Alan Martinez, deputy secretary, Veterans' Services Department, and Elisa Walker-Moran, chief economist, Taxation and Revenue Department (TRD), gave a presentation regarding the repayment of state taxes improperly held from the paychecks of Native Americans while they were on active duty in the United States armed forces. The presenters first gave the committee a brief history of the issue. Pursuant to federal authorizing legislation enacted the previous year, in 1977, the TRD entered into an agreement with the United States Department of Defense (DOD) to have state income taxes withheld from the paychecks of service members. However, when the DOD began to withhold state taxes, either it was unaware or many of the service members themselves were unaware of an exemption for which they were eligible. Active duty military personnel who are Native American and who are domiciled on tribal lands are exempt from state income taxes. In 2007, New Mexico enacted legislation expanding the exemption for New Mexico's state taxes to all active duty service members.

Deputy Secretary Martinez and Ms. Walker-Moran noted that in 2008, Senator Pinto and former Senator Lynda M. Lovejoy introduced legislation prompting a study of the issue of improper withholdings for Native American veterans that had served prior to 2007 and creating a fund to settle withholding claims. The presenters stated that the settlement fund was needed because many service personnel did not become aware of the issue until after the three-year time limit set by the state's statute of limitations. In 2009, the legislature appropriated \$1 million to capitalize the settlement fund. Further appropriations in 2011 and 2014 added an additional \$300,000 to the fund.

Ms. Walker-Moran stated that the initial feasibility study for the settlement program included extensive outreach, including 14 town halls, to determine how many veterans had been affected and by how much. The TRD also had to enter into a new agreement with the DOD's Defense Finance and Accounting Service to get access to old paycheck records to see what had been withheld. During the course of the settlement program, 1,447 claims were made and 785 were approved. Five approved claims totaling \$19,767 have yet to be paid.

Responding to questions from committee members, the presenters stated that:

- all Native American veterans were encouraged to apply, including those serving prior to 1977, so that the TRD could get an accurate picture of the scope and size of the problem;
- it has typically taken 90 days to process a claim, including checking the DOD records once a claim has been made;
- unapproved claims are typically denied because of improper documentation, but a claimant can always bring forth additional documentation;
- the program has likely paid out all of the high-value claims that could be made; and
- any inappropriate withholding in the last three years can be resolved by having the claimant file an amended tax return, so those claims would not be appropriate for the settlement program.

The presenters concluded by indicating that the settlement program appears to be winding down. The settlement fund is nearly depleted, and not many previously unfiled claims are expected. In response to a question by a committee member, Ms. Walker-Moran stated that the TRD should know if any additional funding is needed for unpaid claims before the end of the 2015 legislative session.

Allocation and Recovery of Access Fees, Charges and Trespass Fines Paid by Electric Distribution Cooperatives to Native American Governmental Entities

Theresa Becenti-Aguilar, commissioner, District 4, and chair, Public Regulation Commission (PRC), S. Vincent Martinez, chief of staff, PRC, and Cydney Beadles, counsel, PRC, gave a report on the costs of right-of-way (ROW) fees across Native American land and how those costs are passed on to the customers of electric cooperatives. They stated that the report was in response to a request made by the legislature through House Memorial 17 in the 2014 legislative session.

The presenters started by discussing the example of the Jemez Mountains Electric Cooperative, Inc. (JMEC), and the cost recovery mechanism for ROW fees Rate 19. The presenters noted some underlying facts with Rate 19 that make it a seminal case for ROW rates, including that:

- 1) federal law requires that tribes be compensated at a minimum of a fair market value for ROWs through their lands;

- 2) the JMEC has 10 tribes and pueblos in its service area; and
- 3) the JMEC ROWs had been very out-of-date and needed to be renegotiated.

The presenters indicated that during the negotiation process, the JMEC came to realize that the ROWs would be costlier than anticipated and filed a Rate 19 proposal to exclude private holdings within tribal lands. A protest was filed by Ohkay Owingeh, which led to mediation during which it was shown that transmission lines benefit all customers. The result was that the PRC approved a methodology for Rate 19 that recovers ROW costs for transmission-level facilities from all of the customers of an electric cooperative, but only recovers ROW costs for distribution-level facilities from customers who live within the boundaries of the tribal lands of the tribe or pueblo collecting that ROW fee. This methodology was later followed in Rate 27, a similar ROW recovery mechanism for the Continental Divide Electric Cooperative, Inc. (Continental). The presenters noted that the methodology has proven to be controversial for the ROW over the lands of the Pueblo of San Ildefonso, possibly because of the large number of private holdings within the pueblo's boundaries.

At this point, a committee member noted that the ROW fee adjustments were long overdue, stating as an example that the JMEC lines had been running over the lands of the Pueblo of Jemez for many years without compensation. Another committee member said that the issue for the state was probably moot, that the PRC has limited influence on ROW fees and that the approved rates were essentially agreements between the electric cooperatives and the tribal governments.

Noting the sizable and detailed report that the PRC had provided as a handout, a committee member asked the presenters to summarize the situation of electric cooperatives, their customers and the costs of ROWs.

In response, Ms. Beadles noted that all parties should remember that a defining element of an electric cooperative is that the shareholders are the cooperative's customers. This element may place a narrower limit on a cooperative's ability to absorb new costs that a larger utility company would not have. In a similar vein, Commissioner Becenti-Aguilar agreed that the question of equitable fees raises the question of how much customers can pay. However, she went on to note that Rate 19 had made history. Three pueblos followed the example of Ohkay Owingeh and filed their own protests to the original proposal. She said that the PRC had to work hard with the All Indian Pueblo Council and individual tribal government landowners in seeking a balance between them and the electric customers.

The chair then asked for comments on this issue from the representatives or leaders of tribes and pueblos in attendance.

Terry Aguilar, governor, Pueblo of San Ildefonso, stated that his pueblo had originally opposed the methodology adopted by the PRC for Rate 19. In the course of working on the issue, the pueblo met several times with members and nonmembers living on pueblo land, and it eventually decided that it needed to resolve the issue and move on. The Pueblo of San Ildefonso

had determined that fair market value for ROW fees would cost \$1.3 million and result in a \$50.00 per home rate increase. To resolve the issue, the pueblo dropped the ROW fee substantially to allow for a more modest \$5.00 to \$6.00 per home increase. Governor Aguilar stated it is unclear how the PRC will move forward on future ROW issues. He opined that with so many tribes involved within the JMEC and Continental service communities, the PRC may need an inter-governmental process to move forward on rates in the future.

Conroy Chino, lobbyist, Pueblo of Acoma, pointed out similar issues are arising in the ROW negotiations with Continental. He noted that the federal "not less than fair market value" standard was similar to municipality rights under state law. Mr. Chino raised an objection to the PRC approach for cooperatives to recover ROW costs only from their customers within the ROW service area. Mr. Chino said that as a matter of conducting business, cooperatives should be allowed to spread their costs over their entire customer base.

Robert Mora, Sr., governor, Pueblo of Tesuque, commented that the PRC's rate process touched upon the general rights of tribal governments. A committee member followed this comment up by questioning whether the memorial requesting the PRC report had been brought in the proper forum, as the issue might properly be seen as part of the federal-tribal relationship as opposed to the tribal-state relationship.

Discussion of Leasehold Community Assistance Act

The presentation was postponed and will be addressed at a future Indian Affairs Committee meeting.

Tribal Infrastructure Board Guidelines and Procedures: Anticipated Changes

Kelly Zunie, deputy secretary, Indian Affairs Department (IAD), Graham Knowles, infrastructure manager, IAD, and Moses Winston, general counsel, IAD, handed out and gave a presentation on revised and updated guidelines for project proposals, project funding and project reporting for the Tribal Infrastructure Project Fund (TIPF) that the Tribal Infrastructure Board (TIB) is expected to adopt.

Mr. Knowles started by listing the sections of the proposed new guidelines in order, noting for each section whether there had been a change in that section from the current guidelines and giving a brief description of changes or new items.

Responding to a question, Mr. Winston stated that the new guidelines are anticipated to be approved on November 10. He said that the IAD has changed its notice procedures due to cost and time considerations. Under the new procedures, the IAD does not post notice in newspapers and uses e-mail lists instead. Also, the IAD will post items like the proposed guidelines on its web site.

A committee member asked a question about the new guidelines in Section 8, Item 7 regarding TIPF recipients for a project that does not get completed within the severance tax

bonding time limits and has reverted back to the Severance Tax Bonding Fund. The item prohibits the TIPF recipient from applying for future funding until certain conditions are met. In a discussion about what time delays this would pose for partially completed projects, Mr. Knowles said that this item might need a modification regarding the completed percentage of a project that has funds reverting.

A general discussion followed on various items in the new guidelines and whether they are new requirements, new proposed scoring priorities or simply a clarification of historical TIPF procedures.

The committee then entered into a discussion on why the TIPF guidelines are trying to conform to the rules for the Colonias Infrastructure Project Fund (CIPF). Committee members noted that the CIPF is a newer construct than the TIPF and that the TIPF has more settled procedures and expectations. Committee members also raised concerns that modeling the TIPF procedures on CIPF procedures may not be appropriate given the government-to-government relationships between the state and sovereign tribal governments.

A committee member then asked a series of questions on how "guidelines and procedures" differ from regulations. Mr. Winston replied that guidelines and procedures do not require a rulemaking process or public hearings. This allows for case-by-case flexibility upon determinations of the TIB. A committee member raised a concern that the flexibility might open the TIB up to challenges on the grounds that its decisions were "arbitrary and capricious".

Several committee members then raised similar concerns about whether the wording of Item #20 allowing "case by case" exceptions was comprehensive enough, and whether the common contract term "acts of god" should be included for extenuating circumstances.

A committee member then asked how the executive order regarding project audits was being viewed and whether the IAD was receiving comments from tribal governments. Mr. Knowles replied that for most capital outlay grantees, the executive order was intended to bring them into compliance with the Audit Act. However, since tribal entities are not subject to the Audit Act, the requirement regarding a single federal audit was included to create an equivalent measure. Mr. Knowles acknowledged that the tribal governments had not been fully informed of the new requirement when it was established. He said that the IAD has decided to be the lead agency for certain items. In these cases, the IAD's chief financial officer looks at federal audit clearinghouse findings and makes a determination regarding the need for additional information or special terms and conditions for the awardee and then consults with the action agency.

A committee member raised an issue about how the single federal audit requirement would work for New Mexico's 54 Navajo Nation chapters. Mr. Knowles stated that even if a Navajo chapter was certified to be a fiscal agent, the single federal audit only applies to the Navajo Nation government in Window Rock, Arizona. Therefore, if a problem develops

regarding the federal audit for the Navajo Nation, the individual Navajo Nation chapter will have its project funding held up.

The committee then entered into a general discussion regarding whether:

- 1) the IAD's process of conferring with tribal agencies was sufficiently comprehensive;
 - 2) the Navajo Nation chapters in New Mexico were in jeopardy of losing TIPF funding;
- and
- 3) the IAD has sufficient personnel to meet all of the consulting and liaison duties that it has set for itself under the TIPF process.

Senator Rodriguez asked the IAD to outline each change made to the guidelines and procedures, to outline the new guidelines to tribal governments for review and comment and to report back to the Indian Affairs Committee about the tribes' reactions.

Recess

The committee recessed for a tour of habitation and petroglyph sites created by the ancestors of the Fort Sill Apache people within the Organ Mountains National Monument lands near Akela Flats.

Friday, October 31 — American Indian Center, New Mexico State University (NMSU)

Senator Pinto called the committee to order at 10:00 a.m. He then asked the committee members to introduce themselves and gave an invocation. After the invocation, Senator McSorley requested that his personal appreciation of having the committee meet the previous day at the Fort Sill Apache homelands and for the tour of archaeological sites at the Organ Mountains National Monument be placed on the record.

Welcome and Status Update — NMSU American Indian Program

Dr. Dan Howard, provost, NMSU, and Justin McHorse, director, American Indian Program (AIP), NMSU, welcomed the committee and gave an update on their programs.

Dr. Howard highlighted NMSU's Native American drinking water uranium abatement program. He said that 30% of Navajo households in New Mexico do not have regulated water at their homes and that 12% of Navajo homes have access to water that is contaminated with uranium or heavy metals. NMSU has developed an effective method using special clay tablets for removing uranium from drinking water. However, Dr. Howard said that NMSU is now looking at how to mass produce a product using these tablets with the goals of maximizing its efficiency and making it inexpensive. He remarked that a successful product would not only benefit New Mexico families, but would also have a worldwide impact. He specifically noted the impact that an inexpensive water cleansing product would have in disaster relief operations. Dr. Howard noted that NMSU anticipates that it will take a few years of funding the research on the product to create the best delivery and waste disposal system for it.

A committee member then asked about NMSU's geothermal program. Dr. Howard replied that NMSU has limited geothermal sources for its own use, but the engineering department has a high interest in development research regarding geothermal energy in general.

Regarding the AIP, a committee member noted that several legislators had contributed capital outlay funding to build the American Indian Center where the committee was meeting. The committee member commented that NMSU should maximize the potential for the center as a meeting place for policymakers, including legislative committees, All Indian Pueblo Council meetings and intertribal government meetings. The committee member further suggested that the center increase its displays of Native American art to create a greater dynamic for the center. Dr. Howard agreed with the goals of the comments, but he noted that demand for on campus classroom space at NMSU might limit the potential for government meetings.

Mr. McHorse then proceeded to outline the AIP. He stated that 4.1% of the student population (654 students) at NMSU are Native American. A key mission of the AIP is to help students transition to the college environment. Part of the transition is training on different cultural expectations. Mr. McHorse noted that many students in the program come from cultures where deference to elders and to group decision-making is emphasized. He said that the AIP helps teach these students the habits needed to succeed in college, including looking professors in the eye and asking questions as part of a change to individual initiative instead of the expectation of deference that the students grew up with.

Mr. McHorse also highlighted the advantages that the center provides for transitioning Native American students. Specific features he noted include a kitchen that allows students to cook home-style meals; a mediation room; and a space for business recruitment interviews. He also noted that the center has valuable artwork, and he thanked the legislature for funding a security system to protect it.

Asked by a committee member about anticipated funding requests, Mr. McHorse said that the AIP is working on a budget package with NMSU. He went on to state that the AIP currently has seven work-study employees, a \$43,000 operating budget and a \$75,000 budget for student recruitment. A committee member requested that Mr. McHorse provide him with a breakdown of what part of the AIP budget comes from the university general fund and what is funded through other sources, including grant funding.

The committee then entered into a discussion on proposed changes to the grade point average (GPA) requirements for incoming students. Dr. Bernadette Montoya, vice president, student affairs and enrollment management, NMSU, stated that NMSU currently has a 2.5 GPA requirement for incoming students, but that requirement would increase to 2.75 for 2016. A committee member inquired as to what the perceived need was to change the requirement and requested NMSU to provide data on the average and median GPAs for incoming Native American students.

Dr. Montoya noted that a NMSU internal study indicated that the university would have lost 2% of its incoming freshman class in the last year had the new requirement been in place. She indicated that the data could be broken down by student background and that she would provide that breakdown to the committee when it was ready. Two issues that were raised by committee members regarding the change in GPA requirements were a need to inform students in high school about the change and a concern about dropping enrollment levels and the budget consequences for NMSU. Dr. Montoya said the board of regents would revisit the issue as part of its December meeting on NMSU's Pathway to Baccalaureate program.

Committee members asked how the American Indian Center's budget is developed. Mr. McHorse and Dr. Montoya related that NMSU has a top-down budgeting process for most of its programs, but that there are opportunities for program directors to have input. Dr. Montoya said a challenge is balancing the budget restrictions caused by a large decrease in student enrollment.

A committee member asked about whether the AIP coordinates with the Native American program at the NMSU campus in Grants. Mr. McHorse said there was some coordination between the programs, but that the Grants campus has its own program to promote student retention.

Dr. James J. Hoffman, dean, College of Business, NMSU, and Jeanelle A. Chavez, program specialist, Indian Resource Development program (IRD), NMSU, then gave a presentation about the IRD. Dr. Hoffman stated that he oversees the IRD and underscored that the IRD's student retention efforts include supporting the efforts of students working toward post-graduate degrees.

Ms. Chavez reviewed the three underlying goals of the IRD: 1) triple Native American enrollment by 2020; 2) double Native American graduation by 2020; and 3) ensure that no Native American student drops out due to financial reasons. She noted that NMSU's hotel management program is a good example of a program having success in recruiting Native American student participation. Ms. Chavez then highlighted the Dream Makers/Dream Keepers program (Dream program) as an important element of the IRD plan to reach its recruitment and graduation goals. The Dream program recruits middle and high school students to spend time living on the NMSU campus during summer to acquaint students with the university and allow them to envision a college education as part of their future. In the Dream program, middle school students spend two weeks on campus, and high school students spend six weeks on campus. She said that participation in the Dream program does lead to greater success in college.

A committee member commented that the IRD developed out of a collaboration on agricultural education with the Navajo Agricultural Products Industry (NAPI). Ms. Chavez said that the IRD has continued its relationship with the NAPI, but that the program has grown to include collaborations with many other institutions.

Responding to a question from a committee member, Mr. McHorse explained that the IRD and the American Indian Center are complementary efforts. The IRD focuses on education programs, while the center focuses on student services.

Report on New Mexico's Small Lending Industry

Cynthia Richards, director, Financial Institutions Division (FID), Regulation and Licensing Department (RLD), David Mora, small loan lead examiner, FID, RLD, and David Gee, industry manager, FID, RLD, presented a report on the small lending industry. The report included figures on seven different types of loans provided by the lending industry, including:

- payday loans;
- title loans;
- unsecured installment loans;
- vehicle title secure installment loans;
- secured installment loans;
- tax refund anticipation loans; and
- loans not falling within the definitions of FID guidelines (known as "other loans").

The report includes various statistics for the different types of loan categories, including the number of loans made; the average annual percentage rate (APR) charged for a loan; the number of loans that were paid off; the number of loans that were not repaid and subsequently written off as a loss by the lender; and the number of loans that were renewed, refinanced or extended.

In the ensuing discussion, a number of committee members expressed a concern that the report is confusing. A committee member explained that the concern stems from a need to look at the small lending industry as a whole and see if there may be problems in the industry or gaps in the statutory framework under which it operates.

Ms. Richards acknowledged the issue and noted that a challenge in preparing the report is that the FID relies on self-disclosure from the lending industry. The FID does not conduct customer surveys or investigations to assess the accuracy of the information provided by lenders. When reviewing the report, Ms. Richards said a second challenge arises because the report encompasses so many different lending products. She emphasized that these products serve different purposes; pose different risks for lenders; have different time requirements, terms and conditions; and are subject to different statutory requirements. Therefore, attempting to crosswalk the figures from one category to another is likely to create confusion and an inaccurate picture of the industry.

Responding to various questions regarding the consumer costs of differing loan types, the presenters noted that, unlike other loans, payday loans have a set fee cap instead of a percentage rate. However, because payday loans are limited to 14-day to 35-day repayment periods, the effective average APR is over 322%. Payday loans can be rolled over (renewed with an

additional fee cost); however, the FID does not collect rollover data. The report only includes the total number of payday loans made, so one-time loans and rollover loans are combined in the reported figures.

After a committee member raised a concern that rollover loans would exacerbate an already large APR, the presenters noted that by statute a loan customer may request to resolve a loan through a payment plan. The customer then pays a one-time \$15.50 fee and is given a 130-day minimum repayment plan. Responding to a question from a committee member, the presenters clarified that a lender must disclose the payment plan option to a prospective customer at the time the loan is made, and this disclosure is required to be offered upon a prospective default on a loan.

Comments and concerns raised by committee members included:

- that the report includes data on the average number of loans per customer (5.81 for payday loans), including the median number of loans received. This information helps to determine if a small number of customers with a high average number of loans are skewing the figure, thus creating a false picture of the customer base;
- a concern that the report does not include what percentage of the small loan market is derived from each category (for example, the percentage of small loans that are payday loans); and
- a concern that because the report does not include information on the number of rollover loans made for some lending categories such as payday loans, and ambiguous information on other loan products such as vehicle loans, it is difficult to get an indication of the number of customers that may be caught in an debt trap.

Ms. Richards said she believes that lenders respond within their ability to interpret the reporting requirements, and the FID is trying to clarify what the lenders need to report, but numbers may be skewed due to a lack of understanding between the reporting lenders and the FID. She said that the FID had published a best practices guide for lenders that has helped improve reporting. She indicated that the best practices try to follow the requirements set by the federal consumer protection agency; however, the FID cannot cite those regulations because they are not part of New Mexico's statutes.

A committee member then asked if the FID has the ability to promulgate its own regulations. Ms. Richards stated that she believes this is so. A committee member encouraged the FID to consider promulgating regulations to clarify the picture for the lending industry, noting that statutory process tends to create broad requirements, whereas regulations can be more detailed.

Committee members then discussed some of the data in the report for the loan categories other than payday loans. It was noted that many of the categories reported a large number of loans with an APR exceeding 175%. A committee member raised a particular concern about the

maximum APR reported for a tax anticipation loan (3,287.69%). Responding to a question about this type of loan, the presenters explained that tax anticipation loans are typically made by the tax preparer. A committee member commented that under those circumstances, the lender should have sufficient knowledge about the loan recipient and security for the loan so that the risk to the lender would be negligible. In those circumstances, the member asked, would an APR exceeding 3,200% normally be considered predatory? Ms. Richards allowed that in that circumstance, such an interest rate would be considered predatory.

In closing comments, Ms. Richards noted that the small loan industry contains a systemic risk. Many of its customers cannot receive credit from traditional banks; therefore, the terms and fees are different. She stated a belief that the industry does not suffer from rampant abuse.

A committee member raised a concern that small loan customers can only hurt their credit ratings through the use of these loan products. The member remarked that the industry reports loan defaults to credit bureaus but does not report repaid loans. The member asked if the FID could require lenders to report on "good" customers to the credit bureaus. Ms. Richards answered that the FID currently does not have the statutory authority to do so.

Services Provided by First Nations Community HealthSource

Linda Son-Stone, chief executive officer, First Nations Community HealthSource (First Nations), told the committee that First Nations provides health service support to the urban Native American population in Albuquerque. She said that First Nations operates a health care center and also helps clients with Medicare applications. It has helped over 12,000 clients.

Ms. Son-Stone related that First Nations has a tie to the University of New Mexico and collaborates with local schools and the Four Winds Health Center. She noted that there is a lot of overlap between the populations served by First Nations and the Albuquerque Indian Center (AIC). She said that First Nations offers flu shots at the AIC and would like to provide some behavioral health services there as well.

A committee member asked whether there could be greater possibilities for collaboration between First Nations and the AIC, noting a need for on-site health, behavioral health and traditional health services at the AIC. Ms. Zunie told the committee that following the committee's August meeting at the AIC, the IAD had started meeting with the two organizations on collaboration opportunities.

A committee member noted that with the limited funds available to serve the urban Native American population, there is a critical need to leverage the organizations' respective strengths. Representative Roybal Caballero then offered her assistance in facilitating a dialogue between First Nations and the AIC.

At this point, the acting co-chair noted that the next three agenda items would be presentations on different viewpoints of the same issue and requested that all of the presenters for those items sit at the presenter table in a combined presentation.

Update on Indian Water Rights Settlement; Stakeholder Perspective on Indian Water Rights Settlement; and a Stakeholder's Perspective of the Aamodt Settlement and Regional Water System

Scott Verhines, P.E., state engineer, Office of the State Engineer (OSE), and secretary, Interstate Stream Commission (ISC); Amy Haas, acting director, ISC; Arianne Singer, manager, Northern New Mexico Bureau, OSE; Myron Armijo, Native American liaison, OSE; Governor Aguilar; Beverly Duran-Cash, president, Northern New Mexicans Protecting Land, Water, and Rights, Inc. (NNMPLWR); and Dave Neal, vice president, NNMPLWR, gave a presentation to the committee on Indian water rights settlement actions in New Mexico.

First, Mr. Verhines and Ms. Haas gave a presentation on the status of proposed Indian water rights settlements requiring state funding, which is required annually. The OSE and ISC provided a handout to the committee. Referring to the more detailed handout, Ms. Haas stated that there are three settlements in progress and gave a brief outline of where they stand and the anticipated state funding needed for each one as follows.

- 1) The Navajo water rights settlement in the San Juan River adjudication.

Ms. Haas said that the first phase of the Navajo/Gallup water supply project, which underlies the settlement in this adjudication, has been completed. The federal Bureau of Reclamation's current estimate is that the entire project will cost \$1.08 billion. Thus far, Congress has appropriated \$307.5 million for the project, and the president has recommended an additional \$81 million appropriation for fiscal year 2015.

The federal settlement legislation requires a \$50 million "cost share" for the project, and pursuant to this legislation, New Mexico entered into a cost-share agreement with the Department of the Interior on June 27, 2011. According to the terms of the agreement, New Mexico's unpaid balance will be indexed for inflation beginning in 2017. New Mexico currently has approximately \$7 million left in unmet obligations under the cost-share agreement.

- 2) The settlement agreement with the Pueblos of Nambé, Pojoaque, Tesuque and San Ildefonso in the *Aamodt* adjudication.

On May 3, 2006, the State of New Mexico, the Pueblos of Nambé, Pojoaque, Tesuque and San Ildefonso, Santa Fe County and the City of Santa Fe entered into a settlement agreement to resolve the claims of the four pueblos regarding the use of water in the Nambé-Pojoaque-Tesuque (N-P-T) stream system. A key component of the settlement is a regional water system to deliver water to pueblo members and non-pueblo residents in the basin. The settlement agreement included a cost-sharing structure for the project.

On December 8, 2010, federal legislation approving the settlement was enacted, and the state has subsequently entered into a cost-sharing agreement pursuant to that legislation. The state's share is \$45.5 million, adjusted for inflation as of October 1, 2006. Ms. Haas indicated that the current estimate is that the state's cost share is approximately \$72 million. She said the state is not obligated to pay its share until 2017, but there are cost incentives within the settlement agreement for the state to pay its share early. So far, the state has contributed \$15 million to the project.

3) The Pueblo of Taos water rights settlement in the Rio Pueblo de Taos/Rio Hondo *Abeyta* adjudication.

Ms. Haas stated that according to the terms of the federal Taos Pueblo Indian Water Rights Settlement Act, enacted in 2010, the total cost of the settlement is \$144.05 million to provide a water development fund and planning, design and construction of water delivery projects. Of that amount, the state is obligated to pay just over \$20 million. She said that among the three settlements, the state has a total outstanding balance of \$81.7 million in cost-share obligations. She said the ISC is proposing that the legislature appropriate \$15 million per year for five years to keep pace with the time limits and incentives in the three settlement agreements.

Governor Aguilar then spoke about the *Aamodt* settlement. He noted that the settlement had important implications for four pueblos and that the process had taken 40 years, culminating in congressional legislation signed by the president. He displayed a map of the N-P-T basin and highlighted for the committee the distribution lines of the planned regional water system for the committee. He noted that there would be a water treatment plant at El Rancho and that the distribution system would start at the Pueblo of San Ildefonso and have lines reaching to the Pueblos of Tesuque, Nambé and Pojoaque and continuing to Bishop's Lodge.

Governor Aguilar said the water treatment plant is being tested at Ottowi Bridge as part of a feasibility study for the whole area. He said that connections to the water system will be available to all residents within pueblo boundaries should they choose to connect to it. He noted that major issues have come up in the planning for the water system, including where to site the treatment plants and distribution lines and how to avoid cultural sites. However, he said these are issues that need to be worked out by the residents of the N-P-T basin. He emphasized that some residents in the N-P-T basin only have access to contaminated ground water for their homes and that the water system is critical to communities in the Pojoaque Valley.

Ms. Duran-Cash and Mr. Neal then offered their perspectives on the *Aamodt* settlement. Ms. Duran-Cash said that NNMPLWR is a nonprofit organization whose goal is to bring everyone together. Mr. Neal placed the settlement in a historical context. He said the process started in 1952, but did not gain traction until the mid-1960s. He stated that in 1964, the issue only concerned surface water, not ground water. He further stated that when the OSE filed suit for a general stream adjudication in 1966, no hydrologic surveys had been completed, nor were

any studies conducted of ground water aquifers in the N-P-T basin. He said that in 1974, the court included ground water into the case on its own authority.

Mr. Neal then listed several issues that he indicated raise concerns about the validity or appropriateness of the settlement, including a question of whether the OSE is required to include the Office of the Attorney General in a determination of water rights; whether the courts inappropriately implemented a historic land standard to determine pueblo water rights other than the previously preferred practically irrigable acreage standard; whether the settlement discussions started in 1971 inappropriately excluded non-Indians; and whether the OSE inadequately provided notice to N-P-T basin residents. He said that the OSE had sent out 7,000 notices in the case to show order or show cause and had posted a notice in the *Albuquerque Journal*. He said, however, that very few residents in the area subscribe to the *Albuquerque Journal*.

Mr. Neal then spoke to the feasibility of the settlement. He said the settlement only includes 2,500 acre-feet of 6,000 acre-feet of water rights for the pueblos, and he questioned where the remaining water will come from. He raised a concern about the enforcement of pumping restrictions on area wells and indicated that the need for a regional water settlement was obviated by an aquifer in the basin containing 55 million acre-feet of water. Mr. Neal concluded that the current settlement is not feasible and that the parties need to work toward a feasible, comprehensive solution.

The chair then asked for comments from the representatives of the other pueblos that are parties to the settlement.

Governor Mora commented that the issue is finally coming to a conclusion. He said that he understood the views stated by non-Indian residents in the area. However, he indicated that the irrigation priorities of the society that had set the early standards had changed over time and had been superseded by domestic water priorities. He stated that the Pueblo of Tesuque is still having discussions with residents upstream in the Bishop's Lodge area and is waiting for one group to respond.

Governor Mora noted that the pueblo has concerns that it is working through as well, including having water for fire protection if there is no stream flow; whether the pueblo will have access to clean surface water for cultural practices and irrigation if it moves off of its well system; and whether its neighbor, Santa Fe County, is adequately planning for sustainable development.

Phillip Perez, governor, Pueblo of Nambé, remarked that commentators should remember that after a long process, the settlement arrived at is ultimately an agreement among the governments of four pueblos, the state and the Congress and president of the United States. He then emphasized that the Pueblo of Nambé is concerned about arsenic levels in the available ground water and that it needs safe, affordable drinking water. He noted that it is very expensive

to remove arsenic to reach the federal Safe Drinking Water Act standards and wondered if basin residents that choose not to connect to the planned water system would be at risk.

The chair then asked for other comments. Adam Liefland, representing the Santa Fe County public works system, stated that the county is committed to the regional water system and to the settlement. He stated that the settlement would bring in 4,000 acre-feet of "new" water into the basin. He said that the county will need to develop a joint powers agreement with the four pueblos in the basin on fire protection and water infrastructure. He said he fully expects that negotiations will be challenging. Mr. Liefland then spoke to what he believes are misconceptions about the water system and settlement. He said that the water system will not serve the city of Santa Fe; however, it will serve other communities within the county. He further stated that beyond the county's commitment to pay for part of the regional water system, the county will pay for the individual connections to houses for residents that choose to connect. Finally, he stated that the county's analysis is that a water delivery system would be easier and less expensive than a water treatment system for contaminated ground water.

Ms. Duran-Cash commented that NNMPLWR members want to be on the same page. However, NNMPLWR disagrees on the cost-benefit analysis regarding the wastewater issue. She further stated that non-Indians in the community feel left out and that government-to-government negotiations have excluded their concerns.

A committee member then asked the OSE staff to comment about the well regulation issue that would decrease pumping from well users in the N-P-T basin accustomed to pumping three acre-feet a year.

Ms. Singer responded to the question, but first noted that she was commissioned by the Office of the Attorney General. She stated that general stream adjudications include water and connected ground water resources. However, in the past, hydrographic surveys did not pay attention to domestic wells. Regarding domestic wells, she said that historically, the OSE had, by regulation, set a standard for three acre-feet. This had been based on the typical needs to irrigate one acre of alfalfa. However, a water right is determined by use, and actual household use is typically .3 acre-feet per year. The presumption that the OSE will use for the N-P-T basin wells will be .5 acre-feet. However, as the court proceeds with the basin adjudication, it will allow domestic users to prove use up to a larger amount; it is not a set line.

A committee member commented that the conflicts stem from the pueblos finally being able to exercise their senior water rights after other residents had set up their own water use system. Governor Aguilar followed this comment with a view that the parties to the settlement need to figure out how to communicate to basin residents what is actually occurring. The settlement is simply executing established law.

The committee entered into a general discussion on whether the concerns raised by N-P-T basin residents stemmed from a lack of knowledge about the settlement, whether there is a need for neighboring communities to have a dialogue about actual water use needs without the overlay

of water rights issues and whether non-Indian residents are adequately taking into account past sacrifices by the pueblos. Charlie Dorame, former governor of the Pueblo of Tesuque, noted that the current issue in the basin is access to clean water. However, the issue a generation ago was an easement for a local highway to connect the valley to rest of the state. He said the pueblo had given up that easement in perpetuity for \$300, for the benefit of everyone.

Adjournment

There being no further business, the committee adjourned at 4:30 p.m.

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

**November 21, 2014
Room 322, State Capitol
Santa Fe**

The sixth meeting of the Indian Affairs Committee (IAC) was called to order at 10:12 a.m. by Representative Sandra D. Jeff, co-chair, on Friday, November 21, 2014, in Room 322 at the State Capitol in Santa Fe.

Present

Sen. John Pinto, Co-Chair
Rep. Sandra D. Jeff, Co-Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. Sharon Clahchischilliage
Rep. Patricia A. Lundstrom
Rep. James Roger Madalena
Sen. Richard C. Martinez
Sen. Cliff R. Pirtle
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez
Sen. Benny Shendo, Jr.

Absent

Sen. John C. Ryan
Sen. William P. Soules

Advisory Members

Rep. Ernest H. Chavez
Rep. Zachary J. Cook
Rep. Georgene Louis
Sen. Cisco McSorley
Rep. Debbie A. Rodella
Rep. Patricia Roybal Caballero
Sen. Clemente Sanchez

Sen. Carlos R. Cisneros
Sen. Stuart Ingle
Sen. Daniel A. Ivey-Soto
Rep. Antonio "Moe" Maestas
Rep. Nick L. Salazar

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Mark Edwards, Staff Attorney, LCS
Michelle Jaschke, Researcher, LCS

Guests

The guest list is in the meeting file.

Minutes Approval

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

Handouts

All handouts and other written testimony are included in the meeting file.

Friday, November 21

Welcome and Introductions

Representative Jeff welcomed committee members and members of the audience and asked committee members and guests to introduce themselves.

Santa Fe Indian School: Academic Performance and Capital Outlay Allocation

Superintendent Roy M. Herrera, Santa Fe Indian School (SFIS), explained that the SFIS, a tribally controlled consortium serving middle and high school students, was started in 1890 and moved to the current campus in Santa Fe in 1977. The land on which the campus is located was given in trust to the 19 pueblos in the state. Superintendent Herrera reported that the SFIS currently serves more than 700 students who come from all 19 pueblos, the Navajo Nation and Apache tribes, as well as from out of state. Superintendent Herrera stated that the SFIS is meeting adequate yearly progress standards and has produced six Gates Millennium scholars this year. Educational expenses for these scholars are paid by the Gates Foundation for up to 10 years.

Superintendent Herrera asked for the committee's help in funding Phase II of a project to provide lighting for outdoor recreational areas at the SFIS. He reported that the SFIS continues to struggle with the capital outlay process at the state level each year because the school has yet to be recognized as eligible for inclusion in the statewide capital outlay funding process. Gary Lujan, director of trust land, SFIS, stated that the SFIS has been diligent in its management of all capital outlay funds awarded to the school and that all of the funds have been expended.

Senator Rodriguez moved that the committee send a letter to the Legislative Finance Committee and to the governor in support of including the SFIS on the statewide project list for capital outlay assistance. Representative Madalena seconded the motion, and the motion passed unanimously.

Committee members requested information regarding the Leasehold Community Assistance Act (LCAA) presentation that had again been dropped from the agenda. Mr. Kovnat informed the committee that he had received a memorandum regarding the LCAA from the Local Government Division (LGD) of the Department of Finance and Administration. Mr. Kovnat reported that despite repeated requests to the LGD to send a representative to the IAC meetings to explain the provisions of the LCAA, the LGD has not done so.

Minutes of the Meeting of October 30-31, 2014

On a motion duly made and seconded, the minutes of the IAC meeting of October 30-31, 2014 were unanimously approved.

Consideration of Legislation for Endorsement

Mary Garcia, executive director, Albuquerque Indian Center (AIC), and Gordon Yawakia, prevention coordinator, AIC, asked the committee to endorse proposed legislation to appropriate \$210,000 to support programs that provide services to urban Indians. Senator Martinez moved to endorse the proposed legislation. Representative Jeff seconded the motion, and the motion passed unanimously.

Mr. Kovnat stood for questions regarding proposed legislation that would appropriate \$300,000 to purchase, operate and maintain mobile outreach vehicles to provide services to New Mexico veterans. The proposed legislation, sponsored by Representative Bob Wooley, received the endorsement of the Military and Veterans' Affairs Committee. Senator Martinez moved to endorse the proposed legislation, and Representative Alcon seconded the motion. The motion passed unanimously.

Joel Davis and Kooch Jacobus, representing the Fort Sill Apache Tribe, asked the committee to endorse proposed legislation sponsored by Senator Soules to allow the state to enter into cooperative agreements with the tribe. Mr. Davis informed the committee that a New Mexico Supreme Court ruling has identified areas, including alcohol and tobacco sales, where the Fort Sill Apache Tribe is not statutorily recognized in New Mexico. The intent of the proposed legislation is to give the tribe an equal footing with other New Mexico tribes in those areas.

Members of the committee discussed the need to provide separate authorizing legislation for cooperative agreements with the Fort Sill Apache Tribe. Mr. Kovnat stated that because Fort Sill Apache tribal lands are located in two states, the language currently included in statute does not apply to the Fort Sill Apache Tribe and that separate legislation is required. It was noted that the Pueblo of Zuni has land holdings in two states as well, and committee members asked that staff revisit the authorizing legislation for the Pueblo of Zuni to elucidate any statutory distinctions that may exist.

Representative Alcon moved to endorse the proposed legislation. Representative Powdrell-Culbert seconded the motion, and the motion was unanimously approved.

Mr. Kovnat stood for questions regarding proposed legislation to add a representative from the Fort Sill Apache Tribe to the Native American Suicide Prevention Advisory Council and the Indian Education Advisory Council, respectively. The proposed legislation is sponsored by Senator Soules. Mr. Davis observed that 26 members of the Fort Sill Apache Tribe currently reside in New Mexico and that the tribe hopes to bring more of its 800 members who currently reside in Oklahoma to New Mexico as the tribe develops its New Mexico facilities.

Representative Alcon moved to endorse the proposed legislation. Representative Powdrell-Culbert seconded the motion. The motion was unanimously approved.

Mr. Kovnat stood for questions regarding proposed legislation to add two members to the Tribal Infrastructure Board (TIB), increasing the TIB's membership from nine to 11 members. The proposed legislation is sponsored by Senator Soules. The proposed legislation would add a member representing the Fort Sill Apache Tribe and one additional pueblo member.

Indian Affairs Department (IAD) Counsel Moses Winston and Secretary of Indian Affairs Arthur P. Allison objected to the proposed legislation, stating that additions to the board would upset the current balance of representation in allocating funding. Committee members asserted that the proposed changes would not provide adequate representation for the pueblos in the funding process. Some committee members suggested that the proposed legislation should restructure how representatives to the board are appointed to provide for legislative appointees as well as gubernatorial appointees.

Committee members deferred action on the proposed legislation and encouraged Fort Sill Apache tribal representatives to work with the IAD and with other tribes to come to an agreement on how best to include representation for the Fort Sill Apache Tribe in all pertinent state processes.

Adjournment

There being no further business before the committee, the meeting was adjourned at 12:00 noon.