

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

**May 28, 2009
Room 322, State Capitol
Santa Fe**

The first meeting of the Indian Affairs Committee (IAC) for the 2009 interim was called to order by Senator John Pinto, co-chair, on Thursday, May 28, 2009, at 10:11 a.m. at the State Capitol in Santa Fe, New Mexico.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair
Rep. Eliseo Lee Alcon
Rep. Ray Begaye
Rep. Sandra D. Jeff
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Rep. Gloria C. Vaughn

Absent

Sen. Eric G. Griego
Sen. George K. Munoz
Sen. Nancy Rodriguez
Sen. John C. Ryan

Advisory Members

Rep. Ernest H. Chavez
Rep. Antonio "Moe" Maestas
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Nick L. Salazar

Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Rep. Ben Lujan
Sen. William E. Sharer

Staff

Damian Lara
Jennie Lusk
Tamar Stieber
Chase Van Gorder

Guests

The guest list is in the meeting file.

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

Thursday, May 28 — State Capitol, Santa Fe

Interim Protocols

Paula Tackett, director, Legislative Council Service (LCS), briefed the committee on various topics concerning protocol during interim committee meetings, including quorums, adjusting committee membership, chairing a committee, committee resignations, subcommittees, voting, calendar conflicts, seating, per diem and mileage, attending conferences and the sound system.

2009 Legislation — Summary

Mr. Van Gorder, staff attorney, LCS, reviewed the fate of IAC-endorsed bills in the recent legislative session. He said the committee did fairly well in terms of moving its endorsed packages forward, including passage of 23 out of 26 bills that were not endorsed by the committee but were of interest to it.

IAC-endorsed legislation that passed includes:

- House Bill 37, which amends the New Mexico Subdivision Act to include tribal notification;
- House Bill 50, the Post-Secondary Indian Education Act;
- House Bill 316 on predatory mortgages;
- Senate Bill 196 on state-tribal collaboration;
- Senate Bill 541 on tax refunds for Native American veterans; and
- Senate Joint Memorial 15 on federal financial assistance to clean up abandoned uranium mines.

IAC-endorsed bills that died during the session included:

- House Bill 49 on a dual credit program;
- House Bill 84, the Uranium Legacy Cleanup Act;
- House Bill 92, the Indian Arts and Crafts Sales Act;
- House Joint Memorial 6 for a uranium mining task force;
- Senate Joint Memorial 9, on the federal Radiation Exposure Compensation Act (RECA); and
- Senate Joint Memorial 10 for cleanup of Fort Wingate.

Of the \$7.192 million in appropriation requests endorsed by the committee, only \$200,000 was awarded, according to a handout Mr. Van Gorder distributed to the committee. He said it was a "thin year" for appropriations and noted that committee endorsements do not mean as much as they once did. He said it is up to committee members to press their agendas forward and work for passage of their bills.

Representative Lundstrom asked whether bills endorsed by a committee have a higher status than unendorsed bills. Ms. Lusk responded that endorsed bills do not have to pass through as many committees as unendorsed legislation. Mr. Van Gorder said he is unaware of provisions in the rules giving preference to endorsed bills, but said that standing committee chairs should facilitate passage of endorsed bills and give them priority for hearings. He suggested that the IAC discuss the matter with the leadership.

Representative Lundstrom made a motion for staff to draft a letter asking the leadership for clarification on committee-endorsed bills. She used as an example the Indian Arts and Crafts Sales Act, which died on the Senate floor. She noted that the bill has been endorsed by the IAC for the past five or six years, but it has never received the priority it should have had. She wondered why an interim committee should go through "the whole rigamarole" of endorsing bills if they do not get priority.

Senator Lovejoy seconded Representative Lundstrom's motion, saying that many bills never get out of the Senate Rules Committee. Senator Martinez agreed, saying that bills often are referred to the rules committee that have no business being there and that they usually die there. He said it is frustrating when bills die without ever being heard and that he supports drafting a letter to express the IAC's frustration.

The motion passed without objection.

Tribute to Chase Van Gorder

The committee paid tribute to Mr. Van Gorder, who has resigned from the LCS to move to Manhattan with his wife. Mr. Van Gorder has staffed the IAC since 2003. The co-chairs thanked Mr. Van Gorder for his service, saying that he has "done well" and that the committee will miss him. Representative Lundstrom echoed the co-chairs' comments and extended particular thanks from Gallup and McKinley County. Senator Lovejoy thanked Mr. Van Gorder for his help and patience in taking on Native American issues, which she said are particularly complicated because of jurisdictional overlaps. She said Mr. Van Gorder grasped the importance of, and the strong emotions around, Indian land and the environment, which she described as "our very nature, our very core". Representative Vaughn thanked Mr. Van Gorder for helping her on a variety of issues, including some that were not related to Indian affairs.

Mr. Van Gorder said his favorite part of his job at the LCS was staffing the IAC and visiting the pueblos and chapter houses, where he said the hospitality is "amazing" and will not be duplicated elsewhere.

Representative Madalena, on behalf of the committee, presented Mr. Van Gorder with a card of appreciation and a ceramic pot from the Pueblo of Laguna.

Federal American Recovery and Reinvestment Act of 2009 Stimulus Funds

Former New Mexico Governor Toney Anaya, executive director, New Mexico Office of Recovery and Reinvestment (NMORR), and NMORR Deputy Director Dona Cook, deputy secretary, Taxation and Revenue Department (TRD), provided details on New Mexico's present and future portion of the federal American Recovery and Reinvestment Act of 2009 (ARRA) funds and how they will benefit Indian country.

The NMORR's mission includes identifying, and informing stakeholders about, available ARRA funding opportunities for New Mexico; ensuring that the state competes effectively for the funds; and facilitating compliance with ARRA requirements. Governor Anaya stressed the importance of understanding and following the application rules, which he said change on a daily basis and often differ from agency to agency. He said that if the state is not in compliance, it will not receive funds. He noted that the state is also eligible for funds through federal

agencies, such as the Bureau of Indian Affairs (BIA), the Indian Health Service (IHS) and the national laboratories.

Governor Anaya said the NMORR has thus far identified \$3 billion in federal stimulus funds for which New Mexico is eligible within the next 18 to 24 months, including:

- \$545.1 million for Medicaid;
- \$470.8 million for public education;
- \$418.4 million for the environment;
- \$369.9 for infrastructure;
- \$296.6 for transportation;
- \$244.7 for benefits to individuals and families;
- \$191.4 for higher education;
- \$115.3 for unemployment benefits and services;
- \$82.3 million for energy efficiency;
- \$57.9 million for other government services; and
- \$32.1 million for public safety.

Governor Anaya said the line items can be misleading because they replace, rather than supplement, expenditures the state already budgeted but for which there is now a shortfall. They "plug up" a deficit that would otherwise require the state to make substantial cuts, especially in Medicaid and public education, he explained. He emphasized that the funds are one-time appropriations, so agencies that hire additional employees using ARRA funds will have to make a contingency plan to pay those salaries if the state's economy does not improve.

Governor Anaya said Congress will be auditing the expenditure of the stimulus funds very carefully to prevent fraud, waste and abuse. He said he wants the NMORR to be on the "front end" of that process and that the agency planned to bring in a compliance officer within the next week.

Governor Anaya anticipates the state will receive several hundreds of millions of dollars in competitive ARRA mega-grants, including a portion of:

- \$10.6 billion for energy efficiency and conservation;
- \$9.7 billion for transportation;
- \$7.2 billion for broadband infrastructure;
- \$6 billion for health and science;
- \$5.7 billion for education;
- \$4.4 billion for green grid;
- \$3.2 billion for housing;
- \$2.5 billion for economic development and training;
- \$2 billion for health information technology;
- \$1.8 billion for public safety; and
- \$0.8 billion for watersheds, wildlands and the environment.

Governor Anaya said that the state has taken the lead in three of those grants: broadband, green (smart) grid and health information technology. His office is inviting any New Mexico entity, including all tribal governments, to join in those applications.

Governor Anaya summarized the NMORR's Native American outreach, including his personally leading a team to the Pueblo of Acoma for two days of meetings with tribal leaders from around the state and encouraging them to apply for competitive grants as well as for money available through state agencies. He also met with the BIA and the state Indian Affairs Department (IAD), and he has been invited to meet with the Navajo Nation for two days in June. In addition, he said, Governor Richardson has met with all tribal governors and presidents. He noted that tribal governments are eligible for direct funding in addition to funds coming through the state. The amount is yet to be determined, he said, though he estimated that the Navajo Nation will get around \$180 million. He stressed that the state will not decide how the tribes will spend the money they receive directly from the federal government, though the state will cooperate in maximizing the amount tribes receive.

Responding to questions from the committee, Governor Anaya said:

- the NMORR oversees ARRA funds that go to state agencies;
- Governor Richardson will have "a lot to say" about the \$57.9 million in discretionary funds for which the state is applying, and there is a lot of debate within the executive branch on how that money could best be used — i.e., whether to reserve it in case of a shortfall or invest it in projects to stimulate the economy;
- Indian tribes, nations and pueblos may apply directly to the federal government for ARRA funds;
- applications for ARRA funds to be administered by the state, including those from tribal governments, must first go through the NMORR, which will ask applicants how they intend to spend the money to ensure the application adheres to the federal guidelines;
- the appropriate state agencies decide which applications they will accept and determine their own procedures for applications;
- applications from local units of government will go to one of three places: a state agency, the NMORR or the Office of the Governor;
- state agencies will not be able to meet even 10 percent of the requests that come in;
- there is money for new construction in addition to projects that have already been started;
- the NMORR will provide technical assistance to applicants; and
- individual legislators may apply for federal funds, but only for specific projects that meet the ARRA requirements.

Comments and concerns committee members voiced included the following topics:

- using federal stimulus funds to finish construction of Highway 491 and other tribal infrastructure and capital projects left unfunded by the state, including:
 - a new public school in Crownpoint (Senator Lovejoy);
 - Head Start buildings on the Navajo Nation and in Grants, Belen and Los Lunas (Representatives Jeff and Alcon);
 - street and other improvements to the Pueblo of Acoma's Sky City (Senator Pinto);
 - building an overpass to Red Rocks State Park for easier access to the annual Inter-Tribal Ceremonial (Senator Pinto); and
 - purchasing a dump truck to pick up garbage in winter and a school bus for Head Start children (Representative Vaughn);
- ensuring adequate oversight of federal money allocated for broadband, smart grid and

- other information technology (IT) in Indian country; and
- assuring that the NMORR is more accessible by telephone and fax.

Governor Anaya said he has accepted an invitation by the Navajo Nation to talk about the ARRA stimulus funds during a two-day summit in June. Responding to a question from Representative Begaye, he said he would discuss his presentation first with staff from the IAD. Representative Begaye asked whether ARRA funds allocated to the Navajo Nation, both by the state and the federal government, will go to the Navajo Nation Council or to the residents of the Navajo Nation. He is concerned that if funds go to the Navajo Nation Council, New Mexico Navajos will not get their share. He explained that most of the state and federal money the Navajo Nation receives winds up in Arizona, with little left for New Mexico, because New Mexico usually gets outvoted. He said he is concerned that the NMORR may not be knowledgeable about how to work with the enormous bureaucracy of Navajo government. Without expertise in the system, he said, "You'll be battling like me to put money in the Navajo Nation and find out it's not workable".

"You need a Tonto on your team," Representative Begaye said. "I wish you well and hope you utilize the best resources there are."

Governor Anaya said that after 30 to 40 years in public service in New Mexico, he is as aware as a non-Navajo can be of those issues and that he is continuing to learn. That is why he is making such strong outreach efforts to the Navajo Nation and other Native Americans throughout the state, he said. He assured Representative Begaye that his office not only works closely with the IAD, but it relies heavily upon the department for tribal expertise.

Representative Lundstrom suggested that the committee express to the Navajo Nation the importance of dividing the federal stimulus money it receives proportionately by the Navajo population in each of the three states that cross the nation: New Mexico, Utah and Arizona. Noting that the committee cannot dictate to a sovereign nation, she said it would help if the Navajo Nation leadership has a sense that some of that money should go to New Mexico. Representative Jeff suggested that the committee send a letter to the president and vice president of the Navajo Nation explaining that the New Mexico portion of the Navajo Nation has great need for some of the stimulus money that will go directly to the Navajo Nation. Representative Begaye agreed that the committee can make recommendations, not directives, and made a motion to write such a letter and include as recipients the judicial and legislative branches of the Navajo Nation. Representative Lundstrom seconded the motion, which passed without objection.

On other matters, Governor Anaya assured the committee that the NMORR will provide oversight on IT and other projects funded by ARRA money to state agencies. He said his office will ultimately sign off on those projects and will be charged with auditing them, which he said will be a "massive" project. Those and other challenges are part of the planning process in anticipation of receiving the stimulus funds, he explained. He noted that the funds are paid out as reimbursements, which means that an entity must pay for a federal stimulus project up front and then get reimbursed. He said his office is working to shorten the time frame for reimbursement. Representative Salazar said it will be problematic for tribal and county governments to come up with the money and wait for reimbursement.

Governor Anaya provided a partial list of grants and projects eligible for federal stimulus money, including:

- Army Corps of Engineers projects;
- Department of Housing and Urban Development projects;
- guarantees for home construction;
- community development block grants;
- Economic Development Administration grants; and
- clean water, drinking water and rural water systems.

Representative Lundstrom asked about using the federal stimulus money as a basis for matching funds. Ms. Cook said most of the stimulus money is in the form of bonds and loans and, in general, cannot be used to get matching federal funds. However, she said, the United States Department of Agriculture has discussed the possibility of providing matching funds for certain rural projects.

Recess

The committee recessed at 12:20 p.m. and reconvened at 12:45 p.m.

Lobbying Trip to Washington, D.C. — Summary

Mr. Lara, LCS staff attorney, presented to the committee a summary of the May 5-8 visit to Washington, D.C., of the New Mexico Uranium Mining and Tailings Task Force, which the legislature created in November 2008 to press for federal action to clean up uranium contamination in New Mexico from mining and milling activities and to advocate for New Mexicans affected by those activities. Mr. Lara said the task force's goals in visiting the nation's capital included:

- securing a commitment from the federal government to address the "uranium legacy" in New Mexico;
- seeking enactment of federal legislation to mandate the cleanup of uranium by appropriate federal agencies;
- identifying and securing federal appropriations to reclaim abandoned uranium mines (AUMs) and ground water contamination caused by past mining and milling activities; and
- addressing the health and environmental impacts of uranium exposure on workers in, and residents near, uranium mines and mills.

Mr. Lara said the task force helped federal lawmakers, including New Mexico's congressional delegation, understand why New Mexico, Arizona, Colorado and Utah require Congress to enact legislation authorizing the Department of Energy (DOE) to reclaim AUMs; to increase the DOE's flexibility in remediating ground water at mill sites and surrounding regions affected by uranium mining and milling; and to amend the RECA to include uranium miners who worked after 1971.

The task force includes Representatives John A. Heaton, Lundstrom, W. Ken Martinez and Jeannette O. Wallace and Senators Lovejoy and David Ulibarri. Bill Brancard, director of the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department; attorney Jon J. Indall; and Chris Shuey of the Southwest Research and Information Center joined Mr. Lara in providing the task force with legal and technical assistance. The delegation met with

the U.S. Department of the Interior (DOI), the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA) and the DOE in addition to key federal lawmakers.

Mr. Lara described the problems with current federal legislation for uranium cleanup as "two-pronged":

1) In 2006, the solicitor of the DOI issued an opinion that funds previously used to reclaim non-coal mines may not be replaced with treasury funds. The task force has drafted legislation urging Secretary of the Interior Ken Salazar to revisit that opinion.

2) The Surface Mining Control and Reclamation Act of 1977 (SMCRA) does not include authority for the DOE to clean up AUMs.

Mr. Lara described the task force's trip as successful. Among its accomplishments were:

- identifying \$1.5 billion in uranium inventories that the DOE can sell to fund AUM reclamation;
- arranging for the appropriate federal agencies to work together in drafting a comprehensive five-year plan to remediate AUMs and mills, particularly on the Navajo Nation; and
- forming a plan to seek assurances from the NRC that it is abiding with EPA standards.

Mr. Lara noted that U.S. Senator Jeff Bingaman introduced the Hardrock Mining and Reclamation Act of 1979 (S.796), which, among other things, would require mining companies to provide financial and other assurance for long-term remediation of ground water contamination from mining and milling activities. The bill includes a provision that the National Academy of Sciences do a cost analysis and review legal and other requirements applicable to the development of uranium on federal lands. Senator Bingaman and other members of the New Mexico congressional delegation have asked that the IAC and other interim committees seek requests from the NRC.

Representative Salazar said it will be hard for so many agencies to coordinate with one another and it would be better for one agency to be in charge of the cleanup. Mr. Lara agreed, identifying in particular the DOE's Office of Legacy Management (OLM). Unfortunately, Mr. Lara said, the OLM does not have the authority to undertake a unilateral, comprehensive cleanup, nor does any other one agency.

Responding to a question from Representative Alcon about why uranium miners were not covered for radiation-related illnesses after 1971, Mr. Lara explained that prior to that time, the U.S. government was the sole legal purchaser of uranium products and, thus, covered uranium workers for radiation-related illnesses. After 1971, when uranium could be sold to "quasi-private/quasi-governmental" agencies to fuel nuclear power plants, those same workers were no longer covered. He said many of the miners and their families, as well as other people living near uranium mines and mills, suffer from kidney disease, cancers and other serious maladies.

Representative Vaughn said the state should make the uranium mining companies "clean up their own mess". Mr. Lara said the federal government is attempting to identify the responsible parties to do just that. If it cannot, or if the responsible parties do not have the means to reclaim their mines, the government will undertake the cleanup, he said.

Representative Vaughn asked why companies cannot be forbidden from opening new mines until they have cleaned up their old ones. Mr. Lara said the task force members asked the same question and agreed that significant barriers to renewing uranium development must be implemented until past uranium contamination is remediated.

Representative Alcon noted that landowners who get royalties from uranium mining should also be held responsible for cleaning up abandoned mines on their properties.

Representatives Lundstrom and Powdrell-Culbert asked about studies correlating specific illnesses to uranium exposure. Mr. Lara said that while some studies link ingestion of heavy metals with certain carcinogens, there is not a comprehensive study dealing specifically with uranium exposure. Representative Powdrell-Culbert noted that, in the absence of a comprehensive study, the affected individuals and states are likely to "get the runaround" from federal agencies charged with overseeing the health effects associated with uranium exposure. She said that while the EPA, the DOI and the DOE have known for years that people working in or living near uranium mines and mills have experienced unusually high levels of cancer and other illnesses, nobody has yet addressed the issue seriously.

Representative Lundstrom moved that the IAC, perhaps with members of the Radioactive and Hazardous Materials Committee (RHMC), form a uranium subcommittee, pending approval by the New Mexico Legislative Council, specifically to look at the issues of AUMs, uranium tailings and related health issues. The motion passed unanimously.

Indian Affairs Department — Update and Stimulus Funding Overview

Alvin H. Warren and Marvis J. Aragon, Jr., secretary and deputy secretary, respectively, of Indian affairs, briefed the committee on the IAD's activities during and since the last legislative session.

Secretary Warren said the IAD tracked 150 Indian-related bills during the session, focusing particularly on Senate Bill 196 dealing with state-tribal collaboration and House Bill 37, which amends the New Mexico Subdivision Act to include notice from subdividers to Indian tribes, nations and pueblos about how the subdivider's proposed plat may affect cultural properties, archaeological sites and unmarked burials. Among the other legislation the IAD tracked were:

- House Bill 2 (the General Appropriation Act of 2009), which decreases tobacco awards to tribes by \$150,000, but includes partial funding for a new full-time employee at the IAD and \$5 million for the Tribal Infrastructure Fund (TIF);
- House Memorial 59, which requests that the IAD meet with various agencies to study programs provided to Native American students at the University of New Mexico; and
- Senate Memorial 4, requesting the IAD to evaluate the cost-effectiveness and health outcomes of the Native American soccer program and annual Indigenous Soccer Cup organized by Southwest Youth Services, Inc.

Secretary Warren said all but one of New Mexico's 22 Indian nations, tribes and pueblos participated last May in the first annual tribal summit, where a planning committee of tribal leaders proposed focusing on health care, economic development, infrastructure and education in Indian country. The committee will provide issue papers on those topics to the governor, who Secretary Warren said has directed the Department of Finance and Administration to work together with the tribes on the TIF, including:

- TIF policies and procedures;
- new markets and tax credits;
- industrial revenue bonds; and
- broadband technology.

Other IAD activities included:

- working with the Department of Health to develop innovative programs for recruiting and retaining Native Americans in the health professions;
- developing a communication policy between the state and tribal governments, including online training for state employees;
- designating tribal liaisons in all cabinet-level agencies; and
- helping state agencies prepare their annual reports on services provided to Native Americans.

Secretary Warren said his department sent out two detailed surveys to tribal leaders and, based on their responses, suggested to the committee that it include the following topics in its work plan for the interim:

- economic development, which he said was the top issue raised by tribal leaders;
- tax incentives;
- the public school equalization formula;
- recruitment and mentoring of Native American high school students;
- a permanent funding stream for the TIF;
- water rights and resources;
- improving state-tribal relations, including providing an orientation or some other training or workshop on tribal issues for new legislators; and
- the Shiprock Home for Women and Children.

Representative Begaye suggested that cabinet-level tribal liaisons also receive an orientation in the protocols of dealing with tribal governments, how Native governments are organized and contacts at each tribe, nation or pueblo. Secretary Warren said an orientation is scheduled for the fall.

Senator Lovejoy said she and Representative Begaye serve on the Legislative Education Study Committee (LESC), which met throughout the state during the last interim. She said she was surprised that no one from the Indian Education Advisory Council (IEAC) attended any of the LESC meetings, not even the one in Farmington, to hear or comment about the equalization formula. She said that she is hoping the LESC meets in Gallup and that someone from the IEAC attends.

"If tribal leaders continue to bring up matters that are being dealt with at the state level, they've got to participate", she said. "If we're going to be leaders, we've got to jump on the bandwagon."

Deputy Secretary Aragon read through a handout on ARRA funding for Native Americans, including the amounts and types and the application process. He explained that he is the lead contact for tribes applying for ARRA funds.

Peter Pino, tribal administrator for the Pueblo of Zia and a member of the Competitive Grants Advisory Team (CGAT), said that the CGAT met for the first time in April and held several more meetings throughout the state since then. The team met for the last time two days earlier, he said, and made several recommendations to the governor, including maintaining regular email communication with team members; updating the CGAT web site continuously so that the process is transparent and the agencies involved are accountable; and developing resources to assist tribal governments in achieving shovel-ready status for projects.

Mr. Pino said that entities applying for a smart-grid mega-grant would have to opt into the state program. He urged counties, cities and communities to collaborate on proposals and work with their councils of government. He said the CGAT also encourages tribes to work with federal agencies and programs. There is a strong push to help get regional areas a share of the federal funding, he said.

Representative Salazar noted that many tribes are not prepared for the paperwork involved in applying for competitive grants. Deputy Secretary Aragon responded that each tribe has its own capacity and capability, and that it may behoove a tribe to establish protocols and systems to apply for competitive grants — especially, he said, because "three billion dollars is a lot of money to spend in a short time". He said the IAD is looking to the NMORR for guidance and assistance in meeting application deadlines.

Noting that the deadlines are approaching, Mr. Pino agreed that meeting them will be hard work, but that a completed application has a good chance of getting funded, especially for smart-grid, broadband and health information technology funding requests.

Shiprock Home for Women and Children

Rebecca Martinez, capital outlay manager, IAD, took questions from the committee about the still unfinished shelter. She said the IAD has received reauthorization for \$1.145 million to complete the project and is in the process of getting the construction under contract.

Representative Begaye said the home for women and children is caught in the middle of a shift in leadership in the Navajo Nation's Division of Community Development. He said the shelter is facing eviction in six months by the Navajo Housing Authority while it awaits funding to finish construction of its new location. He is concerned that the funding will get held up by bureaucratic wrangling and made a motion to send a letter to Navajo Nation President Joe Shirley, Jr., to move the process along more quickly. Representative Vaughn seconded the motion, which passed without objection.

Native American Veterans State Income Tax Settlement

John Garcia, secretary, Veterans' Services Department (VSD), said the department is hoping for a public hearing in October on the status of Native Americans who qualify for a refund of state income taxes that were withheld while they were on active duty in the military. He introduced Libby Gonzales, director of the Revenue Processing Division in the TRD.

Mr. Garcia said the VSD, the TRD and the IAD have reached out to Native American veterans across the state to let them know that they may be eligible for a tax refund. The VSD is contacting tribal leaders for approval of the proposed regulations and application process and is asking for their help in doing outreach. He said the VSD will handle all the intake and verification of veteran status and forward the applications to the TRD for confirmation. If a veteran does not have proof of the taxes withheld, the TRD will work with the federal Department of Defense (DOD) to provide the necessary documentation, he said. He distributed a copy of the claim form to the committee.

Responding to questions from committee members, Mr. Garcia and Ms. Gonzales provided the following information:

- family members of deceased veterans will be able to file a claim and get money back;
- the VSD will consider a variety of methods and contacts to get the word out to Native American veterans;
- the TRD has a contact at the DOD with access to archival data to determine which veterans had taxes improperly withheld;
- all a veteran has to provide is some proof of service, not necessarily a military discharge form; and
- the VSD's tribal liaison is Al Martinez.

Mr. Garcia said he visited the previous day with the All Indian Pueblo Council's tribal veteran's liaison and plans to work closely with the pueblos and the Apache and Navajo Nations. He said he will provide the committee with a follow-up report before its last interim meeting in case the committee needs to request additional appropriations during the next legislative session. Mr. Garcia thanked the committee for its work on the Native American income tax settlement, saying that New Mexico has set a precedent and will be a model for other states.

Public Utility Taxation on Tribal Lands — Update

Roy Stephenson, co-chair, Tribal Tax Executive Working Group, updated the committee on the status of taxing public utilities on tribal lands. He said the good news is that tribal governments are succeeding in creating their own databases to determine who should be notified of reimbursement owed and that the working group is finishing a handbook of taxation on tribal lands.

Describing the project as "my baby", Senator Lovejoy said she is most concerned with public utilities on the Navajo Nation, because it has the largest land base and has more than three service providers. Mr. Stephenson said he intends to address that issue. Representative Begaye said jurisdictional issues are complicated and pooling information poses a challenge. Mr. Stephenson said the working group has a map that shows the territories of service providers in Indian country. He said he hopes to get a map on the working group's web site that allows users to pinpoint a utility company by entering geographical coordinates. He said he will have more information for the committee within the next few months.

Interim Work Plan and Meeting Schedule

The committee approved a work plan for the interim that includes the following meeting schedule:

- July 13-15 — Albuquerque, Pueblo of Santa Ana;
- August 10-12 — Gallup area (Red Rocks, Church Rock, Manuelito);
- September 8-10 — Pueblo of Santa Clara, Alcalde, Albuquerque;
- October 19-21 — Mescalero; and
- November 18-20 — Shiprock area, San Juan College, Nenahnezad.

The committee agreed to request four days of meetings for the proposed uranium cleanup subcommittee. At its June meeting, the New Mexico legislative council approved a single two-day meeting and suggested that the committee return if another day is needed.

Adjourn

The committee adjourned at 4:00 p.m.