

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

**September 24, 2012  
Pueblo of Laguna**

**September 25, 2012  
Navajo Technical College, Crownpoint**

**September 26, 2012  
University of New Mexico-Gallup Branch**

The fourth meeting of the Indian Affairs Committee (IAC) was called to order by Representative James Roger Madalena, co-chair, at 9:25 a.m. on Monday, September 24, 2012, at the Event Center of Dancing Eagle Casino in the Pueblo of Laguna.

**Present**

Rep. James Roger Madalena, Co-Chair  
(9/24, 9/25)  
Sen. John Pinto, Co-Chair (9/24)  
Rep. Ray Begaye  
Rep. Sandra D. Jeff  
Sen. Lynda M. Lovejoy (9/24, 9/25)  
Rep. Patricia A. Lundstrom  
Sen. Richard C. Martinez  
Sen. George K. Munoz (9/25, 9/26)  
Rep. Jane E. Powdrell-Culbert  
Sen. Nancy Rodriguez

**Absent**

Sen. Rod Adair  
Sen. John C. Ryan  
Rep. James E. Smith

**Advisory Members**

Rep. Eliseo Lee Alcon  
Rep. Ernest H. Chavez  
Rep. Debbie A. Rodella

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

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

**Staff**

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

Theresa Rogers, LCS

### **Guests**

The guest list is in the meeting file.

### **Handouts**

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

### **Monday, September 24 — Dancing Eagle Casino, Pueblo of Laguna**

Committee and staff introduced themselves. The meeting started as a subcommittee until a quorum was present. Governor Randall Vicente of the Pueblo of Acoma gave an invocation.

### **Welcome and Status Update — Pueblo of Laguna**

Richard B. Luarkie, governor, Pueblo of Laguna, introduced and thanked Governor Vicente and Cecil Lewis, president, Navajo Baca/Prewitt Chapter of the Navajo Nation, for their service. He also introduced the Pueblo of Laguna board of trustees and board of education staff.

Governors Vicente and Luarkie described the Joint Education Tribal Team (JETT), composed of the governors of the Pueblos of Acoma and Laguna, their respective boards of education, the Laguna Education Task Force members and the Navajo Baca/Prewitt Chapter president. The JETT was formed in 2012 to address the use and intent of Public Law 874 and the impact aid funds generated by Native American students enrolled in the Grants-Cibola County School District (GCCSD). The JETT emphasized the effect an efficiently implemented impact aid program and Indian policies and procedures (IPP) can have in reducing the disparities that Native American communities experience.

The JETT asked for legislative action on the following points.

1. Establishment of a joint committee to focus on a review and report regarding the implementation and use of the state equalization guarantee (SEG) formula and impact aid in comparison to other states. The committee would be composed of legislators, state staff and tribal representatives as well as a diverse composition of public school staff.

2. Action to ensure the proper use of impact aid funding to improve educational outcomes and to provide Indian add-on funding that would be spent directly on Indian students.

3. Enforcement by the Public Education Department (PED) of Title VIII of the federal Elementary and Secondary Education Act of 1965, including the special impact aid provisions for local education agencies that claim children residing on Indian lands.

4. Oversight of the Indian Education Act and the State-Tribal Collaboration Act by the IAC to honor the sovereign status of tribes and ensure that state employees are adequately educated in the intricacies of the acts.

The JETT has found that collaboration is necessary for the success of schools on tribal lands. Inconsistencies that exist among the school districts regarding who officially signs off on an IPP must be clarified. For example, the tribes typically sign off on the IPP and submit their application, but the Bernalillo Public School District, which is on non-native land, independently submitted its IPP application although the governors had not signed off on it.

The present IPP application process is not acceptable and must be revised and correctly implemented. The IPP must meet all eight federal regulations and receive consistent support from the PED to hold school districts accountable. The Indian Education Act and State-Tribal Collaboration Act need to be enforced, and all districts must be in compliance with state laws. Currently, there are no penalties for noncompliant districts.

The JETT requests that the legislative earmarks in the Indian Education Act be removed in order to allow tribes full access to the funds. Dr. Guy Archambeau, member of the Acoma education board and task force, described PED data sets regarding Native American students' proficiency levels in math and reading. The data are giving tribes a better understanding of proficiency trends in students entering high school. Native American student performance rates are similar when compared to non-natives. Performance levels are low, but they show where resources and collaborative efforts should be dedicated to improve performance.

The JETT members concluded that the data collected demonstrate the JETT's growing maturity and its understanding of how to change performance as well as the diverse factors affecting schools. The percentage of Native American students who achieve academic proficiency is unacceptable. The tribes have not received a separate report on the performance of Native American students to date.

A committee member expressed disappointment that there were no staff members from the Indian Affairs Department (IAD) present. Their presence is necessary to foster cohesion and collaboration. Effective reporting from all agencies involved is needed to solve complex problems affecting tribes.

A committee member stated that funding is distributed outside of the intended limits. Proliferation of funds creates additional districts, making it harder to track the use of the funding. The way the state takes credit for impact aid must change. The member asked the JETT's opinion on third grade retention. Governor Vicente responded that this is a concern and that the resulting data are being studied. The Pueblo of Acoma might recommend that impact aid be redefined to flow directly to student programs to assist the two-thirds of Native American students needing remedial education.

A committee member stated that once the legislature approves the education budget, the money is distributed to the school districts. Because the school boards for each district are elected, legislators have no say in how the funding is used.

Representative Lundstrom requested that the flow chart that school boards follow to distribute funding be given to the committee for review. LCS staff agreed to provide the information at the next meeting.

George Rivera, governor of the Pueblo of Pojoaque, explained how the Pueblo of Laguna implemented a policy last year based on the third grade retention model. The pueblo included parent input in the model to enhance student achievement and to understand current problems more thoroughly.

The JETT asked that the LCS aid in researching the status of Senate Joint Memorial 35 (2011) and requested that the Legislative Education Study Committee report on the use of impact aid set-aside money for Indian education.

### **JETT: Policies and Procedures on Public Education**

Dr. Ferlin Clark, assistant secretary for Indian education, PED, explained that impact aid is a federal program providing revenue to local government entities in lieu of property taxes not received from federal lands, including those of the U.S. Forest Service, the U.S. Bureau of Land Management and Indian reservations. One hundred percent of federal impact aid goes directly to school districts, not to the state. New Mexico, as an equalized state, considers all revenue sources in meeting annual program costs. As a result, the state takes credit for 75 percent of all federal impact aid payments to the districts as well as mill levies and forest reserve payments. This ensures that all public school students receive equal access to programs and services as per the SEG.

Dr. Clark explained that there are four parts to impact aid: (1) basic payment; (2) Indian set-asides; (3) special education add-ons; and (4) construction funds. The Indian set-aside is a payment to local school districts based on Native American student enrollment. The state only takes credit for the basic payment portion of impact aid. The PED reinstated a budget questionnaire last year, prioritizing the direct channeling of impact aid to Native American students.

Matt Montano, division manager, PED, explained that Bernalillo County is heavily affected by impact aid. When an IPP request with missing signatures is submitted to Bernalillo County, private consultations are held with the tribe to address any issues.

A member stated that creating a stand-alone Native American public education department, connected to the secretary of public education, should be a priority. Another member responded that making more laws and departments may not be the best approach; some problems must be addressed administratively or within the schools. Governor Susana Martinez and Hanna Skandera, secretary-designate of public education, have prioritized information sessions regarding impact aid funding initiatives.

James Rivera, council member, Pueblo of Pojoaque, asked why \$1.3 million from the Indian Education Act is being distributed to Teach for America, a for-profit organization in New

York. Mr. Rivera stated that he is unable to locate a report or other information about Teach for America in New Mexico. Dr. Clark answered that this component of the budget was added by the legislature. Teach for America responded to a state request for proposals.

A member stated that past support for the proposal was due to an understanding that the money would be spent solely in Native American areas. Mr. Montano explained that Teach for America's central office is in New York, and it serves non-Indian areas of New Mexico out of its national budget.

Representative Lundstrom requested that the Legislative Finance Committee submit a report on the PED's distribution of funds for Teach for America.

### **Public Education: Adequate Funding and Accountability Measures**

Dr. Clark explained that his attendance at JETT meetings was to help the tribes understand the new PED budget questionnaire and how to best distribute funds throughout the tribal districts. The school district submits the applications to the federal government; funds are then distributed directly to the school districts. The money is distributed to the districts in line-items categories. The application must be signed off by tribal governments or tribal government designees residing within school district boundaries. The signatures verify that the tribes agree to the IPP pursuant to federal regulations. The tribes' understanding of the IPP sign-off is very important.

Victoria Tafoya, executive director for federal, bilingual and Native American programs, Rio Rancho Public School District, explained that the SEG calculates all class units from kindergarten to high school and assigns a unit cost by multiplying total units by \$3,000 to equal the total program cost. The SEG formula is created by the legislature.

The idea that the state sends 75 percent of federal impact aid funds to non-native schools throughout the state before sending the remaining 25 percent to schools serving Native American students is false. The school district will receive impact aid and SEG funding from the state. Impact aid school districts receive more funding overall than non-impact aid schools receive. If the SEG were diluting the money from districts, there would be no interest in applying for impact aid.

The members discussed how money affects students, the value of supportive parenting and the importance of preserving language and culture.

### **Public Education for Native Students: Improvements for Implementation**

Representative Rodella requested that the LCS draft a letter on behalf of the committee to Paul Aguilar, deputy secretary of finance, PED, expressing disappointment in his absence from the Indian Affairs Committee meeting.

Hayes Lewis, superintendent, Zuni Public School District, explained that the Zuni Public School District conducted focus groups for families, educators and students to improve learning measures and outcomes. The school district found that there was a lack of connection between the schools and the community. In response, the district used the context of culture to bridge the gap and strengthen bonds between parents and educators.

The Zuni Public School District standardized lesson planning to take into account a common core, and it created a scoring rubric to incorporate school grades, proficiency and sustainability of excellence. The district is currently localizing programs to various schools to translate data into meaningful numbers that enable the financing of programs for children.

The Zuni Public School District considered how to improve student performance as a function of school performance. The district created teacher and principal competency forms that have added two competency categories: community engagement levels and core curriculum measures.

David Atencio, superintendent, Jemez Valley Public School District, stated that the school district is committed to pueblo and tribal involvement through cooperative communication, listening and respect. The Jemez Valley Public School District has 100 percent parent contact, an increase from 30 percent just four years ago. Superintendent Atencio stated that schools are not necessarily always failing, but they may not meet the standards the state has set.

The Jemez Valley Public School District has taken action with elementary school students in preparing them for high school. Actions include math and reading blocks, imagination learning programs, the addition of full-time reading coaches, common core standards and intervention response built into school schedules.

Ray Arsenault, superintendent, Gallup-McKinley County School District (GMCS), stated that his district actually saw a decrease in the number of students, but the numbers are now stable. Many of the district's schoolchildren are eligible for free lunches, are English language learners and are non-Anglo.

Sequestration efforts by Congress may make it impossible for the district to know how to balance its budget. Superintendent Arsenault is ensuring that the district is working heavily with the PED, the Navajo Nation and parents to create the budget. Carmen Moffett, director, GMCS, explained the improvement priorities set in place for the school districts. Common core standards include examining student work, sheltered instruction to help Native American students learn and Tier II, a program for those not meeting grade-level requirements. The district increased the number of Navajo teachers from 12 to 39 in the last four years; two of these teachers are assigned to the central office to provide assistance and help. In May 2012, the school district and Navajo Nation signed a memorandum of understanding (MOU) to bring more Native American teachers into classrooms.

Max Perez, assistant superintendent for learning services, GMCSO, stated that budget challenges inspire creativity in bridging gaps. Common core standards are important. The GMCSO is encouraging more parent involvement through teams and groups, PED audits, shifts in hiring practices, accountability measures at all levels, principal expectation rubrics and community collaboration.

Ms. Tafoya described the Rio Rancho Public School District as serving 926 Native American students, 59 percent of whom qualify for free lunches and seven percent of whom are English language learners. Of these students, 13.3 percent are disabled and 2.9 percent are gifted learners. The Rio Rancho Public School District receives no impact aid or set-asides. Title VIII and Indian education funding is used as a supplement to the strong comprehensive core programs offered at each school.

Carrie Loretto, public relations officer, Native American Parent Advisory Committee, explained how she is helping schools establish tutoring programs, after-school enrichment, lunchtime credit recovery programs and testing fee help. Teachers are receiving better direction and funding to spend directly on students. Ms. Loretto helped start the Native American Academy, which focuses on academics, reading, writing, math and science, as well as cultural enrichment that ties into a thematic learning unit.

Ms. Tafoya explained, in response to a member's question, that the Rio Rancho Public School District does not have any IPP or impact aid funding because there are no Native American lands in the district. Instead, the district's Native American Parent Advisory Committee is very active.

When asked what the cure to failing schools could be, panel members said that poverty and lack of parental involvement at home are major concerns. Additionally, adequate funding is a concern. In particular, sequestration at the federal level will affect New Mexico, especially in untaxed lands. Superintendent Arsenault stated that the total funding loss to the state will be around \$5 million. Schools must set a clear budget for the future and attempt appropriation requests to maintain their current budgets.

The members further discussed the importance that poverty plays upon education and the importance of tribal involvement in Title VIII and existing MOUs with school districts.

### **Economic Development: The Role of Community Development Financial Institutions**

Marvin Ginn, director, Native Community Finance, stated that tribal communities continue to experience asset challenges, primarily monetary, because assets flow into the community but are spent outside the community. Challenges include:

1. Construction lending on trust land in New Mexico. Most federal Department of

Housing and Urban Development lenders do not offer construction lending, including one-time close lending.

2. Predatory lending. Outlets loan money with a high interest rate accrual, making it nearly impossible to pay the loan off, which is an asset drain for tribes.

3. Lack of education. The lack of education surrounding homebuying and other financial systems within Native American communities causes debt and stress within the community.

4. Lack of business loans. A lack of funding makes it difficult for tribes to generate start-ups or expand existing companies.

Solutions include collaboration with the IAD. Native Community Finance is the only New Mexico-certified Native American community development financial institution (CDFI) that works with all Indian tribes, pueblos and nations. It may also be the first Native American private/public venture in the United States. The CDFI has the ability to apply for funding for which the state is not eligible, thereby creating the future possibility of a loan fund for tribal access. The CDFI is also working on establishing an economic development fund and a Native American credit union.

Mr. Ginn also described how the CDFI could save tribes money in the Internal Revenue Service's Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly programs classes, as well as offering construction loans. Predatory lenders are a large threat, as they hold social security cards and birth certificates as collateral on loans. Native Community Finance has 119 current loans with tribes for a total of \$785,432. There is still \$624,041 outstanding.

### **Jicarilla Power Project — Status Update**

Nann Winter, counsel to the Jicarilla Apache Nation, provided the committee with an update on the Jicarilla 115kv transmission line project. The Jicarilla Apache Nation has experienced blackouts and power supply shortages with the Northern Rio Arriba Electric Cooperative (NORA). There was a moratorium placed on the construction of the new line in Dulce because of the NORA. Ms. Winter provided a handout detailing the time line of the project.

The Jicarilla Apache Nation power authority is a department of the tribe. The power line the tribe is building runs 60 miles south to a point 12 miles north of Highway 537 and Highway 550. Major problems arise from a large line that runs from Chama to Dulce. This line needs maintenance.

Representative Rodella requested a follow-up report on the Jicarilla power project, especially in the event that tribes claim eminent domain.

## **Minutes**

On a motion by Representative Madalena, seconded by Representative Jeff, the minutes for the August 30-31, 2012 meeting of the committee were adopted without objection.

Representative Rodella requested that the LCS draft a letter on behalf of the committee to the GCCSD, requesting its presence at the next meeting of the committee.

Following the presentation on the Jicarilla Power Project, Representative Madalena recessed the meeting at 5:20 p.m.

## **Tuesday, September 25 — Navajo Technical College, Crownpoint**

### **Call to Order**

Senator Lovejoy reconvened the meeting at 9:38 a.m. at the Navajo Technical College (NTC). Committee members introduced themselves to the audience.

### **Welcome and Status Update — Navajo Technical College**

Dr. Elmer Guy, president, NTC, welcomed the committee to the hospitality and culinary arts building. A few years ago, the hospitality and culinary arts school was awarded accreditation from the American Culinary Federation. NTC has also taken advantage of capital outlay dollars to increase internet services, which has allowed NTC to host data centers. These centers work in close collaboration with Los Alamos National Laboratory and the National Aeronautics and Space Administration.

NTC operates satellite campuses in Chinlee, Arizona; the Four Corners area; and Phoenix, Arizona. NTC does offer scholarships to its students. To qualify, students must take a class in Navajo studies. Enrollment has tripled in six years, and graduation and retention rates are 80 percent. NTC concentrates heavily on science, technology, engineering and mathematics (STEM) fields, especially those that directly benefit the community. The NTC focuses mainly on STEM degrees, while its sister college, Diné College, is more geared to humanities.

NTC works with seven high schools in the area in order to reduce the need for remedial education. NTC also participates in public service projects and collaborates with the Central Consolidated School District and Shiprock High School. These are dual credit programs.

A member asked if NTC is lottery-scholarship eligible. Dr. Guy answered "no", but he said that it would be beneficial to the school. NTC does receive College Affordability Act funds for students, however.

Representative Lundstrom requested that the LCS ascertain the benefit of Navajo studies classes at the University of New Mexico main campus.

A member noted that, in the past, the legislature has unsuccessfully tried to include institutions serving Native Americans in the lottery scholarship system.

### **Tse'ii'ahi' (Standing Rock) Chapter**

Johnny Johnson, president of the Tse'ii'ahi' (Standing Rock) Chapter of the Navajo Nation, and Rosaline Smith, Tse'ii'ahi' (Standing Rock) Chapter administrative coordinator, presented to the committee a resolution passed by the chapter on September 18, updating its infrastructure capital improvement plan listing. The chapter has a list of 25 current projects, including local road and utility projects. The chapter receives matching funds from the Navajo Nation for road projects and is using tribal infrastructure funds (TIF) dollars for sewer, water and green waste projects. The chapter also recently finished a senior center and a community warehouse.

The chapter's priority projects are a waterways project, a chapter parking lot, renovation of the Head Start facility, bathrooms and a natural gas pipeline.

A member asked if any of the chapter's projects were vetoed in the 2012 session. One project was vetoed. The members of the chapter will be following up on this request in the next session.

### **Pinedale Chapter**

Anselm Morgan, president of the Pinedale Chapter of the Navajo Nation, presented the committee with a request for 7.5 miles of road improvements in the Pinedale area. The Navajo Division of Transportation conducted a study showing that more than 700 people travel on the road per day. The chapter compiles road projects under the umbrella of McKinley County because of the highly stringent Navajo Division of Transportation process.

The Pinedale Chapter has requested assistance in building a fire station for at least 25 years. The chapter is within District 19 of the McKinley County Volunteer Fire Department. District 19 is a large service area with high accident rates. Response teams come from Gallup and Crownpoint. Average response time is 33 minutes to 55 minutes. The chapter has requested \$200,000 to complete this project.

The Pinedale Chapter's outdoor sewage systems are inadequate. The Navajo Nation encourages these types of projects. The chapter expedited its contract with Continental Divide Electric Cooperative on September 24, 2012, and it is hoping to expedite the funding process.

Representative Lundstrom requested that a letter be written from the committee asking McKinley County to grant matching funds from the county environmental services gross receipts tax for the fire station project.

Responding to a committee member's question regarding funding phases of projects such as the fire station, Arthur P. Allison, secretary of Indian affairs, stated that the IAD is working with the state fire marshal to conduct a risk assessment of all Native American areas. A regionalized approach is necessary in order to successfully navigate different areas' funding mechanisms.

Darryl Madalena, Sandoval County commissioner, Pueblo of Jemez, described the regional law enforcement response team system that was created in Sandoval County. The law enforcement complex was built with county and state funds. The project's regional status allows it easier access to funds at the regional and federal levels, as well as fire tax revenue.

A member asked how fire taxes are collected. Mr. Morgan responded that the county collects the money and the county commission distributes the funds.

The committee members discussed emergency management funding and the prioritization of TIF projects and funding.

### **Transportation Infrastructure in Indian Country**

Alvin C. Dominguez, professional engineer (P.E.), secretary, Department of Transportation (DOT), stated that collaboration between the tribes and the DOT is invaluable. Currently, the DOT is waiting for a report from a contractor conducting a safety corridor analysis. The report is due in November 2012.

The completion of the U.S. 491 corridor, a Governor Richardson Investment Partnership (GRIP) project, is very important. A second phase will be funded from money saved by the DOT from underbid projects.

The DOT collaborates with the tribes through local technical assistance program trainings, commercial driver's license training and road construction and safety training. Many of these trainings are held in local communities.

Tamara P. Haas, P.E., District 3 engineer, DOT, stated that she has completed numerous projects in collaboration with the tribes, including the Interstate 40 westbound offramp at the Pueblo of Laguna, improvements at N.M. 16 at the Pueblo of Cochiti; improvements at N.M. 22 at the Pueblo of Santo Domingo; improvements at N.M. 13 at the Pueblo of San Felipe; improvements at N.M. 22 at the Pueblo of Cochiti; improvements at N.M. 47 at the Pueblo of Isleta; P.R. 84 and T.R. 85 at the Pueblo of San Felipe; and Interstate 40 at Rio Puerco and the Pueblo of Laguna.

Miguel Gabaldon, P.E., District 5 engineer, DOT, described his completed projects, including U.S. 491 at Shiprock and U.S. 64 north of Taos. Mr. Gabaldon's active projects include U.S. 64 at Hogback, U.S. 84/285 at West Gutierrez Street, U.S. 84/285 at the North Pojoaque interchange and N.M. 371. District 5 meets with tribes on an ongoing basis to address operational needs and to provide assistance in emergency situations.

Larry Maynard, P.E., District 6 engineer, DOT, explained that the district builds partnerships by building durable relationships. He stated that consultation is a process, not a guaranteed outcome. Mr. Maynard shares joint rights and responsibilities with the Navajo Nation, the Pueblo of Acoma, the Pueblo of Zuni, the Pueblo of Jemez and the Pueblo of Laguna. An example of collaboration between the DOT and the Pueblo of Acoma involved the

renaming of the Khe Sanh Bridge in honor of those who fought at Khe Sanh during the Vietnam War.

A member asked if there is any federal funding in the pipeline for more road improvement projects. The panel responded that funding is increasingly hard to receive. In the past, money for worthy projects had been redistributed and lost due to administrative changes and legal issues such as rights of way. The DOT has also lost access to the state excise tax, making improvement projects more difficult to fund.

The committee agreed that cabinet secretaries need to increase budgets for projects that help the people of New Mexico. In the meantime, capital outlay funding needs to be pooled and devoted to projects.

In response to a member's question, the panel explained that highway districts were last drawn in 1976. Congress recently passed a transportation bill, effective October 1, giving New Mexico \$400 million in federal dollars. A large portion of this money will go toward paying GRIP loans.

Committee members discussed DOT staffing shortages and thanked Mr. Dominguez and his staff for the work they have done to benefit New Mexico.

#### **Uranium Legacy Cleanup: Five-Year Plan Status Update**

Fernando Martinez, director, Mining and Minerals Division (MMD), Energy, Minerals and Natural Resources Department, stated that New Mexico is one of the largest producers of uranium in the world. There are several new mines negotiating to come online in New Mexico. However, the state is struggling to address concerns regarding the reclamation of abandoned mines. Two hundred fifty-nine abandoned mines exist in the state, and 122 of those mines had some reclamation work performed. The MMD is focusing on the 137 mines that have experienced no reclamation work.

Dana Bahar, Department of Environment (NMED), described the efforts of the NMED in cleaning up legacy mines and assessing the contamination levels of water supplies. The NMED developed a generic field investigation and soil sampling plan in compliance with state regulations to test contamination levels.

Laura Watchempino, member of the Multicultural Alliance for a Safe Environment, asked that stakeholders in these projects be specifically engaged and have access to these reports.

Mr. Martinez, in response to a member's question, said there is no federal money in the pipeline for cleanup projects and that federal government interest seems low, particularly in cleaning uranium sites.

Following the presentation on the status of uranium legacy cleanup, Representative Madalena recessed the meeting at 4:25 p.m.

## **Wednesday, September 26 — University of New Mexico-Gallup Branch (UNM-Gallup)**

### **Call to Order**

Representative Lundstrom reconvened the meeting at 9:10 a.m. in Room 200 of UNM-Gallup. The Tohatchi Veterans' Association posted the colors, and Representative Begaye led the committee in the Pledge of Allegiance. The committee members and staff introduced themselves.

### **Welcome and College Resources for Native Americans**

Wynn Goering, Ph.D., special assistant to the president for branch affairs, UNM-Gallup, welcomed the committee to the Gallup campus. The Gallup branch was established in 1986 and serves approximately 2,100 Native American students.

Dr. Goering explained that in any given cycle, community college enrollment is inversely related to the economy. UNM-Gallup, using the fall of 2000 as a benchmark, has experienced three percent growth in enrollment, peaking in 2012 with a 13 percent increase. UNM-Gallup is currently working toward the accreditation of its nursing and laboratory technician certificates.

UNM-Gallup is collaborating with McKinley County schools to decrease the need for remedial education by breaking remedial courses into smaller, more manageable units.

A committee member asked if there are any MOUs between the Navajo Nation and the UNM College of Education and if there are any programs for loan relief for teachers who return to the Navajo Nation to teach. Dr. Goering responded that he is not aware of any programs, but he will provide an answer to LCS staff.

A committee member asked about the difficulties UNM-Gallup faces in addressing child care. Dr. Goering responded that providing safe child care is difficult and that a search is currently open for a child care director. UNM-Gallup has also considered options such as contracting with outside child care providers.

A committee member asked for clarification regarding the 1.2 percent tax that the UNM president will assess on all branch campuses to support the UNM Foundation. Dr. Goering replied that this tax does not require branch campus board approval, but every branch campus' operational budget would be taxed to support the foundation. UNM's president is aware of constituent concerns regarding this tax.

### **Higher Education: Successful Graduation Rates for Native Americans**

Ricky Serna, vice president for institutional advancement, Northern New Mexico College (NNMC), stated that "NNMC is a Hispanic and Indigenous-serving institution dedicated to student achievement and the advancement of our community".

NNMC operates both as a four-year and a two-year college. NNMC is the only four-year institution in New Mexico where over 10 percent of current students are Native American. Most

of these students major in business, nursing or education. Currently, 12 percent of students are Native American, of whom 13 percent are male and 12 percent are female. Sixty-five percent of Native American students are traditional students and 35 percent are nontraditional. NNMC tries to help students through constant contact and via the American Indian Center on campus.

Matthew J. Martinez, Ph.D., director, Northern Pueblos Institute (NPI), and assistant professor of pueblo Indian studies, NNMC, stated that the mission of the NPI is to cultivate student leadership and tribal advocacy to create a successful future for tribes. The NPI was established by an MOU between the eight northern pueblos and NNMC. The Pueblo Indian studies program encourages students to merge their studies in business, biology, nursing and education with their cultures.

Native American students are not eligible to obtain dual credit at tribal schools because these schools are not part of the state funding formula, despite House Bill 90 (2010). Therefore, it is important to increase tribal teacher training to prepare Native American students for higher education.

A member stated that, for certain students, it is very hard to re-engage in learning and earn a general equivalency diploma (GED). Dual credit may motivate students to pursue a GED because they would already be earning college credits.

A member described the current challenges faced by the Higher Education Department (HED) in looking for a coordinator who can manage the flux between four-year colleges and the tribes. Establishing MOUs between these colleges and tribes could help. Dr. Martinez responded that this is very necessary, although it would be piecemeal.

### **Consumer Protections for Native American Taxpayers**

Shawn Spruce, First Nations Development Institute, told the committee that more than 50 percent of all tax filers in New Mexico used a paid preparer to file their returns. First Nations Development Institute has sent mystery shoppers all over Northern New Mexico to rate these preparers. The studies reveal excessive fees, lack of disclosure, incompetence, failure to safeguard critical personal data and aggressive marketing of high-cost bank products and refund anticipation loans. Many of these preparers hold social security cards and birth certificates as collateral on loans and services and charge high prices for preparing filings that have small return values.

Cherolynda Bennett, a taxpayer who has used a tax preparer, described her experience to the committee. Ms. Bennett, a single mother who is unemployed and a student, stated that her experience with these companies was unprofessional and shocking. The company kept her children's original birth certificates and social security cards on file as collateral, rendering her unable to secure any state services for them. The company did not deposit her tax return on time, forcing her to take another loan to support herself. As a taxpayer, Ms. Bennett wants to be treated more respectfully.

A member of the committee asked Mr. Spruce how these companies are selected to be studied. Mr. Spruce stated that the companies are chosen at random and are both major national chains and local shops. Generally, national chains are more accurate in their returns, but they are expensive. Some stores are not registered with the Internal Revenue Service.

Mr. Spruce stated that an ideal piece of legislation would encompass full disclosure of fees associated with preparation, standardized disclosure related to bank products and refund anticipation loans, research and regulation of the small loan industry in New Mexico, improved training for taxpayers and the continued support and growth of the VITA program. Fines for those who provide these services are recommended to be the standard punitive penalties, three times the charges in damages.

A member suggested that because it was so hard to pass payday legislation in the past, it might be best to write a brand new bill addressing tax preparers instead of adding on to the previous bill.

Mr. Spruce detailed that all 22 of the firms he has visited over the last two tax seasons have required critical information to secure services. One firm required that the consumer sign a 10-year power of attorney to ensure that the consumer stays loyal to the firm.

A committee member stated that it would be interesting to hear from the companies themselves and hear their explanation behind the fees and services. Another member stated the importance of educating people in ways they can prepare their taxes other than through tax preparation firms.

Representative Powdrell-Culbert made a motion to move forward on writing legislation to address tax preparers and predatory lending. The motion was seconded by Representative Begaye and passed with no objection.

Representative Jeff made a motion to write a letter to New Mexico's congressional delegation to change federal laws surrounding tax preparers and predatory lending and detailing the effects this business has on the population, with a copy to the federal Bureau of Indian Affairs. The motion was seconded by Representative Begaye and passed with no objection.

### **State-Tribal Collaboration: Improving the Working Relationship**

Chandler Sanchez, chair, All Indian Pueblo Council (AIPC), told the committee that the AIPC requested several times to meet with Governor Martinez to discuss collaboration between the tribes and the state. The AIPC, composed of 19 pueblos, has met with resistance from the Martinez Administration, despite the importance of plans addressing gaming, health and taxation.

The tribes have many needs, including cultural preservation, health care education and changes surrounding the federal Patient Protection and Affordable Care Act and water settlements. These needs and recommendations were formed at tribal summits and have received no feedback from the governor.

Secretary Allison stated that the IAD works hard to collaborate with the AIPC. The IAD has been on the agenda many times and has been able to answer myriad questions. The State-Tribal Collaboration Act identifies tribal summits as being critical. Involvement from the Office of the Governor is mandatory.

Autumn Monteau, legal counsel, IAD, outlined four issues chosen as critical by the AIPC: education, water rights, economic development and state-tribal relations. An issue paper was written for each topic to help focus discussion and solutions. The summit set a goal to resolve each issue before the next year's summit. The current collaborations between the AIPC and the Homeland Security and Emergency Management Department, the NMED, the PED and the HED are invaluable.

Leonard Tsosie, Navajo Nation delegate, stated that he has had a favorable experience with the Office of the Governor. The Gallup-McKinley County School District school board voted to consolidate three schools. The governor helped reverse the school board's decision. The schools were never closed.

Collaboration on all levels is necessary, especially in regard to water, roads, taxation and clean energy. A member suggested that working with trucking and production companies in financing local roads should be considered.

Representative Lundstrom requested that a letter, signed by the co-chairs, be written requesting a report from each tribal liaison addressing the four major issues outlined by the AIPC.

Representative Rodella requested that Secretary Allison provide the committee with a list of all tribal liaisons to state agencies and tribes.

The members expressed their appreciation of Secretary Allison's work throughout the state. The members asked to be updated more frequently on the progress and projects of the IAD.

### **Economic Development Initiatives and Programs in Indian Country**

Steve Gonzales, team leader for community business and rural development, Economic Development Department (EDD), described to the committee the importance of collaboration with the IAD and described examples of current programs.

The EDD's Community, Business, and Rural Development Team, whose members are commonly known as "regional representatives", helps communities through activities such as leadership training and identifying strategic opportunities. Mr. Gonzales outlined three programs currently offered.

1. The tribal liaison program aids in helping Indian tribes, nations and pueblos overcome

barriers and allow opportunities for economic development. The EDD has five tribal liaisons and a primary liaison.

2. The community assistance/certified community initiative program helps communities create new jobs by offering a phase-in approach to capacity building.

3. The financial development team assists new and existing business through business incentives, financial packaging and review and interpretation of financial statements, etc.

Jerry Sandoval, economic development and tourism director, IAD, described initiatives to develop Native American land economically. The IAD leveraged EDD expertise to make the Pueblo of Zuni a MainStreet community, as well as creating MOUs with Native American Finance, an MOU with the Indian Chamber of Commerce and pilot programs to create grants between surrounding tribes and Los Alamos National Laboratory. The IAD is working with Theresa True, the new IAD tourism director, to build restrooms and visitor centers and hire visitor guides to attract economic development.

Representative Rodella requested that a letter be drafted to Jonathan L. Barela, secretary of economic development, expressing disappointment in his absence from the committee meeting.

In response to a committee member's question, Mr. Sandoval answered that, at one point, he was the only tribal liaison in the state. It is very demanding to help all of the tribes with all of their concerns alone.

A member asked if there have been any projects or businesses started under the last administration that are still successful now. Mr. Sandoval stated that Raytheon Missile Systems, Boeing and Los Alamos National Laboratory pilot programs are all doing well. Raytheon used TIFs to expand its Farmington facility, where all new jobs are held by Navajo Nation members.

### **Marketing Indian Country as a Tourist Destination**

Monique Jacobson, secretary of tourism, said that New Mexico's tourism industry has grown five percent between 2010 and 2012 and generates \$5.5 billion a year. The Tourism Department continues to build a strong brand for New Mexico through the "New Mexico True" campaign. The campaign has been launched in Texas, Arizona and Colorado. The Tourism Department also launched a redesigned web site that enables visitors to plan a trip, as well as enabling New Mexico communities to develop their own "New Mexico True" campaigns.

Mark Trujillo, director of Indian tourism, Tourism Department, described his efforts to collaborate with New Mexico's 22 tribes to learn what their tourism needs are. Mr. Trujillo developed a Native New Mexico tour guide and is collaborating with the "Go West Summit" to create a "Go Native" summit.

Responding to a member's question, Ms. True stated that of the northern tribes, so far only the Pueblo of Taos has a packaged tour.

Secretary Jacobson stated that she does not feel that her department overlaps with the efforts of the IAD. The Tourism Department focuses on marketing an existing product, while the IAD develops the infrastructure and organization needed to create a product.

### **Tohatchi Red Willow Farm (TRWF) and Tohatchi Chapter**

Charles Aruiso, Tohatchi veteran; Larson Manulito, Tohatchi Chapter president; Leonard McReeves, TRWF board; Julie Badonie; Hoskie Bryant, Naschitti Chapter; Peterson B. Yazzie, Tohatchi Chapter; and Mel R. Begay, Navajo Nation Council delegate, presented their concerns surrounding the Tohatchi Chapter.

The TRWF is currently seeking funds to complete the third phase of its farm project — infrastructure for a water well. The TRWF has already completed two phases: irrigation piping and fencing. Funding applications were submitted for money from the TIF, Navajo Nation funding sources, capital outlay, the Bureau of Indian Affairs, the U.S. Department of Agriculture and other resources, but they were not granted. The TRWF board is seeking help in finding funding for the farm project. Board members described how they must generate at least five percent in matching funds to qualify for TIF money.

Representative Lundstrom made a motion to draft a letter regarding TIFs, with a copy to the Navajo Nation, detailing the priority of this project to the committee. The motion was seconded by Representative Alcon and passed with no objection.

The representatives from the Tohatchi Chapter described their efforts in planning a multiuse veteran's center; emergency management and strategic development; and grant proposals relating to U.S. 491. The Tohatchi Chapter is working hard toward becoming an economically self-sufficient chapter and developing economic development. The Tohatchi Chapter does recognize the need for assistance in creating many of these plans.

Representative Jeff made a motion to request the LCS to contact the DOT, insisting that it open to the public the October 1, 2012 meeting of the Tohatchi Chapter at 5:00 p.m. at the Twin Lakes Chapter House. The motion was seconded by Representative Powdrell-Culbert and passed with no objection.

### **Adjournment**

There being no further business before the committee, the fourth meeting of the IAC for the 2012 interim adjourned at 4:50 p.m.