

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

**November 1-2, 2011  
Room 322, State Capitol  
Santa Fe**

The sixth meeting of the Indian Affairs Committee (IAC) was called to order by Senator John Pinto, co-chair, on November 1, 2011 at 10:02 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. James Roger Madalena, Co-Chair  
Sen. John Pinto, Co-Chair  
Sen. Rod Adair (11/1)  
Rep. Ray Begaye  
Rep. Sandra D. Jeff (11/2)  
Sen. Lynda M. Lovejoy  
Rep. Patricia A. Lundstrom  
Sen. Richard C. Martinez  
Sen. George K. Munoz (11/2)  
Rep. Jane E. Powdrell-Culbert  
Sen. Nancy Rodriguez

**Absent**

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

**Advisory Members**

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

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

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

***Minutes Approval***

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

**Staff**

Damian Lara  
Peter Kovnat  
Cassandra Jones

**Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and written testimony are in the meeting file.

## **Tuesday, November 1**

Committee and staff members introduced themselves. Walter Dasheno, governor of the Pueblo of Santa Clara, gave an invocation.

### **Recovery Work at the Pueblo of Santa Clara: Aftermath of the Las Conchas Fire**

Governor Dasheno told the committee that the Pueblo of Santa Clara was devastated by the Las Conchas fire, the largest fire in New Mexico history. Seventeen thousand acres of the pueblo's spiritual sanctuary were affected by the fire. Many of the culturally significant plants, herbs and wildlife species have been affected. Governor Dasheno stated that the Las Conchas fire has drastically altered the pueblo's traditional way of life.

Due to the Las Conchas fire, soil at the Pueblo of Santa Clara is hydrophobic. The soil repels rather than absorbs water, which drastically increases the risk of floods with heavy debris. The pueblo has installed safety measures with the assistance of the United States Army Corps of Engineers. The pueblo experienced a flood on August 21, 2011, which trapped four heavy equipment personnel in over six feet of water. The flood also damaged over 20 miles of road. Governor Dasheno told the committee that the Pueblo of Santa Clara has been pursuing and implementing measures to adequately protect the people and land of the pueblo.

Michael S. Duvall, secretary of homeland security and emergency management, told the committee that the Las Conchas fire began on June 26, 2011. The state activated its Emergency Operations Center to begin supporting response operations in Sandoval, Los Alamos and Rio Arriba counties as well as the surrounding pueblos. On June 28, Governor Susana Martinez signed an executive order declaring a state of emergency for the Las Conchas fire. On July 1, the first reports of fire spotting on the Pueblo of Santa Clara's land were reported. On July 7, the executive order was amended to include the Pueblo of Santa Clara in the list of disaster areas. Pueblo officials and tribal members were included on the firefighting team. It is estimated that two-thirds of the agricultural watershed on pueblo lands was affected by the Las Conchas fire. The Homeland Security and Emergency Management Department (HSEMD) has worked to obtain funding from sources such as the Federal Emergency Management Agency (FEMA) in the form of fire management assistance grants (FMAG) to respond to the Las Conchas fire. Insurance, federal entities and FMAGs are funding much of the restoration efforts for jurisdictions affected by the Las Conchas fire. The Pueblo of Santa Clara's documented costs under the FMAG are approximately \$120,000, 75 percent of which is covered by the FMAG.

Burned area emergency rehabilitation teams composed of specially trained professionals were deployed to address the threat posed by burn scars. On July 8, 2011, Governor Martinez signed an executive order to provide emergency state funds for flood mitigation efforts. The executive order made \$750,000 in emergency funds available through the HSEMD to assist local jurisdictions. The Pueblo of Santa Clara has claimed approximately \$78,000 in emergency flood mitigation costs. Seventy-five percent of these costs are covered under the executive order. The Pueblo of Santa Clara has experienced flooding, which has been exacerbated by the Las Conchas

burn scar. The largest flood events on the Pueblo of Santa Clara occurred on August 22, 23 and 26. On August 26, partial evacuations were ordered by the pueblo. The areas protected by emergency mitigation efforts did not sustain significant damage. However, the floods damaged roads and water control infrastructure on pueblo lands. Assessments and estimates are still in progress due to the dangerous conditions that exist in the damaged area.

Several committee members expressed their sympathy to Governor Dasheno. In response to a question from a member of the committee, Secretary Duvall stated that the Pueblo of Santa Clara is the central communication point for all of the various agencies that assist response and recovery. The HSEMD helps to facilitate the pueblo's initial communication with appropriate agencies.

### **Jemez State Monument Heritage Area — HJM 7**

Veronica N. Gonzales, secretary of cultural affairs, told the committee that a study concerning the feasibility of transferring the Jemez State Monument to the Pueblo of Jemez had been conducted at the request of the legislature. Rudy Acosta, interim director of the State Monuments Division of the Cultural Affairs Department (CAD), presented three options examined within the study: (1) no transfer, and the state would continue full operation of the site; (2) a partial transfer, which would require that the state and the Pueblo of Jemez co-manage the site; and (3) a full transfer, which would require the Pueblo of Jemez to assume management of the entire site. Secretary Gonzales told the committee that a full transfer of the site to the Pueblo of Jemez could have some negative legal implications and that the CAD is recommending a co-management structure. With this structure, the state will retain property ownership, and site management will be shared by the state and the pueblo. Specific co-management arrangement can be specified in a memorandum of understanding. In preliminary discussions between the State Monuments Division and the Pueblo of Jemez, pueblo representatives have indicated that this would be an acceptable solution.

Representative Madalena accepted the report on behalf of the Pueblo of Jemez. Secretary Gonzales encouraged members of the committee to visit the Jemez State Monument.

### **Implementation of Senate Bill 417 — Addressing Native American Suicides**

Steven Adelsheim, M.D., director, Center for Rural and Community Behavioral Health (CRCBH) at the University of New Mexico (UNM), told the committee that suicide rates for young people are higher in New Mexico than in the rest of the United States. Among New Mexico youths, Native Americans have the highest rate of suicide. The CRCBH has partnered with the Pueblo of San Felipe, the Navajo Nation Department of Behavioral Health Services and the Mescalero Apache Tribe. Senate Bill 417, enacted on March 31, 2011 without funding, created a suicide prevention clearinghouse. The CRCBH became the coordinating site for the clearinghouse. The CRCBH has informed and engaged tribes, initiated a joint data work group, developed a web site and provided grant-writing support, consultation and training.

Marsha Azure, program manager for the UNM Department of Psychiatry, discussed the importance of culturally competent providers of mental health services. Dr. Adelsheim told the committee that the CRCBH has made a lot of progress, but additional work needs to be done in the future. The CRCBH hopes to develop a partnership that includes tribal entities, the state, the Indian Health Service (IHS) and medical professionals to develop agreements in order to share information.

A member of the committee asked the committee to consider endorsing a \$150,000 appropriation to UNM to further develop the suicide prevention clearinghouse.

In response to questions from members of the committee, Dr. Jerry Kinkade, a psychologist who works with the Pueblo of San Felipe, stated that Native American mental health treatment should place an emphasis on group and family counseling rather than individual counseling. Often, mental health providers will offer in-home counseling to Native American patients, which has proven to be effective. The CRCBH consists of 30 staff and faculty members, some of whom are part time, that work on issues such as tribal partnerships, health consultation, training and school-based work. Students also assist with some program work. A member of the committee requested that Dr. Adelsheim provide literature about suicide prevention to IAC committee members.

Upon a motion by Senator Lovejoy, seconded by Representative Rodella, the committee voted without objection to direct staff to draft legislation to make an appropriation of \$150,000 for a clearinghouse and technical assistance program for Native American suicide prevention.

### **Indian Water Settlements**

Estevan Lopez, director of the Interstate Stream Commission, told the committee that Section 72-1-11 NMSA 1978 requires that the Office of the State Engineer (OSE) report to the legislature by November 15 of each year regarding certain aspects of Indian water rights settlements. The report must include the status of proposed settlements that require financing and recommendations of funding. New Mexico currently has three pending settlements. In response to a question from a committee member, Mr. Lopez stated that the OSE is working to receive credit toward water settlement payments from the federal government for expenses. Documents have been submitted, and the U.S. Bureau of Reclamation is asking for additional information. The OSE expects to receive 75 percent of the expended money in credit. Mr. Lopez presented a time line of suggested appropriations to meet the state share of each Indian water rights settlement. The OSE has recommended that \$15 million be appropriated every year for the next five years in order to meet funding deadlines. A member of the committee requested that the OSE provide information about aquifers that provide water to the Gallup area.

### **Long-Term Aging Services in Indian Country**

Ray Espinoza, director, Office of Indian Elder Affairs, Aging and Long-Term Services Department, told the committee that New Mexico has two state planning and service areas. The area agencies provide technical assistance, program development and oversight for tribal providers and others serving Indian elders. The agencies also conduct outreach at the community level to identify Indian elders that are eligible for assistance under the federal Older Americans Act of 1965 as well as other private and public programs. Funding for the area agencies has been reduced by approximately 11 percent over four years. Mr. Espinoza stated that the main concerns of New Mexico's Indian elders can be grouped into four categories: transportation, nutrition, long-term care and social support services. Indian elders in New Mexico are specifically concerned about the role of the IHS in providing long-term and geriatric care. Mr. Espinoza also indicated that New Mexico needs a coordinated system of health and social services to meet the needs of Indian seniors.

Members of the committee discussed specific needs of Native American seniors, including the Manuelito Senior Center located in Gallup. In response to questions from members of the committee, Retta Ward, secretary-designate of aging and long-term services, stated that there are 41 senior centers located in the Navajo Nation. Secretary Ward told the committee that it is difficult to oversee funds that are allocated to tribal entities. The committee discussed the processes and regulations that affect state-purchased vehicles that are donated to tribal entities.

### **Native American Veterans' Income Tax Settlement Fund — Update**

Alan Martinez, deputy secretary of the Veterans' Services Department (VSD), told the committee that the department is required to determine whether Native American veterans who were domiciled on tribal lands during their active military duty had state personal income taxes withheld from their pay and to determine the amount of state personal income taxes that was improperly withheld from those individuals. More than 1,000 applications have been received by the VSD and forwarded to the Taxation and Revenue Department (TRD). The TRD has processed 665 claims and paid out over \$800,000 in principal and interest. The Native American Veterans' Income Tax Settlement Fund has a remaining balance of approximately \$173,000. The VSD estimates that 7,000 Native American veterans had income taxes improperly withheld, and it needs more funding in order to continue reimbursing those individuals.

In response to questions from committee members, Deputy Secretary Martinez stated that the average individual return has been approximately \$2,300. The department cannot distinguish tribal affiliation of the applicants.

Upon a motion by Senator Lovejoy, seconded by Representative Lundstrom, the committee voted without objection to draft legislation to appropriate \$500,000 from the general fund to the TRD for fiscal year 2013 to fund the Native American Veterans' Income Tax Settlement Fund.

Following the presentation by the VSD, Representative Madalena recessed the meeting at 5:20 p.m.

### **Wednesday, November 2**

Senator Pinto reconvened the meeting at 9:10 a.m. Members of the committee introduced themselves. Representative Jeff gave an invocation.

### **Gaming Revenue: Addressing Compulsive Gambling Issues**

Tom Fair, Audit and Compliance Division director for the Gaming Control Board (GCB), told the committee that an amended section of the 2001 tribal-state class III gaming compacts requires that gaming enterprises spend at least one-fourth percent of their net winnings to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico who patronize New Mexico gaming facilities.

Armando Graham, president, Responsible Gaming Association of New Mexico (RGANM), told the committee that the RGANM is a collaboration of many Native American-owned casinos in New Mexico. The RGANM produces educational materials about problem gambling and funds treatment and counseling services. A 2006 New Mexico study funded by

the RGANM found that nine percent of New Mexico adults gamble at least once each week. In New Mexico, approximately 10,000 to 20,000 people can be classified as pathological gamblers, and the same number of people can be classified as problem gamblers. Approximately 70,000 to 95,000 New Mexico residents can be classified as at-risk gamblers. The RGANM focuses its efforts on prevention, education and treatment.

Daniel Blackwood, executive director, Evolution Group, Inc., told the committee about two programs offered by the Evolution Group. The Compulsive Gambling Treatment Center opened in 2002 and is located in Albuquerque. The program consists of a 12-month intensive outpatient program designed for individuals diagnosed with compulsive gambling. These services are offered at no charge due to the financial support of the casino industry. Integrity Recovery is a gambling-specific recovery program that combines intensive outpatient treatment with structured recovery living, which provides accountability and support from peers and professionals.

Kandace S. Blanchard, executive director, New Mexico Council on Problem Gambling (NMCPG), told the committee that the NMCPG receives more than 25,000 phone calls every year. Help is offered in English and Spanish. The NMCPG offers counseling services, as well as training to counselors and referral services, free of charge. The NMCPG has three offices and 66 counselors.

Gabriela Rodriguez Gutierrez, Laguna Development Corporation (LDC), told the committee that the mission of the LDC is to address problem gambling by providing referral assistance and training to employees as well as providing information to customers. The LDC is committed to promoting public awareness of problem gambling. The LDC ensures that employees are aware of the seriousness of problem gambling, and it educates employees about available resources. The LDC also participates in a self-exclusion policy, which allows customers to voluntarily exclude themselves from LDC gaming properties. A financial assistance program is in place to support projects, programs and agencies that develop or provide prevention initiatives, education, training or treatment pertaining to problem gambling.

Upon a motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee voted without objection to direct staff to draft legislation requesting that the GCB provide recommendations on additional amendments to the Indian gaming compacts coming up for renegotiation.

In response to a question from a member of the committee, Frank Baca, interim executive director, GCB, stated that there is currently no member of the GCB that is Native American.

Upon a motion by Representative Jeff, seconded by Senator Lovejoy, the committee voted without objections to send a letter to Governor Martinez requesting that she consider appointing a Native American to the GCB.

Representative Madalena invited members of the audience to make public comments regarding tribal gaming. Richard Hughes, an attorney in Santa Fe who represents several pueblos, including the Pueblo of Santa Ana, told the committee that those entities that are issued liquor licenses are not required to fund alcoholism treatment or prevention programs. He stated

that New Mexico should allow tribes to spend gambling prevention and treatment money at their discretion and in the ways that will be the most beneficial to their communities.

Members of the committee discussed programs and agencies that are eligible for treatment funds from casinos. In response to questions from committee members, Mr. Blackwood stated that casino funds for gambling prevention and treatment are sent to individual organizations and are reported. Casinos issue requests for proposals to programs that wish to receive funding. Committee members discussed the benefits of a central organizational point for gambling treatment and prevention funds. Members of the committee also discussed the benefits of funding gambling treatment and prevention programs that are operated by Native Americans.

### **A Community and Special Interest Perspective on In Situ Uranium Mining**

Leona Morgan, coordinator, Eastern Navajo Diné Against Uranium Mining (ENDAUM), stated that the IAC should support amendments to the Water Quality Act to ban pollution of underground drinking water. Ms. Morgan requested that the committee hold future meetings regarding uranium mining in the areas where mining will occur so that the local community can attend.

George Rice, a geologist and geochemist that works with the ENDAUM, told the committee that baseline water quality measurements are determined from samples collected from baseline wells. Because most baseline wells are screened in or near uranium ore bodies, the concentrations of hazardous constituents in these areas are not representative of the entire aquifer. Mr. Rice stated that the time required to restore ground water quality is unknown and that there is potential for off-site migration of contaminated water after ground water restoration is concluded.

Chris Shuey, an environmental health specialist with the Southwest Research and Information Center, told the committee that the wells drilled by Uranium Resources, Inc., (URI) before the issuance of a permit from the Department of Environment were drilled for the purpose of understanding the ore body rather than characterizing the quality of water. Because monitor wells are not used to determine baseline measurements, the baseline does not characterize the body of water accurately.

In response to questions from members of the committee, Mr. Shuey stated that the water quality in Gallup is good. Mr. Shuey told the committee that wells within three miles of the URI in situ leaching mining site meet drinking water standards. Ms. Morgan told the committee that communities are often divided on uranium mining because information is not always readily available. The ENDAUM tries to protect communities and resources.

### **Indian Affairs Department**

Arthur P. Allison, secretary-designate of Indian affairs, told the committee that the Indian Affairs Department (IAD) currently has nine staff members, and he discussed recent initiatives of the IAD. The IAD hosted a state-tribal leaders summit to discuss Indian education, economic development and infrastructure, Indian health care, natural resources and water rights. Secretary Allison also stated that the IAD is currently compiling the annual report required by the State-Tribal Collaboration Act, which will be submitted to the governor on December 1, 2011. The IAD trained more than 300 state employees in cultural competency in 2010 and aims to train approximately 400 employees during the first half of 2012.

Rebecca Martinez, capital outlay manager, IAD, told the committee that the department is using a uniform funding application form in order to assess the viability and readiness to proceed with potential tribal infrastructure funds (TIF) projects. Projects that are not ready for funding in a specific fiscal year will be prepared and considered again the following year.

In response to questions from committee members, Ms. Martinez told the committee that applications for TIF funding must be received by November 15. Secretary Allison clarified that the governor does not influence decisions about TIF.

### **Native American Veterans**

Marvin Trujillo, Jr., director, Laguna Veterans' Office, Pueblo of Laguna, told the committee that five pueblos in the state have a veterans' service office. The Laguna Veterans' Office was established in 2007 and is located in the Laguna tribal administration building. It is the only veterans' office in New Mexico that is operated exclusively by a tribe. Future goals of the Laguna Veterans' Office include increased transportation, a Native American liaison position within the VSD, continued veteran service officer training and a Native American veterans' memorial.

In response to a question from a member of the committee, Mr. Trujillo stated that Native American veterans need a system of transportation for health care visits and required visits to veterans' affairs offices.

### **Navajo Nation Department of Emergency Management**

Julie Wauneka, emergency service liaison for the Navajo Nation Department of Emergency Management (DEM), told the committee that the DEM is requesting an additional \$75,000 to its operating budget. The DEM has decreased personnel and vehicles due to TIF funding cuts.

Upon a motion by Senator Lovejoy, seconded by Representative Begaye, the committee voted without objection to send a letter to the Navajo Nation President Ben Shelley requesting emergency supplement grant money for operations of the DEM.

Martin Vigil, director of emergency management, Santa Fe County, told the committee that all emergency responders are familiar with the "National Response Framework", a document that explains the role of each federal agency in an emergency. States distribute money to tribes in emergency situations. Mr. Vigil stated that policies should change to reinforce governmental relationships for FEMA.

Upon a motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee voted without objection to direct staff to draft a memorial requesting that Congress revise the Robert T. Stafford Disaster Relief and Emergency Assistance Act so that tribes may deal directly with the federal government.

### **Legislative Endorsements**

Mr. Lara addressed the committee regarding proposed legislation for the 2012 legislative session.

## **Legislation**

.187732

Sponsored by Senator Lovejoy, the bill creates a program to provide tribes with technical assistance in identifying, applying for and administering federal and private grants and makes an appropriation of \$75,000.

Upon a motion by Senator Lovejoy, seconded by Representative Lundstrom, the committee voted without objection to endorse the bill.

.187809

Sponsored by Representative Madalena, the bill makes an appropriation of \$75,000 for a decision-makers conference regarding uranium.

Upon a motion by Representative Lundstrom, seconded by Senator Lovejoy, the committee voted without objection to endorse the bill.

.187821

Sponsored by Senator Lovejoy, the bill makes an appropriation of \$500,000 to the Native American Veterans' Income Tax Settlement Fund.

Upon a motion by Senator Lovejoy, seconded by Representative Powdrell-Culbert, the committee voted without objection to endorse the bill.

.187826

Sponsored by Representative Rodella and Senator Martinez, the bill makes an appropriation of \$250,000 for a regional adult daycare center in Rio Arriba County.

Upon a motion by Senator Martinez, seconded by Senator Lovejoy, the committee voted without objection to endorse the bill.

.187822

Sponsored by Senator Lovejoy, the bill makes an appropriation of \$150,000 for a clearinghouse and technical assistance program on Native American suicide prevention.

Upon a motion by Senator Lovejoy, seconded by Senator Rodriguez, the committee voted without objection to endorse the bill.

.187824

Sponsored by Representative Begaye, the memorial requests that the executive branch promote the cultural and economic development of the Fort Sill Chiricahua-Warm Springs Apache Tribe's aboriginal territory in southwest New Mexico.

Upon a motion from Senator Martinez, seconded by Representative Begaye, the committee voted without objection to endorse the memorial.

## **Minutes**

Upon a motion by Representative Lundstrom, seconded by Representative Begaye, the committee voted without objection to approve the minutes from the fourth meeting of the IAC

for the 2011 interim.

**Adjournment**

There being no further business before the committee, the sixth meeting of the IAC for the 2011 interim adjourned at 4:52 p.m.