



**MINUTES**  
**of the**  
**THREE-HUNDRED-TWENTY-SECOND MEETING**  
**of the**  
**LEGISLATIVE COUNCIL**  
**May 7, 2009**  
**Santa Fe**

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The three-hundred-twenty-second meeting of the New Mexico Legislative Council was called to order on Thursday, May 7, 2009, at 10:30 a.m. in Room 307 of the State Capitol by Speaker Ben Lujan, co-chair.

**Present**

Senator Timothy Z. Jennings, Co-Chair  
Representative Ben Lujan, Co-Chair  
Senator Carlos R. Cisneros  
Senator Dianna J. Duran  
Representative Keith J. Gardner  
Senator Stuart Ingle  
Representative Rhonda S. King  
Senator Cisco McSorley  
Representative Rick Miera  
Senator William H. Payne  
Senator Michael S. Sanchez  
Representative Thomas C. Taylor

**Absent**

Representative W. Ken Martinez  
Representative Sheryl Williams Stapleton  
Representative Jeannette O. Wallace

**Special Advisory Members Present**

Representative Eliseo Lee Alcon  
Representative Donald E. Bratton  
Representative Anna M. Crook  
Representative Brian F. Egolf, Jr.  
Senator Mary Jane M. Garcia  
Representative Antonio Lujan  
Representative James Roger Madalena  
Representative Al Park  
Senator John Arthur Smith

**Special Advisory Members Absent**

Senator Pete Campos  
Senator Kent L. Cravens  
Senator George K. Munoz

**Staff**

Paula Tackett, Director, Legislative Council Service (LCS)  
Raúl Burciaga, Assistant Director for Drafting Services, LCS  
John Yaeger, Assistant Director for Legislative Affairs, LCS  
Jeret Fleetwood, Locator Coordinator, LCS  
Aldis Philipbar, Research Assistant, LCS

Speaker Lujan began the meeting by having staff call the roll. He then excused Representatives Martinez and Wallace, noting that they were in Washington, D.C., to discuss issues related to the cleanup of uranium mines with New Mexico's congressional delegation.

#### Request of National Organization of Women Legislators

The council listened to a request from Sandoval County and the National Organization of Women Legislators regarding a planned conference in September to be held in New Mexico. Don Leonard of the Sandoval County Commission explained that holding the conference in New Mexico would help bring economic development money to the area. He explained that Sandoval County and the conference organizers are seeking some additional funding from the council to help defray costs associated with hosting the conference.

The council discussed the merits of the conference and the value of holding it in New Mexico.

In response to a question from Representative Crook, Ms. Tackett explained that the money appropriated for conferences in the Feed Bill is for two already planned conferences: the Council of State Governments-West and the Uniform Law Commission. She went on to explain that only through council approval of the use of funds from the legislative interim expenses account would the legislature be able to make some funds available. Ms. Tackett also noted that current budget constraints would make it difficult to provide much funding for the conference.

On a motion made, seconded and approved, the council authorized a limited amount of \$30,000 from the legislative interim expenses account to the National Organization of Women Legislators for its September conference.

#### Interim Committee Appointments

##### Permanent Committees

Legislative Council: Senator Jennings and Speaker Lujan will serve as co-chairs. Other voting members are Representatives Gardner, King, W. Ken Martinez, Miera, Stapleton, Taylor and Wallace and Senators Cisneros, Duran, Ingle, McSorley, Payne and Michael S. Sanchez. Advisory members are Representatives Alcon, Bratton, Crook, Egolf, Antonio Lujan, Madalena and Park and Senators Campos, Cravens, Garcia, Munoz and Smith.

Legislative Education Study Committee: Senator Nava will serve as chair and Representative Miera will serve as vice chair. Other voting members are Representatives Gonzales, Hall, Roch, Stewart and Thomas and Senators Garcia, Kernan and Lovejoy. Advisory members are Representatives Barreras, Begaye, Eleanor Chavez, Cote, Espinoza, Mary Helen Garcia, Giannini, Heaton, Stapleton and Tyler and Senators Asbill, Fischmann, Morales, Pinto, Rue and Sharer.

Legislative Finance Committee: Representative Varela will serve as chair and Senator Smith will serve as vice chair. Other voting members are Representatives Bratton, King,

Saavedra, Salazar, Sandoval, Tripp and Wallace and Senators Campos, Cisneros, Ingle, Leavell, Papen and Sapien. Designees are Representatives Barreras, Begaye, Berry, Egolf, Gonzales, Heaton, Larrañaga, Antonio Lujan, Lundstrom, Park, Picraux and Taylor and Senators Adair, Griego, Harden, Jennings, Keller, Lopez, McSorley, Morales, Neville, Bernadette M. Sanchez, Sharer, Ulibarri and Wirth.

### **Statutory Committees**

Interim Legislative Ethics Committee: Senator Lopez and Representative Salazar will serve as co-chairs. Other voting members are Representatives Barela, Cook, Gardner, Hamilton, Maestas, W. Ken Martinez and McCoy and Senators Campos, Ingle, Jennings, Neville, Payne, Rue and Michael S. Sanchez.

Legislative Health and Human Services Committee: Representative Picraux will serve as chair and Senator Feldman will serve as vice chair. Other voting members are Representatives Espinoza, Gutierrez and Antonio Lujan and Senators Adair, Lopez and Ortiz y Pino. Advisory members are Representatives Begaye, Campos, Eleanor Chavez, Cote, Miguel P. Garcia, Heaton, Kintigh, Madalena, Rodolpho "Rudy" S. Martinez, O'Neill, Steinborn, Stewart and Vaughn and Senators Beffort, Harden, Kernan, McSorley, Papen, Rodriguez, Rue and Ulibarri.

Military and Veterans' Affairs Committee: Representative Thomas A. Garcia and Senator Ulibarri will serve as co-chairs. Other voting members are Representatives Barela, Cote and Hamilton and Senators Eric G. Griego, Pinto and Sharer. Advisory members are Representatives Alcon, Anderson, Giannini, Rodolpho "Rudy" S. Martinez and McCoy and Senators Adair, Duran, Garcia and Payne.

Mortgage Finance Authority Act Oversight Committee: Senator Rodriguez will serve as chair and Representative Campos will serve as vice chair. Other voting members are Representatives Arnold-Jones, Ernest H. Chavez and Gutierrez and Senators Boitano, Eric G. Griego and McSorley. Advisory members are Representatives Anderson, Barreras, Jeff, Madalena, Roch and Rodella and Senators Adair, Martinez, Ortiz y Pino and Rue.

New Mexico Finance Authority Oversight Committee: Representative Lundstrom will serve as chair and Senator Papen will serve as vice chair. Other voting members are Representatives Barela, Berry, Crook, Egolf, Irwin, Powdrell-Culbert, Rodefer, Saavedra, Strickler and Vigil and Senators Cravens, Eichenberg, Fischmann, Harden, Munoz and Ulibarri. Advisory members are Representatives Arnold-Jones, Campos, Ernest H. Chavez, Ezzell, Thomas A. Garcia, Ben Lujan, W. Ken Martinez, Sandoval, Stapleton, Taylor and Varela and Senators Duran, Garcia, Eric G. Griego, Ingle, Keller and Sapien.

Public School Capital Outlay Oversight Task Force: Representative Miera and Senator Nava will serve as co-chairs. Other voting legislative members are Representatives Gardner, Larrañaga, Ben Lujan, W. Ken Martinez and Saavedra and Senators Asbill, Jennings, Lovejoy, Rue and Smith.

In response to a question from Senator Michael S. Sanchez, Ms. Tackett explained that a lawsuit involving public school superintendents deals more with operational issues than capital outlay issues.

Retirement Systems Solvency Task Force: Legislative voting members are Representatives Berry, Heaton, Stewart and Varela and Senators Campos, Phil A. Griego, Neville and Smith.

Radioactive and Hazardous Materials Committee: Senator Martinez will serve as chair and Representative Heaton will serve as vice chair. Other voting members are Representatives Gray, Antonio Lujan, Steinborn, Trujillo and Wallace and Senators Asbill, Fischmann, Leavell, Pinto and Ulibarri. Advisory members are Representatives Alcon, Anderson, Bratton, Rodolpho "Rudy" S. Martinez and Salazar and Senators Adair, Kernan, Lovejoy and Payne.

Revenue Stabilization and Tax Policy Committee: Senator Smith will serve as chair and Representative Sandoval will serve as vice chair. Other voting members are Representatives Cote, Crook, Gardner, Ben Lujan, Rodolpho "Rudy" S. Martinez, Saavedra, Taylor and Trujillo and Senators Cisneros, Duran, Eichenberg, Jennings, Keller, Kernan, Morales and Sharer. Designees are Representatives Bratton, Miguel P. Garcia, Jeff, Maestas, Nuñez, Rodella, Tripp and Varela and Senators Boitano, Cravens, Leavell, Neville, Rodriguez, Bernadette M. Sanchez, Sapien and Wirth.

Tobacco Settlement Revenue Oversight Committee: Representative Chasey and Senator Garcia will serve as co-chairs. Other voting members are Representatives Picraux and Vaughn and Senators Feldman and Ryan. Advisory members are Representatives Begaye and Giannini and Senators Adair, Beffort, Lopez and Papen.

Commission on Uniform State Laws: Representative Cervantes and Senator McSorley will continue to serve as legislative members, and Representative Cook and Senator Payne will serve as the new legislative members from the minority.

### **Council-Created Committees:**

Courts, Corrections and Justice Committee: Representative Park and Senator Wirth will serve as co-chairs. Other voting members are Representatives Anderson, Cervantes, Chasey, Cook, Maestas, Rehm and Stewart and Senators Adair, Garcia, Harden, Lopez, Martinez and Ryan. Advisory members are Representatives Alcon, Barela, Egolf, Kintigh, W. Ken Martinez, O'Neill, Thomas and Vaughn and Senators Kernan, Leavell, McSorley, Payne, Michael S. Sanchez and Ulibarri.

Economic and Rural Development Committee: Senator Bernadette M. Sanchez will serve as chair and Representative Mary Helen Garcia will serve as vice chair. Other voting members are Representatives Barreras, Ernest H. Chavez, Espinoza, Gray, Hamilton, Lundstrom and Rodella and Senators Boitano, Garcia, Harden, Keller, Morales, Munoz and Sharer.

Advisory members are Representatives Cook, Cote, Heaton, Jeff, Madalena, Maestas, Rodolpho "Rudy" S. Martinez, Nuñez, Rehm, Tyler and Vigil and Senators Adair, Beffort, Duran, Eichenberg, Leavell, Martinez and Sapien.

Representative Rodefer provided the council with a proposal regarding the creation of an Art and Cultural Affairs Committee. Ms. Tackett explained that a house memorial had passed during the last session urging its creation. She also noted that if the Senate does not wish to create a new committee, the council could create a subcommittee of the Economic and Rural Development Committee to study art and cultural issues.

Representative Rodefer explained that art constitutes a huge industry in New Mexico and explained that issues such as the film production tax credit deserve to be studied by a dedicated interim committee.

Senator Jennings explained that the large number of committees already appointed makes it difficult for senators, who are already serving on an average of over seven committees, to devote sufficient time to each one. He also indicated that the Senate Committees' Committee did not want to appoint another committee.

Speaker Lujan suggested that Representative Rodefer make a written request to the Senate Committees' Committee and wait to see what it decides to do.

Indian Affairs Committee: Representative Madalena and Senator Pinto will serve as co-chairs. Other voting members are Representatives Alcon, Begaye, Jeff, Lundstrom, Powdrell-Culbert and Vaughn and Senators Adair, Eric G. Griego, Lovejoy, Munoz, Rodriguez and Ryan. Advisory members are Representatives Ernest H. Chavez, Ben Lujan, Maestas, Rodella and Salazar and Senators Ingle, Jennings, Martinez and Sharer.

Investments Oversight Committee: Representative Heaton will serve as chair and Senator Smith will serve as vice chair. Other voting members are Representatives Bratton, Larrañaga, Saavedra, Trujillo and Varela and Senators Eichenberg, Keller, Leavell, Neville and Sapien. Advisory members are Representatives Barreras, Miguel P. Garcia, Gonzales, Lundstrom, Powdrell-Culbert, Stapleton, Tyler and Vigil and Senators Cisneros, Ingle, Papen, Payne, Ryan, Michael S. Sanchez and Wirth.

Land Grant Committee: Representative Miguel P. Garcia will serve as chair and Senator Martinez will serve as vice chair. Other voting members are Representatives Bandy, Barreras, Eleanor Chavez, Thomas A. Garcia, Hall and Rodella and Senators Adair, Ortiz y Pino, Rue and Bernadette M. Sanchez. Advisory members are Representatives Alcon, Egolf and Ben Lujan and Senators Cisneros, Duran and Eric G. Griego.

Science, Technology and Telecommunications Committee: Representative Gonzales will serve as chair and Senator Fischmann will serve as vice chair. Other voting members are Representatives Arnold-Jones, Powdrell-Culbert, Rodella, Salazar, Varela and Vigil and

Senators Asbill, Cravens, Feldman, Phil A. Griego and Lopez. Advisory members are Representatives Giannini, Ben Lujan, McCoy, Picraux, Tripp and Wallace and Senators Boitano, Cisneros, Martinez, Payne and Sapien.

Water and Natural Resources Committee: Senator Phil A. Griego will serve as chair and Representative Nuñez will serve as vice chair. Other voting members are Representatives Bandy, Begaye, Cervantes, Thomas A. Garcia, Gray, Irwin, Larrañaga, McCoy and Stewart and Senators Garcia, Harden, Munoz, Neville, Ortiz y Pino, Papen and Rue. Advisory members are Representatives Crook, Egolf, Espinoza, Ezzell, Ben Lujan, Madalena, Picraux, Saavedra, Steinborn, Strickler and Tripp and Senators Adair, Asbill, Cisneros, Feldman, Jennings, Kernan, McSorley, Rodriguez and Wirth.

### Legislative Council Meeting Dates

The council selected the following dates for its meetings this interim:

June 24

July 27

August 30

September 23

November 5

December 17

Mr. Burciaga presented the council with a list of proposed areas of focus for each interim committee and explained that a more detailed listing of focus areas would be presented, along with each committee's work plan and budget, at the June meeting.

Mr. Burciaga, in response to a request from the leadership, also presented the council with a proposal to lengthen the time between the meetings of some interim committees, meeting for three days every six weeks instead of two days every four weeks. He outlined a basic schedule for each committee, indicating whether it would meet monthly or every six weeks for two or three days, and suggested that the Mortgage Finance Authority Act Oversight Committee meet every six to eight weeks and the Tobacco Settlement Revenue Oversight Committee meet three times this interim before September 1.

### Staff Reports

Ms. Tackett provided the council with the resumes of Joe Thompson and Diane Marsh for appointment to the Capitol Art Foundation. She also provided the council with a brief overview of the foundation, including its history, current makeup and attendance at functions.

On a motion made, seconded and approved, Joe Thompson and Diane Marsh were appointed to the Capitol Art Foundation.

Ms. Tackett explained to the council that House Bill 728 in 2007 mandated a working group composed of members from the Retiree Health Care Authority, the Legislative Finance Committee (LFC), the LCS and the Department of Finance and Administration to study the solvency of retiree health care. She went on to note that \$100,000 had been appropriated for contracting with an actuarial firm and with Jefferson Wells to compile an online database of

retiree health care data. However, Ms. Tackett explained that the LCS had never received an invoice from the Retiree Health Care Authority, likely because of staff turnover there, and hence, Jefferson Wells has not been paid for the work it has done. She indicated that an agreement has been reached for payment to Jefferson Wells, with the Retiree Health Care Authority paying one-third of the \$20,000 due and the LCS covering the other two-thirds. Ms. Tackett also explained that the original contract with Jefferson Wells called for the deliverables to go to the Retiree Health Care Authority while payment came from the LCS, which had actually entered into the contract.

In response to a question from Representative Park, Ms. Tackett indicated that Jefferson Wells is not seeking interest on the past amount due and would settle for only the \$20,000 originally agreed upon.

On a motion made, seconded and approved, the council authorized expenditure of \$15,000 from the interim expenses account to satisfy contractual obligations to Jefferson Wells.

Representative Miera raised the issue of those state employees who make under \$20,000 and their inclusion in the bill that changes their retirement contribution amounts. He explained that such an arrangement hits those individuals particularly hard.

Cathy Fernandez of the LFC explained that the LFC became aware of the problem about two weeks ago and that David Abbey, LFC director, had sent a letter on May 6 to help clarify the issue. Ms. Fernandez also noted that Mr. Abbey had gone before the retirement boards to explain that the legislature had intended to exempt those employees that work full-time and make less than \$20,000 from making increased retirement contributions. She went on to indicate that the involved parties are seeking to solve the problem administratively.

Representative Miera emphasized that the issue needs to be resolved fairly soon as contract negotiations are already beginning.

Ms. Fernandez expressed her confidence that the issue would indeed be resolved administratively soon.

Staff provided the council with a letter from Senator Lopez regarding the passage and subsequent veto of Senate Bill 172, which would have created a statutory Legislative Human Services Committee. Senator Lopez indicated that the scope of work for the Legislative Health and Human Services Committee is simply too broad and listed the various tasks that would have been carried out by the separate Legislative Human Services Committee. She asked that the council create a separate Legislative Human Services Committee.

The council directed staff to add the issues raised in Senator Lopez's letter into the work plan of the Legislative Health and Human Services Committee.

Senator Jennings raised the issue of having the LCS contact the State Board of Finance to see if it would be amenable to commissioning an independent audit of the practices surrounding investment of the state's trust funds to make sure everything is functioning properly. The council had a lengthy discussion about the issue, and several alternatives were offered, such as having either the Investments Oversight Committee or the LFC take testimony regarding investment practices, or having the Retirement Systems Solvency Task Force add the issue to its work plan and study it. There was also discussion about when the results of such a study would be presented to the council.

On a motion made, seconded and unanimously approved, the council directed the LCS to meet with the State Board of Finance to figure out the scope of an independent, third-party audit on the investment practices of the state's trust funds, including costs, and come back to the June 24 council meeting with the scope and possible costs.

The council acknowledged the hard work of LFC analyst Norton Francis, who is leaving New Mexico, and wished him the best of luck.

There being no further business, the council adjourned at 2:10 p.m.