



**MINUTES
of the
THREE-HUNDRED-SEVENTY-FIFTH MEETING
of the
LEGISLATIVE COUNCIL
December 15, 2017
Santa Fe**

The three-hundred-seventy-fifth meeting of the Legislative Council was called to order on Friday, December 15, 2017, at 1:40 p.m. in Room 307 of the State Capitol by Representative Brian Egolf, co-chair.

Present

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

Special Advisory Members Present

Rep. Eliseo Lee Alcon
Rep. Deborah A. Armstrong
Sen. Pete Campos
Rep. Kelly K. Fajardo
Sen. Cisco McSorley
Sen. Steven P. Neville
Sen. Michael Padilla
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Rep. Patricia Roybal Caballero
Sen. William E. Sharer
Rep. Elizabeth "Liz" Thomson

Absent

Rep. Candy Spence Ezzell
Rep. Nate Gentry
Sen. Clemente Sanchez

Special Advisory Members Absent

Rep. Gail Chasey
Rep. Rebecca Dow
Sen. Ron Griggs
Rep. Jason C. Harper
Sen. Daniel A. Ivey-Soto
Rep. Rick Little
Rep. Georgene Louis
Rep. Antonio Maestas
Sen. George K. Munoz
Sen. Cliff R. Pirtle
Sen. Benny Shendo, Jr.
Rep. Carl Trujillo
Rep. Jim R. Trujillo

Staff

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

Approval of Minutes

On a motion made, seconded and passed, the minutes of the October 23, 2017 meeting were approved as submitted.

Request for Use of Chambers

Mr. Burciaga relayed a request from the New Mexico Youth and Government organization to use both the house and senate chambers April 4 through 7, 2018.

On a motion made, seconded and approved, the council approved the request for use of both chambers.

Interim Expense and Pre-Session Approval

Mr. Burciaga explained that the House Transportation, Public Works and Capital Improvements Committee, the House Appropriations and Finance Committee and the Senate Finance Committee were planning to meet before the 2018 session, which would require approval of pre-session expenses.

On a motion made, seconded and passed, use of pre-session expenses was approved for standing committee meetings before the beginning of the 2018 session.

Mr. Burciaga also explained that outside counsel had been assisting with development of a new harassment policy for the legislature, which would require training that was tentatively scheduled for January 15. He also noted that some members might wish to attend the state forum on criminal justice reform. Mr. Burciaga said that all three would require approval for use of interim expenses.

On a motion made, seconded and approved, the council authorized the use of interim expenses for outside counsel to develop a harassment policy, training for the new policy and attendance at the state forum on criminal justice reform for members.

Harassment Policy

In response to several questions, Mr. Burciaga explained that staff had reviewed the matters surrounding two claims of harassment involving legislative staff filed in the past five years, as well as the law, and determined that the LCS cannot release additional details on either case.

In response to additional questions, Mr. Burciaga discussed another harassment claim referred to recently in a local newspaper. He noted that no formal investigation had been conducted, in part because the claim involved an email sent by a former Legislative Education Study Committee deputy director, referencing events that had taken place about a year earlier and relayed to the deputy director by an individual who desired to keep the matter private.

Members of the council and Mr. Burciaga had a lengthy discussion regarding follow-up on the third harassment claim, as well as aspects of the current harassment policy, such as training, reporting, jurisdiction, investigations and communication between the staff members outlined in the current policy as being able to receive harassment complaints.

Mr. Burciaga then discussed development of a new harassment policy. He explained that the working group formed to develop a new policy had been consulting with outside counsel and produced a draft policy that still featured a number of unanswered questions. Mr. Burciaga explained that the LCS would be taking comments online, in person and by mail on the policy until January 8, 2018, after which the working group will produce a new policy for adoption by the council at the January 15, 2018 meeting.

Senator Mimi Stewart, a member of the working group, discussed development of the new policy, which included looking at approaches used by other state legislatures. She explained that while the group worked together to produce a good policy, there were some issues the group could not come to an agreement on, which included publication, training, authority to investigate and reporting.

Representative Dines, another member of the working group, noted that he had practiced employment law and offered training around the state before being elected to the legislature. He noted that the current policy only covers employees of the legislature. Representative Dines pointed out that the legislative community includes employees, members and third-party individuals, such as lobbyists, whose concerns are addressed in three sections of the new policy. He also said that some rule or law changes may be necessary to provide some power over lobbyists but cautioned that such changes would only apply to paid lobbyists. Representative Dines also said that areas for further discussion include potentially subjective standards and confidentiality, particularly privacy for the victims of harassment.

Several members of the council offered comments and questions regarding the draft policy, including:

- the need for the policy to extend beyond employees of the legislature;
- how best to allow for reporting of harassment without intimidating victims;
- concerns over language regarding false reporting;
- value of outside experts for harassment training;
- inability of an organization outside of the legislature to discipline members, as that is a function of each body;

- confidentiality; and
- contemplated penalties for violations of the policy.

Members of the public were also invited to comment on the draft policy.

Vanessa Alarid, lobbyist, said that claims of harassment have been around the legislature for decades. She noted that the current policy does not cover lobbyists or guests at the legislature, making it difficult and potentially politically costly to report harassment. She encouraged the use of shared language and shared training, noting that she had checked with other New Mexico organizations and with other states. Ms. Alarid said that the best policy she encountered was at the University of New Mexico. She recommended training and investigations be conducted by outside entities, emphasized confidentiality for victims and cautioned against trying to cover too much, as claims will be weaponized against members during election cycles to come.

Carmen Lopez emphasized that outside entities, not members or staff, should handle reporting and training. She also suggested that language regarding filing false reports should be removed from the draft policy, as it is already hard enough to report harassment.

Representative Stephanie Garcia Richard discussed her daughter's frustration with the speed at which the entertainment industry has reacted to reports of harassment. She said that the legislature can send a message to other states and to visitors to the State Capitol that New Mexico has a robust, zero-tolerance policy on harassment and that the State Capitol is a place of safety and consent for everyone. Representative Garcia Richard also suggested independent, objective investigators, increased training and removing the language regarding false reporting.

Rebecca Langford, Santa Fe NOW, said that she was a victim of harassment in 2008. She suggested having an outside entity for victims to file complaints with, and some kind of representation for victims, noting that she had to go through magistrate court without any witnesses in her case. Ms. Langford also suggested removing the language regarding false reporting and the time limit for filing claims.

Kris Michaelis, Girls, Inc., said that she had been a human resources professional for 35 years. She said that she liked the use of language from the Equal Employment Opportunity Commission in the draft policy. However, she said, the language involving investigations needed more detail. Ms. Michaelis said that having multiple individuals to report harassment to was fine but that someone would ultimately have to be accountable. She discussed potential remedies, which could include keeping someone from entering the building again and the need for confidentiality in order to provide safety and security for victims.

Jennifer Billig, Girls, Inc., said that she works with nine-year-old girls, more than one-half of whom will experience sexual harassment in their lifetimes. She said that the legislature

needs to adopt a model policy so that advocacy groups like hers can feel comfortable bringing young girls to visit the legislature.

Julianna Koob, New Mexico Coalition of Sexual Assault Programs, applauded the legislature for trying to take a bold step forward. She said that the legislature faces two paths in developing a new policy. One path involves mitigating legal risk and liability for the legislature, which she said will not create a change in the culture at the legislature. Ms. Koob said that the second path involves three changes to the draft policy: having an outside entity for reporting and investigations, holding real training for at least four hours and removing the language involving false reporting.

Former Representative Stephanie Maez noted the importance of discussing and addressing sexual harassment, both in the legislature and in other institutions. She recounted some of her experience as a legislator and encouraged members to adopt a meaningful policy, suggesting that an outside entity be used for reporting and investigations and that language involving false reporting be removed.

Miranda Viscoli, New Mexicans to Prevent Gun Violence, thanked the council and said that she was a victim of harassment, noting that it can amount to political suicide for victims to come forward. She said that there is a problem with the culture in the State Capitol but emphasized that the majority of lawmakers tend to treat people with respect. However, Ms. Viscoli said that New Mexico is losing advocates because of the way they have been treated by some members.

Sarah Coffey thanked the council for addressing concerns about sexual harassment and the culture that exists. She emphasized the critical importance of training as a means of preventing harassment. Ms. Coffey also recommended use of an outside entity for reporting and investigating claims and the chilling effect that language regarding false reporting and time limits on investigations has.

Steve Lipscomb also thanked the council for developing a policy to address harassment as well as those who had come forward with their stories. He noted that he had worked in the private sector and that change tends to come from the top down.

In response to a question, Mr. Burciaga said that the LCS had been in contact with the Office of the Secretary of State regarding its harassment training.

Speaker Egolf thanked everyone who had worked on developing the policy to this point.

Staff Reports

Mr. Burciaga announced that two long-time LCS employees, John Yaeger and Sharon Ball, were retiring at the end of 2017.

There being no further business, the council adjourned at 4:23 p.m.

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