



**MINUTES  
of the  
THREE-HUNDRED-THIRTY-SEVENTH MEETING  
of the  
LEGISLATIVE COUNCIL  
May 9, 2011  
Santa Fe**

The three-hundred-thirty-seventh meeting of the Legislative Council was called to order on Monday, May 9, 2011, at 10:47 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  
Representative Thomas A. Anderson  
Representative Donald E. Bratton  
Senator Carlos R. Cisneros  
Representative Anna M. Crook  
Senator Stuart Ingle  
Representative W. Ken Martinez  
Senator Cisco McSorley  
Representative Rick Miera  
Senator William H. Payne  
Senator Michael S. Sanchez  
Senator William E. Sharer  
Representative Sheryl Williams Stapleton  
Representative Thomas C. Taylor

**Absent**

**Special Advisory Members Present**

Representative Eliseo Lee Alcon  
Senator Mary Jane M. Garcia  
Representative Roberto "Bobby" J.  
Gonzales  
Representative Rhonda S. King  
Representative Dennis J. Kintigh  
Representative James Roger Madalena  
Senator George K. Munoz  
Representative Andy Nuñez  
Representative Debbie A. Rodella  
Senator John Arthur Smith

**Special Advisory Members Absent**

Senator Pete Campos  
Senator Kent L. Cravens  
Representative Antonio Lujan

## **Staff**

Raúl E. Burciaga, Director, Legislative Council Service (LCS)  
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS  
Doris A. Faust, Assistant Director for Drafting Services, LCS  
John Yaeger, Assistant Director for Legislative Affairs, LCS  
Jeret Fleetwood, Locator Coordinator, LCS

On a motion made, seconded and passed, the minutes of the January 17, 2011 meeting of the council were approved as submitted.

## **Interim Committees**

The council appointed members to the following statutory and council-created committees.

Legislative Council: President Pro Tempore Jennings and Speaker Lujan will serve as co-chairs. Other voting members are Representatives Anderson, Bratton, Crook, W. Ken Martinez, Miera, Stapleton and Taylor and Senators Cisneros, Ingle, McSorley, Payne, Michael S. Sanchez and Sharer. Special advisory members are Representatives Alcon, Gonzales, King, Kintigh, Antonio Lujan, Madalena, Nuñez and Rodella and Senators Campos, Cravens, Garcia, Munoz and Smith.

Legislative Education Study Committee: Representative Miera will serve as chair and Senator Cynthia Nava will serve as vice chair. Other voting members are Representatives Nora Espinoza, Mary Helen Garcia, Jimmie C. Hall, Dennis J. Roch and Mimi Stewart and Senators Garcia, Gay G. Kernan and Lynda M. Lovejoy. Advisory members are Representatives Alonzo Baldonado, Ray Begaye, Eleanor Chavez, George Dodge, Jr., Gonzales, Tim D. Lewis, Stapleton, Shirley A. Tyler and Bob Wooley and Senators Vernon D. Asbill, Mark Boitano, Stephen H. Fischmann, Howie C. Morales, John Pinto and Sander Rue.

Legislative Finance Committee: Senator Smith will serve as chair and Representative Luciano "Lucky" Varela will serve as vice chair. Other voting members are Representatives William J. Gray, King, Larry A. Larrañaga, Henry Kiki Saavedra, Nick L. Salazar, Edward C. Sandoval, Don L. Tripp and James P. White (Speaker Lujan indicated that Representatives King and Salazar will share a voting membership, alternating meetings in that capacity) and Senators Sue Wilson Beffort, Campos, Cisneros, Ingle, Carroll H. Leavell, Mary Kay Papen and John M. Sapien. Designees are Representatives Begaye, Bratton, Conrad D. James, Antonio Lujan, Patricia A. Lundstrom, Al Park, Danice Picraux, Taylor and Richard D. Vigil and Senators Rod Adair, Phil A. Griego, Clinton D. Harden, Jr., Jennings, Timothy M. Keller, Linda M. Lopez, McSorley, Morales, Steven P. Neville, Payne, Rue, Bernadette M. Sanchez, Sharer and David Ulibarri.

Interim Legislative Ethics Committee: Senator Lopez and Representative Salazar will serve as co-chairs. Other voting members are Representatives Bratton, Cathrynn N. Brown, Zachary J. Cook, Brian F. Egolf, Jr., Dianne Miller Hamilton, Antonio "Moe" Maestas and W.

Ken Martinez and Senators Beffort, Campos, Ingle, Jennings, Neville, Payne and Michael S. Sanchez.

Legislative Health and Human Services Committee: Senator Dede Feldman and Representative Picraux will serve as co-chairs. Other voting members are Representatives Espinoza, Kintigh and Antonio Lujan and Senators Kernan, Lopez and Gerald Ortiz y Pino. Advisory members are Representatives Paul C. Bandy, Begaye, Eleanor Chavez, Miguel P. Garcia, James, Madalena, Bill B. O'Neill and Stewart and Senators Adair, Beffort, McSorley, Papen, Nancy Rodriguez, Rue, John C. Ryan and Bernadette M. Sanchez.

Disabilities Concerns Subcommittee: Representative Antonio Lujan will serve as chair and Senator Rodriguez will serve as vice chair. Other voting members are Representatives Espinoza and Picraux and Senators Adair and Papen.

Military and Veterans' Affairs Committee: Representative Thomas A. Garcia and Senator Ulibarri will serve as co-chairs. Other voting members are Representatives Alcon, Hamilton and Wooley and Senators Cravens, Richard C. Martinez and Pinto. Advisory members are Representatives Anderson, Rodolpho "Rudy" S. Martinez and Sandoval and Senators William F. Burt, Cisneros, Garcia, Eric G. Griego, Harden, Keller and Payne.

Mortgage Finance Authority Act Oversight Committee: Representative Joni Marie Gutierrez will serve as chair and Senator Rodriguez will serve as vice chair. Other voting members are Representatives Brown, Ernest H. Chavez and Nate Gentry and Senators Boitano, McSorley and Ortiz y Pino. Advisory members are Representatives Anderson, Gonzales, Sandra D. Jeff, Rick Little, Madalena and Roch and Senators Adair, Lovejoy, Martinez, Rue and Ulibarri.

Natural Gas Shutdown Task Force: Legislative members are Representatives Gonzales and James R.J. Strickler and Senators Burt and Martinez.

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 Baldonado, Candy Spence Ezzell, Gonzales, Yvette Herrell, Dona G. Irwin, Jane E. Powdrell-Culbert, Rodella, Saavedra, Strickler, Vigil and White and Senators Beffort, Cravens, Tim Eichenberg, Fischmann, Harden, Morales, Rodriguez and Ulibarri. Advisory members are Representatives Ernest H. Chavez, Crook, David L. Doyle, Mary Helen Garcia, Thomas A. Garcia, James, Little, Ben Lujan, W. Ken Martinez, Nuñez, Sandoval, Stapleton and Taylor and Senators Burt, Garcia, Eric G. Griego, Lovejoy, Martinez, Munoz, Neville and Payne.

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

Radioactive and Hazardous Materials Committee: Representative Antonio Lujan will serve as chair and Senator Martinez will serve as vice chair. Other voting members are Representatives Anderson, Brown, Egolf, Jim R. Trujillo and Tyler and Senators Asbill, Fischmann, Leavell, Pinto and Ulibarri. Advisory members are Representatives Alcon, Bratton and Salazar and Senators Adair, Burt, Eric G. Griego, Kernan, Lovejoy, Payne, Rodriguez and Bernadette M. Sanchez.

Redistricting Committee: Representative Mary Helen Garcia and Senator Lopez will serve as co-chairs. Other voting members are Representatives Crook, James, Larrañaga, Madalena, W. Ken Martinez, Rodella, Sandoval and Taylor and Senators Cravens, Phil A. Griego, Ingle, Jennings, Lovejoy, Ortiz y Pino, Sharer and Smith. Advisory members are Representatives Bandy, Begaye, Bratton, Gail Chasey, Espinoza, Thomas A. Garcia, Gentry, Lewis, Ben Lujan, Rodolpho "Rudy" S. Martinez, O'Neill, Stapleton, Stewart and Tyler and Senators Burt, Cisneros, Garcia, Keller, Morales, Munoz, Neville, Rue and Peter Wirth.

Revenue Stabilization and Tax Policy Committee: Speaker Lujan and President Pro Tempore Jennings indicated that the committee elects its own chair and vice chair. Voting members are Representatives Bratton, Crook, Ben Lujan, Rodolpho "Rudy" S. Martinez, Saavedra, Sandoval, Taylor, Trujillo and Wooley and Senators Boitano, Cisneros, Eichenberg, Harden, Jennings, Keller, Kernan, Morales and Smith. Designees are Representatives Begaye, Cook, Egolf, Miguel P. Garcia, Thomas A. Garcia, Gonzales, James, Jeff, Antonio Lujan, Maestas, Rodella, Strickler, Tripp and Varela and Senators Adair, Burt, Cravens, Eric G. Griego, Phil A. Griego, Munoz, Neville, Bernadette M. Sanchez, Sapien, Sharer and Wirth.

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

Courts, Corrections and Justice Committee: Representative Park and Senator Wirth will serve as co-chairs. Other voting members are Representatives Joseph Cervantes, Chasey, Cook, Doyle, Gentry, Maestas, William "Bill" R. Rehm and Stewart and Senators Adair, Garcia, Harden, Lopez, Martinez and Ryan. Advisory members are Representatives Alcon, Anderson, Brown, Egolf, Kintigh, W. Ken Martinez, O'Neill, Stapleton and Vigil and Senators Leavell, McSorley, Payne, Pinto, Rue, Michael S. Sanchez and Ulibarri.

Economic and Rural Development Committee: Senator Bernadette M. Sanchez will serve as chair and Representative Rodella will serve as vice chair. Other voting members are Representatives Ernest H. Chavez, Mary Helen Garcia, Gentry, Hamilton, Herrell and Lundstrom and Senators Boitano, Cravens, Garcia, Harden, Martinez, Morales and Ulibarri. Advisory members are Representatives Cook, Dodge, Jeff, Madalena, Nuñez, Rehm, Salazar, Taylor, Tyler and Vigil and Senators Adair, Beffort, Burt, Keller, Leavell, Munoz, Pinto and Sapien.

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

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

Land Grant Committee: Representative Miguel P. Garcia will serve as chair and Senator Martinez will serve as vice chair. Other voting members are Representatives Alcon, Bandy, Baldonado, Eleanor Chavez, Hall and Rodella and Senators Adair, Ortiz y Pino, Rue and Bernadette M. Sanchez. Advisory members are Representatives Gutierrez, Ben Lujan, Lundstrom and Vigil and Senators Cisneros, Cravens and Ulibarri.

Science, Technology and Telecommunications Committee: Representative Gonzales will serve as chair and Senator Fischmann will serve as vice chair. Other voting members are Representatives Brown, James, Rodella, Salazar, Smith and Varela and Senators Burt, Feldman, Phil A. Griego, Lopez and Neville. Advisory members are Representatives Begaye, Ben Lujan and Picraux and Senators Boitano, Cisneros, Martinez, Payne and Sapien.

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

### **LCS, House and Senate Fiscal Year 2012 Budgets**

Mr. Burciaga reviewed the amounts appropriated for FY 2012 operations for the LCS and the house and senate chief clerks' offices. He noted that Governor Martinez had vetoed \$100,000 from the feed bill for the Redistricting Committee. Mr. Burciaga explained that although the vetoed funding would have no effect on the legal and technical consultants already hired by the legislature, using funds from the interim expenses account to cover the Redistricting Committee's travel would put additional strain on available resources, pointing out that the account is for per diem and mileage expenses for all of the interim committees and that it had been overspent in FY 2010. Mr. Burciaga stated that while the account could likely cover costs in FY 2011, funding could be tight in FY 2012.

Mr. Burciaga went on to note that several members had already requested authorization for travel to conferences held by the National Conference of State Legislatures, Council of State Governments, Council of State Governments-WEST and the Energy Council. He explained that while council policy allows for reimbursement to members traveling to meetings of each organization, such payments could significantly drain available funds. Mr. Burciaga also pointed out that Governor Martinez had vetoed funding for pre-session meetings of some standing committees, creating more need for available funds.

In outlining options the council might consider to stretch resources further, Mr. Burciaga explained that the council could consider:

- reimbursing members only for interim committee travel;
- reducing the number of extra meetings members are eligible to attend from four to two or three;
- reducing the overall number of meeting days held by each interim committee, particularly by holding meetings less frequently over the course of the interim;
- allowing interim committees to travel only until August; and
- refusing to allow most committees to meet after a certain date.

### **Staff Reports**

Mr. Burciaga noted that, during the past session, a number of concerns regarding the air quality in the State Capitol had been raised. He explained that the same firm that tested the air quality after the capitol suffered water damage in 2007 came in to conduct further testing during and after the session, measuring ventilation parameters such as temperature, relative humidity, carbon dioxide and carbon monoxide. Mr. Burciaga explained that tests were conducted in the house and senate chambers, the house and senate lounges, two committee rooms and some locations on the fourth floor, the results of which indicated that all parameters — temperature, relative humidity, carbon dioxide and carbon monoxide — were within the guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, with only some slight elevated levels of temperature and carbon dioxide in the afternoons, probably due to the increase in the number of people in the building. Mr. Burciaga also explained that the testing results for mold, which were conducted after session because of the size and noise of the equipment, indicated that the concentrations of indoor environmental mold in the building are very low, below outdoor levels and within expected ranges for the climate in Santa Fe. He noted that the firm that conducted the study suggested that the duct systems in the capitol be cleaned every five years, but that the company that has cleaned them in the past suggested cleaning them every seven to 10 years. Mr. Burciaga pointed out that the ducts were last cleaned in 2007 and that staff would make it a point to clean them once every seven years. Mr. Burciaga suggested that the number of adults and children in the building, coupled with handshakes, hugs, food, handrails and countless other instances of human contact, likely contribute to more to illnesses than the ventilation system.

Mr. Burciaga went on to discuss issues related to the expected special session for redistricting. He explained that the governor actually issues the proclamation for a special

session, but that such a session is limited to 30 days. Mr. Burciaga noted that the last redistricting special session began after Labor Day (September 4) in 2001 and lasted for 16 days, and that a special session began and ended on September 20 to address issues unrelated to redistricting.

Mr. Burciaga noted that concerns have been raised regarding the timing of the expected special session, explaining that beginning a special session just after Labor Day would likely expose members to the traditionally inflated hotel room prices associated with Santa Fe's Fiesta celebration, which occurs the weekend after Labor Day. However, he cautioned that a later start date could push the session into October, when the secretary of state is required by law to commence with issuing nominating petitions.

Mr. Burciaga went on to discuss concerns regarding issues other than redistricting that the legislature may be asked to consider during a special session. He noted that the Constitution of New Mexico grants the governor the power to decide what is on the proclamation. He pointed out that in the past, there has been some agreement between legislative and executive branches on what will be on the call in an effort to minimize the time spent in special session. Mr. Burciaga explained that little, if any, additional staff is hired for special sessions, which does help keep associated costs down.

Mr. Burciaga then discussed some of the specific issues associated with redistricting. He explained that building space and staff would be dedicated to helping members draw and redraw maps by moving precincts in and out of districts. However, he emphasized that each redistricting bill must successfully account for each of the roughly 1,450 precincts in the state, and that verification of each precinct requires significant amounts of time and technical expertise provided by the attorneys and consultants hired by the legislature at significant costs. Mr. Burciaga explained that while a certain amount of time during the special session would be spent producing redistricting bills, additional bill subjects could also tie up the process, effectively spending money on consultants who would be waiting while unrelated bills work their way through the legislative process. With this in mind, Mr. Burciaga recommended that legislative leadership work with the Office of the Governor to make the best use of available resources, most notably by considering back-to-back special sessions, rather than one covering multiple subjects.

The council discussed the issues raised by Mr. Burciaga. President Pro Tempore Jennings and Speaker Lujan suggested several cost-saving measures, such as limiting out-of-state travel or reducing the number of extra meetings members are eligible to attend.

Mr. Burciaga also discussed the issues raised by several members regarding the legality of several line-item vetoes by Governor Martinez. He reviewed the vetoes and the potential issues raised by each one. Several members of the council asked about the possibility of suing the governor on behalf of the legislature or Legislative Council.

Mr. Burciaga explained that some of the vetoes did raise legal concerns regarding the powers of both the legislative and executive branches. However, he noted that, historically, lawsuits against the governor were filed by individual legislators, rather than committees such as the Legislative Council.

Several members of the council asked that the council request a formal report from LCS staff outlining the issues surrounding lawsuits over line-item vetoes.

Speaker Lujan reminded the council that the LCS will research issues related to the questions raised for any individual member of the legislature.

The council observed a moment of silence for Representative Jeannette O. Wallace, who had recently passed away.

There being no further business, the council adjourned at 1:04 p.m.