

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

**June 21, 2012
Room 307, State Capitol
Santa Fe**

The first meeting of the Indian Affairs Committee (IAC) was called to order by Senator John Pinto, co-chair, on Thursday, June 21, 2012, at 10:07 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

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

Absent

Rep. Patricia A. Lundstrom
Sen. George K. Munoz
Sen. John C. Ryan

Advisory Members

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

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

Staff

Damian Lara, Legislative Council Service (LCS)
Peter Kovnat, LCS
Melissa Candelaria, LCS

Guests

The guest list is in the meeting file.

Handouts

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

Thursday, June 21

Call to Order

Committee members, staff and the audience introduced themselves.

Arthur P. Allison, secretary of Indian affairs gave an invocation.

Programs and Personnel of the Indian Affairs Department (IAD) and Tribal Infrastructure Funds and Projects and Capital Outlay Projects

Secretary Allison said that the IAD's mission is to seek legislation on behalf of Indians, to keep tribal issues on the state's agenda and to secure capital outlay for projects on native and tribal lands.

Lillian Brooks, director, Administrative Services Division, IAD, introduced Duane Duffe, deputy secretary, IAD, and the new staff members at the IAD.

Ms. Brooks identified the 12 programs that receive special funding from the IAD for fiscal year (FY) 2012 as follows: \$30,000 to the Jemez Pueblo-Walatowa Center, \$30,000 to the Cochiti summer youth language program, \$25,000 to the Isleta recreation program, \$235,000 for Navajo Nation emergency management, \$35,000 for Navajo Nation uranium workers, \$28,000 to the American Indian chamber of commerce-economic summit, \$28,000 to the Jicarilla Apache heritage preservation project, \$35,000 for the University of New Mexico (UNM) tribal language certification, \$22,000 to the McKinley County Tohatchi empowering youth program, \$145,000 to the Albuquerque Indian Center Administration, \$275,000 to the Santa Fe Indian School leadership academy and \$10,000 to the UNM Indigenous Design and Planning Institute, for a total of \$898,000.

Requests

The committee requested that everyone presenting before the committee provide a written summary of their presentations, testimony and prepared remarks so that committee members can follow along with the presentation.

The committee requested that the IAD provide a presentation, with participation from the Department of Finance and Administration (DFA), if necessary, regarding Rule 2.61.6 NMAC and the use of bond proceeds expenditures for Tribal Infrastructure Project Fund projects and capital outlay projects.

The committee requested that Mr. Sandoval and Secretary Allison give a presentation at the next meeting regarding Mr. Sandoval's duties and responsibilities at the IAD.

Questions and Answers

Responding to a committee member's question, Secretary Allison stated that pursuant to the State-Tribal Collaboration Act, the IAD provides training to all state agency managers and

employees who have ongoing communication with Indian nations, tribes or pueblos to support cultural competency in providing effective services to Native Americans.

Secretary Allison also responded to committee questions in regard to state collaboration with the Indian nations, tribes or pueblos, that the IAD is looking at the homeland security needs of the local Native American communities because fires have been a big homeland security issue and the IAD is working with other departments to guarantee public safety in Indian country.

Responding to a committee member's question, Ms. Brooks replied that there was an across-the-board 33% funding cut for special funding and that funding for each of the 12 programs was reduced equally by 33%. She noted that a quarterly report provides measurable outcomes for the 12 programs and that the report will be ready by the end of July.

The committee raised concerns that the IAD responsibility for Native American capital outlay projects in Indian country is being moved to the DFA. The committee also raised concerns about changes in personnel at the IAD, specifically regarding the position of the capital outlay manager and the new position of economic development director held by Jerry Sandoval.

Secretary Allison responded that capital outlay decision-making and project management will remain the responsibility of the IAD and that the DFA will help the IAD with the accounting of the programs. In the past, he said, there have been problems with some of the funds, including a missing \$1 million discovered by audits. The IAD traced the problem back to undertrained accounting and fiscal control staff and realized that it needed some third-party involvement to achieve efficiency and transparency.

Regarding Mr. Sandoval, Secretary Allison said that he does not know him well, but he is an asset to the state and to Native American communities in particular. Next, Secretary Allison said that the state and tribes are working together to focus on economic development based on energy.

The committee expressed concern that Secretary Allison has weakened the IAD by shifting duties and responsibilities to the DFA and that the secretary's reasoning did not warrant the shift.

Representative Madalena concluded the presentation because the committee was falling behind schedule, and he thanked Secretary Allison and Ms. Brooks.

Navajo Nation Report; Beclabito Chapter Resolution

Arbin Mitchell, executive director, Division of Community Development, Navajo Nation, and Casey Begay, director, Capital Improvement Office, Navajo Nation, discussed capital outlay projects that are occurring on the Navajo Nation. Mr. Mitchell noted that reversions to the state were due to savings each year after all the projects were completed. In 2011, the Navajo Nation capital outlay unit sent back \$98,000. In 2012, \$104,000 was sent back. The capital outlay unit is already ahead of schedule for 2013 and 2014.

In regard to the Tribal Infrastructure Project at Beclabity Chapter, Mr. Mitchell explained that there was money to buy equipment, but the DFA ruling that the equipment must be rented or leased prevented that from happening. He noted that this was specialized equipment, and the DFA ruling paralyzed the project, which was close to being done. Mr. Mitchell asked if there is a way to provide a waiver for this kind of situation.

The committee was also provided with a resolution by the Beclabito Chapter, which recommends that the IAD and DFA approve reimbursement for the Beclabito geographic information systems database and design equipment and furniture.

Questions and Answers

A committee member noted that with a new administration, new procedures are in place. For example, the Office of the Governor said there was an 80% chance that projects not on the Infrastructure Capital Improvement Plan (ICIP) would get vetoed and projects on the ICIP were more likely to be signed by the governor.

In response to a question regarding what furniture can be purchased using capital outlay, Autumn Monteau, general counsel, IAD, said that for reimbursement, furniture must be affixed, thus computers do not fit the description of a permanent capital project.

Requests and Motions

Upon a motion by Representative Begaye, seconded by Senator Pinto, the committee voted without opposition to write to the IAD and DFA regarding the Beclabito Chapter resolution that requests reimbursement for specialized equipment and that the committee consider funding the request through an appropriation bill.

The committee asked that someone from the DFA or the State Board of Finance come before the committee to explain the rules about renting or leasing rather than buying and what furniture can be purchased using capital outlay dollars. For example, vans for seniors are more expensive to rent or lease than to buy. The point was made that tribes are sovereign, yet they are negatively affected by these decisions, even after not being given a voice in the decision-making.

State-Tribal Summit — Summary

Terry Aguilar, governor, Pueblo of San Ildefonso, discussed the 2012 State-Tribal Leaders Summit held on June 8, 2012 in Mescalero, New Mexico.

Ms. Monteau explained that a survey went out to discover what the participants thought should be discussed at the summit. Based on the results, the issues covered at the summit were Indian education, water rights and natural resources, tribal infrastructure and economic development and implementing state-tribal relations. Four issue statements were made by the IAD to convey a commitment to addressing these issues.

Ms. Monteau noted some of the concerns raised within each of these four target areas. Regarding Indian education, tribal leaders identified concerns about the use of impact aid funds, the need for an administrative code made in consultation with the tribes and the cultural competence of teachers. In response, Governor Susana Martinez and the State of New Mexico committed to having the PED coordinate with the IAD to offer cultural competency training for teachers and \$8.5 million of next year's budget to close the achievement gap.

As for water rights and natural resources, tribal leaders urged the state to fully fund the state's obligations for the Taos, Aamodt and Navajo water settlements and to coordinate to comply with environmental regulations. According to Ms. Monteau, Governor Martinez supported providing \$15 million for the Indian Water Rights Settlement Fund, but that appropriation did not pass the legislature.

Regarding tribal infrastructure and economic development, the tribes requested technical assistance for Indian tribes, nations and pueblos to identify and secure funding sources for infrastructure and economic development ventures. Governor Martinez committed to veto any measure that will hurt business and to have the IAD's Economic Division director meet with each tribe to provide training and technical assistance.

With respect to implementing state-tribal relations, tribal leaders asked that there be tribal consultation on the New Mexico Centennial Care Plan and that the government-to-government relationship be kept open and strong. The governor and others in the state executive branch expressed interest in continuing to collaborate with tribal leadership.

Finally, Ms. Monteau also said that this was just the fourth annual summit, and she asked the committee members for their suggestions to make the summit better in the future.

Governor Aguilar said that the collaboration among tribes was beneficial.

Sherrick Roanhorse, chief of staff, Office of the President and Vice President, Navajo Nation, apologized that Navajo Nation President Ben Shelly was unable to attend. Mr. Roanhorse discussed the importance of water rights and water rights settlements. Next, Mr. Roanhorse spoke about Indian education and said that the Indian Education Act can be strengthened. He explained the benefits of government-to-government collaboration between Governor Martinez and the Navajo Nation.

A third legislator asked about the budget and noted that by the time it got back to the house of representatives, some of the appropriations were taken out. Next, the legislator discussed Indian education and the years' worth of letters he wrote to the last three New Mexico governors to get more money dedicated to Indian education. He mentioned how difficult it is for tribes to participate and to have the PED address their needs; for example, to extend participation in the New Mexico Reads to Lead! program.

Governor Aguilar said that this is an example of why the legislature should have a tribal summit sees of its own.

Mr. Roanhorse said that the planning committee of leaders for the tribal summit sees this as an opportunity to have discussions with Governor Martinez and the executive branch.

A legislator said she is disturbed by the exclusion of the legislators in the summit when the funding for all these state entities comes from the legislature. She said legislators on the IAC introduced the bills that became the laws that exist today to improve the lives of Indians in New Mexico, including the Indian Education Act. She said that the co-chairs of the IAC need to be involved in any collaboration between the state and the tribes.

Another legislator said that there are hard decisions to be made about Medicaid, and these decisions are made by legislators. Other issues that need to be discussed, but were rushed during the last legislative session, are the third grade retention bill and the immigrant driver's license issue. According to the legislator, there was no time for tribal leaders to have their voices heard and that there appears to be a disconnect that quiets the voice of tribal leaders.

Another legislator noted that there was not a discussion of veterans at the state-tribal summit, and that this is an important topic.

Governor Aguilar said that one of the difficulties of the summit is to know what to discuss and what to leave out. He said that there are a lot of things that cannot be accomplished at a single meeting. Despite that fact, the summit still has value because the people in attendance now have a history of working together.

A legislator asked what had been accomplished since the enactment of the State-Tribal Collaboration Act.

Secretary Allison said that it is an opportunity to look at the governor's policies from the standpoint of the tribes.

Ms. Monteau discussed the cultural competency training required by the State-Tribal Collaboration Act and said it is very useful. Also, the tribal liaisons from every state department were at the summit, which is also required by the State-Tribal Collaboration Act. The post-summit meeting was to be held the next day, on June 22, and Ms. Monteau said the concern that the legislature was not included in the summit will be noted at that meeting.

Mr. Roanhorse said that much has been accomplished since the enactment of the State-Tribal Collaboration Act. He said that the Navajo Nation has a good relationship with all the states in which the Navajo Nation lies, but nowhere is it stronger than in New Mexico. In fact, he said a legislator in Arizona is considering introducing a memorial for the State of Arizona to pass legislation similar to New Mexico's State-Tribal Collaboration Act.

A legislator mentioned an appropriation to buy a county sheriff vehicle to patrol the area of Highway 550, but the governor vetoed that appropriation.

Another legislator brought up the issues of sovereignty and discrimination and said that they should be discussed at future summits. She asked about where Governor Martinez stands on the five Indian gaming compacts that are opening up for renegotiation.

A third legislator asked about the disconnect between the tribes and between the Navajo Nation and the individual chapters.

Mr. Roanhorse said that each local community has its problems to solve — the things it sees as the most important problems to fix. However, he said, in one day, with leadership representing such diverse communities, it is impossible to fix everything to the satisfaction of everyone.

A legislator asked why health care was not one of the topics covered at the summits. Ms. Monteau said that the survey responses showed health care as an important issue, but it was not in the top four. She also said it is hard to fit everything into an eight-hour day. She noted that the governor requested that any capital outlay request the summit hears also be forwarded to her office.

Secretary Allison told the legislators to get the tribes and pueblos in their areas to get on the web site and sign up their projects on the ICIP list.

A legislator asked Secretary Allison to keep the seniors in mind because they need all the help they can get.

A committee member inquired about the status of the completed Indian water rights settlements and any new Indian water right negotiations that may be necessary in the near future. The legislator mentioned the Navajo and Aamodt settlements, saying that they may be the last state settlements. The legislator asked about the Cultural Properties Review Committee.

Secretary Allison said the IAD is working with the Office of the Governor.

Indian Education Status Update

Ferlin Clark, assistant secretary for Indian education, PED, distributed the Tribal Education Status Report to committee members (see handout) and noted the willingness of the IED to make a presentation before the committee during the interim.

Discussion of Focus Areas, Work Plan and Meeting Schedule

Mr. Lara and Ms. Candelaria stated that the work plan topics include state-tribal relations, health education and economic and infrastructure development on Indian land.

Committee members discussed adding to the work plan a discussion of the gasoline tax and revenue-sharing back to the state to address highway maintenance, but since a request would be made to the New Mexico Legislative Council (LC) to approve the creation of a transportation task force instead of adding an item to the IAC work plan, the committee decided to request that some members of the IAC be included on the transportation task force.

After discussion of the meeting schedule, a committee member requested that one of the days of the first meeting take place at Beclabito Chapter House. There was no objection from the other committee members.

Motion

Upon a motion by Representative Rodella, seconded by Representative Powdrell-Culbert, the committee voted, without objection, to submit the proposed work plan and meeting schedule as amended for approval by the LC.

Adjournment

There being no further business before the committee, upon a motion by Representative Alcon, seconded by Representative Powdrell-Culbert, the first meeting of the IAC adjourned at 4:10 p.m.