

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

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

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

Present

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

Absent

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

Advisory Members

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

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

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

Staff

Chase Van Gorder
Damian Lara
Mark Harben

Guests

The guest list is in the meeting file.

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

Wednesday, November 5 — Pueblo of Picuris

Pueblo of Picuris — Status Update

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

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

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

Upon a motion by Representative Begaye, seconded by Representative Salazar, the committee approved without objection writing a letter to President-elect Barack Obama, with a

copy to the IHS, requesting it to fund a clinic, dental clinic and ambulance services at the Pueblo of Picuris. Senator Martinez moved that the letter also be sent to the new congressional delegates, including Representative-elect Ben R. Lujan.

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

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

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

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

University of New Mexico Center for Native American Health — Update

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

listed the center's projects for 2008-2009, including behavioral and mental health training for tribes, the 2009 National Indian Health Policy Conference, conducting the fourth annual CNAH Tribal Research Summit, expanding the CNAH Student Development program, developing community-based Native American cancer education programs and facilitating the creation of Native American health extension regional offices. Because of the great need for more Native Americans in the health professions, student development is focused on programs to create a pipeline into health professions for Native American students.

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

Bernalillo County Off-Reservation Native American Health Commission — Update

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

Road Access to Chaco Canyon — Update

Dr. Jim Henderson, San Juan County commissioner, stated that improvements of the road to Chaco Canyon are necessary. He said the poor condition of the road has been an issue in the area for the past 25 years. The popularity of visiting Chaco Canyon, according to Dr. Henderson, has led to a significant increase in traffic. As a result, there is an increased need for maintenance, along with more requests for improvements. Dr. Henderson then discussed the involvement of the Federal Highway Administration (FHA) in upgrading the road. He said the federal government gave San Juan County a grant of \$800,000, which required the county to add \$200,000. Dr. Henderson explained that, due to the controversy over adverse impacts on Chaco

Canyon from improving the road, the FHA has required an environmental assessment, which will be completed in April 2009 at a cost of \$344,000. He said that even with the environmental assessment, the FHA is now contemplating requiring a full environmental impact statement (EIS), which would take two to three additional years and cost an additional \$400,000. There is concern about this possibility because that would leave only \$256,000 of the original \$1 million in funding. He also stated that there are right-of-way issues because 4.25 miles of the road is on Navajo Nation land, and it would cost \$100,000 and take a year to transfer that right of way to San Juan County. Dr. Henderson requested the help of the Indian Affairs Committee regarding procedures and financial aid.

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

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

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

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

Barbara West, superintendent of the Chaco Culture National Historic Park, said park administrators are concerned with the impact on the environment and on the park itself. The park does not have the facilities, including water and staff, to deal with a boost in visitation. She

also noted that there are 28 pueblos and tribes that claim cultural affiliation with the park, and some, like the Hopi, are angry about not being consulted in the process.

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

Thursday, November 6 — Pueblo of San Ildefonso

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

Pueblo of San Ildefonso — Status Update

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

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

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

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

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

Upon a motion by Representative Lundstrom, seconded by Representative Vaughn, the committee approved without objection a request for the IAD to obtain documentation from Indian nations, tribes and pueblos about their programs and project priorities for re-authorized or de-authorized projects. Committee members noted that, given the projected budget deficits, all parties, including Indian nations, tribes and pueblos, need to justify the projects they want re-authorized. The committee acknowledged that tribal communities are more isolated and disadvantaged than other communities in the state, and it would try to protect funds for them.

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

Indian Water Rights Settlements — Status Update

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

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

taking the proper measures to obtain the money necessary to pay for its share of the cost to construct the water pipeline.

Regional Water Plans — Funding Request

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

Domestic Violence — House Memorial 94 (2007 Legislative Session)

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

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

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

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

Tribal Libraries — House Memorial 59 (2008 Legislative Session)

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

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

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

Higher Education Department — Update

Dr. Reed Dasenbrock, secretary of higher education, discussed the higher education institutions that are serving Native Americans. He indicated that there are three in the state of New Mexico: San Juan College; UNM-Gallup; and New Mexico State University (NMSU)-Grants. The Native American-Serving Non-Tribal Institutions program (NASNTIP) is an initiative that provides funding to nontribal colleges with a student population that is at least 10 percent Native American. The program provides grants of at least \$200,000 to support curriculum development and academic instruction; faculty development; the purchase of books and other educational materials; and academic tutoring and counseling.

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

Tribal Emergency Management

Secretary Warren informed the committee that funding from the Kellogg Foundation had been secured to host a summit on tribal emergency management. Heather Townsend of the All Indian Pueblo Council discussed the Tribal Emergency Management Summit that took place in Albuquerque on October 17, 2008. Ms. Townsend said the summit was very valuable. It is

important for all communities to have a point of contact (POC) in its emergency management protocol. She said there were people in place as POCs previously, but those POCs often had more than one job, illustrating the need for more human resources. The natural environment is a major concern because many communities do not have a plan like urban centers do. The natural environment does not allow for an easy master plan that cities enjoy. The 53 participants at the summit dealt with mitigation planning, NIBS compliance, the grant application process and response and recovery processes. The summit also addressed the need to identify barriers and collaborative efforts on solutions to tribal emergency management program development.

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

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

Friday, November 7 — Room 307, State Capitol

The sixth meeting of the Indian Affairs Committee for the 2008 interim was called back into session by Representative Madalena, co-chair, on November 7, 2008 at 9:20 a.m. in Room 307 of the State Capitol.

Public Utility Taxation on Tribal Lands — Update

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

Department has participated in the working group meetings held by the Public Regulation Commission (PRC) to address the issue. The department supports the proposed solutions, such as forms and a database clearinghouse.

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

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

Indian Affairs Department — Legislative Update

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

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

Minutes

Upon a motion by Representative Lundstrom, seconded by Senator Rainaldi, the committee approved without objection the minutes for the second, third, fourth and fifth

meetings of the Indian Affairs Committee for the current interim and for the meeting of the Mining Act Subcommittee held on October 30, 2008.

Endorsement of Legislation

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

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

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

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

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

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

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

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

Adjournment

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