



**MINUTES  
of the  
THREE-HUNDRED-SEVENTY-SIXTH MEETING  
of the  
LEGISLATIVE COUNCIL  
January 15, 2018  
Santa Fe**

The three-hundred-seventy-sixth meeting of the Legislative Council was called to order on Monday, January 15, 2018, at 3:14 p.m. in Room 307 of the State Capitol by Senator Mary Kay Papen, co-chair.

**Present**

Rep. Brian Egolf, Co-Chair  
Sen. Mary Kay Papen, Co-Chair  
Sen. Carlos R. Cisneros  
Rep. Zachary J. Cook  
Rep. Candy Spence Ezzell  
Rep. Doreen Y. Gallegos  
Rep. Nate Gentry  
Rep. Roberto "Bobby" J. Gonzales  
Sen. Stuart Ingle  
Rep. Rod Montoya  
Sen. William H. Payne  
Sen. Clemente Sanchez  
Sen. John Arthur Smith  
Rep. Sheryl Williams Stapleton  
Sen. James P. White  
Sen. Peter Wirth

**Absent**

**Special Advisory Members Present**

Rep. Eliseo Lee Alcon  
Rep. Deborah A. Armstrong  
Sen. Pete Campos  
Rep. Gail Chasey  
Rep. Kelly K. Fajardo  
Sen. Ron Griggs  
Rep. Rick Little  
Sen. Cisco McSorley  
Sen. Michael Padilla  
Rep. Debbie A. Rodella  
Rep. Patricia Roybal Caballero  
Sen. William E. Sharer  
Sen. Mimi Stewart

**Special Advisory Members Absent**

Rep. Rebecca Dow  
Rep. Jason C. Harper  
Sen. Daniel A. Ivey-Soto  
Rep. Georgene Louis  
Rep. Antonio Maestas  
Sen. George K. Munoz  
Sen. Steven P. Neville  
Sen. Cliff R. Pirtle  
Rep. Jane E. Powdrell-Culbert  
Sen. Benny Shendo, Jr.  
Rep. Jim R. Trujillo

Rep. Elizabeth "Liz" Thomson  
Rep. Carl Trujillo

### **Staff**

Raúl E. Burciaga, Director, Legislative Council Service (LCS)  
Amy Chavez-Romero, Assistant Director for Drafting, LCS  
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS  
Jeret Fleetwood, Researcher, LCS  
Jon Boller, LCS

### **Approval of Minutes**

On a motion made, seconded and passed, the minutes of the December 15, 2017 meeting were approved as submitted.

### **Capitol Security**

Major Robert Thorton, New Mexico State Police, provided the council with an overview of session security. He explained that the state police detail assigned to the capitol on a daily basis would consist of one lieutenant, two sergeants, 10 officers and necessary dispatchers, broken into three shifts. Major Thorton said that the session security detail is prepared for anything that might come up during the session, noting that a sweep of the building with bomb-sniffing dogs is planned for early the next morning. He also said that, in part because of a suspicious package last session, an explosives technician would be on site for the 2018 session.

Members of the council thanked Major Thorton, noting that officers come from all areas of the state and have to leave their homes in order to help keep the capitol safe.

### **State Investment Council Appointments**

On a motion made, seconded and passed, the council reappointed Timothy Z. Jennings to the State Investment Council to a term beginning March 31, 2018 and expiring on March 31, 2023.

On another motion made, seconded and passed, the council reappointed Leonard Lee Rawson to the remainder of the term that began on March 31, 2017 and expires on March 31, 2022.

### **Anti-Harassment Policy**

Mr. Burciaga explained that a revised anti-harassment policy was being distributed to members because four technical revisions had been made to the policy distributed to members the previous week. He noted that Senator Stewart and Representative Jim Dines had presented the policy to the council at the previous meeting and turned further presentation of the revised policy over to them.

Senator Stewart discussed the changes made to the policy since its introduction in December 2017, noting that changes were made in response to continued discussion by the working group assigned to develop the policy and also in response to public comments submitted regarding the policy. She said that the major changes involved ongoing training, false reporting and reports of harassment by legislators. She said that:

- ongoing training requirements had been changed to allow for four hours of training every two years;
- some language regarding false reporting had been removed from the policy; and
- reporting of harassment involving members of the legislature would include investigation by an outside entity.

Representative Dines thanked the council for putting the working group together. He explained that the policy addresses complaints involving three separate groups and has a different process for each: (1) legislative employees; (2) people who are neither employees nor members; and (3) members. Representative Dines discussed the process for handling complaints against members, pointing out that while such complaints include investigation by outside counsel, it remains up to the respective chamber to make a final decision with respect to sanctions. He also discussed due process concerns and noted that language regarding the "reasonable person standard" had been added to the revised policy.

On a motion made, seconded and passed, page five of the policy was amended to read, "All legislators and employees must be trained on the policy for a minimum of four hours every two years by an individual or entity that specializes in harassment prevention.", with Senators Ingle and Sanchez voting NO.

In response to questions from members regarding whether members function in a supervisory role and therefore have a duty to report harassment, Patricia Ives, an attorney specializing in employment law who helped the working group develop the policy, explained that only supervisory staff has a duty to report harassment. However, she explained that while members do not have a duty to report, they are encouraged to do so.

In response to a question regarding acts of physical harassment, staff explained that victims can simultaneously file reports with the police and with the federal Equal Employment Opportunity Commission (EEOC), as well as with supervisory staff pursuant to the policy.

In response to other questions from members, staff explained that there is no well-defined distinction between reports and complaints, as each case is different and sometimes reports can be made without issuing a formal complaint against a member.

In response to another question, staff explained that the complaint process is exempt from the Inspection of Public Records Act, unless the complaint is against a legislator and a formal committee hearing is held, which would be a public proceeding.

In response to another question, staff outlined the process for formation of a subcommittee to investigate complaints against members.

Members of the council discussed other aspects of the policy, including updating it every two years, confidentiality, reporting, criminal and civil penalties that already exist under the EEOC and methods of addressing members of the public who are in the building and who may not be staff or members.

On a motion made, seconded and unanimously passed, the council adopted the new anti-harassment policy.

On a motion made, seconded and unanimously passed, the council authorized reimbursement of per diem and mileage for members attending harassment training earlier in the day.

There being no further business, the council adjourned at 5:20 p.m.