

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

**November 9-10, 2004  
State Capitol, Room 321**

Representative Begaye, acting co-chair, called the sixth meeting of the Indian Affairs Committee to order on Tuesday, November 9, 2004, at 10:30 a.m. in Room 321 of the State Capitol in Santa Fe.

**PRESENT**

Rep. James Roger Madalena, co-chair  
Sen. Leonard Tsosie, co-chair  
Sen. Rod Adair (11/10)  
Rep. Ray Begaye  
Rep. Irvin Harrison  
Rep. Patricia A. Lundstrom  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez (11/10)  
Rep. Teresa A. Zanetti

**Advisory Members**

Rep. Debbie A. Rodella (11/10)  
Rep. Nick L. Salazar  
Rep. W.C. "Dub" Williams

**ABSENT**

Sen. Raymond Kysar  
Sen. John Pinto  
Rep. Don Tripp  
Rep. Avon W. Wilson

Sen. Ben D. Altamirano  
Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Rep. Fred Luna  
Sen. Richard C. Martinez  
Sen. William E. Sharer

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

**Staff**

Charles H. Van Gorder  
Jennie Lusk

**Guests**

The guest list is in the meeting file.

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

## **Tuesday, November 9**

The meeting was called to order by Representative Begaye at 10:30 a.m. Representative Begaye asked that Representative W.C. "Dub" Williams co-chair the meeting with him.

### **APPROVAL OF MINUTES**

The minutes of the fifth meeting of the committee on October 26 through 28 were unanimously approved without change, on motion of Representative Salazar and second motion of Senator Rainaldi.

### **SENIOR CITIZEN CENTER**

Representative Williams introduced his constituent, Michaelene Ahidley, development director of the Mescalero Elderly Program, as well as frequent users of the elderly program's building who traveled to Santa Fe to attend this meeting. Ms. Ahidley introduced Maurice Hobson, who briefed the committee on the state of disrepair of the senior center building that originally was constructed in 1977 as a private home. They requested that committee members approve a new 6,000 square-foot senior center building adjacent to a 40-bed care facility already in place, which will permit the senior center to use the care facility's kitchen, hair salon, wheelchairs, chapel, laundry and dietician and share its transportation. The plan would include space for a children's daycare center to promote multigenerational interaction.

Since the committee does not fund pre-construction programs, the presenters were referred to the Indian Affairs Department (IAD) in hopes that the department can help the program put together a comprehensive plan for a capital outlay proposal.

### **GREENHOUSE FUNDING**

Pueblo of Picuris Governor Manuel Archuleta and Picuris Environmental Department Director Joe Quanchello presented the pueblo's top funding priority, a request for \$425,124 for an environmental education training facility, which includes a greenhouse, water quality testing unit and a teaching kitchen, and methods for providing native agricultural and dietary programs. The pueblo will utilize its own natural resources (such as lumber), heavy equipment and some staffing for the 3,240 square-foot renovation of the pueblo's old school building to house the environmental education training facility. The pueblo was encouraged to meet with the IAD to get its priorities for funding on the department's capital outlay list.

### **CLEANUP OF UNDERGROUND GAS TANK LEAKS**

Joseph Mark Chavarria, environmental director of the Pueblo of Santa Clara and head of the New Mexico Storage Tank Committee, and Jim Norton, director of the Environmental Protection

Division of the Department of Environment, reported on corrective action cleanup of water contaminated by leaks and spills from underground gas tanks. The purpose of the presentation was to educate the committee about money available through the state program for cleanup; participation involves tribal contributions into a fund later distributed according to need on native lands.

### **NATIVE ROOTS AND RHYTHMS**

Seth Roffman, Melissa Sanchez and Emmet Shkeme Garcia presented a \$50,000 appropriation request for production and programming for the Native Roots and Rhythms Program. The 10-year-old program involves Native American entertainers in contemporary performances. Last year, the production, which included break dancing, rock bands, stand-up comics and other performers, sold out two nights at the 2,900-seat Paolo Solari Auditorium.

The committee suggested that the requesters ask the Cultural Affairs Department to include the program in its budget. The committee will write the Tourism Department to suggest that it fund a reasonable portion of the production's promotions budget. On motion of Representative Salazar and second motion of Representative Williams, the committee recommended that the Cultural Affairs Department put \$50,000 in its recurring budget for Native Roots and Rhythms.

### **SANTO DOMINGO ALTERNATIVE EDUCATION**

Former Pueblo of Santo Domingo Governor Dr. Benjamin Atencio and his son, Benjamin Atencio, addressed the committee with concerns about the Pueblo of Santo Domingo schools, which have been under corrective action for the past four years and are still not making adequate yearly progress (AYP). The schools are run on a contract with the Bernalillo schools. The two presenters asked the committee to endorse a \$200,000 appropriation for a comprehensive master plan on how the tribal schools could work to improve the educational capacity of the pueblo and explore alternatives to management by the Bernalillo schools. The pueblo acknowledged that it had not contacted the Indian Education Division of the Public Education Department or the IAD, nor did it have a plan for who would serve as fiscal agent. Committee members suggested that the Pueblo of Santo Domingo seek to resolve its problems with the Public Education Department first. The committee acknowledged that it had received the pueblo's message and had questions as to ways to address the problem.

### **VIRTUAL WEB PROGRAM**

Greg Cajete and Ron Feldman discussed the Native American Studies Program for the Tribal Virtual Network. The network involves a consortium of tribes, the Indian Pueblo Cultural Center, the Jicarilla Apache Nation and others to access technology. It uses low bandwidth teleconferencing and live video so that indigenous communities can talk to each other. The network requested \$198,024 to get its partners connected.

### **WATER LITIGATION SETTLEMENT FUNDING**

D. L. Sanders, Office of the State Engineer general counsel, and Gregory Ridgley, special assistant attorney general, discussed the need for legislation to set funds aside for the state match of funding in four lawsuits. They reported that New Mexico is committed to spending \$58 million if the settlements are approved. If money is set aside beginning now, it will not be such an onerous task to have it available when the cases settle. The presenters brought copies of legislation proposed to the governor as a "straw man" for purposes of getting funding set aside. Representative Madalena noted that the state engineer would give a four-hour presentation to the Legislative Finance Committee on November 15. The proposals are for funds that would not revert and set-aside funding that is not discretionary.

### **SPIDERWOMAN PROJECT**

Joe Keating and Elsa Johnson requested consideration of funding for "Spiderwoman", a film in Navajo with English subtitles written by Mr. Keating's deceased wife. The movie will be 80 percent filmed in New Mexico, except for scenes in Canyon de Chelly, and 50 percent or more of the cast and crew will be New Mexico residents. Mr. Keating's request is for specific legislation to exempt this project from a statutory requirement for a co-signer or guarantor. The committee recommended that Mr. Keating work with the governor's office to find ways to reduce the amount of guarantee required when a film involves substantial Native American talent and is in an area of economic need.

### **AMERICAN INDIAN EARLY CHILD LITERACY INITIATIVE — PHASE TWO**

Colleen Keane of KNME TV presented a progress report on Native American early child literacy materials and programs. The committee said that the programs should be eligible for funding under the Indian Education Act and that the committee would make Assistant Secretary for Indian Education Penny Bird, at the Public Education Department, aware of its position.

### **PREDATORY LENDING**

Senator Bernadette M. Sanchez came before the committee to request its endorsement of her predatory lending bill, which will: 1) include endorsement of the Public Interest Resource Group, the American Association for Retired Persons, the Catholic Archdiocese, the New Mexico Conference of Churches, the Human Needs Coordinating Council and the Native American Resource Association, among others; 2) cap interest rates at 36 percent APR; 3) address rates charged for car title, mortgage and tax refund loans; and 4) require licensure for companies extending such loans. The committee agreed to consider and compare Senator Sanchez's proposed bill with that recommended by the Alternative Lending Task Force and proposed by Representative Lundstrom. Representative Lundstrom's proposed legislation: 1) does not cap rates; 2) applies only to payday lending; and 3) focuses on regulation of lending establishments.

### **DISCUSSION OF CAPITAL OUTLAY PROCEDURES FOR 2005**

Indian Affairs Department Secretary Benny Shendo, Deputy Secretary Michelle Brown-Yazzie and Rebecca Martinez, IAD capital outlay manager, discussed the procedures that the IAD has used for identifying and organizing capital outlay requests in the months since the department was organized. Secretary Shendo also introduced his staff, general counsel Helen Padilla, accountant William Crispin and business specialist Loretta Diaz.

The three presenters shared information demonstrating the reduction in the backlog of capital outlay requests, streamlining project management of the 450 capital projects already on the books and formalizing the joint powers agreement (JPA) process so that some contracts are paid directly to vendors rather than reimbursed. The department encumbered \$2.2 million between July 1 and the present, although it had encumbered only \$389,000 previously in JPAs. The backlog of projects was reduced significantly to approximately \$1.5 million.

A wide-ranging discussion ensued during which committee members expressed disapproval of what some saw as the governor's overstepping the bounds of executive power by encouraging an executive agency to go directly to tribes and pueblos with instructions to hone down their capital outlay proposals to three top priorities. The legislators expressed the conclusion that going directly to the tribes from the Department of Finance and Administration (DFA) and IAD is confusing to constituents, who still may approach legislators for direct legislative support and appropriations. Secretary Shendo agreed to carry the committee's concerns to the fourth floor, but assured committee members that the IAD is addressing any confusion by meeting directly with the tribes. Also, he and committee members agreed that for large projects (of approximately \$1 million or more), the intervention of the IAD is helpful in setting plans for funding over multi-year periods. Committee members requested that the department telephone any tribes whose funding is on the verge of expiration to inform them of the problem and that it inform new chapter leaders of the new capital outlay process.

Senator Tsosie recessed the meeting at 6:25 p.m.

### **Wednesday, November 10**

Representative Madalena reconvened the meeting at 9:10 a.m.

### **CAPITAL OUTLAY PROCEDURES**

Janice McCrary, capital outlay staff from the Legislative Council Service (LCS), addressed the committee and reported that LCS is adding capital outlay staff to keep up with the demands of the upcoming session.

## **2005 LEGISLATIVE INITIATIVES**

The committee discussed and voted on a number of committee endorsements for capital outlay bills and other initiatives. In each case, the motion passed without objection.

### **Institute of American Indian Arts**

On motion of Representative Madelena and second motion of Senator Rodriguez, Representative Salazar agreed to sponsor legislation endorsing the Center for Lifelong Education, Research and Cultural Exchange for Indigenous Peoples at the Institute of American Indian Arts. The committee will write the governor stating its position endorsing the construction of the center, to which the governor has committed \$2 million in general obligation bonds. The amount of the appropriation and the source of the funds will be up to the sponsor, who will ask that committee members sign off before presenting the bill.

### **Native American Capital Outlay**

(1) On motion of Senator Rodriguez with second motion by Representative Begaye, legislation to be sponsored by Representative Lundstrom and Senator Tsosie was endorsed to fund more IAD staffing to help with eliminating the backlog of capital outlay projects. For purposes of the legislation, a project considered "backlogged" would have been reauthorized more than two times.

(2) Senator Tsosie and Representative Lundstrom committed to a comprehensive bill to address Navajo capital outlay issues, and the committee voted to consider the draft bill, on motion of Representative Madalena and second motion of Senator Rainaldi. The bill will expedite completion of capital outlay projects through directing state appropriations to chapters and other smaller divisions of Navajo government and permitting direct payment to vendors after the approval of the IAD. Such a solution could directly benefit Navajo residents of New Mexico who are still without power because of intergovernmental communications problems. Senator Adair proposed a resolution to define as indigent any family in New Mexico without a powerline in the twenty-first century. Senator Rainaldi cautioned that the committee endorsement will follow upon review of the drafted bill.

### **Radiation Exposure Compensation Act**

Senator Pinto was suggested as the sponsor for a memorial to Congress requesting investigation of awards to New Mexico Native Americans for radiation compensation. Senator Rainaldi moved and Representative Lundstrom seconded the endorsement of such a memorial.

### **Hogback Bridge**

Representative Lundstrom moved and Representative Madalena seconded a motion to endorse a memorial to the congressional delegation carried by Representative Begaye supporting the

proposed "Hogback Bridge", which would connect Navajo Highway 368 with State Highway 64 over the San Juan River. It was suggested that Senator Pinto and Representative Begaye sponsor the memorial, which will also be sent to the Bureau of Indian Affairs, the state Department of Transportation and San Juan County.

### **Native Nation, Native Voices**

Representative Zanetti was recommended as sponsor for a bill requesting an appropriation to the Cultural Affairs Department for funding a proposed festival for authors writing in native languages next summer in Albuquerque. Representative Lundstrom moved and Senator Rodriguez seconded a motion to support the undrafted bill, and the committee will consider endorsement after the bill is drafted as to the amount of the appropriation and the source of the funding.

### **USDA Tribal Extension Initiative**

Representative Madalena will carry a bill requesting a recurring appropriation for the USDA Tribal Extension Initiative. The committee's endorsement was carried on Representative Madalena's motion with Senator Rainaldi's second motion.

### **Native American Authenticity**

Representative Lundstrom and Senator Rainaldi agreed to carry a bill to be introduced simultaneously in both houses directly providing for enforcement of the Native American authenticity bill, which provides for certification of native arts and crafts. The committee endorsed an appropriation adequate for at least two or three people to enforce the act, on motion of Representative Madalena and second motion of Representative Harrison. The committee will also inquire as to what might be done to protect against the copyrighting of traditional Indian designs by non-Indians.

### **Rural School Leadership Academy**

No action was taken regarding a site in a rural area such as Gallup for a rural leadership academy.

### **Education Bills**

A number of education issues were discussed.

### **Issues resolved *without* the need for legislation included:**

Emphasizing the importance of the Indian Education Division of the Public Education Department. Senator Tsosie and Representative Begaye will work with Penny Bird, assistant secretary for Indian education, to improve implementation of the Indian Education Act. Among the concerns are duties and authority of the Indian Advisory Council and compliance

with the Indian Education Act, enhancing the ability of local school districts to improve professional staff and responding to the demand for Native American language and culture certification. Elevating the status of the Indian Education Department — as a means of reducing cumbersome bureaucratic controls over payment for Indian arts and culture certificate-holders, making per diem available for members of the Indian Advisory Committee and encouraging better communications between the IAD, the secretary of public education and the Indian Education Division — is also a priority.

**Education bills receiving committee endorsement were:**

**Inter-school transportation:** Senators Tsosie and Rainaldi will jointly sponsor a bill clarifying that legislators expect school districts to cooperate to resolve inter-county, inter-district and inter-governmental transportation issues so that children are not left standing in the cold because of unresolved bureaucratic disputes. The endorsement was passed on motion of Representative Lundstrom and second motion of Representative Begaye.

**Amendment to HB 212:** Representative Begaye and Senator Rainaldi will sponsor an amendment to HB 212 to return the responsibility for hiring and firing of staff to local school boards rather than local superintendents in areas where there is a lack of Native American professional staff. The motion to endorse was made by Representative Begaye and seconded by Senator Rainaldi. Vesting authority in school superintendents to address Native American staffing concerns was seen as being unsuccessful and leading to lawsuits.

**Appropriation for "Bridging the Literacy Gap" Programs:** Representative Harrison was suggested as sponsor for the "Bridging the Literacy Gap" measure, which will bring Save the Children funding into more school programs in Indian country, with a match from the state. Endorsement of the proposal was moved by Senator Rainaldi and seconded by Representative Begaye.

**Teach for America:** On motion of Senator Rainaldi and second motion of Representative Harrison, the Teach for America Program will be enhanced by a \$250,000 subsidy for two years. Senator Tsosie will carry the bill.

**Predatory Lending**

Senator Rainaldi moved that predatory lending bills be tabled until the proposed bills have been drafted and are available for review and Representative Madalena seconded the motion.

**Radioactive Materials**

Representative Harrison and Senator Tsosie will carry a joint memorial urging the federal Department of Energy and the Navajo Tribal Utility Authority to test homes for radioactive materials. Committee endorsement was on motion of Representative Madalena and second motion of Senator Rainaldi.

### **Intertribal Ceremonial**

Representative Lundstrom moved and Senator Rainaldi seconded a bill to endorse a bill to be sponsored by Senator Rainaldi and Representative Harrison to bring the Intertribal Ceremonial back under the auspices of state government. There would also have to be an accompanying appropriation bill.

### **Temporary Assistance to Needy Families (TANF)**

Representative Madalena agreed to carry a general appropriation bill for TANF for the Navajo Nation and the Pueblo of Zuni. The motion of Representative Madalena and second motion of Senator Rainaldi is for a direct state appropriation.

### **Election Revisions**

Senator Rainaldi moved and Representative Harrison seconded a motion to endorse a wide-ranging election bill to be sponsored by Senators Tsosie and Rainaldi and Representatives Madalena and Harrison. Issues addressed include giving the secretary of state authority to establish polling places in Indian country; ensure that translators are available to early voters; coordinate use of tribal, state and federal election polling places; permit early counting of absentee ballots; authorize the use of schools as polling places; and require elected officials to live in districts.

It was moved by Representative Madalena and seconded by Representative Harrison that the committee endorse a bill for a constitutional amendment to provide for six-year terms for state senators and four-year terms for state representatives.

### **Children's Code Revisions**

The committee endorsed in concept a plan to work with the Native American Task Force on a revision to the Children's Code either to support amendment of sections pertinent to Indian children or to write a new children's code that comports with the federal Indian Child Welfare Act for Indian children. The endorsement was on motion of Representative Madalena and second motion of Representative Lundstrom. A sponsor did not commit to the measure.

### **Indian Law Institute**

The committee agreed to sponsor a bill to appropriate \$5,000 for a half-day training for new legislators on federal Indian law issues in New Mexico. The bill will be carried by Representative Lundstrom and Senator Rainaldi. Senator Tsosie moved acceptance; Representative Madalena seconded the motion.

### **Gallup Food Bank**

Representative Harrison and Senators Tsosie and Rainaldi will carry a bill appropriating additional funds for Native American communities for their food banks. Acceptance was moved by Representative Lundstrom on second motion of Senator Rainaldi.

### **San Juan Independent Living Center**

(1) The committee endorsed an appropriation request of \$65,000 from the general fund to maintain a satellite office in McKinley County for the San Juan Independent Living Center. Funding for the bill sponsored by Representative Begaye will be for additional staff, operations and for home modifications and transportation. The endorsement passed on motion of Representative Madalena and second motion of Representative Harrison.

(2) Senator Tsosie agreed to carry a bill expediting modifications of Native American senior citizen and disabled resident homes in need of wheelchair ramps. The endorsement passed on motion of Representative Lundstrom and second motion of Senator Rodriguez.

### **Indigenous Language Institute**

Representative Begaye agreed to carry an appropriation bill for the Indigenous Language Institute for an assessment of Indian languages in public schools, pre-kindergarten, after-school and adult programs. Representative Madalena moved to endorse the bill and Representative Begaye seconded.

### **Indian Water Rights Settlement Litigation**

On motion of Representative Madalena and second motion of Representative Lundstrom, the committee voted to endorse legislation carried by Representative Begaye in the House and Senators Tsosie and Rainaldi in the Senate to set aside funds needed for settlement of Native American water rights litigation.

## **CAPITAL OUTLAY**

Robert Apodaca, director of the Capital Projects Division of the DFA, addressed the committee to report that he had received 41 tribal government requests for a total of \$134 million. Mr. Apodaca agreed to contact the Mescalero Apache Tribe regarding its needs for a new senior center and to furnish a list broken out by county of all the projects to committee members.

Senator Tsosie adjourned the meeting at 1:20 p.m.