



NEW MEXICO LEGISLATURE

INDIAN AFFAIRS COMMITTEE

2017 INTERIM FINAL REPORT

LEGISLATIVE COUNCIL SERVICE
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INTERIM SUMMARY

Indian Affairs Committee 2017 Interim Summary

Since its inception in 1989, the Indian Affairs Committee (IAC) has addressed issues that affect Native Americans residing in New Mexico. In fulfillment of its mission, the IAC held five meetings during the 2017 interim. The meetings were held in Akela Flats; at the Pueblos of Zuni, Sandia and San Ildefonso and Ohkay Owingeh; at the Navajo chapters of Chi Chil Tah, Nenahnezad, Standing Rock and Ojo Encino; and at three educational institutions: the University of New Mexico-Gallup, New Mexico State University and San Juan College in Farmington. The IAC held its first and last meetings at the State Capitol in Santa Fe.

Members of the IAC heard presentations from tribal, state and federal agencies to learn of their efforts on behalf of New Mexico's Indian tribes, pueblos and nations. The Indian Affairs Department (IAD) provided a summary of the annual State-Tribal Summit and the IAD's priorities. The Department of Environment, a Navajo Nation Council delegate, the federal Environmental Protection Agency and advocates discussed uranium cleanup efforts in New Mexico, and the Department of Environment, academics and the Shiprock Chapter president highlighted the work being done to mitigate the damage done by the Gold King Mine spill. The acting director of the Interstate Stream Commission, the state engineer and a tribal representative provided an annual update on Indian water rights settlements. The Public Education Department updated the IAC on federal impact aid payment in lieu of taxes. The Financial Institutions Division of the Regulation and Licensing Department, along with advocates, provided an update on the state's preparation for an annual percentage rate cap on loans under \$5,000, which goes into effect on January 1, 2018. The Gaming Control Board was scheduled to appear, but it did not present before the committee regarding the current status of gaming operations in New Mexico.

Finally, the IAC endorsed three pieces of legislation for the 2018 legislative session, which are appropriations for \$150,000 for a feasibility study for a telephone trunk line in San Juan County, \$80,000 for a water well improvement project in the Bread Springs Chapter and \$1 million for a Navajo code talkers museum and veteran center.

WORK PLAN AND MEETING SCHEDULE

**2017 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
INDIAN AFFAIRS COMMITTEE**

Members

Rep. Georgene Louis, Co-Chair
Sen. John Pinto, Co-Chair
Rep. Sharon Clahchischilliage
Rep. Zachary J. Cook
Rep. D. Wonda Johnson
Rep. Derrick J. Lente
Sen. Richard C. Martinez
Sen. Mark Moores

Sen. Cliff R. Pirtle
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Nick L. Salazar
Sen. William E. Sharer
Sen. Benny Shendo, Jr.
Rep. James E. Smith
Sen. William P. Soules

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Harry Garcia
Rep. Stephanie Garcia Richard
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Rep. Sarah Maestas Barnes
Sen. Cisco McSorley

Sen. George K. Munoz
Rep. Patricia Roybal Caballero
Rep. Angelica Rubio
Rep. Patricio Ruiloba
Sen. Clemente Sanchez
Rep. Debra M. Sariñana
Rep. Elizabeth "Liz" Thomson

Work Plan

The New Mexico Legislative Council created the Indian Affairs Committee (IAC) on June 5, 2017. The IAC addresses issues and policies that affect Native Americans in New Mexico. In view of the fact that the IAC aims to address issues and policies relating principally to New Mexico's Native American population, the IAC strives to conduct its meetings in locations that are accessible to the state's tribal members and their leaders. Moreover, meeting at the various Indian nations, tribes and pueblos in New Mexico facilitates government-to-government cooperation. The IAC meetings are essential to the work of the legislature in addressing the issues affecting this segment of its constituency.

The IAC proposes to explore and discuss topics in each major issue area affecting Native Americans during the 2017 interim as follows:

A. State-Tribal Relations:

1. receive updates from Native American liaisons or similarly tasked individuals from state executive agencies to assess outreach efforts, challenges and successes;

2. discuss services provided to urban Indians and the work of the City of Albuquerque's recently reactivated Commission on Indian Affairs;
3. receive a report from the Indian Affairs Department and tribes to assess the successes and challenges of the State-Tribal Collaboration Act and find ways for improvement; and
4. receive a report on state-tribal agreements, partnerships and shared responsibilities and benefits regarding intergovernmental agreements.

B. Health, Environment and Safety:

1. receive an update on the impact of, and response to, the Gold King Mine spill;
2. receive a report on uranium cleanup projects in the Grants mineral belt;
3. discuss health care access, delivery and financing for Native Americans; and
4. examine safety efforts along U.S. Route 550.

C. Development in Indian Country:

1. receive a report on New Mexico's consumer lending industry and state regulation of lending practices, including the impact on Native Americans;
2. discuss drilling on sacred sites in and around the Navajo Nation;
3. discuss Indian gaming issues;
4. receive a report on rights of way on tribal land, especially in light of the Tenth Circuit Court of Appeals' recent *PNM v. Barboan* decision;
5. receive a report on tribal fuel taxation;
6. receive a report on New Mexico's energy resource future and how it will affect state revenues;
7. receive an update on REDINET and the rural broadband special audit; and
8. receive a report on opportunities provided by the federal Department of Defense to Native American veterans and their families.

D. Education:

1. review school transportation and cross-boundary agreements;
2. review Native American study programs, initiatives and resources at state higher education institutions and tribal colleges;
3. receive an update on charter school education in Indian country;
4. receive an update on federal and state impact aid and ongoing lawsuits;
5. receive an update and report relating to funding, statistics and accountability measures of the Indian Education Act;
6. receive a report on the status of the proposed repeal and replacement of maintenance and enrichment programs and its impact on Native American programs and Native American students;
7. receive a report on the status of funding and program implementation for increasing the number of Native American teachers, educational leaders and administrators;
8. receive a report on House Bill 484 (2017 regular session), which requires needs assessments in school districts for Native American students and requires a systemic framework to close the achievement gap for Native American students;
9. hear an assessment of the use of P.L. 874 by school districts supplanting programs as a result of budget cuts;
10. receive a briefing on *Yazzie v. New Mexico*; and
11. receive a report from the University of New Mexico (UNM) regarding Native American support and programs for Native American faculty and students; undergraduate and graduate schools and programs; and status of the UNM seal.

E. Protection of Cultural Resources:

1. receive a report on the implementation of federal Safeguard Tribal Objects of Patrimony Act of 2016; and

2. receive a report on the status of the Bureau of Land Management Resource Management Plan for the Greater Chaco Landscape.

F. Courts and Criminal Justice:

1. receive updates from the Southwest Indian Law Clinic and the American Indian Law Center on current programs and issues;
2. discuss tribal courts and issues and the challenges they face;
3. review tribal jurisdiction and cross-deputization in law enforcement;
4. receive a report on the history of and issues surrounding the federal Indian Child Welfare Act of 1978 and how it intersects with criminal and family law;
5. receive a report on alternative sentencing in the courts; and
6. receive a report on the metropolitan court model for driving while under the influence.

G. Annual Reports from Executive Agencies:

1. receive a report from the Office of the State Engineer and the Interstate Stream Commission regarding:
 - a. state and federal funding for Aamodt settlement obligations;
 - b. the status of proposed Indian water rights settlements requiring state financing;
 - c. the distribution of funds from the Indian Water Rights Settlement Fund to implement approved settlements; and
 - d. recommendations on the level of funding for the Indian Water Rights Settlement Fund necessary to timely implement Indian water rights;
2. receive a report from the Indian Affairs Department regarding the compiled reports from all state agencies on activities pursuant to the State-Tribal Collaboration Act, including information on policies, plans, contact individuals, training, programs and services from each agency;
3. receive a report from the Tribal Infrastructure Board regarding the total expenditures from the Tribal Infrastructure Project Fund for the previous fiscal

year, the purposes for which expenditures were made, an analysis of the progress of the projects funded and proposals for legislative action in the subsequent legislative session; and

4. receive a report from the Human Services Department on the development of standards and criteria certifying families and homes, the state providing resources to tribes for foster care programs, the establishment of a state-tribal judicial consortium and revisions to the Children's Code in compliance with the federal Indian Child Welfare Act of 1978.

**Indian Affairs Committee
2017 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
June 20	Room 322, State Capitol, Santa Fe
July 24-26	Chi Chil Tah Chapter; Pueblo of Zuni; Gallup
August 21-22	Tse Daa K'aan Chapter (formerly Hogback); Nenahnezad Chapter (August 22 joint meeting with the Radioactive and Hazardous Materials Committee)
September 6-8	Akela Flats; Las Cruces
October 4-6	Standing Rock Chapter; Torreon Chapter; Pueblo of Sandia (October 4 joint meeting with the Legislative Health and Human Services Committee)
November 27-29	Pueblo of San Ildefonso; Ohkay Owingeh; State Capitol, Santa Fe

AGENDAS AND MINUTES

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**June 20, 2017
Room 322, State Capitol
Santa Fe**

Tuesday, June 20

- 1:00 p.m. **Call to Order**
 —Senator John Pinto, Co-Chair, Indian Affairs Committee
- 1:30 p.m. (1) **[Discussion of Work Plan and Meeting Schedule](#)**
 —Peter Kovnat, Staff Attorney, Legislative Council Service
- 4:00 p.m. **Adjourn**

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

**June 20, 2017
State Capitol, Room 322
Santa Fe**

The first meeting of the Indian Affairs Committee (IAC) for the 2017 interim was called to order at 1:12 p.m. by Senator John Pinto, co-chair, on Tuesday, June 20, 2017, in Room 322 of the State Capitol in Santa Fe.

Present

Rep. Georgene Louis, Co-Chair
Sen. John Pinto, Co-Chair
Rep. Sharon Clahchischilliage
Rep. Derrick J. Lente
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. James E. Smith
Sen. William P. Soules

Absent

Rep. Zachary J. Cook
Rep. D. Wonda Johnson (joined by phone)
Sen. Mark Moores
Sen. Cliff R. Pirtle
Rep. Nick L. Salazar
Sen. William E. Sharer
Sen. Benny Shendo, Jr.

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Harry Garcia
Rep. Sarah Maestas Barnes
Sen. Cisco McSorley
Rep. Patricia Roybal Caballero
Sen. Clemente Sanchez
Rep. Debra M. Sariñana

Rep. Stephanie Garcia Richard
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Sen. George K. Munoz
Rep. Angelica Rubio
Rep. Patricio Ruiloba
Rep. Elizabeth "Liz" Thomson

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Diego Jimenez, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

All handouts and other written testimony are in the meeting file.

Tuesday, June 20

Welcome and Introductions

Representative Louis welcomed the committee and members of the audience and asked committee members and guests to introduce themselves.

Discussion of Work Plan and Meeting Schedule

Mr. Kovnat presented a summary of the proposed work plan and meeting schedule for the 2017 interim. He discussed issues of ongoing concern to New Mexico's Native American community and the importance of the committee's outreach efforts during the interim. Mr. Kovnat presented the proposed dates and locations of meetings for the IAC during the 2017 interim and stood for questions on the details of the work plan and the proposed meeting schedule.

Committee members discussed the work plan and, based on public comment, requested the addition of presentations covering outreach to Native American veterans by the United States Department of Defense, safety measures and efforts on United States Highway 550 and New Mexico's energy future.

Committee members discussed the proposed interim meeting schedule and suggested scheduling to enable interested members to attend a Legislative Education Study Committee meeting in Gallup. Members agreed to coordinate two joint meetings: one with the Legislative Health and Human Services Committee to cover issues related to Native American health and access to care; and another with the Radioactive and Hazardous Materials Committee.

Approval of Work Plan

On a motion made by Senator Martinez and seconded by Representative Louis, the committee moved to request an additional meeting date from the New Mexico Legislative Council to meet in Gallup on July 26.

On a motion made by Representative Rodella and seconded by Senator Rodriguez, with no opposition, the work plan was adopted as amended by the committee.

Senator Pinto took a moment to thank Representative Clahchischilliage for her service as co-chair of the IAC during the interims of the Fifty-Second Legislature.

Adjournment

The committee adjourned at 2:00 p.m.

Revised: July 20, 2017

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**July 24, 2017
Chi Chil Tah Chapter House
Chi Chil Tah**

**July 25, 2017
Pueblo of Zuni**

**July 26, 2017
University of New Mexico-Gallup
Gallup**

Monday, July 24 — Chi Chil Tah Chapter House

- 10:00 a.m. **Call to Order**
 —Senator John Pinto, Co-Chair, Indian Affairs Committee (IAC)
- 10:15 a.m. (1) **Welcome and Status Update**
 —Seth Damon, Council Delegate, Navajo Nation Council
- 11:15 a.m. (2) **Transportation Boundary Agreements**
 —Mike Hyatt, Superintendent, Gallup-McKinley County School District
 —Latifah Phillips, Assistant Secretary for Indian Education, Public
 Education Department (PED)
- 12:15 p.m. **Lunch**
- 1:30 p.m. (3) **Update on Zuni Public School District 89 v. State of New Mexico**
 —Timothy J. Williams, Assistant Attorney General, Litigation Division,
 Office of the Attorney General
 —Joshua Granata, Assistant Attorney General, Litigation Division, Office of
 the Attorney General
- 2:30 p.m. (4) **Update on House Bill 484 (2017 Regular Session)**
 —Representative Derrick J. Lente
- 3:30 p.m. **Public Comment**
- 4:00 p.m. **Recess**

Tuesday, July 25 — Pueblo of Zuni

- 10:00 a.m. **Reconvene**
—Senator John Pinto, Co-Chair, IAC
- 10:15 a.m. (5) **Welcome and Status Update**
—Val R. Panteah, Sr., Governor, Pueblo of Zuni
- 11:30 a.m. (6) **Update on the Federal STOP Act**
—Kenneth B. Lucero, Ph.D., Field Representative, Office of United States
 Senator Martin Heinrich
—Ann Berkley Rodgers, Attorney, Chestnut Law Offices, P.A.
- 12:30 p.m. **Lunch**
- 1:15 p.m. (7) **Update on Tribal Courts**
—William Bluehouse Johnson, Tribal Co-Chair, Tribal State Judicial
 Consortium
—Renée Torres, Judge, Bernalillo County Metropolitan Court
- 2:15 p.m. (8) **Discussion of Impact Aid**
—Paul J. Aguilar, Deputy Secretary of Finance and Operations, PED
- 3:15 p.m. **Public Comment**
- 3:45 p.m. **Zuni MainStreet and Middle Village Tour**
- 5:00 p.m. **Recess**

Wednesday, July 26 — University of New Mexico (UNM)-Gallup

- 9:00 a.m. **Reconvene**
—Senator John Pinto, Co-Chair, IAC
- 9:15 a.m. (9) **Welcome and Status Update**
—Fran Palochak, City Councilor, District 4, Gallup
—Jerry Dominguez, Ph.D., Interim Chief Executive Officer, UNM-Gallup
 (Invited)
- 10:15 a.m. (10) **Wage Theft: A Health Impact Assessment**
—Anna Rondon, Executive Director, New Mexico Equity and Social Justice
- 11:15 a.m. **Public Comment**
- 11:30 a.m. **Overview and Tour of the Rehoboth McKinley Christian Health Care
Services Behavioral Health Services-Residential Treatment Center**
—David Conejo, Chief Executive Officer, Rehoboth McKinley Christian
 Health Care
- 1:00 p.m. **Adjourn**

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

**July 24, 2017
Chi Chil Tah Chapter House
Chi Chil Tah**

**July 25, 2017
Pueblo of Zuni**

**July 26, 2017
University New Mexico-Gallup
Gallup**

The second meeting of the Indian Affairs Committee (IAC) was called to order by Senator John Pinto, Co-Chair, on July 24, 2017 at 10:21 a.m. at the Chi Chil Tah Chapter House in Chi Chil Tah.

Present

Rep. Georgene Louis, Co-Chair (7/24, 7/25)
Sen. John Pinto, Co-Chair (7/24, 7/25)
Rep. Sharon Clahchischilliage (7/24, 7/26)
Rep. D. Wonda Johnson
Rep. Derrick J. Lente (7/24, 7/25)
Sen. Richard C. Martinez (7/24, 7/25)
Rep. Debbie A. Rodella (7/24, 7/25)
Sen. Nancy Rodriguez
Sen. William E. Sharer (7/24, 7/25)
Sen. Benny Shendo, Jr. (7/24)
Rep. James E. Smith (7/24, 7/25)
Sen. William P. Soules (7/24, 7/25)

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Harry Garcia (7/24)
Rep. Stephanie Garcia Richard (7/25)
Rep. Patricia A. Lundstrom (7/24)
Sen. Cisco McSorley
Sen. George K. Munoz (7/24, 7/26)
Rep. Patricia Roybal Caballero (7/24, 7/25)
Rep. Angelica Rubio
Sen. Clemente Sanchez (7/25, 7/26)

Absent

Rep. Zachary J. Cook
Sen. Mark Moores
Sen. Cliff R. Pirtle
Rep. Nick L. Salazar

Sen. Carlos R. Cisneros
Sen. Stuart Ingle
Rep. Sarah Maestas Barnes
Rep. Patricio Ruiloba

Rep. Debra M. Sariñana (7/24, 7/26)
Rep. Elizabeth "Liz" Thomson

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

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Diego Jimenez, Research Assistant, LCS
Maria Alaena Romero, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

All handouts and other written testimony are in the meeting file.

Monday, July 24 — Chi Chil Tah Chapter House

Welcome and Status Update

Senator Pinto asked committee members, staff and the audience to introduce themselves. Seth Damon, council delegate, Navajo Nation Council, introduced himself and thanked the committee for visiting. Mr. Damon introduced representatives from the Chi Chil Tah Chapter, including Roselyn John, community services coordinator, and President Tommy Nelson and staff.

The Navajo Nation includes 27,425 square miles of land. The most recent census numbers increased the Navajo Nation population from 290,000 to 332,000. Chi Chil Tah and its surrounding communities currently have a population of about 32,000 people. The Navajo Nation government is structured similarly to the United States federal government, with three independent branches.

The Navajo Nation is facing tremendous turmoil in its general fund budget due to heavy dependence on natural resources, including coal, oil and gas reserves. The Navajo Nation recently extended a lease with the Navajo Generating Station. Without the deal, the Navajo Nation could have lost \$32 million to \$86 million from its general fund. The Navajo Nation's contingency plan in case of the generating station closure is to focus on economic development and utility expansion. To expand such opportunities, the Navajo Nation has taken steps to reduce bureaucratic processes, has invested in infrastructure with tribal infrastructure funds and capital outlay funds and has invested in entrepreneurship. Despite these efforts, the Navajo Nation still struggles with economic growth and the ability to acquire loans. The Navajo Nation has an option in an upcoming poll, similar to a mill levy bond, to remove \$300 million from its general fund to invest in roads, water and electricity. The Navajo Nation is working with the Jicarilla Apache Nation and the Pueblo of Zia to construct convenience stores and shopping centers.

Mr. Damon discussed the Navajo Nation's challenges in showing progress on and completion of projects, and he assured the committee that improvements are being made. To replace state capital outlay funds not appropriated during the 2017 legislative session, the Navajo Nation has been seeking grants and funding from other agencies.

In response to questions from the committee, Mr. Damon discussed the time line for the Navajo-Gallup Water Supply Project, which is seeking federal funds to reach Ramah and Mountain View by 2036; the \$30 million to \$40 million impact of the Public Regulation Commission's decision to deny a plan for the Navajo Generating Station and affiliated financial losses; and internet service in the Navajo Nation.

The committee discussed the Trump Administration block grants; the Tribal/Interior Budget Council and the Bureau of Indian Affairs meeting in Arizona to discuss pending budget cuts; the potential for state government to rescind funds granted for projects not yet completed; and the reciprocal effect of closing a generating station and the effect on public finance. Mr. Damon added that the Navajo Nation has received a memorandum from the U.S. Department of the Interior that predicts a 9% cut for fiscal year 2019, which begins October 1, 2019.

Jay Santillanes, registered lobbyist, answered questions about problems with the state's compliance with the federal REAL ID Act of 2005 for tribal members trying to get compliant identification cards.

The committee requested that IAC staff provide a list by tribe of potential impacts from the Trump Administration block grant decreases.

Transportation Boundary Agreements

Mike Hyatt, superintendent, Gallup-McKinley County School District, discussed current transportation boundary agreements, attempted agreements and agreements being considered.

In response to a question from the committee, Latifah Phillips, assistant secretary for Indian education, Public Education Department (PED), explained challenges presented by differences in school funding systems between Arizona and New Mexico; a recently changed federal law states that children may need to attend school across state boundaries, requiring agreements to be in place between districts and states. Impact aid can be used to pay cross-state tuition if agreements are in place. In similar scenarios, the student's resident district must apply for the impact aid dollars, which are transferred to the attendance district via the agreement. Ms. Phillips described one Arizona district that has been hesitant about using impact aid to pay cross-state tuition due to a discrepancy in how students are counted, resulting in the district having to return funding. She assured the committee that her counterpart at the Arizona Department of Education is working to find solutions for the states to work jointly.

The committee discussed the dangers of having student bus stops on highway shoulders; the need for improved communication with parents on safe transportation; road improvement

liability for counties; the need to have all stakeholders at the table for discussion; Gallup-McKinley County School District's 127 bridges that are impassable for school buses; the slow rate at which needed roads are being paved; PED rules regarding purchasing sport utility vehicles (SUVs) for student transportation; lack of financial allotment for bridge repairs; and van purchases to alleviate issues particular to buses.

Jeffery Bond, director of transportation, Gallup-McKinley County School District, told the committee that school funding from the state is not allotted for road or bridge construction but only for buses and drivers, adding that counties may receive money for constructing routes but many bridges remain impassable.

Update on House Bill (HB) 484 (2017 Regular Session)

Representative Lente discussed HB 484, "School Indian Student Needs Assessments", from the 2017 regular legislative session. Representative Lente described himself as someone who was a Native American student who went to public schools. He added that Native American students are born as statistics on a path to failure, citing general low achievements, high dropout rates and social/economic deficits to overcome. Representative Lente was determined to overcome those barriers and become a legislator to represent those "statistics". Native American students continue to be low-performing, according to the *KIDS COUNT Data Book*, ranking New Mexico students at the bottom of the 50 states, with Native American students ranking lower than their non-Native American New Mexico peers.

HB 484 sought to amend the Indian Education Act to require historically defined Indian-impacted school districts to perform needs-based assessments and to require a systemic framework to address the education gap between Native American students and their peers. There are 23 Indian-impacted school districts in the state, which are surrounded by Native American land. In these districts, the federal government provides funds for the school district operation.

In the 2015-2016 school year, the price per school district per student was about \$7,000 for impact aid. Of that \$7,000, 27% was retained by the school district and the remainder went to the state equalization guarantee distribution. Representative Lente assured the committee that questions, including how impact aid money is being apportioned and which school districts need to provide assistance to prepare Native American students for college and careers, would be answered if a future version of the bill becomes law.

Representative Lente attests that the bill creates a systemic framework of accountability for how school districts and the state provide funds for Native American education programs; provides for culturally relevant instruction to ensure collaboration of students, parents, teachers and superintendents; and requires student performance reporting from school districts to tribes. Representative Lente's 2017 bill passed the house unanimously, passed the senate with five dissenting votes and was then vetoed by the governor. Representative Lente will reintroduce the

bill at the next opportunity and reports that certain school districts have taken the initiative to begin programs modeled on provisions in the bill.

The committee also discussed the Bernalillo Public School District's efforts to support Native American students; the Albuquerque Public School District's forums for parents and free credit recovery program for Native American students; the appropriate role of courts in budget-related hearings; differences between Utah's and New Mexico's educational systems; legislative intent and misunderstanding of that by the governor; and statistical measuring and the importance thereof.

Update on *Zuni Public School District 89 v. State of New Mexico*

Timothy J. Williams, assistant attorney general, Litigation Division, Office of the Attorney General, provided an update for the committee on the ongoing case *Zuni Public School District 89 v. State of New Mexico*. Providing a brief background, Mr. Williams told the committee that the suit was brought by several districts that were later joined by others in an attempt to raise issue with capital improvement funding methods. A special master was appointed and found inequity spurring organizational changes. In the last 12 years, large shifts have taken place in capital appropriation processes. The Gallup-McKinley County School District now receives 10% to 15% of all Public School Capital Outlay Council funding.

The defense in the case challenged a number of witnesses brought by the plaintiff. The court ordered a partial dismissal with respect to some of the plaintiffs, finding a lack of standing in response to schools in the Gallup-McKinley County School District and Zuni Public School District. The suit is still in place for the individual students named in the suit. It is unknown when the court will continue the trial.

In response to a question from the committee, Mr. Williams confirmed that the Grants-Cibola County School District, Zuni Public School District and Gallup-McKinley County School District are no longer part of the suit. Originally, the suit began with the Zuni Public School District filing, and shortly after, the Grants-Cibola County School District and Gallup-McKinley County School District joined the suit. The only plaintiffs going forward are individual students in the Gallup-McKinley County School District.

Approval of Minutes

On a motion made by Representative Smith, seconded by Senator Shendo and facing no opposition, the minutes from the first meeting of the IAC were approved.

Public Comments

Ms. John thanked the committee for capital outlay dollars allocated to local communities. She told the committee that the building where the meeting is being hosted was built using capital outlay dollars and, while the project took nine years to complete, the facility is greatly appreciated.

Ms. Chavez highlighted that a major challenge to be aware of is the water line project in Vanderwagen, which is designed to go from the Pueblo of Zuni to Jones Ranch Road. In the area, more than 300 households are without running water and 60% of the homes have no electricity. Water for these homes is transported from Gallup, 32 miles away. The project has used \$235,000 in tribal infrastructure funds but more is needed to complete the project.

Recess

The committee recessed at 3:30 p.m.

Tuesday, July 25 — Pueblo of Zuni

Reconvene

Senator Pinto reconvened the meeting at 10:15 a.m., inviting members of the committee, staff and audience to introduce themselves.

Welcome and Status Update

Val R. Panteah, Sr., governor, Pueblo of Zuni, updated the committee on ongoing projects in the Zuni community. With assistance from the state, the Pueblo of Zuni has been able to construct the new Zuni Senior Center, Zuni Veterans Memorial Park, Zuni Commercial Development Area and the Zuni Teen and Family Wellness Center. He informed the committee of the ongoing Zuni Pueblo MainStreet project, the only MainStreet project on federal Indian land, and he listed accomplishments made by the project.

Update on the Federal STOP Act

Ann Berkley Rodgers, attorney, Chestnut Law Offices, P.A., reported to the committee on federal Senate Bill 1400, the Safeguard Tribal Objects of Patrimony Act of 2017 (STOP Act), introduced by Senator Martin Heinrich in June 2017. The bill intends to make a crime of selling stolen cultural items. Currently, federal law does exist to prevent sales inside the United States but fails to expressly prohibit exportation. The penalty that was intended to prevent the stealing and selling of cultural items frequently does not qualify as a felony-level charge, and few United States attorneys are unwilling to utilize resources to prosecute misdemeanor crimes.

Ms. Rodgers informed the committee that between 2015 and 2016, 20 items from the Pueblo of Acoma were moved through illegal markets. EVE Auction House in Paris, France, is currently active in the sale of sacred items from the Navajo, Hopi and Zuni tribes. The Hopi tribe unsuccessfully tried to use courts in France to have items returned. The Navajo Nation had to purchase an item to have it returned. Ms. Rodgers informed the committee on the status of the infamous Acoma shield, which was moved to France on consignment by an individual in Santa Fe. Following the associated backlash, the shield was removed from the market but has not been returned to the tribe.

Kenneth B. Lucero, Ph.D., field representative, Office of United States Senator Martin Heinrich, updated the committee on Senator Heinrich's efforts to stop the exportation of sacred items by introducing the STOP Act, which has four major provisions:

1. export of items that are currently being legally exported under other laws is explicitly prohibited;
2. penalties are doubled, making felony offenses of current misdemeanor acts;
3. a federal policy will be established to return items to their original communities; and
4. attorneys general will appoint liaisons to work with tribes to locate items, prosecute offenders and have items returned.

Senator Heinrich made changes from the 2016 version of the bill. The changes removed the amnesty provision for the return of items and no longer directs cultural offices to report on exports and prosecutions.

Ms. Rodgers concluded by reminding the committee of the heavy influence arts have on the New Mexico economy and warned of a New Mexico that is known as the black market of cultural patrimony. Members of the Pueblo of Acoma will contact members of the committee to sponsor a bill similar to Senator Heinrich's at the state level.

In response to a question from the committee, Ms. Rodgers explained jurisdictional issues in regard to applying United States federal law overseas. In this case, the United States government can issue a warrant; however, it is solely up to the French government to serve the warrant. She discussed an existing UNESCO-based treaty and failures to address the sale of cultural objects from within the United States. The UNESCO treaty and similar treaties deal with products from Europe being sold in the United States.

Ms. Rodgers explained that for items to be covered by the STOP Act and existing law, the items must be needed in cultural or religious practice, may not be owned by an individual and could otherwise qualify under the federal Native American Graves Protection and Repatriation Act or other archaeological protections. In this bill, to get a criminal conviction for exportation or sale of cultural objects, mens rea must be proved.

Update on Tribal Courts

Judge William Bluehouse Johnson, tribal co-chair, Tribal-State Judicial Consortium, described the creation of the Tribal-State Judicial Consortium in 2006 by order of the New Mexico Supreme Court for the purpose of building relationships and fostering communication between state and tribal courts. The consortium was established to address the everlasting and ongoing need for communication between the courts to resolve cross-jurisdictional issues. The consortium has created several committees to address issues and educate and train judges.

Renée Torres, judge, Bernalillo County Metropolitan Court, detailed the work of the committees developed by the consortium and discussed the model by which the committees operate and produce recommendations.

Judge Johnson highlighted some of the projects worked on by the consortium. A focus has been on domestic protection orders and ensuring that all orders are honored by all policing entities regardless of jurisdiction. To ensure that all orders are recognized as legitimate, the consortium requested that the New Mexico Supreme Court create and require the use of a standardized first page for all domestic protection orders. All state courts must use the standardized page, and most tribal courts have adopted its use.

Judge Torres discussed Judge Monica Zamora's work with Navajo chapters and the Pueblo of Isleta in creating alternatives to incarceration for juvenile offenders. Collaboration between tribal and state drug courts is also encouraged to meet the needs of Indian country. She also discussed work with state court judges to notify tribal courts of a tribal member in state court.

Discussion of Impact Aid

Hipolito J. Aguilar, deputy secretary, finance and operations, PED, discussed how public schools are funded, the funding formula and impact aid. In 1974, New Mexico enacted the Public School Finance Act to equalize financial opportunity and to guarantee each public school student equal access to funding regardless of location or local economic conditions. Previously, schools were locally funded and dependent on local property taxes. The formula is designed to distribute operational funds to school districts objectively and in a noncategorical manner while providing for local school district autonomy.

Mr. Aguilar discussed different approaches to "equal funding" and described to the committee the funding formula bases in "equal treatment of equals", ensuring that a student receives the same funding as a peer in a different district, and "unequal treatment of unequals", ensuring that students with greater need receive more funding than students with less need. To allocate both equally and unequally when prudent, the funding formula assigns units to each student or program, which is multiplied by a unit value to determine the cost of the educational program for that student. Mr. Aguilar discussed sources for the Public School Fund from General Fund revenue and federal mineral leases.

Mr. Aguilar discussed impact aid and changes needed to implement the funding formula. By changing school funding revenue to the state rather than to local governments, the state set the stage for adopting the funding formula and implementing impact aid funds. Many school districts in New Mexico and throughout the country struggled with local funding because they have a substantial amount of nontaxable land within their districts. In New Mexico, this is mitigated as a result of the equalization components of the funding formula.

Mr. Aguilar discussed the program cost calculation. Program cost is the total funding to which a school district or charter school is entitled to provide an educational program for its students. Every school district and charter school receives an amount annually that, at minimum, equals its program cost, though only a portion of the revenues may come from the state. For school districts, total program cost revenue is made up of the state equalization guarantee distribution, 75% of revenues received directly by the districts from a required half-mill property tax levy, payments for federal property received in lieu of taxes (impact aid) and revenue generated through forest reserve funds.

Mr. Aguilar discussed federal Impact Aid Program components, which include payments for federal property, or the basic payment, children with disabilities payments, basic support payments and construction grants. School districts receive all of their impact aid payments directly from the federal government, and none of those payments flow through the state. Current state law provides that the state use 75% of basic impact aid payments, forest reserve funds and the half-mill levy as offsets, also referred to as credits, in determining the amount of state aid to a school. No credit is taken for the Indian add-on, special education add-on and capital outlay grants. Mr. Aguilar explained that taking credit for impact aid means that the state uses 75% of a school district's impact aid basic payment as an offset in the calculation of a school district's state equalization guarantee distribution. The only impact aid dollars affected by the funding formula are the payments for federal property, or the basic payment.

Mr. Aguilar discussed federal law requirements for impact aid and state funding formulas. States must meet federal requirements before taking basic impact aid payments into consideration in calculating state aid (before taking credit). The state must meet a 25% disparity requirement and a proportionality requirement in order to qualify. The federal requirements are designed to prove that the state has an equalized funding formula.

In response to a question from the committee, Ms. Rodgers explained that since 1904, pueblo lands in New Mexico, however owned, cannot be taxed by the State of New Mexico. Pueblo lands in these instances do not have to go into an intertrust process to be removed from the tax base.

In response to questions from the committee, Mr. Aguilar explained that approximately 60% of schools in the state do not receive impact aid funds and approximately 28% receive significant impact aid. There are 25 school districts and three charter schools in the state that receive impact aid.

Recess

The committee recessed at 4:00 p.m.

Wednesday, July 26 — University of New Mexico (UNM)-Gallup

Reconvene

Representative Johnson reconvened the meeting at 9:11 a.m.

Welcome and Status Update

Fran Palochak, city councilor, District 4, Gallup, welcomed guests and legislators. The Gallup area has a population of about 23,000 people. The many veterans and other residents of Gallup take pride in their town and its diversity, earning it the title of America's Most Patriotic Small Town in Rand McNally's Best of the Road contest.

Richard Goshorn, interim chief executive officer, UNM-Gallup, explained economic development on the UNM-Gallup campus and the decline in student enrollment in recent years. He detailed the governance structure that puts the UNM main campus in authority over its branch campuses, including UNM-Gallup. He discussed benefits and challenges UNM-Gallup faces being under control of the UNM main campus, highlighting difficulties in partnering with outside entities.

Mr. Goshorn discussed advantages of attending smaller branch campuses for the first two years of a college career. Considering cost savings, the value of obtaining low-level credit hours is notable. State law prevents branch campuses from teaching classes above a 200 level, making student retention difficult for the school. Many students do not have the financial or travel means to attend classes at the main campus, ending their college careers at certificates and associate-level degrees awarded by UNM-Gallup. He briefly discussed the state's higher education financing system and the difficulties of tracking student and performance statistics after students leave UNM-Gallup.

In response to a question from the committee, Mr. Goshorn discussed student body statistics. UNM-Gallup currently has a student population of 78% Native American enrollees and a gender ratio near 1:1. A substantial percentage of students drop out following the second or third semester. Mr. Goshorn told the committee that higher-level college courses and career technical classes would benefit the branch and the community. He described the school's nursing program, which is three semesters to prepare students for the nursing program at the UNM main campus for bachelor's degree completion. UNM-Gallup awards associate's degrees for nursing, but bachelor's degrees are generally required for the nursing job market. UNM-Gallup also has a vibrant education program, but as in nursing, bachelor's degrees are required for employment. UNM-Gallup is nationally ranked for its welding program.

The committee discussed the state's higher education structure and the powers of the UNM Board of Regents and the UNM-Gallup Board.

Wage Theft: A Health Impact Assessment

Anna Rondon, executive director, New Mexico Equity and Social Justice, told the committee about the McKinley Community Health Alliance. In 2005, a nonscientific poll showed that a significant portion of individuals, when asked, lacked knowledge of their rights as employees in the workplace. Ms. Rondon explained the impact of wage theft and other employment violations facing workers in the Gallup area.

Elsa Lopez, Somos Un Pueblo Unido (Somos), spoke on behalf of the McKinley Community Health Alliance and explained to the committee that minority groups and families suffer from varying forms of wage theft. Forms of wage theft include underpayment for extra hours worked and unlawful payroll deductions. These violations are extremely harmful to what is already the poorest county in the state. An unscientific snapshot survey by the McKinley Worker Justice Coalition surveyed 50 individuals, one-half of whom were Native Americans and the other one-half Latino immigrants. The poll revealed that a majority of Native American and Latino immigrant workers claim to be victims of wage theft. Employees who have suffered wage theft must go to Albuquerque to file a complaint with the Workforce Solutions Department (WSD). These workers' financial situations often hinder the ability to follow through on reports.

Jose "Pancho" Olivas, Somos advocate, told the committee his story of experiencing wage theft. Mr. Olivas and his wife were allegedly not compensated for work they did. The allegedly unpaid wages add up to approximately \$15,000, for which Mr. Olivas has time cards and a letter from the owner of the restaurant as proof of the unpaid wages, he told the committee. Mr. Olivas' claim and associated lawsuit against the WSD are ongoing. He is being represented by Somos attorneys.

Gabriela Guzman, Somos attorney, informed the committee of previous attempts to resolve Mr. Olivas' claim with the WSD before the suit was filed. She contends that the WSD is not adhering to state law. Ms. Guzman also expressed that adequate rural enforcement has not been the norm for the WSD.

In response to a question from the committee, Ms. Lopez addressed potential inaccuracies in the handout to the committee. The committee discussed scientific and nonscientific polls, potentially inaccurate information and graphics, lingering and extended problems associated with wage theft and failures of the WSD to enforce laws.

On a motion made by Representative Clahchischilliage, seconded by Senator Munoz and facing no opposition, the committee passed a motion to request the presence of the secretary of workforce solutions at a future IAC meeting to answer questions regarding compliance and investigation of wage theft.

Overview and Tour of the Rehoboth McKinley Christian Health Care Services Behavioral Health Services-Residential Treatment Center

The committee toured the Rehoboth McKinley Christian Health Care Services Behavioral Health Services-Residential Treatment Center.

Adjournment

The meeting adjourned at 2:00 p.m.

Revised: August 17, 2017

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 21, 2017
Henderson Fine Arts Building, Room 9008 and 9010
San Juan College
4601 College Boulevard
Farmington**

**August 22, 2017
Nenahnezad Chapter House
West Hwy. 64/County Road 6675/Navajo Route 365
Fruitland**

(Joint Meeting with the Radioactive and Hazardous Materials Committee)

Monday, August 21 — San Juan College

- 10:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (1) **Welcome and Status Update**
—Dr. Toni Hopper Pendergrass, President, San Juan College
- 11:15 a.m. (2) **Public Service Company of New Mexico (PNM) Energy Future**
—Carlos Lucero, Manager, State and Federal Government Affairs, PNM
—Cathy Newby, Director, Tribal Government Affairs, PNM
- 12:15 p.m. **Lunch**
- 1:15 p.m. (3) **Bureau of Land Management Plan for Management of the Greater Chaco Landscape**
—Richard Fields, Field Manager, Bureau of Land Management Farmington Field Office
—Daniel Tso, Community Member
- 3:15 p.m. **Public Comment**
- 4:00 p.m. **Recess**

Tuesday, August 22 — Nenahnezad Chapter House (Joint Meeting with the Radioactive and Hazardous Materials Committee)

- 9:00 a.m. **Reconvene**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
—Senator Jeff Steinborn, Chair, Radioactive and Hazardous Materials Committee
- 9:20 a.m. (4) **Welcome and Status Update**
—Norman C. Begaye, President, Nenahnezad Chapter (Invited)
- 10:00 a.m. (5) **Update on the Gold King Mine Spill**
—Dennis McQuillan, Chief Scientist, Department of Environment
—San Juan Citizens Alliance, Representative (Invited)
—Diné CARE, Representative (Invited)
—LoRenzo Bates, Speaker, Navajo Nation Council (Invited)
—Kevin Lombard, Superintendent, New Mexico State University (NMSU) Agricultural Science Center (ASC) at Farmington
—Bonnie Hopkins, Agriculture Extension Agent, NMSU ASC at Farmington (Invited)
- 12:30 p.m. **Working Lunch**
- 12:45 p.m. **Public Comment**
- 1:15 p.m. (6) **Uranium Mining and Legacy Mine Cleanup Efforts**
—Susan Gordon, Coordinator, Multicultural Alliance for a Safe Environment
—Jonathan Perry, Council Delegate, Navajo Nation Council
—Kurt Vollbrecht, Program Manager, Mining Environmental Compliance Section, Ground Water Quality Bureau, Department of Environment
—Steve Austin, Senior Hydrologist, Navajo Nation Environmental Protection Agency, Water Quality Program (Invited)
—Chris Villarreal, Environmental Protection Agency, Region 6
—Will Duncan, Environmental Protection Agency, Region 9
- 2:15 p.m. **Adjourn**

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

**August 21, 2017
San Juan College
Farmington**

**August 22, 2017
Nenahnezad Chapter House
Fruitland**

The third meeting of the Indian Affairs Committee (IAC) for the 2017 interim was called to order at 10:02 a.m. by Senator John Pinto, co-chair, on Monday, August 21, 2017, at San Juan College in Farmington.

Present

Sen. John Pinto, Co-Chair
Rep. Sharon Clahchischilliage (8/21)
Rep. D. Wonda Johnson
Rep. Derrick J. Lente
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez (8/21)
Sen. William E. Sharer
Sen. Benny Shendo, Jr. (8/22)
Rep. James E. Smith

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Harry Garcia (8/21)
Rep. Stephanie Garcia Richard
Rep. Patricia A. Lundstrom (8/22)
Sen. Cisco McSorley
Rep. Angelica Rubio
Rep. Debra M. Sariñana (8/22)

Absent

Rep. Georgene Louis, Co-Chair
Rep. Zachary J. Cook
Sen. Mark Moores
Sen. Cliff R. Pirtle
Rep. Nick L. Salazar
Sen. William P. Soules

Sen. Stuart Ingle
Rep. Sarah Maestas Barnes
Sen. George K. Munoz
Rep. Patricia Roybal Caballero
Rep. Patricio Ruiloba
Sen. Clemente Sanchez
Rep. Elizabeth "Liz" Thomson

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

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Diego Jimenez, Research Assistant, LCS
Maria Alaena Romero, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

All handouts and other written testimony are in the meeting file.

Monday, August 21 — San Juan College**Call to Order and Introductions**

Senator Pinto welcomed the committee and members of the audience and asked committee members and guests to introduce themselves.

Welcome and Status Update

Dr. Toni Hopper Pendergrass, president, San Juan College (SJC), welcomed the legislators and introduced staff members, including Byron Tsabetsaye, director, Native American Center, SJC, and Barbara Wickman, dean, School of Energy, SJC. Dr. Pendergrass discussed student success, with a focus on SJC's Native American students. There has been an increase in the school's online, on-campus and dual credit enrollment, she said.

SJC plans to improve transportation for students living in Navajo chapters to better provide access to a college education to students who have limited access to transportation to and from the school. Dr. Pendergrass noted the importance of tribal energy development.

In response to a question about transportation options from SJC to surrounding chapters, Dr. Pendergrass said that there are options for transportation that allow students to get discounted bus passes.

Committee members asked what jobs SJC students are prepared for and getting when they graduate. Dr. Pendergrass said that the degrees conferred provide students with opportunities to work in oil refineries as welders, among other occupations. SJC has options for certificates and scholarships in mechanics, maintenance and energy. Students finishing their programs often work in local oil refineries and other locations where they can best utilize their training.

Public Service Company of New Mexico (PNM) Energy Future

Carlos Lucero, manager, state and federal government affairs, PNM, described PNM's objectives and successes. Mr. Lucero laid out PNM's future generation and 2017 integrated resource plan, along with its plan to retire two power plant units by the end of 2017. He discussed the joint ownership of the other two units with PNM, Tucson Electric Power, the City of Farmington, Los Alamos County and Utah Associated Municipal Power Systems. PNM aspires to provide coal-free energy by 2031 by transitioning to a more flexible energy supply, increasing renewable energy and maintaining nuclear power, while providing for a reduction in carbon emissions. PNM has committed \$1 million over five years to train Navajo tribal members

for future job opportunities. Since 2013, \$200,000 has gone directly to two partnering higher education institutions, Navajo Technical University and SJC. To date, 512 students have received educational scholarships, and 231 scholarship recipients have earned a trade certificate or an associate or bachelor of arts degree.

Cathy Newby, director, tribal government affairs, PNM, said that PNM works with 15 of New Mexico's tribes, and that 26% of PNM total electric transmission lines cross tribal land. There are up to 14,763 miles of power lines on tribal land, and 10% of PNM's electric service territory is on tribal land. To better illustrate this, Ms. Newby highlighted a slide from her handout displaying a map of PNM facilities and transmission lines in the state.

Regarding the switch from coal to natural gas, how that switch would be funded and the changing price of coal, Mr. Lucero said that the cost of coal is only one factor of many that are being discussed in this transition. Efficiency and customer need require a resource that can be turned on and off to avoid waste.

In closing, the committee applauded PNM and its business model, which includes working with tribal nations and providing training and jobs to tribal members.

Tse Daa K'aan Chapter

Anita Hayes, chapter manager, Tse Daa K'aan Chapter, expressed concern about funding appropriated for the Hogback irrigation project. Two water pumps have been used for over 60 years and are vital for the farming, agriculture and lives of chapter residents. Capital outlay funds of \$794,000 were approved to build new pumps, but the bureaucracy in Window Rock is putting that funding at risk of being taken in sweeps. Though reauthorized once, the funding may need to be reauthorized again if it is going to be there for use by the chapter.

Committee members discussed the obstacles faced by the chapter in completing the irrigation project, including an executive order from Governor Susana Martinez.

Upon a motion and a second, without opposition, the committee requested that staff write a letter to the Navajo Nation and Governor Martinez requesting an update on the current status of the funding for the Hogback irrigation project.

Bureau of Land Management (BLM) Plan for Management of the Greater Chaco Landscape

Richard Fields, field manger, BLM Farmington Field Office, said that once every 20 years, the BLM produces a research plan that addresses the latest technology, land management and development. The BLM is now assessing mineral development on its land. While important, recreation areas and economic and land initiatives do not invalidate the rights of sovereign nations, Mr. Fields said. He added that the BLM is conducting extensive public outreach, with 10 meetings scheduled.

The committee discussed the 10-mile buffer zone of leases for wells. No new leases will be made on land within 10 miles of Chaco, though Mr. Fields did say that some leases were made before the buffer zone was put into place, so there is no guarantee that there will never be a well within the zone.

Committee members spoke about the ownership and disposition of the land, allotments and what assessment has been made of the impact of drilling on sacred sites. Mr. Fields said that numerous studies have been done that show no harm to archaeological sites within the 10-mile buffer zone.

Daniel Tso, community member, said that land management techniques changed with the transition from President Obama to President Trump. He stressed that because of the way leases are approved on allotted lands, the best interests of the inhabitants are not always protected. Also, when the funds for the leases are tied up, none of the local interests benefit.

Public Comment

Dan Lorimier, Rio Grande Chapter, Sierra Club, discussed the value of methane capture and said that companies should not benefit at the cost of public health.

Melissa Kelly, community affairs coordinator, Navajo Transitional Energy Company (NTEC), discussed Navajo Mine, community enhancement and the interaction with partners in the Four Corners region.

Mike Eisenfeld, San Juan Citizens Alliance, said that he hopes to work with the committee on environmental issues and community engagement.

Recess

The IAC recessed at 3:27 p.m.

Tuesday, August 22 —Nenahnezad Chapter House

Senator Jeff Steinborn, chair, Radioactive and Hazardous Materials Committee (RHMC), welcomed guests and members of the RHMC and the IAC, which reconvened from the previous day, to the meeting. Committee members, staff and audience members introduced themselves. Senator Steinborn said that he and Representative Johnson would chair the meeting, as the meeting was being held as a joint meeting of the RHMC and the IAC. Representative Johnson then introduced Norman C. Begaye, president, Nenahnezad Chapter, and invited him to address the committees.

Welcome and Status Update

President Begaye welcomed the committees to Nenahnezad and explained that, in English, Nenahnezad means "steep hill". He said that the chapter has 4,700 members, 1,500 of whom are voters, and stated that Arizona Public Service Company (APS) and the NTEC are

major industries locally. He noted that APS and PNM do a good job for the community by providing scholarships and community funds for Nenahnezad's children. He said that the chapter is focused on getting young people to go to school and get degrees. A couple of weeks earlier, the chapter provided 60 scholarships to students, he said, and such programs are having a positive effect on the community.

Regarding the Gold King Mine (GKM) spill, President Begaye said that some farmers were not going to harvest the year of the spill but that the chapter left the decision to irrigate their fields to the farmers. The chapter held a meeting and advised that it was up to the community as to what to do with the waters that were impacted by the spill; two weeks later, the water was turned back on and farmers resumed irrigating. President Begaye shared that the upcoming Nenahnezad Harvest Festival is in its third year and that, this year, the inaugural Nenahnezad 10-kilometer run up the hill will take place the day after the festival.

In closing, President Begaye noted that the chapter has been receiving many compliments on its facilities from the surrounding community. The chapter house is used as a polling place for county voters, and the chapter is working to ensure that the facilities are accessible.

Update on the GKM Spill

Dennis McQuillan, chief scientist, Department of Environment (NMED), opened his presentation by noting that the two-year anniversary of the GKM spill had just passed and that knowledge gained in the process of testing and monitoring the GKM situation is being incorporated into an Animas River watershed scale plan. He said that the Animas River watershed system runs from the GKM to Aztec and that it involves a very complicated interaction of surface water and ground water, rich biodiversity, agriculture, various contamination sources and a wide range of nutrients.

Reviewing his presentation, "Gold King Mine Spill New Mexico Long-Term Impact Team Progress Report", Mr. McQuillan commented on the ongoing monitoring and findings from the spill, as follows. Multiple governmental and nongovernmental agencies, including the Navajo Nation and the University of Arizona, have teamed up and are engaged in ongoing monitoring. Thirty days after the GKM spill, the river water met irrigation standards, and metals found in crop tissue surveys have been very low. The team is looking at how the river recharges ground water, but no impacts to wells have been observed. There is, however, concern about lead-contaminated aquifer sediment and whether this lead poses a danger to the root zone. This concern will continue to be monitored, but, because lead does not travel very far, there is hope that it will not be a problem. By all indications, the metals from the GKM spill washed out of New Mexico into Lake Powell during the spring runoff of 2016.

Mr. McQuillen advised that New Mexico has adopted water quality standards and that the New Mexico Bureau of Geology and Mineral Resources is measuring water levels in the aquifer to better understand the direction of ground water flows. River sondes have been installed to monitor the flow rate and turbidity, among other data points, and samples are taken from the

sonde locations to test for metals and general chemistry. He noted that the relationship between turbidity and heavy metals in the river is of keen interest. Solids analysis has also been conducted, but more funds from the United States Environmental Protection Agency (EPA) are needed to continue the work. New Mexico is also generating data through an X-ray fluorescence survey in which the X-rayed sediment samples indicate the presence of metals; this process saves taxpayers money by not requiring lab testing.

As to monitoring results thus far, Mr. McQuillen advised that the water is safe but that the stigma of the water being unsafe needs to be addressed and people need to know that their crops are safe. When there are high flow conditions, the monitoring is detecting metals, in particular lead, in the water; however, many of these metals are attributed to legacy mining and GKM hotspots. The presence of lead is a concern for public water systems, and it is imperative to ensure that drinking water meets the standards for lead. Mr. McQuillen noted that warning systems are needed to inform the community when turbidity reaches a certain level, raising the incidence of lead contamination in the water. He also highlighted that education is needed to dissuade people from drinking any untreated river water.

In sum, Mr. McQuillen said that, although there is an ongoing stigma around the river water, there are no scientific data indicating that there has been a buildup of metals in crops, including corn and alfalfa, or in livestock. He noted that after the 2017 season, New Mexico will have very good data from the Animas and San Juan rivers to convince the public that recreation, crops, fishing and livestock are safe.

In response to an inquiry as to whether the river will ever come back to "normal", Mr. McQuillen noted that what was normal before the spill most likely had some level of contamination from the mining of the 1800s and from other catastrophic spills. However, after the Superfund process, there is hope that the river will have better water quality than before the spill. New Mexico will continue to monitor the river on an ongoing basis, and there is great optimism for a watershed scale monitoring plan with Colorado, Utah and the Navajo Nation.

Regarding funding, Mr. McQuillen said that \$8 million was appropriated to the NMED for the monitoring program from the General Fund, and that some of the universities have research grants. A member noted that for the funding that comes from the legislature, the importance of the work being done needs to be recognized in order to prevent the funding from being on the chopping block in the state budgetary process. Members remarked that it is important to understand the relationship between the various groups involved in the monitoring.

In response to a question about the testing of fish tissue, Mr. McQuillen said that he feels that good data have been obtained and that nothing of concern has been seen in fish tissue. He noted that mercury is not a big component of the river contaminants, though the University of Arizona is testing livestock blood and will be sharing the results with New Mexico.

A member raised a concern about New Mexico not being recognized as a stakeholder in the Superfund designation by the EPA, although New Mexico is an affected area. Mr. McQuillen said that New Mexico is a participant in the federal Water Infrastructure Improvements for the Nation Act and is on equal footing with the other impacted states. EPA Region 9 is currently investigating proposals and will select a remedy. Responding to an inquiry regarding cooperation between the impacted states, he noted that Colorado is part of the working group, but Colorado is not experiencing the same impacts to agriculture that New Mexico is experiencing. Discussions are being facilitated with other states and tribes to create a watershed scale monitoring plan. The states and tribes can apply for grant money for this process, in addition to federal Clean Water Act of 1977 funding and other EPA funding.

Responding to a concern about the GKM still discharging, Mr. McQuillen noted that the mine is being cleaned but that the Bonita Peak Mine is still discharging. That mine has not yet been closed. A bulkhead has been installed, and hydraulic drilling is being done, but the EPA is being very cautious in light of the GKM spill.

Asked if GKM hotspots are still of concern, Mr. McQuillen said yes; hotspots are expected. If the water exceeds the EPA's standard for lead, remediation will be required. He noted that there has been a decline in fish populations in Colorado, but in New Mexico, the fish populations do not seem to be affected by the spill and remain at pre-spill levels. The data suggest that there is no need for concern, but monitoring is ongoing.

Regarding a question about the sondes, Mr. McQuillen said that state and federal grant money was used to install four sondes, one in Colorado and one each in Aztec, San Juan/Farmington and Shiprock in New Mexico. He said that the NMED wants to install a second sonde in Aztec and has asked the EPA to pay for it, although it is questionable whether it will be funded through the EPA. Clean Water Act of 1977 funding may be a possibility. The committees agreed that it would be of benefit for the committees to encourage the EPA to provide greater funding.

Janene Yazzie, a watershed planner for the Little Colorado River Watershed Chapters Association, addressed the committees on behalf of Diné CARE (Citizens Against Ruining our Environment) with prepared remarks. Ms. Yazzie informed the committee that, in accord with their creation stories, the Diné people have been living on the banks of the San Juan River since time immemorial and that the river not only provides water for irrigation and subsistence, but also for ceremonial purposes. She described meetings facilitated by a collective of community organizers known as Tó Bei Nihi Dziil, Our Water is Our Strength, that is providing a forum for community members to discuss how they have been impacted by the GKM spill. From these meetings and surveys, it was discovered that the top perceived risks from the spill are related to environmental, cultural, spiritual, psychological and financial issues as well as increased distrust of federal and state entities, increased historical trauma and loss of subsistence. Ms. Yazzie emphasized the need to create a community response that explores solutions that strengthen the

mental, emotional, spiritual and ancient connections of the community to the sacred water system of the San Juan River.

Ms. Yazzie said that the GKM spill brought to the forefront the shared investment and dependency that the indigenous communities and state have on the river, such as the interest in preventing ongoing leakages at unreclaimed mine sites that drain into the Animas River, the increased risk of toxic exposure during high flood events and the need for long-term monitoring and remediation. Referring to the International Indian Treaty Council's report to the United Nations Committee on the Elimination of Racial Discrimination of August 19, 2015, Ms. Yazzie addressed the importance of state collaboration on issues impacting indigenous people, including violations of indigenous rights by permitting toxic mining waste to be stored on the riverbanks, failing to provide timely and adequate information to the community and by violating rights to subsistence and food, cultural rights linked to traditional practices and the rights of the community to health, property and effective and adequate redress. Specific actions to be taken by the United States government, including the EPA, were also discussed.

In closing, Ms. Yazzie noted that, although the relationship between the State of New Mexico and the Navajo Nation is better and more beneficial than the relationships between the Navajo Nation and federal entities, there is room for improvement, particularly in how the state communicates with impacted communities. She stressed that the reporting needs to be consistent, regular and in the Diné language. She said that this is being accomplished through teach-ins attended by the NMED, and that better coordination and partnerships should continue to be developed throughout the research into the impacts from the GKM spill now and into the future.

Dr. Karletta Chief, assistant professor of hydrology at the University of Arizona, spoke of research that she has conducted on the GKM spill and noted that the results have been the same as those found by New Mexico. She said that 300 soil and sediment samples from irrigation ditches and 300 water samples, including river, well and irrigation waters, have been tested and that the levels of arsenic and lead are very low and do meet agricultural standards. She noted that the levels of manganese are higher but that they still meet the agricultural standards. Dr. Chief said that biological samples of urine have been tested for arsenic and lead, in addition to testing water and soils around homes. Individual results will be determined in the following week and then disseminated to the community.

Dr. Chief said that surveys indicate a significant reduction in the use of river water and in use of the river generally. Teach-ins are working to disseminate information and stimulate a dialogue with the community about what it needs in the future. She emphasized that people use the river for more than just agriculture, including for spiritual purposes. Mental health in the community is a big concern because the river is considered a deity and, with the spill, the deity has been desecrated. Dr. Chief said that it is important to help people to heal from the spill and be more resilient in the future. She stated that the community often feels that it has not been receiving information or has not been included in the dialogue. She said that it is critical for

information to be given in the Navajo language, and doing teach-ins on at least a monthly basis is helping to achieve some of the community outreach goals.

Questions arose as to how the Navajo Nation interfaces with other governmental and research entities. Dr. Chief said that the EPA has not actively collaborated in her research, although she has worked well with the Navajo EPA. Mr. McQuillan said that the NMED does have a tribal liaison and that it has an excellent relationship with the Navajo Nation.

A legislator said that it is a serious concern that there was no official warning from the State of Colorado or the EPA to New Mexico regarding the spill, but, rather, a county commissioner in Colorado who had a friend in San Juan County informed the friend of the spill. Mr. McQuillan said that Southern Ute colleagues also informed the NMED and San Juan County, but that there was little information exchanged among the EPA regions. He noted that the EPA is putting together a new plan to improve communications and that an emergency preparedness plan will be renewed this year. Ms. Yazzie added that an urgent action report was drafted to draw attention to the lack of communication with Native American stakeholders.

Emphasizing that an event like the GKM spill puts spirituality and livelihoods in danger, a member suggested that the state needs to look at other places in the state where contamination could create similar impacts and use the GKM spill as a learning experience.

In response to a question regarding turbidity and an increase in metal content, Mr. McQuillan explained that the monsoons stir up sediment, but that the metal content goes up and down very quickly. During spring runoff, however, the pattern is a little different because the water flow comes in a surge, and the flow stays high even as turbidity drops. During these times, the metal content in water will exceed drinking water standards but not irrigation standards. Ms. Yazzie said that the community already knows that during high flows, the water will be contaminated, and the community perceives the risk. Dr. Chief concurred with the results of the NMED that metals do increase during surges. She said that there is an attempt to provide the community with notifications that when turbidity is higher, people should not use river water.

A member noted that yellow river water is a result of the legacy mining of the 1800s — not just from water coming out of mines but from the tailings that sit on the sides of the mines — and asked if there has been any redoubling of efforts to identify problem spots along the Animas and Plata rivers. Mr. McQuillen said that Colorado's EPA will address this issue during the Superfund process and control the source of the contamination.

In response to a question about the total costs of the spill, Mr. McQuillen said that New Mexico sued the EPA for \$130 million, which is the cost of monitoring and of damages projected into the future. Duane "Chili" Yazzie, president of the Shiprock Chapter, said that the Navajo Nation also brought a \$130 million claim against the EPA, which was summarily rejected. President Yazzie added that there had not been much communication with the EPA or others about the toxicity in the river prior to the GKM spill and that it took the GKM disaster to raise

awareness of the issue. He said that toxicity knows no boundaries and that communities need to present a united front and share the same vision for protecting these resources.

Water quality concerns were discussed, and Dr. Chief stated that, prior to the farmers raising concerns, no studies had been done. Now, studies have been completed around Upper Fruitland and Shiprock, but there is no funding for future monitoring. The studies have revealed low levels of arsenic and lead adjacent to those communities and in irrigation waters. Manganese is an emerging contaminant. It is below the agricultural standard, but it is unclear where the manganese is coming from. The Navajo Nation recently set its own standards. Data on surges obtained from the NMED's sondes are being communicated to the communities; however, President Yazzie said that because many of the farmers are elderly and more traditional, they have a hard time comprehending the text of the information and that there is a need to translate the data into something more user-friendly.

Noting that New Mexico has returned unused funds to the United States Department of Agriculture (USDA), a member inquired if there is a role for the USDA to play in the response to the GKM spill. President Yazzie remarked that the USDA has not been active or engaged but that it is an avenue worthy of follow-up. Speaking as a local farmer who was impacted, President Yazzie said that the local communities are not always in sync with the central Navajo government. With the Navajo Nation having filed a lawsuit against the EPA, many local farmers are in limbo and have taken it upon themselves to write to EPA Administrator Scott Pruitt urging him to allow claims on the local level and not just from the Navajo Nation. President Yazzie requested the formal support of the committees for the Shiprock Chapter's efforts and noted that the letter has been submitted to New Mexico's congressional delegation.

Ms. Yazzie added that there are some USDA funds to improve irrigation systems or install gate system technology that shuts irrigation gates when the contamination levels get too high, but that there are limitations to accessing those funds. For example, ownership of land must be proven under concepts of private property, and changes to the federal "farm bill" may be required for tribal entities to access these funds.

A member asked if there had been a formal process established for stakeholders to be compensated for losses associated with the GKM spill. Mr. McQuillen said that, shortly after the spill, the EPA had teams walking stakeholders through the process, but the claims were later denied on the basis of sovereign immunity. However, with a new administrator of the EPA, the claims may be reconsidered. Ms. Yazzie added that, immediately after the spill, forms were circulated requiring individual landowners and farmers to put together a calculation of their losses, but that was before any sampling had taken place or results had been examined to understand what those losses would be. A committee member said that uncompensated claims are a very big and real issue and asked the committees to send a letter to the EPA expressing support for the Navajo communities and other stakeholders and asking that their claims be addressed.

In response to a question about chapter houses' participation on the impact team, Mr. McQuillen indicated that, early on, the Navajo Nation declined to include the chapters. Upon a motion and a second and without opposition, the IAC voted to send a letter of support regarding inclusion of the Shiprock Chapter on the impact team.

President Yazzie presented the committee with a resolution of the Shiprock Chapter supporting legislation naming the Shiprock-to-Gallup portion of U.S. Route 491 as the "Senator John Pinto Highway". Members discussed the introduction of a memorial on behalf of the IAC or the Transportation Infrastructure Revenue Subcommittee and asked staff to work on ideas for committee endorsement.

Public Comment

Mr. Lorimier addressed the committee on methane capture, noting that Colorado has enacted comprehensive, effective rules and that investments of over \$9 billion are taking place in the Permian Basin. He said that, in the absence of federal regulation, New Mexico is in a unique position to enact state regulations so that it can receive royalties on the captured methane and protect public health.

Scott Kovac of Nuclear Watch New Mexico expressed concerns to the committees regarding the extractive industries, nuclear power, the Waste Isolation Pilot Plant and the hundreds of remediated uranium mines in the state. He noted that it is shortsighted to store waste that will inevitably leak into the environment.

Lon Burnam, a public citizen, expressed concerns about the centralized interim storage facility in Quay County proposed by Holtec International and about similar efforts in Texas. A fact sheet was presented on the issue.

Mr. Tso, who lives in Flora Vista, between Aztec and Farmington, and is a member of the Aztec Domestic Water System, expressed concerns about lead deposits that could enter into the shallow water system. He noted that not all reports on the monitoring have been shared with all members of the population that use the watershed. He said that, given the spiritual, mental and physical health aspects of the GKM spill, there is still trauma in his community and that the disaster is ongoing. Community members have to find ways to translate this trauma so that there is understanding. Mr. Tso expressed support for the naming of U.S. Route 491 as the "Senator John Pinto Highway".

Uranium Mining and Legacy Mine Cleanup Efforts

Kurt Vollbrecht, program manager, Mining Environmental Compliance Section, Ground Water Quality Bureau, NMED, provided the committees with a synopsis of the issue, noting that mine clean-up efforts are a complex problem. For example, the Haystack Mine encompasses federal Bureau of Indian Affairs land, Navajo allotment land and EPA Regions 9 and 6, so various groups are affected.

Susan Gordon, coordinator, Multicultural Alliance for a Safe Environment (MASE), said that MASE is a coalition of five groups composed of community members in the Grants Mining District. She described the history of mining and milling in New Mexico and the Navajo Nation. She said that there are 10,400 uranium mine features in 14 states. In New Mexico, there are 259 abandoned mines, one-half of which have no record of cleanup, and there are 1,100 mines and mill sites in the Navajo Nation. Ms. Gordon stated that the Navajo district produced more uranium than anywhere else and produced one-half of all uranium used for United States weapons programs. The largest nuclear accident in United States history was the Church Rock uranium mill tailings spill in which 94 million gallons of acidic waste were discharged into the Rio Puerco. This resulted in a wave of green liquid that overtook the river, but no formal studies of the spill were undertaken regarding the impacts to the water systems or health.

Ms. Gordon noted that there will be jobs created for the cleanup of the mines as the EPA pursues enforcement actions against companies. She explained to the committees that House Memorial 117, introduced during the 2017 regular session, requests the Bureau of Business and Economic Research at the University of New Mexico to analyze the economic effects of uranium mine cleanup and to assess the capacity of the existing New Mexico labor force to contribute to the cleanup of legacy uranium mines. Ms. Gordon said that, although working in the mines was considered a good economic job, the workers were not warned about the health effects. She said that there is now a need to train people for the new technical positions needed for the cleanups and emphasized that the cleanup jobs will be long-term. She urged support for the study and for the memorial to be introduced as a bill in the 2018 regular session because there is a great need for jobs in the area.

Jonathan Perry, council delegate, 23rd Navajo Nation Council, said that contamination respects no jurisdictions and that this is an issue for all entities and governments in the region. He said that the Navajo Nation established an advisory commission of scientific and technical experts, and that every region has a member, in addition to the at-large member and the youth member. Mr. Perry said that the uranium commission is a step forward in giving a voice to the people in the planning and efforts made in their communities. He said that the Navajo Nation does not have all of the resources needed to tackle these issues and that it will require the state, the counties, the federal government and various agencies to be involved.

Mr. Perry said that energy development is taking place without regard to the impacts on health and the environment and asked that the parties work together, in good faith, to develop solutions, noting that cleanup of the mines is a solution in terms of providing employment opportunities. He acknowledged that clean drinking water is essential for the future, that the Navajo Nation shares aquifers with other communities and that development outside of the Navajo Nation will greatly impact resources. Mr. Perry urged respect for communities and their members and for living in harmony with nature. He said that there is a need to open the doors of communication between the Navajo Nation and the state.

Chris Villarreal, EPA, Region 6, said that from the 1950s through 1980s, about 70% of mined ore and 38% of cake production originated from the Grants Mining District and that this mining predated environmental laws. Now, the EPA is investigating the impacts of mining and milling on ground water for use by regulatory agencies, stakeholders and communities to guide their decision making regarding employment, safe drinking water and the impact on health and infrastructure. Public reports and meetings will take place in the fall of 2017.

Mr. Villarreal discussed the \$985 million settlement that will fund the clean-up response at the Kerr-McGee/Tronox mines. Efforts will be coordinated among the EPA, the Navajo Nation, the NMED and the Mining and Minerals Division of the New Mexico Energy, Minerals and Natural Resources Department. A coordinated effort is also being undertaken on reclamation of the San Mateo Mine. Mr. Villareal said that there is a five-year plan to access and address the health and environmental impacts of uranium mining and milling in the Grants Mining District. This is a coordinated effort with the United States Department of Energy (DOE), the BLM, local communities, including the Pueblo of Acoma and the Pueblo of Laguna, and other stakeholders.

Will Duncan, EPA, Region 9, discussed how abandoned uranium mine (AUM) clean-up work is providing opportunities for Navajo-owned businesses and for individuals. The request for proposals for mine assessment and evaluation includes an innovative use of incentives for training and hiring of Navajo businesses and individuals. Contractors must also provide a plan to employ Navajo businesses and individuals, with goals set for the number of Navajo employees and with the percentage of contract dollars expected to go to Navajo businesses. They must include a plan for establishing and maintaining a training program to support the capacity of the Navajo businesses. A prime contractor is also able to earn an additional 5% profit based on the value of each subcontract with an Indian organization or Indian-owned economic enterprise.

In response to a question about the square miles and number of people impacted, the committee was informed that the Grants Mining District encompasses 2,500 square miles, which are sparsely populated but have population centers. Several large Navajo communities are in the vicinity, including approximately 1,800 people and eight chapters. Ms. Gordon explained that the first mines were near Shiprock, which is a very broad area, and that homes are still being built with contaminated rocks. Mr. Duncan added that the Navajo Nation is 24,000 square miles in area and that there are clusters of mines in the east and north central regions. He said that communities were built around the mines and that people have been impacted due to subsistence living and the impacts of toxicity on animals and plants.

In response to a member's question, Mr. Duncan said that the cleanup effort is not impossible but that it will take several decades. He said that the initial challenges are getting the negotiations in place and determining the extent and magnitude of the problem, including assessing where the contamination has spread and how it is impacting communities — by testing livestock, for example. He said that 10 to 20 years will be needed to address the majority of mines under agreement, settlement and negotiation.

As to the role of the NMED over sovereign lands, Mr. Vollbrecht noted that the NMED has no regulatory authority over the Navajo Nation and that the NMED's role is advisory in nature. He said that when a site is in both New Mexico and the Navajo Nation, there are other standards that need to be achieved above what is required by EPA Region 6. The secretary of environment looks at the damages to resources and tries to put a monetary value on those damages, but the money does not go to cleanup.

When asked who makes up the Navajo Nation's uranium commission, Mr. Perry explained that it was started in 2011 under the previous administration and was approved by the tribal council in 2015. It is composed of technical experts who work with the regulatory bodies to provide recommendations and language to address the cleanup efforts. Mr. Perry said that, at this time, the Navajo Nation does not have regulations in its codes to address uranium clean-up work.

Concerns were raised about how a company is proven to be a Native American company when going out to contract. Mr. Duncan said that there are registrations and certifications for this purpose. He also said that the EPA is working with economic development organizations to get a list of Navajo-owned businesses. While the EPA cannot dictate who a company hires, there is hope for the incentive program, and Navajo-owned businesses are being encouraged to respond to the requests for proposals. There is also a cooperative agreement grant with Diné College to support interns in the field on crop and livestock studies.

Freida S. White, environmental program supervisor, Navajo Nation EPA Superfund Program, addressed the committees on the work of the program on AUMs. She said that economic development is a priority and that some of the available funding is being utilized for training. She highlighted that, under the Contaminated Structures Project, there have been more than 1,100 structures assessed, and more than 44 homes have been replaced. In this process, it is ensured that a home has water, electricity and safe and sanitary conditions. Ms. White said that the Northeast Church Rock, Quivira, Mariano Lake, Black Jack, Mac, Haystack and Cove AUMs are all in various stages of assessment and emphasized that Navajo Fundamental Law requires that the sites be completely remediated, not just reclaimed. In contrast to reclamation, remediation addresses physical hazards and safety issues and takes risk into consideration. As to current issues, Ms. White said that funding is needed to address 353 AUMs, that more responsible parties need to be held accountable and that funding and action are needed to address housing that was unknowingly built in areas with elevated uranium levels. To address the ongoing concerns, \$5.7 million will be needed through 2033, she said.

A member questioned the role of the DOE in working with the EPA in the remediation of sites. Mr. Duncan stated that only mill sites are under the DOE's jurisdiction. When a mill site closes, a permit must be obtained from the United States Nuclear Regulatory Commission, and the long-term operation and maintenance are the DOE's responsibility. The DOE does not have jurisdiction over the mines themselves; the mines are under the EPA's jurisdiction. The DOE does, however, participate in the five-year plan and is committed to addressing the legacy of

uranium mines. The DOE also participates in outreach, communication and community involvement. Mr. Villarreal added that both the DOE and the EPA are involved in a uranium mine work group and that they work together to address the larger problem nationally. In response to a question about the prioritization of sites, Mr. Villarreal said that 97 priority sites have been identified and that there is a long-term effort to address all of the mines.

A member asked if any funding is put aside to address health issues due to prior exposure, and Mr. Duncan stated that none of the money can be used for anything other than cleanup. Ms. Gordon stated that the federal Radiation Exposure Compensation Act is available to give compensation to some miners and downwind communities and that work has been done on amendments to include all uranium miners and millers and additional downwind communities, including those exposed during the first atomic blast at the Trinity Site. She said that claims were cut off after 1971 because, prior to 1971, the federal government was responsible, but after 1971, there were commercial interests involved. However, there was no change in safety for miners after 1971. Many people were exposed after 1971, but there is no compensation for them. Ms. White added that there has been no full-fledged response to health impacts. The federal Centers for Disease Control and Prevention has been studying and testing mothers, fathers and infants, with uranium being found in infants.

Public Comment

Talia Boyd, program director, Conservation Voters New Mexico Education Fund, stated that these issues have been plaguing communities for a long time, and she thanked the committees for taking them on. She said that people want health studies and have been asking for such studies since uranium mining in the area began. They want to understand the cumulative impacts. She also said that there has been desecration of sacred sites. The sites have healing powers and have lost their integrity. Ms. Boyd also said that the communities have made great sacrifices with new mines at the bases of Mount Taylor and Church Rock, as well as in the transport of hazardous materials on the freeways and railroads, where there are no hazmat teams to deal with the consequences.

Leona Morgan of the Nuclear Issue Study Group told the committees that her family is from eastern Navajo Nation and that she has been working on issues related to uranium mining for 10 years. She expressed concerns about two proposed interim storage facilities. She said that it is a big hazard to transport highly toxic waste and that New Mexico does not need such waste coming into the state, especially since New Mexico does not have any nuclear power plants. She stated her opposition to a bill to classify nuclear energy as "renewable" and expressed great concern about Sandia National Laboratories' Mixed Waste Landfill, an unlined dump for nuclear waste. She requested that the landfill be excavated and properly contained, as she said that it will impact the water of the Pueblo of Isleta.

Teracita Keyanna of the Red Water Pond Road Community Association stated that she has experienced a lifetime of uranium exposure. She said that the IAC is a champion that can

speak up for the community, and she hopes that the committee can help the community, even with a temporary moratorium.

Adjournment

There being no further business before the committee, the third meeting of the IAC for the 2017 interim adjourned at 2:55 p.m.

Revised: September 1, 2017

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**September 6, 2017
20885 Frontage Road, Exit 102, Interstate 10
Akela Flats**

**September 7-8, 2017
American Indian Student Center, Room 112
3015 Andrew Wall Place
New Mexico State University
Las Cruces**

Wednesday, September 6 — Akela Flats

- 10:00 a.m. **Call to Order**
 —Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (1) **Welcome and Status Update**
 —Lori Gooday Ware, Vice Chair, Fort Sill Apache Tribe
 —Leland Michael Darrow, Secretary-Treasurer and Tribal Historian,
 Fort Sill Apache Tribe
 —Robert Prince, General Counsel, Fort Sill Apache Tribe
- 11:15 a.m. (2) **Opportunities for Native American Veterans Provided by the U.S.
Department of Defense**
 —Susie Galea, Project Coordinator, Building Healthy Military Communities
- 12:15 p.m. **Lunch**
- 1:15 p.m. (3) **Update on Small Lending Industry and Regulation**
 —Ona Porter, President and Chief Executive Officer, Prosperity Works;
 Co-Chair, New Mexico Fair Lending Coalition
 —Steve Fischmann, Co-Chair, New Mexico Fair Lending Coalition
- 2:15 p.m. **Public Comment**
- 2:30 p.m. **Tour of Apache Petroglyphs**
- 4:00 p.m. **Recess**

Thursday, September 7 — New Mexico State University (NMSU)

- 10:00 a.m. **Reconvene**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (4) **Welcome and Status Update**
—Dr. Dan Howard, Executive Vice President and Provost, NMSU
—Michael Ray, Director, American Indian Program, NMSU
- 11:15 a.m. (5) **Indian Resource Development Program**
—Jeanelle Chavez, Program Specialist, Indian Resource Development
Program, NMSU
- 12:15 p.m. **Lunch**
- 1:15 p.m. (6) **Update on Water Purification Technology and Implementation on the Navajo Nation**
—Dr. Antonio S. Lara, Associate Professor, Department of Chemistry and
Biochemistry, NMSU
- 2:30 p.m. (7) **Water Resources Research Institute**
—Dr. Alexander "Sam" Fernald, Professor of Watershed Management,
NMSU; Interim Director, Water Resources Research Institute, NMSU
- 3:30 p.m. (8) **Tribal Extension Program**
—Jon Boren, Director, Cooperative Extension Service (CES), NMSU
—Kathy Landers, Tribal Extension Coordinator, NMSU
—Edmund Gomez, Rural Agricultural Improvement and Public Affairs
Project, CES, NMSU
- 4:30 p.m. **Public Comment**
- 5:00 p.m. **Recess**

Friday, September 8 — NMSU

- 10:00 a.m. **Reconvene**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (9) **Indian Affairs Department (IAD) Report on the State-Tribal Collaboration Act and the Annual Summit**
—Suzette Shije, Secretary-Designate, IAD
—David Mann, General Counsel, IAD
—Edward Paul Torres, Chair, All Pueblo Council of Governors
—LoRenzo Bates, Speaker, 23rd Navajo Nation Council

- 11:30 a.m. (10) **Report on Tribal Infrastructure**
—Suzette Shije, Secretary-Designate, IAD; Chair, Tribal Infrastructure Board
—David Mann, General Counsel, IAD
—Lawrence John, Tribal Infrastructure Fund Coordinator, IAD
—J. Michael Chavarria, Governor, Pueblo of Santa Clara
—Raymond J. Concho, Jr., First Lieutenant Governor, Pueblo of Acoma
—LoRenzo Bates, Speaker, 23rd Navajo Nation Council
- 1:00 p.m. **Lunch**
- 1:45 p.m. (11) **Update on the Burrell College of Osteopathic Medicine**
—Justin McHorse, Chief of Staff and Assistant Dean for Multicultural Inclusion, Burrell College of Osteopathic Medicine
- 2:40 p.m. **Public Comment**
- 3:00 p.m. **Adjourn**

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

**September 6, 2017
Akela Flats**

**September 7-8, 2017
American Indian Student Center
New Mexico State University
Las Cruces**

The fourth meeting of the Indian Affairs Committee (IAC) was called to order as a subcommittee by Senator John Pinto, co-chair, on September 6, 2017 at 10:14 a.m. at Akela Flats.

Present

Rep. Georgene Louis, Co-Chair
Sen. John Pinto, Co-Chair (9/6, 9/8)
Rep. Sharon Clahchischilliage
Sen. Richard C. Martinez
Rep. Debbie A. Rodella (9/6)
Sen. Nancy Rodriguez (9/8)
Sen. William E. Sharer
Sen. Benny Shendo, Jr. (9/7, 9/8)
Sen. William P. Soules

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Cisco McSorley (9/6)
Rep. Patricia Roybal Caballero (9/8)

Absent

Rep. Zachary J. Cook
Rep. D. Wonda Johnson
Rep. Derrick J. Lente
Sen. Mark Moores
Sen. Cliff R. Pirtle
Rep. Nick L. Salazar
Rep. James E. Smith

Sen. Carlos R. Cisneros
Rep. Harry Garcia
Rep. Stephanie Garcia Richard
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Rep. Sarah Maestas Barnes
Sen. George K. Munoz
Rep. Angelica Rubio
Rep. Patricio Ruiloba
Sen. Clemente Sanchez
Rep. Debra M. Sariñana
Rep. Elizabeth "Liz" Thomson

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

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Diego Jimenez, Research Assistant, LCS
Maria Alaena Romero, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

All handouts and other written testimony are in the meeting file.

Wednesday, September 6 — Akela Flats**Welcome and Status Update**

Senator Pinto asked committee, staff and audience members to introduce themselves. Lori Gooday Ware, vice chair, Fort Sill Apache Tribe, introduced herself and thanked the committee for visiting. Ms. Gooday Ware introduced Leland Michael Darrow, secretary-treasurer and tribal historian, Fort Sill Apache Tribe, and Robert Prince, general counsel for the tribe. Ms. Gooday Ware said she is the great-granddaughter of Mangas Coloradas. She began working for her tribe at age 17 and attributes her success to getting positive reinforcement during her education while on her quest to become a tribal leader.

Mr. Darrow performed an Apache song and discussed the significance of the song. The lyrics, which are a common saying in Apache, translate to "where you go, I will come". Mr. Darrow reported the song to be approximately 150 years old. He noted that while the Apache are commonly regarded as a more violent tribe, Apaches regard themselves as peaceful people who only fight when necessary. He gave a thorough lesson on Apache history, including:

- that human remains were recently found with common Apache characteristics. The discovery has led historians to think that the Apache people have occupied the area since at least the date attributed to the remains;
- Apache connections to the Mogollon, Casas Grandes and other tribes;
- the Spanish Colonial era, enslavement, Christianity and trade routes and an agreement with the Apache people to convert to a non-nomadic lifestyle;
- the Mexican era and another failed attempt to convert Apaches to a non-nomadic life;
- the early American era and establishment of the United States-Mexico border;
- the first and only ratified treaty between the Apache, represented by Mangas Coloradas, and the United States. The treaty did not transfer land ownership, but it allowed non-natives to peaceably cross tribal land;
- issues that followed the treaty between the Apaches and the United States, including American soldiers and military companies building farms, ranches and mines and the Apaches' inability to access fair adjudication;
- the American concept of land ownership;

- reservations, transfers, Apache separation and scalping;
- nineteenth century military negotiations with the Apache to provide protection and transfer reservations; the grave danger of leaving reservation land; Apache prisoners of war; and Apache deception and distrust of the U.S. government;
- the Carlisle Indian Industrial School;
- settling at Fort Sill in 1894; and
- the death of Geronimo, the progressive release of captive natives, Apache migration to Mescalero and the reduction of available land due to growing settlements.

Mr. Darrow and the committee discussed tribal concepts of band and clan, tribal identification and the Athabaskan language groups. Mr. Darrow discussed Apache origin theories and similarities in native languages from South America to Canada and Alaska. The committee discussed Fort Sill's relation to Western, Chiricahua, Lipan, Jicarilla and Mescalero Apache tribes. He also discussed a theory that closely relates the Apache and Navajo tribes.

Ms. Gooday Ware discussed the Fort Sill Apache efforts to obtain official tribal status and noted that, in 2002, the tribe applied for that status based on the reasoning in *The Comanche Nation v. United States*, 393 F. Supp. 2d 1196 (2005), and was granted tribal status. Fort Sill sued in the New Mexico Supreme Court to have that status recognized by the state.

Ms. Gooday Ware said that the tribe currently has 50 members living in the state. She said the tribe provides about 40 jobs in New Mexico through Fort Sill Apache Industries and the restaurant/smoke shop. The tribe works with the U.S. Department of Defense, U.S. Department of Labor, U.S. Navy and U.S. Army. It is focusing on expanding and returning in full to its homelands and anticipates providing 300 jobs in a low-employment region.

Mr. Prince said the tribe's industrial establishment authority is working on expanding to 350 employees at the tribe's casino in Lawton, Oklahoma. The tribe employs another 300 people through its industries. It has moved the headquarters of Fort Sill Apache Industries to Albuquerque and hopes to expand further.

Update on Small Lending Industry and Regulation

Steve Fischmann, co-chair, New Mexico Fair Lending Coalition, commended the legislature for its work on passing House Bill (HB) 347 (2017), which goes into effect on January 1, 2018. He noted that the bill cleaned up a number of issues in the law and that he would have personally liked to see a lower interest rate cap. Since the bill does not go into effect for several more months, the effects of the bill are still unknown.

Mr. Fischmann explained a few major impacts that are expected to occur once the 175% annual percentage rate (APR) cap is adopted. Currently, the average small loan has a 340% APR. Come January, borrowers statewide will save \$220 million annually. He said that the law leaves a lot of flexibility for loans and allows people in the finance industry to be creative. A

grant has been given to Prosperity Works, an advocacy organization, to follow up with monitoring the impacts of the law and compliance.

Mr. Fischmann discussed employee loans that are focused at 24% and for which all of the risk is taken by the vendor. He said that employee loan programs have a great history around the country and informed the committee that, nationwide, there are 1,400 private firms that offer employee loans as a benefit. He has been trying to encourage public entities in New Mexico to participate. New Mexico public employers that are participating and their approximate participation rates are:

- Dona Ana County, 22%;
- Town of Bernalillo, 15%;
- Santa Fe Public School District, 20 employees (just starting out); and
- Youth Development, Inc., rate unknown.

Mr. Fischmann reported that approximately another 10 New Mexico public entities are preparing to participate in employee loan programs, including the City of Las Cruces and Bernalillo County. He noted that Albuquerque has issued a request for proposals for similar services. Looking at data for 200 employee loans, the average loan is for about \$1,500. Mr. Fischmann believes this to be a good employee retention tool as an added benefit.

Mr. Fischmann said that while the federal Consumer Financial Protection Bureau is working on new loan regulations, the regulations will apply to loans of 45 days or fewer. The new federal regulations will not affect existing New Mexico law because HB 347 requires small loans to be repaid in at least four payments over 120 days.

In response to a question, Mr. Fischmann explained that approximately \$100,000 was targeted by HB 347 for assisting New Mexicans with financial literacy and that those efforts will be coordinated by the Financial Institutions Division of the Regulation and Licensing Department. He also expressed that education provided closer to the actual financial transaction has a greater effect than earlier education. The committee discussed external influences and the relative success of financial literacy programs and credit reporting. The committee requested that Mr. Fischmann and industry representatives appear before the committee before the end of the interim with information on compliance initiatives and plans.

In response to a question, Mr. Fischmann explained that, nationwide, employee loan programs have had a default rate of 2% over the last three years. Loans with interest rates under 175% tend to operate with a 10% to 12% default rate. Loans with interest above 175% tend to operate at around 25% to 40% default depending on loan restructuring. Financing for some of the 24% public employee loans is provided by local credit unions. Mr. Fischmann said that earnings for credit unions will be more than earnings from other lending businesses if the default rates hold.

Mr. Fischmann reported that he has spoken with Steve Kopelman, executive director for the New Mexico Association of Counties, about the positive experience with employer loans in Dona Ana County and hopes to see Bernalillo County participating soon. He explained that most entities are being very cautious and want to see results before adopting the benefit for their own employees. He said that the Las Cruces Public School District appears to be waiting to see how the program at the Santa Fe Public School District works out, and he anticipates the district to be the next to join.

Tour of Apache Petroglyphs

The committee went on a tour of the Apache petroglyphs.

Recess

The committee recessed at 3:00 p.m.

Thursday, September 7 — New Mexico State University (NMSU)

Reconvene

Representative Louis reconvened the meeting at 10:07 a.m., inviting committee, staff and audience members to introduce themselves.

Welcome and Status Update

Dr. Dan Howard, executive vice president and provost, NMSU, welcomed the committee to the campus. Dr. Howard discussed the actions taken by the university to improve student retention. Seeing a six-year graduation rate for students with a high school grade point average (GPA) of 2.75 at just 18%, the university decided to leverage the community college system. The university also identified struggling students and put them into smaller classes using a cohort-based model, where students have peers to help them reach better outcomes. The school created the Aggie Pathway to the Baccalaureate Program, where students spend their first two years on community college campuses, including Dona Ana Community College, NMSU Grants, NMSU Alamogordo and NMSU Carlsbad. The university raised its admission standards to a GPA of 2.75 and encouraged those with lower GPAs to consider the Aggie Pathway to the Baccalaureate Program. The program began with 680 students and has grown to 750 students this school year. Dr. Howard reported that the university is pleased with the retention and the program.

For the fall 2015 semester, the university moved to a linear tuition. Prior to switching to this system, students paid per credit for up to 12 credit hours, and all additional credits were free. Beginning with the fall 2015 semester, students were asked to pay for up to 15 credit hours. The result of this was to reduce the costs of credit hours, and part-time students are no longer subsidizing the full-time students. The price per hour has decreased to \$50.00 from \$190. Also beginning in the fall 2015 semester, all 100 and 200 level classes reported students' grades, as the administration realized a need for early warnings for students. The professors now report grades at week six of each semester. The fall 2015 semester also saw the creation of the Student

Success Navigators Program to provide assistance to first-year students. First-year students are now required to live on campus, and that, too, has had a positive impact.

Dr. Howard said that one-third of the students going to NMSU find themselves in developmental math and often find themselves a year or two behind where they thought their math skills were. NMSU created "emporium" courses, which are computer-based and grant college credits toward a degree. The program pushes students to build skills quickly for college-level math courses.

Dr. Howard informed the committee that NMSU uses predictive analytics and closely follows student data on a variety of topics. The system allows advisors to red-flag students who are not showing up to class or who fail for an inordinate period of time to log in to a class website, so the advisor can identify and contact the student. Dr. Howard said that the first contact is usually the key to students reorienting themselves onto a proper track.

Dr. Howard discussed the Center for Academic Advising and Student Support Center. Prior to the summer 2017 semester, the school used departmental advisors, but there was little crossover information, which proved unsatisfactory. Now, NMSU has centralized the advisors, and every student at NMSU knows where to go for help.

In response to a question, Dr. Howard discussed NMSU's eight meta majors and how the school recommends that undecided students focus their education on credit hours that count toward a degree. In response to a question from the committee, Dr. Howard said the school is collecting data to compare Native American and non-Native American student performance.

Michael Ray, director, American Indian Program, informed the committee that 4%, or 658 of the 14,000 students at NMSU, self-identify as American Indian. Of those, 553 are undergraduate students and the other 103 are graduate students. Mr. Ray said that Native American students take a wide variety of classes and declare a variety of majors at NMSU.

Mr. Ray discussed the challenges facing American Indian students and how he works to build a sense of belonging at the campus. He told the committee that Native American students tend to travel more than their peers for special events in their home communities. NMSU has established a peer mentoring program to help new students acclimate to college life and to navigate financial aid. To address the various challenges of college life, peers also assist in academic advising, professionalism, leadership development and collaboration with the university's Indian Resource Development Program (IRDP) and its three affiliated student organizations: the American Indian Science and Engineering Society, the Native American Business Students Association and the United Native American Organization.

Mr. Ray discussed the American Indian Student Center, its amenities and the effort to build a community for students away from home. The center can be used to host prospective

high school students and provide space for student organization meetings. Mr. Ray thanked the committee for capital outlay funding provided by the legislature for building improvements.

In response to a question, Mr. Ray discussed student funding sources. He reported that many Native American students use tribal funds and resources and other Indian-aimed resources at the school. The committee briefly discussed the history of Native American public education. Dr. Howard discussed a Brookings Institution study that analyzed public higher education institutions for social and economic mobility. He also reported that NMSU is number two in the nation for accessibility. NMSU is currently ranked fifteenth in the nation for student social mobility, with students moving from the bottom of the income scale to the top in just 10 years.

Mr. Ray had several Native American students introduce themselves to the committee and asked them to tell their stories: Matthew Calistiva from the Pueblo of Zuni; Delta Hagen, Sr., and Jasmine Pequin of the Navajo Nation; Ray Manuelito and Marco Magdalena of the Pueblo of Jemez; and Raylene Yazzie, president of the Native American Business Association and a member of the Navajo Nation.

IRDP

Jeanelle Chavez, program specialist, IRDP-NMSU, reported that the IRDP was created with funding from the W.K. Kellogg Foundation and became a statutory requirement in 1978. The IRDP's mission is to help students graduate and become professional business people, with a focus on agriculture and field management, in the aid of New Mexico communities. The IRDP provides scholarships to Native American students.

Ms. Chavez briefly discussed some of the IRDP's work, including the Late Lunch Speaker Series, which allows students to network with distinguished tribal leaders. She also discussed the IRDP's DreamKeepers Program for high school students to learn about strategies for success in college.

In response to a question from the committee, Ms. Chavez discussed funding for the IRDP. The most recent funding cycle was \$20,000 less than in the previous year. The program is funded as a research project under NMSU's line items in the annual general appropriation act.

Update on Water Purification Technology and Implementation on the Navajo Nation

Dr. Antonio S. Lara, associate professor, Department of Chemistry and Biochemistry, NMSU, reported to the committee that he and a number of students, including co-presenters Moticha Yellowman and Jeremy Jones, have been working on clean drinking water technology that can be used in a home rather than in a centralized location.

Their research has found that clay is the best candidate to dispose of heavy metals in water. Dr. Lara reported that he had success in cleaning water with a 300 parts-per-billion to 500 parts-per-billion particulate count to a safe drinking level. He also believes the technology can be improved to remove bacteria. Dr. Lara reported that he personally drank the water and did not

yet get sick, but the team is unable to get the proper permissions to do further testing on human subjects.

Dr. Lara discussed the history of the research and how they obtained the idea to use porous pellets to successfully and quickly sanitize water. He explained that all clays are able to remove uranium from water, but they study differences in clays to identify varieties that cleanse water more quickly.

The committee discussed other impurity-removing technologies and noted that there may no longer be a need to vitrify waste. Additionally, pellets are more space-efficient than storing tons of contaminated glass, but Dr. Lara has thus far been unable to work with the U.S. Environmental Protection Agency to store dirty pellets.

In response to a question, Ms. Yellowman explained that on the Navajo Nation, water conditions are quite dire due to the high exposure to uranium. Mr. Jones said he is primarily interested in participating in research aimed at assisting the people of New Mexico.

Water Resources Research Institute

Dr. Alexander "Sam" Fernald, professor of watershed management and interim director for the Water Resources Research Institute, said that the institute was created by, Section 21-8-40 NMSA 1978. Last year, the institute hosted five conferences, including its annual water conference and one that focused on the Gold King Mine spill. The institute's purpose is to provide technical expertise in cooperating with state and local institutions. He discussed its origination as an initiative by Governor Susana Martinez, who several years later vetoed the institute's funding because of economic distress.

Dr. Fernald highlighted the interactive visualization tool on the institute's website. The tool has 95 million data points, and it projects into the future based on water history. He discussed a need to do better tracking of evapotranspiration, noting that other models do not work in the New Mexico environment.

Dr. Fernald discussed changes to Mesilla Basin ground water storage. He noted that after the 1950s, data increased substantially, allowing quality estimates for storage, wet years and aquifer refill. Since 2003, the state has been using more water than is being recharged. Lastly, Dr. Fernald recommend that members of the committee and the public go to the institute's website to test its water budgeting tools.

In response to a question, Dr. Fernald further explained that one of the major contributors to the running deficit of the water budget is largely due to high discharge in the atmosphere. He also informed the committee that the San Juan River represents 60% of the total river flow in the state, making its river flow bigger than the Rio Grande and Pecos River combined. Dr. Fernald also discussed the importance of funding these types of projects to get a more accurate picture of

what lies ahead. He explained that proper forest management could create water, and though it is unclear to whom that water belongs, ultimately, the water flows downstream.

Tribal Extension Program

Jon Boren, director, Cooperative Extension Service (CES), NMSU, gave an overview of the extension service and introduced his co-presenters, Kathy Landers, tribal extension coordinator, and Edmund Gomez, Rural Agricultural Improvement and Public Affairs Project. The CES is a community education arm of the university and is a unique federal, county and state partnership that has been constitutionally mandated in New Mexico since 1915. The CES has 348 permanent faculty and staff, including educators and state specialists. CES faculty are housed in offices in all 33 counties in New Mexico and are able to reach more than 650,000 New Mexicans, or about one-third of the state's population. He discussed some of the best-known CES programs, including 4-H.

Mr. Boren discussed the CES's statewide impact and outreach, including how thousands of people access agricultural information and share information on energy, water, farms and many other topics; the CES's assistance in creating 65 farmers' markets in New Mexico; its front-line response to emergencies; economic development; better nutrition; cooking; and chronic disease management classes.

Ms. Landers said the mission of the New Mexico Tribal Extension Program is to develop and deliver community-based education programs to revitalize agriculture. The program provides educational programs that incorporate tribal cultures and languages. The program includes agriculture and natural resource management, youth education, community resource economic and leadership development and strengthening families through education in health, nutrition and family resources management. Programs in Shiprock include a diabetic cooking school and canning classes, and Crownpoint programs include traditional weaving.

Mr. Gomez discussed the CES's Rural Agricultural Improvement and Public Affairs Project. The project's mission is to accelerate extension education and sustainable agriculture research in northern New Mexico through small business development, leadership and organizational development; value-added agriculture; and sustainable agriculture. Mr. Gomez mentioned workshops focused on beef cattle pregnancy testing, beef quality assurance, sheep health and wool marketing, cattle herd health, forage variety demonstrations and production, hoop house construction and production, recordkeeping and one-on-one farm and ranch visits.

In response to a question, Mr. Gomez explained that the CES has not yet hosted an educational program on taxes and explained that it is difficult to find participants due to a hesitance to trust the government. This hesitance creates great potential for negative results, he said. Following a recent agricultural disaster in the Clovis area, farmers who had verifiable records were able to recoup losses from the government, while others did not. Responding to a question, Mr. Gomez said that the U.S. Department of Agriculture's definition of "producer" is one who produces agricultural products that are worth \$1,000 or more a year. He also discussed

the difficulties in getting youth to understand that farming is about deeper cultural philosophies than just growing plants.

Public Comment

Erica Luna, United States Forest Service (USFS), informed the committee that the USFS welcomes any opportunity to appear before the IAC and informed the committee of the USFS's restoration work and its partnerships with different tribes across the state.

Blaine Sanchez, representing the public at large, said that tribal water issues are important and that they deserve more publicity than they receive.

Recess

The committee recessed at 3:55 p.m.

Friday, September 8 — NMSU

Reconvene

Representative Louis reconvened the meeting at 10:07 a.m., inviting committee, staff and audience members to introduce themselves.

Indian Affairs Department (IAD) Report on the State-Tribal Collaboration Act and the Annual Summit

Suzette Shiye, secretary-designate, IAD, gave an overview of the State-Tribal Collaboration Act and the annual summit. The themes chosen for the 2017 summit were water rights, education, economic development and health, with an emphasis on new opportunities for collaboration.

David Mann, general counsel, IAD, discussed the 2017 summit report, including collaboration with cabinet secretaries and tribal leaders with the intention of having all New Mexico tribes participate to achieve greater input in identifying and achieving goals. He said post-summit meetings were scheduled and tribal input was sought on issues, but tribal participation has waned.

Mr. Mann discussed new areas identified for collaboration this fiscal year, including collaboration for successful transportation projects, veterans services, behavioral health services in Indian country and agriculture as a Native American resource. During the summit, cabinet secretaries from various departments gave presentations with tribal leaders and identified ways to collaborate. He said that all 23 nations and pueblos were invited to collaborate with the cabinet secretaries, with a focus on transportation, agriculture and health, and they established goals on summit discussions and how to implement items. He believes that by the next summit, concrete progress will be made.

Secretary-Designate Shije noted that her participation in the most recent summit was minimal because she was not yet secretary, but she said she has noticed that needs are not being met, and she intends to challenge the IAD to assist in any way it can. She told the committee that she is passionate about working for Native Americans and the department she represents.

The committee discussed the Veterans' Services Department's transportation summit, the Pueblo of Santa Clara's recent natural disaster and mobile health outreach and telehealth centers. In response to a question about urging tribal communities to promote agriculture, Secretary-Designate Shije noted that each tribe and pueblo has a unique culture, and she stated that it is not her position to comment on efforts to encourage youth to farm and ranch.

Committee members discussed difficulties that the IAD has had in identifying who should attend the tribal leader summit. A member of the committee explained that according to Navajo Nation law, the Navajo Nation president functions like a chief executive officer to fulfill mandates of the Navajo Nation Council. Explained another way, the person representing the council should be the Navajo Nation speaker if there is to be a true government-to-government relationship. Secretary-Designate Shije thanked the committee for that background and stated that she was unaware of that particular arrangement as she is relatively new to the position. She also discussed that there is skepticism about the role of state government or the IAD to dictate to the Navajo Nation who will attend the summit. Another member of the committee said that it is not the secretary's job to figure out whom to send and that sending a letter to the president should suffice and the Navajo Nation can make that decision internally.

The committee suggested that the IAD do a better job of changing its approach and mindset in working with the numerous independent and unique nations. The committee discussed a need for more cooperation among all entities on a daily basis to better serve the people of New Mexico.

Edward Paul Torres, chair, All Pueblo Council of Governors (APCG), gave an overview of the State-Tribal Collaboration Act, noting that it is a codification of a previous state rule. Mr. Torres discussed the five main components of the act and the current state of the act and made recommendations to engage the legislative leadership by inviting them to:

- attend the summit;
- highlight partnerships between the state and the tribes in economic development, tax agreements and job creation;
- establish a permanent steering committee; and
- ensure that there is ample time for dialogue between tribes and state agencies.

Mr. Torres said that this year's summit missed an opportunity to discuss the budget difficulties for the state and the lack of capital outlay funding. He told the committee that participants feel the summit has transformed from an open conversation into a showcase of what the administration is doing in Indian country.

Committee members discussed the complaints they hear in regard to the summit and the importance of having all parties consult on potential changes to the State-Tribal Collaboration Act. The committee requested that IAC staff work with the APCG chair and the IAD to draft legislation for endorsement at the end of the interim.

Pete Ken Atcitty, chief of staff for Navajo Nation Speaker LoRenzo Bates, read a statement to the committee from Speaker Bates on the Navajo Nation, its government structure, the State-Tribal Collaboration Act, the summit, tribal infrastructure and other issues regarding the Navajo Nation. Mr. Atcitty assured the committee that the day's discussion would be conveyed to the speaker and the appropriate delegates.

Matejka Santillanes, registered lobbyist for the Navajo Nation, told the committee that changes within the Navajo Nation government have provided for substantial improvements to its capital outlay process and that 99 projects were closed last year.

Report on Tribal Infrastructure

J. Michael Chavarria, governor, Pueblo of Santa Clara, highlighted the need for strategies and plans to share resources, especially those related to health care. He then provided an update on the Pueblo of Santa Clara, the new Tribal Infrastructure Fund (TIF) guidelines and legislative impacts to the funds.

In regard to the TIF, he discussed the capital outlay bill that took \$2 million from the TIF to make a payment toward the Abeyta water rights settlement. Governor Chavarria said that the action further diminishes the state's investment in tribal communities that have tremendous needs. He questioned whether redirecting the TIF money was a one-time action or if tribes should expect further attempts to use funds set aside for the TIF for other statewide projects.

Governor Chavarria discussed changes to the TIF guidelines, including updating definitions, eliminating categories, eligibility, terms and conditions and changing the application scoring metric. He said that the Pueblo of Santa Clara finds it very important to address concerns over funds that are meant to assist in meeting tribes' basic needs. He told the committee that the time to process intergovernmental agreements (IGAs) has negatively affected performance. It has taken too long to fully execute the IGAs, which has resulted in tribes needing unnecessary extensions. He requested that the performance period not begin until an IGA is fully executed by both parties. He also expressed discontent with the current process, which requires tribes to use tribal funds and only after that seek reimbursement, noting that it puts a strain on tribal finances.

Raymond J. Concho, Jr., first lieutenant governor, Pueblo of Acoma, told the committee that many state and federal agencies require cost-sharing for crucial projects on sanitation, water and wastewater systems. He requested that funding be restored to previous levels and discussed projects that are construction-ready.

First Lieutenant Governor Concho commented on the State-Tribal Collaboration Act, noting that when tribes meet with federal entities on issues, they use a different format that is more formal. He suggested that the format could and should be replicated for the State-Tribal Collaboration Act summits.

Mr. Atcitty discussed Navajo Nation capital outlay and TIF projects and said that the Navajo Nation's hope is that funding for the TIF will continue at least at the current level, acknowledging the significant impact that has on the Navajo Nation's budget.

The committee discussed a need to look at other ways to obtain funding because projects are much larger than the current capital outlay process can manage. A member expressed agreement that moving money from the TIF is a bad precedent.

First Lieutenant Governor Concho told the committee that a significant amount of money for the Pueblo of Acoma alone is tied up in the TIF process. He also said that partnering to bring resources will yield better economic development.

Lawrence John, TIF coordinator, IAD, informed the committee that he started his job less than one year ago and is familiar with tribal issues and ways of life. He discussed the Tribal Infrastructure Act and efforts to ensure adequate financial resources for infrastructure development.

Mr. Mann said changes to the TIF process are a product of a committee established by the Tribal Infrastructure Board. He discussed changes to the definition of "project", saying that the definition has been broadened to mean any effort toward project completion. Changes to leveraging have also been made less stringent by allowing in-kind support to be considered. There is a 15% cap, or about \$780,000 of TIF money, per project, and no single tribe can get more than 50% of funds for any given fiscal year. He told the committee that changing TIF rules abides by the same rule changing policies.

Mr. Mann said that changes to the TIF scoring system have also been made, noting that critical need is now a more important criterion. Mr. Mann said that the Tribal Infrastructure Board's Project Review Committee seeks a detailed narrative for the problem and how to solve it, leading to fewer arbitrary decisions. The new process also shows failed grant applicants how their applications could improve.

Mr. John discussed the Project Review Committee's emphasis on investing in particular needs. He told the IAC that Indian tribes and nations have made requests for on-time payments. Requesters of top-ranking proposals are invited to make short presentations to the Tribal Infrastructure Board. Based on those, the board determines awards. This year's allocation is \$5.4 million to nine tribes that came before the board. The board may terminate a project if there has not been any activity.

Mr. John discussed TIF successes in the Pueblo of Zuni's new Wellness Center, the pueblo's Teen Health Center and a Taos water and sewer expansion project.

Update on Burrell College of Osteopathic Medicine (BCOM)

Justin McHorse, chief of staff and assistant dean for multicultural inclusion, BCOM, said that BCOM is located in Las Cruces. Mr. McHorse described BCOM as a culturally rich and diverse campus and medical school.

Mr. McHorse said that there are a total of 23 federally recognized Native American nations, pueblos and tribes located in New Mexico and that the Pueblo of Ysleta del Sur is nearby in El Paso, Texas. Students from these communities are granted the opportunity to use the Burrell Expedited Admission Review (BEAR) Pathway, a direct application program to encourage students from the southwestern United States and all Native American, Alaskan native and tribal nations to apply directly to BCOM for admission. Doing so allows them to bypass the American Association of Colleges of Osteopathic Medicine's application process. The BEAR Pathway is reserved for applicants to BCOM. Applicants cannot have open or pending applications at other medical institutions while using the BEAR Pathway.

Mr. McHorse noted the successes of BCOM's enrolled and future students. The 162 members of BCOM's incoming class of 2021 received their traditional white coats and were officially welcomed into the medical profession by Dr. Antonia Novello, M.D., the fourteenth surgeon general of the United States and the first woman and the first Hispanic to hold that position.

BCOM has a new state-of-the-art building incorporating large and small classrooms, a hybrid gross-virtual anatomy laboratory, osteopathic manipulative medicine (OMM) laboratory, medical library and comprehensive simulation center.

In response to a question, Mr. McHorse explained BCOM's focus on behavioral and mental health, with approved residents and clinical faculty, that addresses psychiatry and other behavioral health needs. In response to a question, Mr. McHorse explained the demographics of the school, which has enrolled a few students from Ohkay Owingeh and a student from the Cherokee Nation.

In response to a question, Mr. McHorse explained that BCOM has a clinical education network, including new residency programs in areas such as family medicine, internal medicine, psychiatry, anesthesiology, urology, surgery, emergency medicine, obstetrics and gynecology, OMM and sports medicine, to name but a few. The school has clinical affiliations with large medical centers in Chihuahua, Mexico, for students desiring elective experience south of the border, including clerkships and residency components. He told the committee that the school is a public-private partnership that maximizes the value of both governance models while minimizing potential disadvantages.

In response to a question, Mr. McHorse described the clinic building as having primary care, pain medicine and depression treatments by physicians that students can observe. BCOM also has specialists in emergency, plastic and neurological surgery.

Adjournment

There being no further business, the committee adjourned at 3:00 p.m.

Revised: October 3, 2017

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

October 4, 2017

**Standing Rock Chapter House, Indian Service Route 7021, Crownpoint, NM 87313
Standing Rock**

October 5, 2017

**Ojo Encino Chapter House
Star Lake Road, Ojo Encino, NM 87013
Ojo Encino**

October 6, 2017

**Sandia Resort and Casino
30 Rainbow Road, Albuquerque, NM 87113
Pueblo of Sandia**

**Wednesday, October 4 — Joint Meeting with the Legislative Health and Human Services
Committee**

- 10:00 a.m. **Call to Order**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
—Representative Elizabeth "Liz" Thomson, Member, Legislative Health and
Human Services Committee
- 10:15 a.m. (1) **Welcome and Status Update**
—Johnny Johnson, President, Standing Rock Chapter, Navajo Nation
- 11:15 a.m. (2) **Native American Public Health, Workforce and Community Health**
—Nathania Tsosie, M.C.R.P., Associate Director, Center for Native
American Health, University of New Mexico Health Sciences Center
(UNM HSC)
—Norman Coeeyate, Cultural Engagement Liaison, UNM HSC
- 12:30 p.m. **Lunch (provided)**

- 1:30 p.m. (3) [**Tribally Managed Medicaid Managed Care**](#)
—Mark Freeland, Executive Staff Assistant, Navajo Nation Office of the President and Vice President
—Yvonne Kee-Billison, Executive Staff Assistant, Navajo Nation Office of the President and Vice President
—Juan Massey, Executive Staff Assistant, Navajo Nation Office of the President and Vice President
—Travis Renville, Medicare and Medicaid Managed Care Consultant
- 2:30 p.m. (4) [**Comments on Centennial Care 2.0**](#)
—Erik Lujan, All Pueblo Council of Governors
- 3:30 p.m. (5) [**Public Comment**](#)
- 4:00 p.m. **Recess**

Thursday, October 5 — Ojo Encino Chapter House

- 10:00 a.m. **Reconvene**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (6) [**Welcome and Status Update**](#)
—George Werito, Jr., President, Ojo Encino Chapter
—David Rico, President, Torreon Chapter
—Harry Domingo, Sr., President, Counselor Chapter
- 11:15 a.m. (7) [**Safety Efforts on U.S. 550**](#)
—Armando Armendariz, P.E., Director, Design and Construction Division, Department of Transportation (DOT)
—Rick Padilla, P.E., State Maintenance Engineer, DOT
—Afshin Jian, P.E., State Traffic Engineer, DOT
- 12:30 p.m. **Lunch (Provided)**
- 1:30 p.m. (8) [**Drilling on and Near Sacred Sites**](#)
—Daniel Tso, Community Member
- 2:30 p.m. (9) [**Enforcement of Wage Theft Violations**](#)
—Jason Dean, Director, Labor Relations Division, Workforce Solutions Department
- 3:30 p.m. (10) [**Public Comment**](#)
- 4:00 p.m. **Recess**

Friday, October 6 — Sandia Hotel and Casino

- 10:00 a.m. **Reconvene**
 —Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (11) **Tribal Fuel Taxation 101**
 —Teresa Leger, Attorney, Leger Law & Strategy, LLC
 —Carolyn Abeita, Attorney, VanAmberg, Rogers, Yepa, Abeita & Gomez, LLP; New Mexico Native American Petroleum Coalition
 —Regis Pecos, Senior Policy Analyst for the House Majority Floor Leader
- 12:30 p.m. **Lunch (Provided)**
- 1:15 p.m. (12) **Domestic Violence Against Native American Women**
 —Deleana OtherBull, Executive Director, Coalition to Stop Violence Against Native Women
 —Amber Crotty, Delegate, 23rd Navajo Nation Council
- 2:15 p.m. (13) **Services for Urban Indians**
 —Ron Solimon, Chair, Albuquerque Commission on Indian Affairs
- 3:15 p.m. (14) **Public Comment**
- 3:45 p.m. **Adjourn**

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

**October 4, 2017
Joint Meeting with the Legislative Health and Human Services Committee
Standing Rock Chapter House
Crownpoint**

**October 5, 2017
Ojo Encino Chapter House
Ojo Encino**

**October 6, 2017
Sandia Resort and Casino
Pueblo of Sandia**

The fifth meeting for the 2017 interim of the Indian Affairs Committee (IAC) was called to order on October 4, 2017 at 10:15 a.m. by Senator John Pinto, co-chair, at the Standing Rock Chapter House in Crownpoint.

Present

Rep. Georgene Louis, Co-Chair (10/6)
Sen. John Pinto, Co-Chair
Rep. Sharon Clahchischilliage
Rep. D. Wonda Johnson
Rep. Derrick J. Lente (10/5, 10/6)
Sen. Richard C. Martinez (10/5, 10/6)
Rep. Debbie A. Rodella (10/5, 10/6)
Sen. Nancy Rodriguez
Sen. William E. Sharer
Sen. Benny Shendo, Jr.
Sen. William P. Soules

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros (10/5, 10/6)
Rep. Patricia A. Lundstrom (10/6)
Sen. Cisco McSorley
Rep. Patricia Roybal Caballero (10/6)
Rep. Angelica Rubio
Sen. Clemente Sanchez (10/6)
Rep. Elizabeth "Liz" Thomson (10/4, 10/5)

Absent

Rep. Zachary J. Cook
Sen. Mark Moores
Sen. Cliff R. Pirtle
Rep. Nick L. Salazar
Rep. James E. Smith

Rep. Harry Garcia
Rep. Stephanie Garcia Richard
Sen. Stuart Ingle
Rep. Sarah Maestas Barnes
Sen. George K. Munoz
Rep. Patricio Ruiloba
Rep. Debra M. Sariñana

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

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Diego Jimenez, Research Assistant, LCS
Maria Alaena Romero, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

All handouts and other written testimony are in the meeting file.

Wednesday, October 4 — Joint Meeting with the Legislative Health and Human Services Committee — Crownpoint

Senator Pinto convened the committees at 10:15 a.m. Clinton Jim, community member and rancher, was invited to offer an invocation. Mr. Jim offered a prayer in the Diné language. The committee members and staff introduced themselves. Representative Thomson identified herself as the appointed chair for the Legislative Health and Human Services Committee (LHHS) this day, then turned the chair over to Representative Johnson, whose home chapter is Standing Rock, to conduct the business of the joint meeting.

Welcome and Status Update

Johnny Johnson, president, Standing Rock Chapter, Navajo Nation, greeted the members of both committees and welcomed them to Standing Rock. He provided some personal information about his role in Standing Rock and introduced some key members of his staff. He acknowledged members of the community who were present in the audience and offered a brief history of the establishment of the Standing Rock Chapter and house. President Johnson recognized the legislators and thanked them for their past support, noting that they would be presented with funding requests in the 2018 legislative session. He highlighted some future projects, including the placement of water lines and increased housing. He expressed thanks to Representative Johnson for facilitating the meeting at Standing Rock and recognized Senator Pinto and Senator Shendo.

Senator Pinto introduced himself and his granddaughter, Shannon Pinto. Representative Johnson introduced her mother, Marie A. Johnson, and welcomed her. Representative Johnson continued to introduce key members of the community throughout the day.

Native American Public Health, Workforce and Community Health

Nathania Tsosie, M.C.R.P., associate director, Center for Native American Health, University of New Mexico (UNM) Health Sciences Center (HSC), and Norman Coeeyate, cultural engagement liaison, UNM HSC, were invited to address the committees. Ms. Tsosie thanked the members of the chapter in both English and Navajo. Mr. Coeeyate likewise expressed thanks, especially acknowledging Senator Pinto for his long service to the legislature.

Ms. Tsosie described the mission and vision of the Center for Native American Health and identified key staff members. She highlighted the model for American Indian (AI) student development that is employed at the center. The primary goals are to promote employment and to help prepare Native American communities to accept students back into the community following graduation. Mr. Coeeyate presented demographics regarding AI students currently enrolled at UNM. He noted that there is an increasing trend, particularly among AI women graduating with baccalaureate degrees, with graduation rates exceeding the general population. Ms. Tsosie offered a breakdown of the health care disciplines chosen by the 119 AI students enrolled in 2016-2017, noting that 19 are medical students in the pipeline to become doctors. This year, there are six students in the UNM Combined BA/MD Degree Program who are poised to enter medical school next year. One AI student will graduate this year with a pharmacy degree. The nursing program is the largest program offered through the center and has 40 students pursuing bachelor's degrees and four students pursuing doctoral degrees in nursing.

Mr. Coeeyate described the importance of honoring all of the graduates. He described a special program in place at the undergraduate level that is designed to expose high school students to the potential for a career in medicine and to prepare them for success in college, both socially and academically. A multilevel system of support connects community members with an Indian support center, cultural connectedness, research and mentorships. Various community-based educational initiatives were described. Efforts are made to not only encourage educational pursuits but to help students retain their connections with their home communities and preserve the likelihood that they will return. Attention is paid to health disparities in communities.

Ms. Tsosie spoke about the center's focus on AIs in the areas of physical and behavioral health. Healthy Children, Strong Families is a community-based intervention aimed at improving the health of AI children aged two to five. A second study being conducted is exploring tribal solutions to address adverse childhood experiences (ACEs). This project is looking at the importance of a resilience-based approach to preventing ACEs in tribal communities.

Questions and comments from committee members addressed the following:

- the extent to which communities are prepared to incorporate graduating students back into their communities; some are better prepared than others, but the center is intentionally working with communities in a wide variety of ways;
- the importance of closely following AI students as they transition from very small communities to larger academic settings;
- the percentage of graduating students who serve Native American populations after graduation; about one in three graduating students goes back to the reservation;
- encouragement to expand the summer intern program; the program is part of a larger initiative at the Santa Fe Indian School and is not under the control of the center;
- encouragement to collaborate with community colleges and other UNM branches;

- clarification regarding the graduation rate; AI students face many challenges, such as financial stress and other family and community obligations, but the rate of graduation appears to be higher than the general public;
- whether there is any anticipated impact from the consideration of the federal Patient Protection and Affordable Care Act (PPACA) on the work and programs of the center; the impact would be more upon those Native Americans who now have access to health care services as a result of the PPACA; the center is not directly funded as a result of the PPACA;
- whether AI students who are participating in health care programs in public and charter schools are matriculating at UNM; those data are not tracked;
- whether there is any collaboration with the Burrell College of Osteopathic Medicine; not now, but there is interest;
- recognition of the importance of the UNM Combined BA/MD Degree Program in encouraging participation of minority populations in underserved areas;
- whether there is alignment between the number of graduates in health care programs and the needs of communities; specific data are not available in that area yet; however, tribes and pueblos report needs in all areas;
- clarification regarding a discontinued program at the Shiprock campus of Diné College; it was discontinued due to inadequate bandwidth to support online learning; efforts to upgrade the system were local;
- whether that online program could be instituted; the road map is there; however, a local contact is needed; and
- concern about unmet needs for health care access for Navajo people in Gallup.

Pastor Foerster, Bible Baptist Shepherd Church of Standing Rock, offered a prayer before lunch.

Tribally Managed Medicaid Managed Care

Representative Johnson turned the chairmanship over to Representative Thomson, appointed chair of the LHHS.

Mark Freeland, executive staff assistant, Navajo Nation Office of the President and Vice President, introduced Yvonne Kee-Billison, executive staff assistant, Navajo Nation Office of the President and Vice President, Juan Massey, executive staff assistant, Navajo Nation Office of the President and Vice President, and Travis Renville, Medicare and Medicaid managed care consultant. The panel presented the plan and efforts to establish a tribally managed Medicaid managed care organization (MCO).

Mr. Freeland began by identifying the two components of the project: policy and development. Work on the project began in May. He provided an overview of the characteristics of the Navajo Nation, which has 187,000 members, 47% of whom live in poverty. Chronic liver disease, diabetes, heart disease, cancer and injuries characterize the top five health issues of the Navajo Nation. The work on the project began with the invitation of the Human Services Department (HSD) to address health issues. In June, the HSD held a tribal consultation

to obtain input on Centennial Care 2.0 that included broad representation from the Navajo Nation's health care system. In August, representatives met with Secretary of Human Services Brent Earnest regarding their intention to submit their own application for a Medicaid 1115 waiver to the federal Centers for Medicare and Medicaid Services (CMS).

Ms. Kee-Billison noted that in 2013, the Navajo Nation was authorized to engage in a study, resulting in a Medicaid task force to look at the feasibility of starting its own MCO. Steps to align and structure a system to better serve the health needs was then discussed with three states and the 638 tribes, and many important discussions are occurring regarding the varied health and aging needs among Navajos.

Mr. Massey described his professional background that led him to involvement in this project. Section 17 of the federal Indian Reorganization Act provided a framework for a business model for economic development within the Navajo Nation and is a vehicle that can be used to develop an Indian MCO. A formal charter has been created and signed off on by the president of the Navajo Nation. The charter is currently awaiting authorization by the CMS.

Mr. Renville is serving as a consultant to explore ways to make Medicaid programs work on the Navajo Nation. He has done research on Indian country managed care; previous efforts in other locations failed due to lack of reliable financing mechanisms, critical mass of members and adequate net worth. The 1115 waiver renewal concept paper encouraged a tribal partnership to manage Medicaid. The company is being structured to meet Office of Superintendent of Insurance and CMS requirements. The federal American Recovery and Reinvestment Act of 2009 provides language affirming the right of tribes to establish their own MCOs and limit membership to members of the tribes, which is the goal here in New Mexico. Meetings are continuing with the HSD and Medicaid representatives, with favorable support. A draft document is now going out for comment and will be considered at another tribal consultation.

Committee members had questions and comments covering the following areas:

- ways in which the MCO project potentially impacts other tribes in New Mexico; it will be Navajo specific, but at the request of the HSD, it would be open to other tribes and nations;
- clarification about the upcoming October 20 tribal consultation; it will cover the waiver renewal application that the HSD will be submitting to the CMS;
- clarification regarding the options for individual Native Americans to enroll; this Native American MCO will appear as an option for enrollment for all Native American members;
- ways in which Native Americans will be incentivized to join this MCO; through marketing and value-added benefits that are specifically targeted to Native Americans; additionally, the model will incorporate Navajo and other cultural competencies;

- whether traditional healing methods will be offered in addition to allopathic medicine; yes, that is the intent; one MCO hopes to implement specific metrics to demonstrate the effectiveness of these approaches;
- recognition of the serious challenges in creating a model that will serve the health needs of a very diverse population;
- whether the state will benefit from a model such as this and in what ways; the state and the tribes are working together to improve the health of all nations; communications and relationships are improved; additionally, great economic benefit is anticipated;
- a suggestion that the LHHS write a formal letter of support for the concept to the CMS; there was a request to consider this in November when the request for proposals (RFP) closes;
- recognition of the importance and efficacy of traditional Native American healing methods;
- a request to reconsider the proposal again at a future Indian Affairs Committee meeting when it is possible to be more open about the details of the project;
- clarification regarding when to expect notification from the HSD on approval of the concept; it is hoped that by February 18, 2018, a contract can be signed; the HSD must conduct a readiness review prior to final rollout in January 2019;
- the number or percentage of Native Americans who currently opt out of managed care; about 80,000 of 136,000 currently choose fee-for-service Medicaid;
- the number or percentage of Native Americans who qualify for Medicaid due to the expansion; it is not specifically known, but it is a lot;
- a request for the statistics regarding poverty and prevalent diseases to be provided; Mr. Freeland said that a copy of the response to the HSD's concept paper will be provided;
- how a Native American MCO will be able to serve populations in very rural areas on the reservations; this is a concern that is being addressed; partnerships with UNM and the use of telehealth will help;
- a concern that profits are often generated at the expense of care; and
- clarification regarding the competitive nature of the RFP process.

Comments on Centennial Care 2.0

Erik Lujan, All Pueblo Council of Governors, provided input on the proposed renewal of the Centennial Care waiver. The All Pueblo Council of Governors has positions on individual tribal sovereignty; eligibility; fee-for-service versus managed care; information and data; leveraging of existing resources and relationships; joint ventures, partnerships and contractual agreements; and building a health system and network.

Mr. Lujan noted that a large percentage of Native Americans, mostly in very rural areas, are on Medicaid. As was identified in the previous panel, a great number of enrollees currently choose fee-for-service. He identified the pros and cons of each option. Comments on each of the areas of concern were provided to the HSD during the comment period.

Mr. Lujan offered some feedback on the proposal for a Native American MCO by identifying potential hurdles and benefits of such an approach. He noted that one benefit could be the ability of the state to obtain a 100% federal match on some services provided to Native Americans outside of Indian Health Service (IHS) hospitals as more tribal members elect to enter a managed care environment.

Mr. Lujan concluded with the following key points: 1) tribes should have the individual right to undertake managed care within their own boundaries and on their own terms; 2) the fee-for-service program must be sustained until tribes can demonstrate expertise in managing care in a new framework; 3) change must be navigated and administered in a way that maintains sovereignty; 4) the pueblos will continue to support the PPACA, the federal Indian Healthcare Improvement Act and Medicaid expansion; and 5) pueblos will continue to oppose the elimination of retroactive eligibility, dental services as a buy-in and transitional Medicaid.

Questions and comments were offered regarding clarification of the location of IHS hospitals; this is ever changing; many IHS hospitals no longer provide inpatient services.

Public Comment

Felda Yazzi, a lifelong resident of Standing Rock, expressed her great appreciation to Representative Johnson for bringing the committees to this community. She strongly advocated for continued support for early childhood programs.

President Johnson reiterated that he will be bringing capital outlay requests to the legislature for the 2019 fiscal year (FY). He also spoke favorably about Head Start programs.

Recess

There being no further business before the committees, the meeting recessed at 3:35 p.m.

Thursday, October 5 — Ojo Encino

The IAC reconvened as a subcommittee at 10:25 a.m., with Senator Shendo acting as co-chair. Committee members and staff introduced themselves.

Welcome and Status Update

George Werito, Jr., president, Ojo Encino Chapter, explained that the roads from U.S. 550 to Ojo Encino are terrible. Although the Ojo Encino, Torreon and Counselor chapters (Tri-Chapters) have joined forces to overcome challenges they face, the roads remain a singular obstacle to the well-being of the communities.

David Rico, president, Torreon Chapter, thanked the legislators and staff for coming and discussed issues that Torreon faces.

President Werito said that the distance between Ojo Encino and the Navajo Nation central government in Window Rock, Arizona, makes him feel that his community is forgotten.

Samuel Sage, community services coordinator, Counselor Chapter, said that Harry Domingo, Sr., the president of the Counselor Chapter, sent his regards but was unable to be present at the meeting. On behalf of President Domingo, Mr. Sage said that chapter concerns include oil and gas development in the area and the involvement, and lack thereof, by the federal government; the overuse of roads that do not get regular upkeep; the air quality from the dust created by the many trucks employed by the oil and gas industry; and the hydrogen phosphate leaks in the Counselor and Lybrook areas.

In response to a question, President Werito explained that the Ojo Encino Chapter straddles two counties, which makes it difficult to stay high on the priority list of either county. In fact, he said, the last time any significant state funds were directed to the area was after then-Governor Bill Richardson got stuck in a muddy arroyo when he visited Ojo Encino. According to President Werito, the Bureau of Indian Affairs (BIA) also does not consider the roads in the vicinity a priority.

The use of millings was proposed as an alternate means of road upkeep. President Rico said that using millings to fill in the many potholes is something the communities are considering. He said that it is not acceptable that oil and gas companies are making money in the area while making the roads unusable for others, and they are not being required to invest any money in return. Mr. Sage said that it is not just the roads, but also the noise and odor, that are having a real impact on locals.

President Werito introduced Alana McGrattan, Tribal Libraries Program coordinator, New Mexico State Library, who explained that the program is funded each year from a general obligation bond. She said that the Torreon Community Library is seeking funding to satisfy the 10% needed to match federal funds to establish the fiber connection necessary to offer interconnectivity at the library.

Safety Efforts on U.S. 550

Armando Armendariz, P.E., director, Design and Construction Division, Department of Transportation (DOT), introduced himself and Rick Padilla, P.E., state maintenance engineer, DOT. Mr. Padilla said that there has been work done on the U.S. 550 guardrails, and from FY 2014 through FY 2017, the road has been rated as being in good shape. When U.S. 550 was built, the state purchased a warranty that covers road improvements for 20 years or for a certain number of passenger miles. The road is 15 years old, and the warranty will probably hit the passenger miles number in about five years. Obviously, Mr. Armendariz said, there has been more road usage in the northern part of U.S. 550, where oil and gas exploration is happening.

Compared to N.M. 44, which was the two-lane highway U.S. 550 replaced, the current condition of U.S. 550 is a major improvement. It is now a four-lane road, and there are shoulder areas, guardrails, dedicated passing lanes and better siding and striping of the road. The new highway has both increased the speed of travel and decreased the number of fatalities and injuries in crashes. The DOT has provided U.S. 550 with more money in repairs and

construction than any other road in the state. Mr. Armendariz explained that U.S. 550 was designed to ensure that cultural and natural resources were not harmed in its construction.

In reference to the millings, Mr. Armendariz explained that the millings are available, but any entity using them is responsible for their retrieval, and hauling them would require a significant investment.

Drilling on and near Sacred Sites

Daniel Tso, a community member, said that because of the poor state of the roads in the area, there have been instances where medical help could not be reached within an appropriate time frame. He explained that Ojo Encino and the surrounding chapters have notified the BIA and the Navajo Nation Division of Transportation, which have acknowledged that the road is dangerous but have only responded by telling the chapters that there is no funding to repair the roads. Mr. Tso said that area schools have already had to call two "snow days" this year when school buses were unable to travel the roads because mud made them impassable.

Regarding drilling, Mr. Tso explained that he and some other community members from the Tri-Chapters created the Concerned Citizens Committee. This committee works to prevent the destruction of sacred sites by the actions of the oil and gas industry. He said that the U.S. Bureau of Land Management (BLM) offered up to 5,000 acres for lease, but due to the support from surrounding tribes and concerned citizens, the lease was delayed four times and only 843 acres went up for auction. However, much of the land leases happened without the communities' knowledge.

Mr. Tso introduced Teresa Seamster, chair, Northern New Mexico Group of the Rio Grande Chapter of the Sierra Club. Ms. Seamster said that some oil wells are less than one mile from schools or people's homes. There are 587,000 active wells, some fewer than 50 feet from where children live and go to school. She said that as many as 16,000 people have developed difficulty breathing, dizziness, chest pain and headaches, and she said that the region is now permeated by a notable smell of gases.

Enforcement of Wage Theft Violations

Jason Dean, director, Labor Relations Division, Workforce Solutions Department (WSD), provided the committee with copies of the Labor Relations Division's annual report for FY 2017. He covered the information in the report and explained that for the department to get involved in a wage claim dispute, an employee needs to file a work-theft complaint stating that the employee did not get paid for the hours the employee worked.

The other two issues about which the Labor Relations Division has heard the most complaints are the cap of \$10,000 for wage-theft claims and the document retention time requirements. In both cases, Mr. Dean said, the WSD is reviewing its own rules and is committed to carrying out its statutory duties.

Regarding the \$10,000 cap, Mr. Dean said that the WSD does not intervene when a wage-theft claim exceeds \$10,000.

Regarding document retention, the law requires businesses to keep one year of records while the statute of limitations for wage-theft claims is three years. In many instances, by the time a wage-theft claim is filed, many of the records have been lawfully destroyed. Unless the document retention law is extended to three years in statute, this problem will persist.

Discussing the wage claim process with the committee, Mr. Dean said that the WSD makes a decision on a claim, and a judge either upholds or denies the ruling. During the process, there is an ongoing opportunity for the claimant and the defendant to settle.

Minutes

Upon a motion properly made and seconded, and without opposition, the IAC approved the minutes of its previous meeting.

Public Comment

Mario Atencio from Torreon discussed the systemic problems that local students face in the education system.

Sherry Begaye, secretary/treasurer, Torreon Chapter, raised a concern regarding chronic health problems of community members, primarily children who are born with birth defects. She said that there needs to be a balance between industry and environmental protection.

Recess

There being no further business for the day, the meeting recessed at 3:30 p.m.

Friday, October 6 — Pueblo of Sandia

The IAC reconvened at 10:15 a.m. at the Sandia Resort and Casino, with Representative Lente acting as co-chair.

Welcome and Status Update

Lawrence Gutierrez, lieutenant governor, Pueblo of Sandia, welcomed the committee and explained how the casino benefits the tribe and surrounding communities, as well as Albuquerque. Sandia Resort and Casino employs 1,875 residents of New Mexico, in addition to 316 people who work for the Pueblo of Sandia government. A significant number of the employees are Native American.

Lieutenant Governor Gutierrez said that the Pueblo of Sandia uses gaming and gas station revenue in a variety of ways to improve the lives of tribal members. Educational opportunities and health care are two major recipients of funding.

A discussion ensued about budget cuts and the funding that would be allocated to New Mexico tribes from the federal and state governments. Committee staff was tasked with inquiring about federal funding to New Mexico's nations, tribes and pueblos.

Tribal Fuel Taxation 101

Teresa Leger, attorney, Leger Law & Strategy, LLC, provided an overview of the tribal fuel tax. Ms. Leger discussed the legal history and policy benefits of how New Mexico's fuel tax system operates. Recently proposed bills aimed to change how the system operates and would have disrupted a well-oiled machine. In fact, she said, many tribal-state tax cases that have set the bar for laws nationally came out of New Mexico courts.

Ms. Leger said that current tribal gas tax deductions are consistent with the state's attempt to avoid dual taxation and that the state and tribes agree in principle that tax revenues should be used to provide essential government services. Consistent with this principle, the state benefits from having strong tribal economies and strong tribal governments with the resources to provide essential services.

Carolyn Abeita, attorney, VanAmberg, Rogers, Yepa, Abeita & Gomez, LLP; New Mexico Native American Petroleum Coalition, said that tribal and state taxes should support economic activity, provide certainty to support long-term investments, not overburden industry with business expectations and be consistent with taxes across jurisdictional lines. Ms. Abeita explained the differences between how the current tax structure works and what was proposed regarding taxation of gasoline and diesel and what is meant by "tax at the rack".

Regis Pecos, senior policy analyst for the house majority floor leader, addressed the negative impact that tribes would face if the deductions were removed from law. He highlighted the importance of having the legislature understand the broad tax policy supporting tribal distributors' gas tax deductions.

Committee members and the panel of presenters discussed how fuel prices at gas stations on and off tribal lands are determined by the market and how they affect one another.

Domestic Violence Against Native American Women

Deleana OtherBull, executive director, Coalition to Stop Violence Against Native Women (CSVANW), and Amber Crotty, delegate, 23rd Navajo Nation Council, provided the committee with the 2017 tribal leader brief from the CSVANW. The mission of the coalition is to stop violence against Native American women and children by advocating for social change. The CSVANW works with all of New Mexico's Native American nations, tribes and pueblos and focuses on training, technical assistance, policy advocacy and support.

In response to a question from the committee, Ms. OtherBull addressed the Home for Women and Children in Shiprock, which closed because of some tax problems. However, she said, there is a new shelter going up in the same location.

Upon a motion properly made and seconded, and without opposition, the IAC requested that staff draft a letter on behalf of the committee to members of New Mexico's congressional delegation to support initiatives that work to prevent violence against Native American women and to reauthorize funding for the federal Violence Against Women Act (VAWA) of 1994 and the VAWA of 2000.

Services for Urban Indians

Ron Solimon, chair, Albuquerque Commission on Indian Affairs, updated the committee on the work of the commission. In addition to Mr. Solimon, commissioners include William F. Riding, homeless outreach coordinator, First Nations Community HealthSource; Laurie Weahkee, executive director, Native American Voters Alliance; Michael Canfield, president and chief executive officer, Indian Pueblo Cultural Center; and Dr. Lloyd Lee, associate professor of Native American studies, UNM.

The commission promotes the health, safety and general welfare of Native Americans living in Albuquerque and serves as their advocate. The commission looks at matters of employment, education, economy, health, environment, government and access to services for Native Americans.

The Albuquerque Commission on Indian Affairs is nearing completion of a report that is being compiled to better understand the current resources available to Native Americans living in the Albuquerque area. The hope is that the report will spur the city's various departments to start collecting data on how many urban Indians are using their services and how often.

The commission provided its initial findings to the committee and is hopeful that the data will help to identify successful programs and the challenges that persist.

The IAC thanked the commission for its work and noted that it is doing important, and often neglected, work.

Public Comment

Anthony Ortiz, governor, Pueblo of San Felipe, discussed a proposal by the New Mexico Museum of Natural History and Science and UNM to excavate paleontological resources adjacent to the Pueblo of San Felipe and the Pueblo of Santo Domingo on ancestral land now held by the BLM, known as the Espinosa Ridge (formerly Ball Ranch), which is an "area of critical environmental concern", or an "ACEC".

The excavation was long held up by a stay by the courts, but now that the case is resolved, excavations are imminent. Due to how soon the excavations are scheduled to begin, Governor Ortiz urged committee members to write to Secretary of Cultural Affairs Veronica Gonzales, under whose auspices the New Mexico Museum of Natural History and Science operates, to prevent any disruptions on this land, which is of great importance to the Pueblo of San Felipe. In response, some committee members instructed staff to prepare and send those letters.

Adjournment

There being no further business before the committee, the IAC meeting was adjourned at 3:35 p.m.

Revised: November 27, 2017

**TENTATIVE AGENDA
for the
SIXTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**November 27, 2017
Pueblo of San Ildefonso
Visitors Center
74 Povi Kaa Dr., San Ildefonso Pueblo, NM 87506**

**November 28, 2017
Ohkay Owingeh
Ohkay Conference Center
68 NM-291, Ohkay Owingeh, NM 87566**

**November 29, 2017
State Capitol, Room 322
Santa Fe**

Monday, November 27 — Visitors Center, Pueblo of San Ildefonso

- 10:00 a.m. **Call to Order**
 —Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (1) [Welcome and Status Update](#)
 —James R. Mountain, Governor, Pueblo of San Ildefonso
- 11:15 a.m. (2) [REDI Net and the Rural Broadband Special Audit](#)
 —Kevin Sourisseau, Director of Special Investigations, Office of the
 State Auditor
 —Audrey Jaramillo, Jaramillo Accounting Group, LLC
- 12:15 p.m. **Lunch (provided)**
- 1:30 p.m. (3) [Standards for Certifying Families and Homes for Foster Care and the
Federal Indian Child Welfare Act of 1978](#)
 —Cynthia Chavers, L.M.S.W., Chief, Federal Reporting Bureau
 Children, Youth and Families Department (CYFD)
 —Bernie Teba, Native American Liaison, CYFD
- 3:30 p.m. **Public Comment**
- 4:00 p.m. **Recess**

Tuesday, November 28 — Ohkay Conference Center, Ohkay Owingeh

- 10:00 a.m. **Reconvene**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (4) **Welcome and Status Update**
—Peter Garcia, Jr., Governor, Ohkay Owingeh
- 11:15 a.m. (5) **Tribal Jurisdiction and Cross-Deputization of Law Enforcement**
—William McClure, Special Agent in Charge, Office of Justice Services (OJS), Bureau of Indian Affairs (BIA)
—Louis Poitra, Assistant Special Agent in Charge, OJS, BIA
- 12:30 p.m. **Lunch (provided)**
- 1:30 p.m. (6) **Indian Water Settlements**
—Tom Blaine, P.E., State Engineer
—John Longworth, P.E., Acting Director, Interstate Stream Commission
—Charlie Dorame, Governmental Affairs Liaison, Pueblo of Tesuque
- 3:30 p.m. **Public Comment**
- 4:00 p.m. **Recess**

Wednesday, November 29 — State Capitol, Room 322

- 10:00 a.m. **Reconvene**
—Senator John Pinto, Co-Chair, Indian Affairs Committee
- 10:15 a.m. (7) **Update on the Small Lending Industry and Preparation for a Statewide Interest Rate Cap**
—Christopher Moya, Acting Director, Financial Institutions Division (FID), Regulation and Licensing Department (RLD)
—Kevin A. Graham, Legal Counsel, FID, RLD
—David J. Mora, Consumer Industry Manager, FID, RLD
—Ona Porter, President and Chief Executive Officer, Prosperity Works; Co-Chair, New Mexico Fair Lending Coalition
—Steve Fischmann, Co-Chair, New Mexico Fair Lending Coalition
- 11:15 a.m. (8) **Update on Indian Gaming**
—Representative, Gaming Control Board (Invited)
—Colleen Garcia, Chair, New Mexico Association of Indian Gaming Commissions

- 12:30 p.m. **Lunch (provided)**
- 1:30 p.m. (9) **[Introduction to the Native American Voting Task Force \(NAVTF\)](#)**
 —Representatives, NAVTF
- 2:00 p.m. (10) **[Endorsement of Legislation](#)**
 —Peter Kovnat, Staff Attorney, Legislative Council Service
- 3:30 p.m. **Public Comment**
- 4:00 p.m. **Adjourn**

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

**November 27, 2017
Visitors Center
Pueblo of San Ildefonso**

**November 28, 2017
Ohkay Owingeh Conference Center
Ohkay Owingeh**

**November 29, 2017
State Capitol, Room 322
Santa Fe**

The sixth meeting of the Indian Affairs Committee (IAC) was called to order as a subcommittee by Senator John Pinto, co-chair, on November 27, 2017 at 10:14 a.m. at the Visitors Center at the Pueblo of San Ildefonso.

Present

Rep. Georgene Louis, Co-Chair
Sen. John Pinto, Co-Chair
Rep. Sharon Clahchischilliage
Rep. D. Wonda Johnson (11/28, 11/29)
Rep. Derrick J. Lente
Sen. Richard C. Martinez
Sen. Mark Moores (11/27)
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez (11/28, 11/29)
Rep. Nick L. Salazar
Sen. William E. Sharer
Sen. Benny Shendo, Jr. (11/27, 11/29)
Rep. James E. Smith (11/29)

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Harry Garcia (11/28)
Rep. Patricia A. Lundstrom (11/29)
Rep. Sarah Maestas Barnes (11/28, 11/29)
Sen. Cisco McSorley
Rep. Patricia Roybal Caballero (11/28, 11/29)
Rep. Elizabeth "Liz" Thomson (11/27, 11/28)

Absent

Rep. Zachary J. Cook
Sen. Cliff R. Pirtle
Sen. William P. Soules

Rep. Stephanie Garcia Richard
Sen. Stuart Ingle
Sen. George K. Munoz
Rep. Angelica Rubio
Rep. Patricio Ruiloba
Sen. Clemente Sanchez
Rep. Debra M. Sariñana

Guest Legislator

Rep. Alonzo Baldonado (11/27)

(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

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)

Diego Jimenez, Research Assistant, LCS

Maria Alaena Romero, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

All handouts and other written testimony are in the meeting file.

Monday, November 27 — Pueblo of San Ildefonso**REDI Net and the Rural Broadband Special Audit**

Gabriel Montoya, chair, REDI Net, told the committee that he was appointed to the REDI Net board of directors by the Pueblo of Pojoaque Tribal Council, of which he is also a member. Mr. Montoya said that the audit of REDI Net was initiated following some financial concerns that were raised when the project was taken over from the exclusive control of the North Central New Mexico Economic Development District (NCNMEDD).

In response to a question from the committee, Mr. Montoya explained that REDI Net is governed by a joint powers agreement between Rio Arriba County, the City of Espanola and Los Alamos County; Ohkay Owingeh and the Pueblos of Santa Clara and Pojoaque; and the NCNMEDD. The organization is strategically set up to allow small businesses to buy broadband below market price. REDI Net is working with larger telecommunications companies to provide the service.

Mr. Montoya then discussed REDI Net's funding sources. He said initial funding for the project was received from federal grants issued during the Obama Administration. The audits performed while the project was under previous management did not meet the standards necessary to comply with auditing requirements.

Margaret Campos, fiscal agent, REDI Net, said that the \$14 million project did succeed in installing 140 miles of fiber wiring and is producing revenue. She said services have been operational since 2012. She told the committee that the joint powers agreement was signed in 2011 and established a quasi-governmental organization.

In response to a question, Ms. Campos told the committee that 77 of REDI Net's 80 customers are anchor institutions, such as banks, clinics and hospitals. The remaining three customers are retail internet service providers. She said that internet service is being provided to the Pueblo of Pojoaque, and service negotiations are under way to provide service to the Pueblo of Tesuque. Mr. Montoya said that Ohkay Owingeh has eight facilities connected to its fiber network, including a library, a community center and police department facilities. Ms. Campos explained that any internet service provider can come to REDI Net to start a business. She said the company developed different pricing rates for wholesale and retail service. She said it has a large demand for trained workers for maintenance and to handle outages. Currently, REDI Net has to import workers from Albuquerque for those services.

Mr. Montoya told the committee that REDI Net has seen a lot of hesitance from retail providers. Ms. Campos explained that one of the services it provides is non-internet-based networking that allows for intra-organization communication at a fraction of the cost of internet service. She said that by using one of these networks, a hospital could securely transfer patient records to clinics outside of the hospital. She told the committee that every dollar REDI Net earns is reinvested to develop infrastructure.

In response to a question, Mr. Montoya said that many entities have fiber in their buildings but have not been utilizing it. He said that the Espanola Public School District has fiber wiring in all 13 of its schools, but the district has not used the services. He said REDI Net's client base has been growing by approximately 20 clients per year.

Kevin Sourisseau, director of special investigations, Office of the State Auditor (OSA), told the committee that an audit of the NCNMEDD is being performed, and he discussed the time line of events regarding the audit. He said that for a fiscal agent to take over and manage financial affairs, the fiscal agent must undergo an inspection similar to one performed prior to a person buying a home. Mr. Sourisseau told the committee that Rio Arriba County began to raise questions in late 2015, and in 2016, the OSA designated the NCNMEDD for a special audit.

Mr. Sourisseau discussed the scope of work in the audit and the significance of identifying REDI Net's assets. He told the committee that Rio Arriba County has prioritized obtaining a closeout balance. He discussed challenges to the audit and the focus on record retention and organization. Mr. Sourisseau said that the OSA is hopeful that the REDI Net audit will be completed by the end of December 2017. In response to a question, Mr. Sourisseau explained that, by law, most details of the audit are confidential until the audit is released.

Audrey Jaramillo, Jaramillo Accounting Group, told the committee that the initial federal grant for the audit program was given to the NCNMEDD, which was supposed to have a fiscal agent for the grant and an external auditor. Mr. Sourisseau said the OSA was asked in 2015 whether or not an audit was required under a joint powers agreement. He said the OSA's interpretation was that REDI Net should have an annual audit and that the OSA is now working to identify all of the needs for the audit. He said regular financial audits have a different scope than the special audit, which is a much more thorough report.

The committee discussed statutory fixes and other potential remedies. On a motion properly made and seconded, and with no opposition, the committee directed staff to draft a letter to the NCNMEDD to encourage it to provide documentation, or acknowledge that the documentation does not exist, so it can move forward with the audit.

In response to a question, Ms. Jaramillo told the committee that her firm regularly sees failures to maintain records and destruction of records shortly before an audit, with no repercussions. She recommended that the legislature create more accountability for recordkeeping.

Minutes

On a motion properly made and seconded, and with no opposition, the minutes from the fifth meeting of the IAC were approved.

Standards for Certifying Families and Homes for Foster Care and the Federal Indian Child Welfare Act of 1978 (ICWA)

Cynthia Chavers, chief, Federal Reporting Bureau, Children, Youth and Families Department (CYFD), discussed her role as bureau chief and as the Native American liaison in ensuring that protective services comply with the ICWA. She discussed the history of the ICWA, noting that it was enacted in response to the high number of Indian children being removed from their homes by public and private institutions. She said that at the time the ICWA was enacted, 25% to 35% of all Native American children were removed from their homes, and 85% of removed children were placed with non-relatives or with strangers in foster care.

Ms. Chavers discussed the devastating effect that removing children had on Indian families and said that the ICWA was created to protect children and the independence of Native American communities. She said that the ICWA was enacted in 1978 and was later codified in New Mexico through the Children's Code. Ms. Chavers said that the ICWA was updated in 2016 and that the CYFD is required to notify a child's tribe when a Native American child is placed in foster care. She said that the CYFD is also required to notify the child's tribe of custody proceedings. Priority placement in ICWA cases is first with a relative, whether or not the relative is Native American. The updated law enhances the burden of proof to show that active efforts, rather than the previously required reasonable efforts, are made to place a child in appropriate foster care. She said that the law sets a higher standard for Indian children because Indian families face socioeconomic and geographic barriers to services. The law requires going beyond normal standards for non-Native American children.

Ms. Chavers discussed efforts to meet ICWA requirements in New Mexico. She said that ICWA compliance is executed through CYFD policies and procedures as required by the Children's Code. She informed the committee that the CYFD does not investigate ICWA cases on tribal land unless invited. Each tribe or pueblo is responsible for investigating abuse or neglect within its geographical boundaries, but tribes may request help from the state. In cases where families are regularly both on and off the reservation, jurisdiction lies where the family resides or tends to reside. She told the committee that notifications are made by certified mail to tribes and parents during the investigative part of a case before putting a child into foster care.

She said that involving tribes earlier in the process allows for tribes to provide resources or to keep children in their communities. Ms. Chavers told the committee that joint powers agreements exist to share responsibility between some tribes and the state.

Ms. Chavers said that at the time of this meeting, there were 2,706 children in foster care in New Mexico. About 13% of children in foster care are Native American, of whom about 30% will be placed with relatives. Ms. Chavers said the percentage of Native American children in foster care is higher than the percentage of Native Americans in the general population. She discussed federal status indicators, noting that in New Mexico, 15.4% of children experience abuse. The national rate is 9%.

Ms. Chavers said that the goal of the CYFD is to have children in foster care removed from the program within 12 months. A secondary goal is to have 45% of children in foster care reunified with their families or adopted by the end of the 12-month period. She commended the Pueblo of Acoma for its efforts to remove Acoma children from foster care.

Ms. Chavers told the committee that tribal or CYFD-ICWA caseworkers attend meetings to ensure that cultural needs can be met while a child is in foster care. She said that Native American families struggle more with socioeconomic and other stressors. This must be addressed before a home can be considered safe for placement.

In response to a question, Ms. Chavers said that under the ICWA, the CYFD must ensure that an Indian child is placed with family members, with the following order of preference:

- a member of the extended family;
- a licensed and approved family that is specified by the tribe; or
- an approved or licensed foster home.

Ms. Chavers discussed the intensive training, background checks and studies that are performed by a licensed social worker on individuals over age 18 in a home. She said that if the child has been placed on a reservation, the CYFD does not perform those studies and, instead, will ask a tribal representative to do so. Ms. Chavers stressed that she and all employees of the CYFD put forth their best efforts to preserve family unity.

The ICWA becomes effective when a state court has custody of the case. The law is designed to recognize a tribe's independent connection to a child. This connection gives tribes legal authority in court to transfer a case or determine placement. Most tribes in New Mexico have a federal Bureau of Indian Affairs (BIA) representative who provides specific guidance on ICWA issues.

Ms. Chavers said that there are only 16 licensed Native American foster homes in New Mexico, but the CYFD is working with tribes on a recruitment plan.

Recess

The meeting recessed at 3:30 p.m.

Tuesday, November 28 — Ohkay Owingeh

The meeting was reconvened by Representative Louis. The pledge of allegiance and presentation of colors were performed by members of Ohkay Owingeh, and an invocation was provided in English and Tewa by Ohkay Owingeh Councilman Joe Garcia.

Welcome and Status Update

The committee members introduced themselves. Peter Garcia, governor, Ohkay Owingeh, read prepared remarks and introduced the Ohkay Owingeh Tribal Council. He said the pueblo is focused on serving its community and not exclusively tribal members. He said the pueblo and associated entities employ 1,200 people in and out of the state. He discussed the tribe's gross receipts tax contributions and revenue-sharing from the casino.

Matt Martinez, lieutenant governor, Ohkay Owingeh, said the tribe is one of five in New Mexico that is self-governed, meaning that the tribal government, rather than the BIA, provides services to its people. He said self-governance allows the tribe to manage its own transportation, jurisdiction, law enforcement and well-being. He recognized the importance of partnering with other governmental entities when possible and commended the IAC for its work advocating on behalf of Native American issues.

Lieutenant Governor Martinez discussed employment and economic development, noting that the casino is just one piece of the puzzle. He said the casino provides 24% of revenue for the tribe, and the rest is provided by convenience stores and contracting services. He said the tribe intends to diversify its economic profile to include technology, energy development and manufacturing.

The committee discussed intergovernmental collaboration and mutual respect.

Tribal Jurisdiction and Cross-Deputization of Law Enforcement

William McClure, special agent in charge, Office of Justice Services (OJS), BIA, told the committee that the duties for his position include oversight of BIA law enforcement programs in the district, which includes New Mexico.

Mr. McClure discussed Indian country jurisdiction and the commissioning process. Jurisdiction is determined by where a crime occurs, who has committed the crime and who the victim or victims are. The summary of federal, state and tribal jurisdiction for crimes occurring in Indian country is available on the IAC handouts web page. He said he uses "Indian" and "non-Indian" because they are the words used in federal law.

Mr. McClure discussed commissioning officers to provide enforcement in Indian communities. Providing enforcement in Indian communities requires special law enforcement commissioning from the BIA. Once officers receive the proper commission, they have the ability to enforce federal law within the jurisdiction for which they are commissioned. However, that commission does not grant authority to enforce tribal law, which could require commissioning as an officer by a tribe with jurisdiction.

Mr. McClure next discussed special law enforcement commissions (SLEC); SLEC authority, policy and procedures; and agency requirements. SLEC officers must undergo a background investigation and have no felony convictions. A SLEC must be at least 21 years of age, a United States citizen and certified as a bona fide full-time police officer, and the officer must sign a code of ethics.

To utilize SLEC officers, a tribe must submit a resolution to the BIA, and a memorandum of understanding must be drafted between the two entities. The BIA works with police departments to be aware of needs and training. Entire police departments apply for commissioning, which is then granted to individual officers, and agreements are established between the officer and individual tribes.

Mr. McClure said that the OJS works extensively with the New Mexico State Police (NMSP) Division of the Department of Public Safety, which has 200 officers working with tribes to enforce federal law. He said his agency has been working with the BIA and tribal police to have officers commissioned by the state police program. He noted that it is a hindrance to federal law enforcement agencies to have a requirement for federal and tribal officers to receive state commissioning. In response to a question, Mr. McClure said there are approximately 350 cross-deputized officers in New Mexico.

Mr. McClure said he has met with NMSP Chief Pete Kassetas to discuss waiving some duplicate training requirements, but the NMSP is unwilling to remove those requirements. He also said that state law does not recognize tribal police as state law enforcement officers.

When asked about the federal budget, Mr. McClure said that the BIA is currently funded through a continuing resolution. He said he has not received official word regarding the upcoming year's budget. He did say, however, that the OJS is expected to be fully staffed by January 1, 2018.

Regarding per capita crime rates, Mr. McClure said that while rates are higher in Indian country than in other parts of New Mexico, the higher rates are on par with other Indian areas in other states.

In response to a question, Mr. McClure explained that if a noncommissioned officer is in hot pursuit, the officer is allowed to enter reservation lands and apprehend the target. In response to a question, he explained that if a stop is made and improper jurisdiction is realized, the officer will contact the proper authorities to conduct an arrest.

The committee recommended that Mr. McClure work with legislative staff to find legislative resolutions to commissioning hurdles.

Indian Water Settlements

Tom Blaine, state engineer; Arianne Singer, deputy general counsel, Office of the State Engineer (OSE); John Longworth, acting director, Interstate Stream Commission (ISC); and

Charles Dorame, governmental affairs liaison, Pueblo of Tesuque, introduced themselves to the committee.

Mr. Longworth read from prepared remarks that are available on the IAC handouts page. He discussed the Navajo Nation water rights settlement agreement; the Aamodt settlement with the Pueblos of Nambe, Tesuque, Pojoaque and San Ildefonso; and the Abeyta settlement agreement with the Pueblo of Taos.

Mr. Longworth said that the state has met its anticipated cost share for the Navajo Nation water rights settlement agreement. He said that Congress has appropriated direct funding for the Aamodt settlement, totaling approximately \$153.4 million, and has a 2018 presidential budget recommendation of \$8 million. He said that the State of New Mexico has contributed \$15 million but still has a future obligation estimated to be \$61.5 million. He said that the state appropriated \$12.7 million in 2015 to the Abeyta settlement agreement. Mr. Longworth said that this appropriation, combined with \$35,000 allocated to the settlement for the ISC operating budget, completes the state's funding obligations under the Abeyta settlement agreement.

Mr. Blaine discussed funding recommendations. The OSE requested funding in the fiscal year (FY) 2019 infrastructure capital improvement plan in the amount of \$18 million per year for the next five fiscal years to meet the state's cost-share obligation for the Aamodt and Navajo settlement agreements. According to the Aamodt settlement, the state was required to make a payment in the amount of \$9 million and will need to pay an additional \$9 million by the end of spring 2018. Mr. Blaine said it is critical that the legislature appropriate, at a minimum, \$18 million in FY 2019.

In response to a question, Mr. Longworth said that the only outstanding cost agreement is the Aamodt settlement, for which the state's liability is \$61.5 million. Mr. Longworth confirmed that Santa Fe County is liable for \$27.4 million, but he is not aware of the status of that funding. Ms. Singer explained that Santa Fe County has credits from the federal government from a water rights purchase, and she believes that the county has contributed about \$5 million in credits. Any other liability for Santa Fe County would not fall on the state.

Mr. Longworth explained the urgency of providing funding. He said that since the state failed to provide its October 2017 funding obligation, those and future obligations need to be met. Funding obligations will continue to be indexed until paid. Mr. Longworth explained that construction stipulated in the Aamodt settlement will not start until funds are appropriated, but construction is scheduled to start in April or May 2018.

In response to a question, Mr. Blaine said the total value for construction is \$212.4 million, giving a significant return on investment of state dollars. Mr. Longworth added that the federal government has already supplied \$153.4 million for the Aamodt settlement, in what is expected to be a \$1.45 billion project.

Mr. Blaine explained that the OSE is not requesting funding from any particular fund and, instead, is making its needs known so that the legislature can determine the appropriate funding

sources. Mr. Blaine explained that the OSE and ISC agree that seeking funding for Indian water rights settlements is a significant part of their respective agencies' requirements. The committee discussed annual changes in funding priorities, postponement of obligations, fund indexing and budget request strategies. A member of the committee discussed Indian contributions to the state's finances, noting that gaming tribes paid \$15 million in the third quarter of FY 2017.

On a motion properly made and seconded, and with no opposition, the committee requested staff to draft a letter to Governor Susana Martinez concerning Indian water rights funding obligations.

Mr. Dorame read prepared remarks discussing the needs and contributions of the Pueblo of Tesuque and other Indian nations regarding Indian water rights settlements.

Public Comment

Gil Vigil, former governor and lifetime council member of Ohkay Owingeh, approached the committee to discuss the ICWA. Mr. Vigil discussed challenges to the ICWA in courts. He told the committee that the Eight Northern Indian Pueblos Council, Inc., works closely with the CYFD to conduct peacekeeper and domestic violence programs. Both programs have staff certified by the CYFD working at their facilities.

Recess

The meeting recessed at 3:30 p.m.

Wednesday, November 29 — State Capitol, Room 322

The meeting was reconvened at 10:12 a.m. by Representative Louis. Upon request by a committee member, the committee took a moment of silence to honor the passing of the father of former Representative James Roger Madalena.

Update on the Small Lending Industry and Preparation for a Statewide Interest Rate Cap

Christopher Moya, acting director, Financial Institutions Division (FID), Regulation and Licensing Department (RLD); David J. Mora, consumer industry manager, FID, RLD; Kevin A. Graham, legal counsel, FID, RLD; Ona Porter, president and chief executive officer, Prosperity Works, and co-chair, New Mexico Fair Lending Coalition; Lindsay Cutler, staff attorney, New Mexico Center on Law and Poverty (NMCLP); and Christopher Sanchez, staff attorney, NMCLP, introduced themselves to the committee.

Mr. Moya provided an overview of changes to the New Mexico Small Loan Act of 1955 and the New Mexico Bank Installment Loan Act of 1959, both as amended by House Bill (HB) 347 (2017). He said the following changes will take place for loans issued after December 31, 2017:

- any loan for \$5,000 or less, increased from \$2,500, can be made pursuant to those acts;
- maturity for these loans is now 120 days, and they must be paid in four installments;

- processing fees may not exceed the lesser of \$200 or 10% of the value of the loan; and
- reporting to consumer reporting agencies and credit bureaus is now required.

Mr. Moya said the new requirements have been sent to all licensees, and the information is posted on the agency website.

Mr. Moya provided an overview of the small lending industry in New Mexico. He reported that, currently, New Mexico has 627 licensees operating from 527 storefront locations with another 100 online. He said that, recently, storefront lenders have seen a 10% reduction in business while internet lenders have seen a 15% increase. Mr. Moya reported an overall reduction in licensees over the last two years.

He said the FID has improved its practices in the small loan industry, reporting an increase in examination staff from one to four. He said there are three full-time small loan industry examiners, and he discussed his own isolated duties to focus on the small lending industry. He said that due to the size and complexity of the industry, resources have been reallocated to keep better oversight.

Mr. Mora said that small loan reporting has improved in the last year, and he discussed recently published data. He said under new reporting requirements, more data points will be available to analyze, and reports will be updated accordingly.

Mr. Mora discussed HB 347, which takes effect January 1, 2018. He said the 175% cap on interest will function as a baseline, making it easier to interpret data statistically. He said that the license renewal period begins January 1, 2018, and the agency has sent out letters notifying lenders how to renew. He said a reliable license renewal count will be available in March 2018.

Mr. Mora discussed posting a regulatory alert with a list of all licensed companies for consumers to ensure that a lender is licensed. The agency's website provides a copy of the new law and an interest calculator. He said that beginning January 1, 2018, an additional \$200 licensing fee will be required. The fee will go to programs geared toward educating individuals about budget and account management and that are funded by the nonreverting Financial Literacy Fund. He said that the RLD has had a similar education outreach program in place for several years. He reported that the financial literacy program is in its preliminary stages. The intention is to work with the Attorney General's Office and the Higher Education Department in a collaborative effort.

Ms. Porter said that the new laws expand the scope of oversight, making the industry easier to monitor. She discussed the importance of the Financial Literacy Fund to ensure the maximum benefit of the new law. Ms. Porter said that over the next two years, projections indicate that savings to New Mexico consumers will exceed \$500 million.

Ms. Porter discussed the "TrueConnect" loan, an employer-based lending program that carries no risk or cost to the employer. The program is offered as a benefit to employees,

allowing them to secure a loan at 24.9% interest without a credit check. She said this program works because the security is based on the borrower's employment and is repaid with a payroll deduction. She said that the loan program requires six financial coaching sessions.

Ms. Porter said that employees of Dona Ana County and the Town of Bernalillo have secured more than 200 loans exceeding \$300,000 in total. She reported that Taos County and the City of Las Cruces launched this benefit offering on December 1, 2017. She said that the City of Albuquerque, Bernalillo County and the New Mexico Association of Counties are also preparing or seeking to adopt the benefit.

Ms. Porter told the committee that two new TrueConnect shops are opening and offering a starter loan of \$300 without a credit check. She said the goal of this business model is to allow people of color and those with lower incomes to build their credit history to secure future loans.

Ms. Cutler said she has been studying the law, and looking throughout the country at how similar laws have been working, in an attempt to draft model regulations. Ms. Cutler discussed the rights of borrowers, highlighting the right to unambiguous information on the total cost of a loan. She said that borrowers seeking loans are generally lower-income individuals, and it is critical to ensure that they are aware of potential impacts on life and finances. She said that it is critical to ensure that consumers are aware of all fees and costs and that the total annual loan interest rate is capped at 175%.

Ms. Cutler said that under the new law, each time a lender issues a loan or a payment is made, it must be reported to credit agencies. Ms. Cutler said that this is a key piece of policy to ensure that people avoid debt spirals in which they continually take out loans to pay off other loans.

Ms. Cutler expressed concern that, while the law goes into effect on January 1, 2018, no regulations have been published yet, despite the required public comment period for rulemaking. She says that rules must be implemented if the law is to have an effect. Ms. Porter expressed concern that the agency may be delayed in implementing the law.

In response to a question from the committee, Mr. Graham explained that under new rulemaking requirements, proposed rules or changes to existing rules must be submitted for public comment and given a public hearing. He said that the RLD is in the process of rulemaking, but that meeting the January 1 deadline is unlikely with the agency's current workload. Mr. Moya said April is a more reasonable target for rules to be drafted, and while the new rules will not be ready by the time the law takes effect, that should not affect implementation of the law. On January 1, 2018, all licensees and examiners will be operating under the new law. Similarly, he said, reporting requirements will take effect, but deadlines for reporting are not until 2019, by which time the rules will be established.

In response to a question, Ms. Cutler explained that the new credit reporting requirement requires lenders to report on loan performance to national credit reporting agencies. She says this will be significant in helping people build credit histories. A member of the committee,

expressing concern over this portion of the new law, contended that New Mexico cannot force external companies to accept data on small loans. The committee discussed interest rates, credit improvement, community development financial institutions, preservation of legislative intent and urgency in creating new rules to enforce the laws.

In response to a question, the panel told the committee that the RLD does not intend to issue a request for proposals regarding financial education classes.

Update on Indian Gaming

Representative Louis informed the committee that the Gaming Control Board was invited to participate in this discussion but declined. She read the letter that the Gaming Control Board sent to the committee to explain its absence.

Colleen Garcia, chair, New Mexico Association of Indian Gaming Commissions (NMAIGC), read from prepared remarks that are available in full on the IAC web page. Ms. Garcia discussed the federal Indian Gaming Regulatory Act, the National Indian Gaming Commission, the Gaming Control Board and the NMAIGC. She said that the NMAIGC is composed of New Mexico nations, tribes and pueblos that conduct gaming activities.

Ms. Garcia discussed revenue-sharing and told the committee that since 2014, revenue-sharing from the tribes has contributed \$237,142,019 to the General Fund. The committee discussed its disappointment in the Gaming Control Board's absence, Indian casino financial contributions to the state, tribal regulation, tribal member contributions to municipal and county sales taxes, employment of non-Native American individuals at entities managed by tribes and economic development provided by the tribes to the state.

Introduction to the Native American Voting Task Force (NAVTF)

Secretary of State Maggie Toulouse Oliver introduced the members of the NAVTF to the committee. Everett Chavez, former governor of Kewa Pueblo, was elected as NAVTF chair during the first meeting on November 3, 2017.

Mr. Chavez discussed the importance of civic duties and the voter complacency that may take place when people are citizens of their tribes and their country. He told the committee that the NAVTF will work throughout the year to engage tribal leadership, increase voter turnout and produce a legislative agenda.

Members of the committee discussed a preference by some Native Americans to participate in tribal, but not state, elections; fair representation on the NAVTF; challenges to the NAVTF; civic responsibility in the modern technological era; the United States census; and urban Indians.

In response to a question, Secretary of State Toulouse Oliver told the committee that NAVTF meetings to date have been organizational and educational, but there has not been any discussion of policy yet.

Endorsement of Legislation

Mr. Kovnat provided the committee with a copy of the State-Tribal Collaboration Act in response to a previous IAC discussion regarding the language of the law and about who, particularly in the Navajo Nation government, should be considered a "leader" and thus invited to attend government-to-government forums hosted by the Indian Affairs Department (IAD). The committee discussed amending the law to have individual tribes designate their representatives, inviting legislators and members of the All Pueblo Council of Governors to attend IAD forums, executive-to-executive relationships and frequent leadership changes at IAD. The committee directed Mr. Kovnat to add a discussion of the State-Tribal Collaboration Act to the work plan for the 2018 legislative interim.

Mr. Kovnat informed the committee that the Santa Fe Indian School requested that the IAC send a letter requesting that a venue be provided for the school to request capital outlay.

Mr. Kovnat discussed three appropriation bills sponsored by Senator Pinto. On a motion properly made and seconded, and with no opposition, the committee endorsed the three appropriation bills. A member of the committee noted that an endorsement by a committee does not obligate future votes by individual members but simply expresses support.

Adjournment

On a motion properly made and seconded, and with no opposition, the IAC adjourned at 4:30 p.m.

ENDORSED LEGISLATION

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SENATE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION FOR A NAVAJO CODE TALKERS MUSEUM AND
VETERANS CENTER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. APPROPRIATION.--One million dollars
(\$1,000,000) is appropriated from the general fund to the
Indian affairs department for expenditure in fiscal year 2019
to design and construct a Navajo code talkers museum and
veterans center located in McKinley county. Any unexpended or
unencumbered balance remaining at the end of fiscal year 2019
shall revert to the general fund.

.209114.1

SENATE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE INDIAN AFFAIRS DEPARTMENT FOR A
WATER WELL IMPROVEMENT PROJECT AT THE BAAHAALI CHAPTER OF THE
NAVAJO NATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. APPROPRIATION.--Eighty thousand dollars
(\$80,000) is appropriated from the general fund to the Indian
affairs department for expenditure in fiscal year 2019 for a
water well improvement project at the Baahaali chapter of the
Navajo Nation. Any unexpended or unencumbered balance
remaining at the end of fiscal year 2019 shall revert to the
general fund.

.209115.1

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SENATE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

FOR THE INDIAN AFFAIRS COMMITTEE

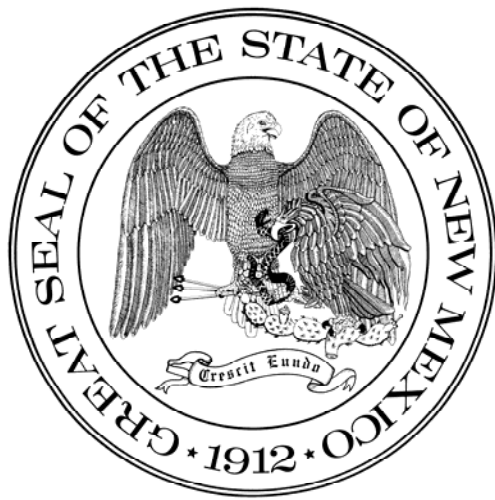
AN ACT

MAKING AN APPROPRIATION TO THE INDIAN AFFAIRS DEPARTMENT TO
CONDUCT A FEASIBILITY STUDY TO DESIGN AND PLAN A TELEPHONE
TRUNK LINE TO PROVIDE EMERGENCY SERVICES TO THE ELDERLY, THE
YOUNG AND THOSE NEEDING MEDICAL CARE IN SAN JUAN COUNTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. APPROPRIATION.--One hundred fifty thousand
dollars (\$150,000) is appropriated from the general fund to the
Indian affairs department for expenditure in fiscal year 2019
to conduct a feasibility study to design and plan a telephone
trunk line to provide emergency services to the elderly, the
young and those needing medical care in San Juan county. Any
unexpended or unencumbered balance remaining at the end of
fiscal year 2019 shall revert to the general fund.

.209116.1



LEGISLATIVE COUNCIL SERVICE
SANTA FE, NEW MEXICO