

ARIZONA STATE LEGISLATURE

**JOINT LEGISLATIVE STUDY COMMITTEE ON THE RELATIONSHIP
BETWEEN THE STATE AND THE NAVAJO NATION**

**Minutes of Meeting
September 5, 2002
President's Conference Room
Office of Navajo Nation
Window Rock, Arizona**

Members Present:

Representative Jake Flake
Representative James Sedillo
Raymond C. Etcitty
Ronald Lee
Derrick Watchman
Representative Sylvia Laughter, Cochair
Senator Jack Jackson, Cochair

Members Absent:

Senator Ken Bennett
Senator Pete Rios
Senator John Verkamp
Representative Tom O'Halleran

Staff:

Carolyn Atwater, Senate Research

The meeting was called to order at 10:05 a.m. by Senator Jackson and attendance was noted. (See attached sheet for additional attendees.)

Senator Jackson commented that, when he introduced the bill creating the Committee, some of the other tribes had expressed an interest in participating. However, he explained that it was decided to confine the Committee to the Navajo Nation since it is the largest tribe in Arizona and the only one affected by a treaty.

Kelsey A. Begaye, President of the Navajo Nation, welcomed the members and other attendees to the Navajo Nation. He addressed the treaty of 1868, which he said the Navajo Nation views as a sacred document, and expressed the desire to bring the original treaty back to the Navajo Nation permanently to demonstrate how serious the Tribe is about its treaty obligations. President Begaye also commented on the Long Walk – the forced march of the Navajo Tribe to Ft. Sumner and their ultimate return to

their homeland – as an example of what the Navajo people can accomplish as a united group.

The President mentioned the two guiding principles that play an important part for the Navajo Nation in all of its activities: (1) preservation of the Tribe's culture, tradition and language and (2) preservation of the Tribe's sovereignty. He mentioned some of the successes that the Navajo Nation is realizing, such as the Tribe's operation of the Temporary Assistance for Needy Families (TANF) program and local governance activities. He pointed out, however, that education remains an important issue, particularly when Navajo Nation students are scattered over three states. President Begaye concluded by emphasizing the importance of working through partnerships to achieve goals and the need to move away from the "do it for me" syndrome.

Representative Sedillo asked President Begaye how he perceives the State and the Navajo Nation interfacing on issues such as education, water, law enforcement, fire suppression and domestic relations in order to enable the Navajo Nation to realize more empowerment.

President Begaye suggested the first step is to evaluate the current partnerships to determine where improvements are needed.

Senator Jay Blanchard pointed out that education is becoming an even more important issue because of Students First and the more recent lease-to-own legislation governing the construction of new school facilities. He observed that schools built on the Navajo Nation could be owned by a company from another state. Senator Blanchard contended that the Navajo Nation should own the land on which their schools are constructed rather than a company that might be located in another state. He suggested the Navajo Nation will ultimately have to make a determination on how to handle school construction.

President Begaye stated that when the Bush administration came forward with the privatization of schools, the Navajo Nation made it known that it is capable of overseeing its schools. He noted that the Navajo Nation is currently working on setting up a tribal education department, after which many of the educational institutions will come under the auspices of the Navajo Nation.

Mr. Watchman clarified that no one owns tribal land and that even with privatization the underlying leases would still be enforced. However, he pointed out that there are concerns about whether valid leases are in place for many school facilities. He added that privatization and how Indian land is used will be major issues if the State decides to move in that direction.

Dr. Peter Belletto, Superintendent, Ganado Unified School District, contended that privatization is not the answer. He said he supports the development of a tribal education department and a Navajo Nation education system that is equal to or better than the public and private school systems, adding that highly trained educators and administrators are available on the Navajo Nation to accomplish that goal. Dr. Belletto

explained that his school district uses the western curriculum within a traditional Navajo learning model, and he emphasized the importance of teaching both English and the Navajo language in school.

Representative Albert Tom commented on the number of complaints he has received from his Navajo constituency who have not received their TANF payments in a timely manner.

President Begaye responded that the August checks have been processed with a note to the recipients apologizing for the late arrival and assuring them that the Navajo Nation is working to improve the system. He explained that the Council recently appropriated funds for a financial institution management system that should alleviate the problem.

Mr. Watchman listed various services on the blackboard and the governmental entities responsible for providing those services. He noted there is ambiguity in the roles that the Navajo Nation, the State, the counties and the Bureau of Indian Affairs each play in the provision of services such as taxation, education, transportation and roads and the TANF program.

Dr. Deborah Dennison, Superintendent, Window Rock Unified School District, pointed out that education is a prime example of how state boundaries affect the Navajo Nation. She explained that the Window Rock Unified School District serves 273 students from New Mexico and that, with different requirements from both states, it is unclear whether the district is following correct procedures in the counting of these students. Dr. Dennison further explained that it becomes a hardship for the district if federal impact aid funds for these students go to New Mexico, and she indicated the need for an intergovernmental agreement (IGA) between the State and the Navajo Nation to alleviate the situation.

Senator Blanchard expressed concern that the district is probably losing over one million dollars in impact aid funding.

Senator Jackson pointed out that legislation was passed a few years ago dealing with this particular situation but it has not been extended. He introduced a bill this past legislative session to accomplish that, but the bill was stopped in the process because he was told that the problem could be handled administratively.

Senator Blanchard observed that the State fully funds charter school students where the money follows the student, and the State should be able to do the same for the Navajo Nation students.

Representative Tom suggested that, since Arizona and New Mexico share common concerns, it would be advantageous to meet with officials from New Mexico to attempt to resolve issues such as overlapping boundaries.

Mr. Lee recommended that an IGA between the Navajo Nation and the State use the Commission of Indian Affairs at a greater level, particularly working towards the development of a Navajo Nation legislative office representing the Tribe's interest at the state level similar to the national level.

Percy Deal, Navajo County Board of Supervisors, stated that a number of years ago the Navajo Nation lost out on an opportunity to participate in the establishment of the Northland Pioneer Community College with the White Mountain Apache Tribe and the Hopi Tribe because he said the Navajo Nation felt that its sovereignty was being threatened by the county. Mr. Deal contended that the two smaller tribes used sovereignty to enhance their educational opportunities, and he encouraged the Navajo Nation to use sovereignty as a tool to bring services to its people.

Representative Tom asked Dr. Dennison what changes she believes are needed to address the school boundary problems. Dr. Dennison contended that the situation should be handled legislatively with language specifically relating to the needs of the Navajo Nation students.

Representative Tom suggested legislative staff could research how the issue can be resolved, adding that he would be happy to sponsor or cosponsor appropriate legislation.

Jesse Thompson, Navajo County Board of Supervisors, said the county has had a good relationship with the Navajo Nation, the Apache Tribe and the Hopi Tribe and suggested that these discussions would heighten that relationship and the relationship with the State.

Mr. Thompson emphasized the need for the Navajo Nation to accelerate its authorization process so the county can provide local services as quickly as possible. He also expressed concern about unfunded mandates. He explained that the State took back operation of the Arizona Health Care Cost Containment System program but required the county to pay for restoration of competency, which amounts to a sizeable cut in the county budget.

Mr. Deal remarked that another area of concern is law enforcement, and he encouraged the return of cross deputation of federal, state and county officers to aid tribal officers on the Navajo Nation. He also urged the Navajo Nation to streamline its approval process for services provided by the county.

Mr. Etcitty pointed out that the various governmental entities providing services all have different standards and funding sources and all must comply with different internal requirements. He addressed the Section 164 approval process that applies to nearly all activities on the Navajo Nation. He explained that, because of past allegations of abuses of power, the approval process was made more bureaucratic in order to make it more difficult for illegalities to occur.

Tom White, Apache County Board of Supervisors, suggested that the Northern Arizona Council of Governments (NACOG) should be included in a discussion of service providers, and he recommended that the Navajo Nation become more involved in NACOG and the services and grants it can provide.

Representative Sedillo asked if the communication aspect of law enforcement is an issue with Navajo County. He noted that the recent fires have exemplified the issue and he suggested the need to work on a statewide communication system. Mr. Thompson agreed that all law enforcement entities need to know how they can support each other, particularly in emergency situations. Representative Sedillo contended that law enforcement and emergency services need to be coordinated on and off the reservation, and he recommended that the various entities come together to address the issue.

Dr. Belletto commented on successes that have been achieved by working together with other entities, such as establishing an Apache County library in the high school in his district and establishing cell power communication in Ganado. He agreed that communication and law enforcement are critical issues, particularly cross deputation and the sharing of information.

Representative Tom addressed the increased rate of juvenile delinquency on the Navajo Nation and the limited educational services being provided for juveniles in the court system.

Peterson Zah, Advisor to the President on American Indian Affairs, advocated the need for a guiding principle or statement from the Navajo Nation to the State and vice versa in terms of how the two entities can work together. He compared such a guiding principle to the Constitution. Mr. Zah suggested looking at other states, such as Oklahoma, Minnesota, Wisconsin, New York and the Dakotas. He explained that the tribes lived on the land first and others came and created states without defining their relationship with the people already there. Mr. Zah pointed out that when he came into office in 1983 he entered into IGAs with the Governors of Arizona, New Mexico and Utah that attempted to alleviate disputes among the entities, which represented a beginning in this type of process.

Mr. Lee addressed Indian Nations Legislative Day, which will be held January 16, 2003 at the Legislature and which was established to provide a forum for the tribes to meet with state legislators. He expressed concern that since its inception a few years ago the event has lost its focus, but he pointed out that a measure passed in the last legislative session turns the responsibility for the event over to the Arizona Commission of Indian Affairs. He urged the Navajo Nation to become involved and utilize the Commission to prepare for Indian Nations Legislative Day.

Representative Flake commented on the improvements that have been made over the years on the Navajo Nation in areas such as education, roads and communication. He noted, however, that there are still many unanswered questions as to the relationship

between the State and the Navajo Nation and who is responsible for what in that relationship.

Mr. Lee questioned whether the Committee should begin to develop a guiding principle to recommend to the State Legislature.

Senator Blanchard suggested a starting point might be to examine the relationships existing between other Native American nations and their respective states.

Mr. Deal suggested reviewing the IGA mentioned by Mr. Zah to determine if it is applicable to the issues under discussion and modify it to serve as the guiding principle. He pointed out that the document has no enforcement elements but he wondered if there should be some legislative force behind it. Mr. Deal emphasized, however, that some issues cannot wait to be addressed while a guiding principle is adopted.

Dr. Dennison invited those present to attend a forum on education reform at the Window Rock Unified School District on October 24. Dr. Belletto extended an invitation to the Ganado Unified School District, which is hosting a Unity Day on September 11.

Senator Jackson pointed out that the Committee statutorily expires on December 31, 2002.

Mr. Etcitty contended that any type of agreement between the State and the Navajo Nation can be accomplished both administratively and legislatively. He pointed out, however, the need for a continuing entity to monitor this process, perhaps a formal office funded equally by the Navajo Nation and the State to coordinate legislation.

Senator Jackson suggested the Committee meet again to consider the ideas that have been expressed on how to establish a relationship and asked the members to contemplate how best to proceed. He asked Mr. Lee to host the meeting in Phoenix.

Mr. Deal recommended that the Navajo Nation be placed on the agenda for the Indian Nations Legislative Day to present pertinent background information.

The meeting adjourned at 12:30 p.m.

Respectfully submitted,

Janice Stell
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)