

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

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

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

**Present**

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

**Absent**

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

**Advisory Members**

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

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

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

**Staff**

Damian Lara  
Peter Kovnat  
Cassandra Jones

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and written testimony are in the meeting file.

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

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

### **Status Update — Pueblo of Sandia**

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

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

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

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

### **Benefits of Indian Gaming Compacts — Present and Future**

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

Maxine Velasquez, general counsel for the Pueblo of Tesuque, was invited to help clarify free play. Ms. Velasquez told the committee that issues of free play will be worked out between each gaming tribe and the Gaming Control Board. In response to a question from a committee member, Ms. Velasquez stated that there are tribal liaisons present at meetings of the Gaming Control Board. Ms. Velasquez also explained that casinos are required to have specific amounts of insurance if they sell liquor. Mr. Dorame told the committee that tribal casinos paid \$63 million to the state last year and that three percent of every dollar given to capital outlay is from tribal gaming. Ms. Velasquez explained that .25 percent of the tribes' net winnings are used annually for compulsive gambling prevention in New Mexico. Mr. Dorame stated that he would like to come before the committee with representatives from the Responsible Gaming Association of New Mexico to provide committee members with more information.

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

### **Refund Anticipation Check Abuses in Indian Country**

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

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

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

### **Assisting Native Language Survival Programs**

Christine P. Sims from the American Indian Language Policy Research and Teacher Training Center at the University of New Mexico (UNM) told the committee members that tribes need additional resources to begin developing language immersion programs. The center focuses on five performance areas: (1) conducting workshops; (2) maintaining a database of key participants and programs; (3) planning training curricula; (4) providing technical assistance for communities, tribes and programs; and (5) collecting evaluation survey data to determine future needs. The center receives grants from the United States Health and Human Services Department as well as the Indian Education Division of the PED. Seventeen New Mexico tribes have signed a memorandum of understanding with the PED to put in place a process that certifies native language speakers as proficient so they can apply for certification to teach in public schools. The center has also discussed concerns about native language programs with the Children, Youth and Families Department and the Indian Affairs Department (IAD). The center is seeking IAD support for continuing native language training services as well as a certificate program for native speakers that teach language at the UNM College of Education. The center is also seeking funding to support native internships, to develop a web site dedicated to native

language issues, to support the development of a local statewide organization of native language teachers and to pursue federal and private foundation grants.

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

### **Improving Access to Dental Services in Tribal Communities**

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

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

## **Improving Access to Dental Services to Tribal Communities**

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

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

## **Public Comment**

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

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

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

Mim Dixon, a consultant, stated that a dental therapist program would provide good opportunities for New Mexico but would not negate the need for the NMDA. She stated that tribes closest to Albuquerque are able to afford dentists while those that are remote are not able to afford dentists.

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

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

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

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

### **SIPI Status Update**

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

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

### **Minutes**

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

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

Dr. Jose Z. Garcia, secretary of higher education, told the committee that the Higher Education Department (HED) has created a new funding formula for higher education. The formula focuses on measuring performance rather than the cost of education and addresses the number of degrees and certificates that a university issues. Colleges and universities receive incentives for closing the achievement gap. Glenn Walters, deputy secretary, HED, told the committee that the HED has been working with Secretary Allison of the IAD to address issues

that relate to Native Americans. Karen Kennedy, a financial analyst for the HED, told the committee that the primary financial aid source is the federal Pell Grant, which is \$5,550 for a student with no expected family contribution. The Pell program is beginning to limit the number of semesters that a student is allowed to receive Pell money. Other financial aid programs include the Robert C. Byrd Honors Scholarship, which expired in fiscal year 2010, and Science and Mathematics Access to Retain Talent (SMART) grants. Last year, \$53 million was spent on lottery scholarships, which was \$12 million over lottery revenues for the year. There is still money available for the lottery scholarship because in prior years, scholarship expenditures were less than lottery revenue.

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

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

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

### **Enhancing the Ability of American Indian Students to Succeed**

Pamela Agoyo, director of American Indian student services and special assistant to the president for American Indian affairs at UNM, told the committee that Native American students comprise six percent of the student body on the main campus. In 1999, UNM made an agreement with the Navajo Nation that the Navajo Nation would provide funding to assist in acclimating students to college life before they begin attending college. UNM has used this money to provide a program that allows students to live on campus and take classes while earning eight hours of college credits. Staff for the program includes two graduate students and eight undergraduate students. In response to a question from the committee, Ms. Agoyo stated that most Native American students prefer to live off-campus after their first year.

### **American Indian Student Center**

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

students. The facility is 7,451 square feet and includes a common room, a kitchen and a dedicated study area.

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

### **Adjournment**

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