

**Testimony
Of
Alvin H. Warren
Cabinet Secretary
New Mexico Department of Indian Affairs
Before The
House Committee on Natural Resources
On H.R. 4445**

Wednesday, April 21, 2010
1324 Longworth HOB
10:00 a.m.

Good morning Chairman Rahall, Ranking Member Hastings, and Members of the Committee. My name is Alvin Warren and I am the Cabinet Secretary for the New Mexico Indian Affairs Department. Today, I am here on behalf of New Mexico Governor Bill Richardson to provide testimony before this Committee in support of House Resolution 4445, the Indian Pueblo Cultural Center Clarification Act.

In 2003, Governor Richardson created the first Cabinet-level Indian Affairs Department in the United States. This Department strives to ensure that Native American citizens of the State have an equal voice within the Executive Branch of New Mexico government. The Indian Affairs Department is responsible for coordinating effective interagency and State-Tribal government-to-government relations. The Department has statutory authority to:

- Investigate, study, consider and act upon the entire subject of Indian conditions and relations within New Mexico, including problems of health, economy and education and the effect of local, State and federal legislative, executive and judicial actions; and
- Assist in setting the policy, and act as the clearinghouse, for all State programs affecting the Indian people of New Mexico.

Issues of taxation and jurisdiction are among the most fundamental that affect the State of New Mexico and Tribal governments in our State. The bill before this Committee, House Resolution 4445, seeks to amend Public Law 95-232 to make clear the “Indian Country” status of certain lands held in trust for the Indian Pueblos in New Mexico.

On February 17, 1978, Congress passed Public Law 95-232, which authorized the Secretary of the Interior to accept a trust deed from the New Mexico Pueblos to the United States for 11.2857 acres of land for the Indian Pueblo Cultural Center. Section (b) of the Act states that:

Such land shall be held in trust jointly for such Indian Pueblos and shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be “Indian country” as defined in section 1151 of title 18, United States Code.

The language in Section (b) stating that the Indian Pueblo Cultural Center property is “not Indian Country” has created uncertainty as to the civil and criminal jurisdiction of this land.

Such limiting language was not included in two similar pieces of federal legislation that directed other properties be held jointly in trust for the New Mexico Pueblos; namely, the “Santa Fe Indian School Act,” Public Law 106-568, §§ 821-824, 114 Stat. 2868, 2919, and the “Albuquerque Indian School Act,” Public Law 110-453, §§ 102-104, 122 Stat. 5027.

Consistent with the State’s approach to non-taxation on Indian trust lands, New Mexico currently does not assess taxes on the business operations of Indian Pueblo members that occur on the Indian Pueblo Cultural Center property. The City of Albuquerque and Bernalillo County also acknowledge the trust status of this land and concur with the State’s position on non-taxation of activities on this property. Neither the State nor these political subdivisions derive any tax revenue from the Indian Pueblo Cultural Center Trust Land at this time.

Furthermore, this legislation, by clarifying the “Indian Country” status of the property would also assist governmental entities, including federal, State, Tribal, county and municipalities, in determining criminal and civil jurisdictional boundaries.

The State of New Mexico supports House Resolution 4445’s intent to clarify our existing practice of non-taxation of the business operations occurring on the lands upon the Indian Pueblo Cultural Center property. House Resolution 4445 will further resolve inconsistencies regarding the limiting language in Public Law 95-232, reflect the current taxation practices on this trust property, and provide clarification in federal law regarding the State and tribal jurisdiction over the Indian Pueblo Cultural Center trust land. It will also support the operations of the Indian Pueblo Cultural Center, which plays an important role in our State’s tourism industry.

This approach is in accordance with the State of New Mexico’s commitment to strengthening government-to-government relationships with Tribes and respecting Tribal sovereignty. Governor Richardson’s Administration supports Tribal self-determination and self-government and has made it a priority to enhance the partnerships between the 22 Tribes, Nations and Pueblos of New Mexico, and the State.

For these reasons, and on behalf of Governor Richardson, I respectfully request your support for this legislation. I appreciate this opportunity to testify on House Resolution 4445 and now stand for questions.