

MINUTES
of the
FIFTH MEETING
of the
INDIAN AFFAIRS COMMITTEE

October 26, 2004 - Institute of American Indian Arts, Santa Fe
October 27, 2004 - State Capitol, Santa Fe
October 28, 2004 - Pueblo of Santa Clara

Representative James Roger Madalena, co-chair, called the fifth meeting of the Indian Affairs Committee to order on Tuesday, October 26, 2004, at 10:35 a.m. in the auditorium at the Institute of American Indian Arts in Santa Fe.

PRESENT

Rep. James Roger Madalena, co-chair
Sen. Leonard Tsosie, co-chair (10/26 and 10/27)
Rep. Ray Begaye
Rep. Irvin Harrison (10/26 and 10/27)
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez

Advisory Members

Rep. Ben Lujan (10/27)
Rep. Fred Luna (10/26 and 10/28)
Sen. Richard C. Martinez
Rep. Debbie A. Rodella (10/28)
Rep. Nick L. Salazar
Rep. W.C. "Dub" Williams

ABSENT

Sen. Rod Adair
Sen. Raymond Kysar
Rep. Patricia A. Lundstrom
Sen. John Pinto
Rep. Don Tripp
Rep. Avon W. Wilson
Rep. Teresa A. Zanetti

Sen. Ben D. Altamirano
Sen. Joseph J. Carraro
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, October 26 - Institute of American Indian Arts (IAIA)

INTRODUCTIONS

Della Warrior welcomed the committee to IAIA. She thanked members for \$1 million in support of campus projects including the library and technical center, road paving and water lines, and noted that the committee has voted to endorse the Lifelong Education Learning and Research Center on the campus.

NATIVE AMERICAN EDUCATION ISSUES

Indian Affairs Department (IAD) Secretary-designate Benny Shendo, Jr.; Public Education Department (PED) Assistant Secretary Penny Bird; Indian Education Advisory Committee Chair Donovan Gomez; and Institute for Indian Education Director Dr. Joseph Suina presented the memorandum of understanding (MOU) among IAD, PED and UNM. The MOU establishes a three-year grant for a cooperative effort to support the Indian Education Act's mandates to develop Native American curricula, to provide teachers of Native American students with preparation and training, to build partnerships addressing Native American issues, including dropout rates, college retention, culturally appropriate learning materials and student achievement, and to revitalize native language. Dr. Suina, the first director of the institute, reported that the institute now has eight Indian faculty members – the largest number of Indian faculty in the country – and that the faculty has expertise in language revitalization, sociology of education, bilingualism, physical education, technology and science. Prior to establishment of the institute, funding was not stable and the former State Department of Public Education's Native American focus was piecemeal. The institute has an MOU with the Navajo Nation for teacher training. Currently, the institute has 22 undergraduates in teacher preparation and nine graduate students, and it is extending expertise statewide. Concerns include institutionalizing the institute, establishing a master's program with a concentration in Indian education and establishing a license in Indian education.

In questioning by committee members, the discussion ranged from including IAIA in a MOU, the need for special mention of the needs of special education students to create a similar institute at New Mexico State University and reviving native languages. Dr. Suina explained that the language revival program at the institute is separate from the teacher preparation program, and mentioned that Native American teachers serve as important role models both for students and for the broader community. The goal is to encourage Indian people to remain within their communities, but the institute also aims to prepare others to work in native communities and to teach others about Native American culture. Dr. Bird stated that the caliber of teachers has been a problem, as has keeping teachers in rural areas, and she discussed her desire to build a cadre of long-term, high-quality teachers of Native American language and culture. Dr. Bird noted that the appropriation for the initiative is already in the budget, but that the committee's support will be essential for long-term funding.

Committee members expressed concerns about the organization of the MOU without ample

supporting data and about centralizing training at a single university rather than with a community-based focus. The members are concerned that every appropriate institution needs to be brought to the table. Dr. Bird noted that this MOU is only one small component of the implementation of the Indian Education Act, that the department is collecting information on other organizations to involve and that other partners will be brought in. Members also expressed dissatisfaction with the number of employees in the Indian Education Division within PED and discussed restructuring the role of the assistant secretary to elevate the powers to accomplish the mandates of the Indian Education Act.

Dr. Bird was requested to return with a later draft of the MOU.

INTER-TRIBAL CEREMONIAL OFFICE

Joe Athens, executive director, and Louis Bonaguidi, chief executive officer, both of the Inter-tribal Indian Ceremonial, presented that organization's proposal to return to its status as a government agency. The ceremonial separated from state government in 1996 under Governor Johnson's administration, but has now found that the structure as a private not-for-profit is not effective without government alignment. The current governor has expressed his view that the ceremonial should be part of the Tourism Department, but the ceremonial sees its role less as drawing funding than as providing cultural education.

The ceremonial proposes to become part of state government while maintaining its 501 (c)(3) board of directors. Discussion ensued on how and whether the proposal could be structured as envisioned by the ceremonial's board of directors.

REPORT ON WELL-BEING OF NATIVE AMERICAN CHILDREN

Bill Jordan, executive director of New Mexico Voices for Children, and Nandini Kuehn, research associate, presented a report that will be submitted to tribal leaders before publication on census data on Native American children and their needs in New Mexico. The state-specific data can be useful for grant writers for special populations. The handouts of the reports are in the meeting file.

TEMPORARY ASSISTANCE TO NEEDY FAMILIES

Representatives from the Navajo Nation, the Pueblo of Zuni and the New Mexico Human Services Department (HSD) gave a presentation on TANF funding problems among the governmental entities. Last year, the legislature voted to fund TANF programs on the Navajo Nation (NN) and the Pueblo of Zuni, but worded the appropriation to specify that *federal* money should flow to the Navajo Nation (in the amount of \$1.3 million) and to the Pueblo of Zuni (in the amount of \$186,000). Each of the tribes has a TANF plan that differs from New Mexico's in terms of populations eligible for the funding and in terms of work requirements. Therefore, the federal program warned HSD not to release the funding under threat of penalties. HSD and Governor Richardson unsuccessfully petitioned the federal government for a waiver to

deal with the issue. HSD also circulated a draft joint powers agreement (JPA) to deal with the issue, but the JPA was unacceptable to the Native American governments because it abrogated their sovereignty.

HSD Secretary Pamela Hyde and Deputy Secretary Liz Stefanics suggested that the legislature could correct the problem by making a simple general fund appropriation in the coming session. HSD agreed to meet with Navajo Nation TANF Director Roxanne Gorman and Principal Accountant Art Sanderson and with Zuni Education and Career Development Center Director Michelle Walela and TANF Coordinator Bernadette Panteah to resolve the problem. HSD will help in getting the right kind of appropriation drafted and on getting the appropriation into HB 2, the general appropriation bill.

Representative Begaye suggested that the committee raise the problem that state maintenance of effort (MOE) funding cannot go to tribes with New Mexico's congressional delegation. Ms. Walela reported that 29 of 36 tribes in the United States received MOE funding from their states, although New Mexico's MOE funds do not go to the Pueblo of Zuni.

Representative Madalena recessed the meeting at 4:40 p.m.

Wednesday, October 27 - State Capitol

Representative Madalena reconvened the meeting at 9:30 a.m.

STATE LIBRARY — NATIVE AMERICAN LANGUAGE WEB SITE

State Librarian Richard Akeroyd presented the committee with an update of the web site, which began last year, and Wes Owens accompanied him. Handouts are in the meeting file. Thus far, translations for three languages are on the "Telling the Stories" web site, the goals of which are presenting information about agencies and services in native languages and, in addition, providing additional information on areas of Native American interest, including water rights, court decisions, law and commerce. By 2007, all seven language groups will be represented on the web site. Senator Tsosie recommended that the web site emphasize oral rather than written translations, and suggested using icons to help users become aware of the functions on the web site. The web site provides descriptive information about the various divisions of the Cultural Affairs Department and other agencies, descriptive information about each of New Mexico's tribal communities (presented in the format of choice of each community) and links to resources.

E-MERCADO PROJECT

Del Castillo, chief executive officer of the Albuquerque Hispano Chamber of Commerce, gave a presentation on the E-mercado project, which provides businesses with a means of posting their products on the World Wide Web and can quickly and accurately measure economic impact. He said that the project began two or three years ago with the help of government and the Rural

Economic Development Initiative, and was funded with a \$500,000 capital outlay appropriation and no operating funds. Operating funds have since been provided by Sandia National Laboratories (SNL) and the Albuquerque Hispano Chamber of Commerce, both of which are absorbing expenses.

The organization partners with the Economic Development Department, New Mexico Tech and SNL. Adam Roberts, director of the project, has developed a database of businesses through the New Mexico Hispanic Chamber of Commerce and local chambers of commerce, and is forming a statewide council. New Mexico Tech in Socorro will own the rights to the amassed database. Mr. Roberts reported that the project has taken surveys of many businesses, and has a database of 70,000 entries. The project, co-sponsored with SNL, has involved donation of services by lab employees, including its executive director. On questioning from Senator Tsosie, the director acknowledged that no business has thus far been generated.

NATIVE AMERICAN VOTING ISSUES

Denise Lamb, director of the Bureau of Elections, and Martin Aguilar, Native American election information coordinator, both with the Secretary of State's Office, reported that the upcoming presidential election is keeping the office extremely busy. Registration in New Mexico is up by 160,000 voters from the previous general election, and they expect Native American voting to be up by approximately 9,000 voters. Early voting has been brisk statewide, and the secretary of state got a ruling from the state supreme court allowing absentee ballots to be separated from their outer envelopes beginning just after midnight on Election Day rather than after the polls open. New Mexico now has over one million registered voters for the first time. Some 50,000 voters had already voted early by the day of the committee meeting, and by the second day of early voting, even Pojoaque had 350 early voters. Bernalillo County will have 65,000 to 85,000 absentee ballots before Election Day. There are 1,486 polling places in the state, and the attorney general will have 50 observers at polling places.

Ms. Lamb introduced Hvtce ("Hutch") Miller, who is the new voter outreach coordinator for the Santa Fe County clerk, who as part of his duties works with pueblos in Santa Fe County (Tesuque, Nambe, Pojoaque and San Ildefonso). Mr. Aguilar gave numbers on the growth of the Native American voter registration. In November 2002, there were 48,945 Native American voters registered; in June 2004, there were 50,398; in September, 53,998. The Help America Vote Act was to have provided one translator at each location and an audio translation on a machine at every polling place, thus ensuring that minority language voters can vote in complete secrecy and that the quality of translations is sound. Discussion on the limits of the secretary of state's authority ensued. Ms. Lamb said that her office cannot tell elected county clerks that they must train translators to emphasize neutrality, and that her office has no express power to enforce the Voting Rights Act. At early voting, there may be no translators.

Ms. Lamb reported that the federal government did not release funding for the new voting machines promised, so \$14 million of \$17 million delivered to the state did not arrive until May. The state expected \$23 million altogether, and hence is \$6 million behind in payments from the

federal government.

Representative Begaye expressed concern about both conflict of interest where nonnative county clerks may resist efforts to register Native American voters as a means of keeping their jobs, and about bias in interpretations given for Native American voters who rely on translators at county clerk locations. He was also concerned about translation services for early voters.

Ms. Lamb promised to send the committee information on the four remaining consent decrees on voting rights in Indian country and to send a written report compiling information on the numbers of registered voters. The committee is interested in legislation requiring organizations with voter registration employees to register with the secretary of state, listing the name, address and social security number of people in charge and those taking registration. In addition, those who take registrations should certify that they provide assistance in the registration.

Other legislation recommended included: (1) a bill to correct the law permitting felons to vote so that it does not codify an expectation that the federal courts will notify New Mexico authorities when a former inmate has fulfilled obligations; (2) a bill increasing the staffing for the Bureau of Elections, reflecting the fact that voter registration has risen from 700,000 to over a million voters; and (3) a bill permitting the secretary of state to encourage geographic diversity for polling places for early voting.

UPDATE OF THE CHILDREN'S CODE

Steffani Cochran, chair of the Native American Subcommittee of the New Mexico Children's Code Revision Task Force, presented her subcommittee's suggested revisions. The larger task force did not accept all of the subcommittee's recommendations, and the Children Youth and Families Department (CYFD) is not likely to accept all of the task force's recommendations. CYFD had previously asked to be scheduled for a report on the task force recommendations only after the final committee drafts are submitted in November.

Ms. Cochran noted that the Native American Subcommittee was charged with reviewing the work of all four areas to be revised: abuse and neglect/adoption; delinquency; families in need of court-ordered services (FINCOS); and general provisions, including the Indian Child Welfare Act, Children's Court rules and mental health issues.

The subcommittee made recommendations to:

- (1) improve the possibilities for mutual recognition of tribal court orders through development of intergovernmental agreements (IGAs) so that tribes can resolve problems surrounding treatment options for Native American youthful offenders in the state juvenile justice system;
- (2) address the balance of tribal-state authority over Indian children under the Indian Child Welfare Act;

- (3) mandate consultation and exchange of information with an Indian child's tribe when tribal members seek voluntary services;
- (4) retain the notice provisions currently in place with FINCOS so that tribes may become involved in truancy and other matters;
- (5) add new sections consistent with the Indian Child Welfare Act regarding preferences for placement of Indian children in protective custody and preferences for changes in placement;
- (6) provide tribal social service agencies with better access to confidential records;
- (7) recognize Indian Child Welfare Act requirements within the Safe Haven for Infants Act; and
- (8) add a new subsection to the cultural recognition sections of the Children's Code specifically addressing the cultural needs of Indian children.

The task force recommended the consultation and exchange of information revisions supported by the subcommittee; accepted the subcommittee's recommendations to create new subsections addressing child placement preferences; accepted the subcommittee's recommendations regarding changes to the Safe Haven for Infants Act; and tabled the subcommittee's recommendation on special cultural needs. The task force made a recommendation that the subcommittee did not endorse because of concerns about inconsistencies with tribal services and the role of attorneys in tribal court proceedings, which was mandatory appointment of attorneys for children 14 years of age or older.

The committee recommended specific changes to wording of the completed subcommittee report, which has been presented to and acted on by the task force.

APPROVAL OF MINUTES

Representative Madalena called for approval of the minutes of the September Indian Affairs Committee meeting. Senator Tsosie moved and Senator Rainaldi seconded approval of the minutes. The minutes were approved as submitted without opposition.

ECONOMIC DEVELOPMENT

Economic Development Department Secretary Rick Homans presented and reviewed a report on the department's accomplishments. (A copy is in the meeting file.) The department's Native American liaison could not attend because of medical problems. The department has contacted all tribes to determine their interest in economic development. Secretary Homans reported that the department has earmarked \$1 million for job training incentives on tribal land and reimburses wages at a higher rate for trainees on tribal land than in urban areas. Thus far, 58 Native

American jobs have been generated.

Members expressed concern about the operation of a revolving loan fund and about retraining talented jewelers to work as microsystems assembly workers. The department was encouraged to create a checklist for tribes to use in participating in "potential recruitment opportunity" solicitations. Secretary Homans acknowledged that the department has not yet created any new jobs.

INDIAN PARTICIPATION IN MEDICAID/HEALTH MAINTENANCE ORGANIZATIONS

HSD Deputy Secretary Liz Stefanics introduced Carolyn Ingram and Sharilyn Aguilar-Roanhorse, who presented for the department. In addition, presenters from the Presbyterian, Molina and Lovelace health maintenance organizations reported on Native American use of alternatives to the HSD "Salud" Medicaid plan. Discussion ensued on whether translation services are provided through a dial-up or locally. There was discussion regarding the number of Native American clients who "opt out" of the managed care plans and the reasons for such decisions. The presenters agreed to furnish the committee with more information on Native American feedback about the managed care plans, including any criticisms received, and reasons for opting out of the managed care plans/HMOs. Deputy Secretary Stefanics stated that the department is now distributing \$3 million to \$4 million to school clinics.

Representative Madalena recessed the meeting at 5:20 p.m.

Thursday, October 28 - Pueblo of Santa Clara Senior Center

Representative Madalena reconvened the meeting at 9:30 a.m. and turned the gavel over to Senator Martinez, who represents an area that includes the Pueblo of Santa Clara.

PUEBLO OF SANTA CLARA

Pueblo of Santa Clara Governor Jeff Sisneros welcomed the committee and introduced Bernice Morfin, the Santa Clara Senior Citizen Program Director. Santa Clara's top priorities for funding are: (1) an adult day care center; (2) a tribal courts/law enforcement building revision and update; and (3) improvements to the library. Ms. Morfin explained that the tribe has received assurances that the federal congressional representatives will contribute toward the projects if the state funds them. Architect Levi Romero discussed the adult day care center; Judge Joseph Naranjo, the judicial complex; and Theresa Naranjo, the \$50,000 library proposal. Senator Martinez and Representative Rodella agreed to co-sponsor the Santa Clara library effort.

Committee members expressed support for the facilities, but worried over whether support would require recurring expenses that would be hard to come by. Members suggested seeking federal matching funds or other funding for the facility, either for construction (capital outlay) or

for the recurring expenses.

EIGHT NORTHERN INDIAN PUEBLOS COUNCIL

Acting Director Terry Aguilar presented the top three priorities of the council and requested committee support for the projects, which include behavioral health programs such as Head Start, a substance abuse program for Native American adults, discouraging the use of tobacco and publishing a visitors' guide. The member pueblos need five buses for Head Start, and will get federal money for each bus, which the state or pueblo will have to repay.

SANTO DOMINGO PUEBLO

Pueblo of Santo Domingo Governor Sisto Quintana, tribal planner Kenny Pin, tribal administrator Leandro Garcia and planner Celia Hildebrand described the multipurpose education center and dialysis center that are the pueblo's top priorities. Santo Domingo successfully sought a Mortgage Finance Authority grant, receiving \$3.7 million, and also received federal funding for its projects and will request capital outlay funding from the legislature to augment the budgets.

The pueblo will also request funding for a certified ambulance, as demand for ambulance services is high. The pueblo had 85 calls in June, 72 of which were from Native Americans; 88 in July, with 74 from Native Americans; and 82 in August, with 67 from Native American callers. Other projects include a new Head Start facility, a multipurpose community center and a transfer station.

PUEBLO OF NAMBE

Pueblo of Nambe Lieutenant Governor Jennifer Vigil presented on behalf of Governor Tom Talache, who could not attend. She expressed concern about funding for several projects, and was advised to present the funding proposals in writing and to consult with the IAD regarding coordination of funding. The tribe is requesting \$2.5 million for correcting mold problems; needs \$650,000 to finish improvements to its Head Start facility; and needs another highway from Nambe Falls.

TESUQUE PUEBLO

Former Pueblo of Tesuque Governor Charlie Dorame presented the committee with a list of priorities. He was advised to work with the IAD on funding requests, and discussion ensued about coordination of funding requests between the tribes and federal and state governments. He reported that the pueblo has finished an intergenerational center, but lacks \$496,142. The pueblo also needs \$50,000 for a multijurisdictional law enforcement training center and \$570,685 for a new administration building. The pueblo also requests a \$215,000 planning grant for a multi-educational facility.

Senator Martinez adjourned the meeting at 1:55 p.m.

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