



**MINUTES
of the
THREE-HUNDRED-FORTY-SECOND MEETING
of the
LEGISLATIVE COUNCIL
May 9, 2012
Santa Fe**

The three-hundred-forty-second meeting of the Legislative Council was called to order on Wednesday, May 9, 2012, 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
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
Representative Thomas C. Taylor
(Speaker Lujan participated by phone)

Absent

Senator William E. Sharer
Representative Sheryl Williams Stapleton

Special Advisory Members Present

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

Special Advisory Members Absent

Representative Antonio Lujan
Senator George K. Munoz

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS
John Yaeger, Assistant Director for Legislative Affairs, LCS

Doris A. Faust, Assistant Director for Drafting Services, LCS
Jeret Fleetwood, Locator Coordinator, LCS

Approval of Minutes

On a motion made, seconded and passed, the minutes of the three-hundred-forty-first meeting from January 12, 2012 were approved as submitted.

Interim Committees

The council reappointed 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, 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 L. Boitano, Stephen H. Fischmann, Linda M. Lopez, 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 "Bill" 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 Phil A. Griego, Jennings, Timothy M. Keller, Kernan, Lopez, McSorley, Morales, Steven P. Neville, Payne, Rue, John C. Ryan, 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 Begaye, Eleanor Chavez, Miguel P. Garcia, Madalena, Bill B. O'Neill, James E. Smith and Stewart and Senators Rod Adair, Beffort, Fischmann, McSorley, Papen, Nancy Rodriguez, Rue, 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 Richard C. Martinez and Pinto. Advisory members are Representatives Anderson, Dodge, Rodolpho "Rudy" S. Martinez and Sandoval and Senators William F. Burt, Cisneros, Garcia, Eric G. Griego, Clinton D. Harden, Jr., Keller and Payne.

Mortgage Finance Authority Act Oversight Committee: Senator Rodriguez will serve as chair and Representative Joni Marie Gutierrez will serve as vice chair. Other voting members are Representatives Baldonado, 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.

New Mexico Finance Authority Oversight Committee: Senator Papen will serve as chair and Representative Lundstrom 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, James R.J. Strickler, Vigil and White and Senators Beffort, 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, 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, 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, Jim W. Hall and Salazar and Senators Adair, Burt, Eric G. Griego, Kernan, Lovejoy, Payne, Rodriguez and Bernadette M. Sanchez.

Revenue Stabilization and Tax Policy Committee: Representative Sandoval will serve as chair and Senator Eichenberg will serve as 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, Jeff, Antonio Lujan, Maestas, Rodella, Strickler, Tripp and Varela and Senators Adair, Burt, Eric G. Griego, Phil A. Griego, Munoz, Neville, Bernadette M. Sanchez, Sapien, Sharer and Peter Wirth.

Tobacco Settlement Revenue Oversight Committee: Representative Gail Chasey and Senator Garcia will serve as co-chairs. Other voting members are Representatives Jim W. Hall 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 Lisa K. Curtis, Leavell, McSorley, Payne, Pinto, Rue, Michael S. Sanchez and Ulibarri.

Economic and Rural Development Committee: Representative Rodella will serve as chair and Senator Bernadette M. Sanchez will serve as vice chair. Other voting members are Representatives Ernest H. Chavez, Mary Helen Garcia, Gentry, Hamilton, Herrell and Lundstrom and Senators Boitano, Garcia, Harden, Martinez, Morales and Ulibarri. Advisory members are Representatives Cook, Dodge, Jeff, Madalena, Nuñez, Rehm, Salazar, Taylor 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, Jeff, Lundstrom, Powdrell-Culbert and Smith 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 and Pensions 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: Senator Martinez will serve as chair and Representative Miguel P. Garcia will serve as vice chair. Other voting members are Representatives Alcon, Paul C. Bandy, Baldonado, Eleanor Chavez, Jimmie C. Hall and Rodella and Senators Adair, Ortiz y

Pino, Rue and Bernadette M. Sanchez. Advisory members are Representatives Gutierrez, Jim W. Hall, Ben Lujan, Lundstrom and Vigil and Senators Cisneros and Ulibarri.

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

Water and Natural Resources Committee: Representative Cervantes will serve as chair and Senator Phil A. Griego will serve as vice chair. Other voting members are Representatives Bandy, Begaye, Egolf, Thomas A. Garcia, Gray, Irwin, Larrañaga, Nuñez, Stewart, 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.

The council also authorized the speaker and president pro tempore, in consultation with the Senate Committees' Committee, to make additional changes to interim committees.

Mr. Burciaga noted that the LCS will work on a calendar that will attempt to minimize conflicts for voting members and include the same number of meeting days for each committee as occurred during the last two years.

Senator Lopez provided the council with a copy of Senate Memorial 33, which encourages every agency and entity that receives state funding to adopt a policy to address institutional racism. She also presented the council with a letter requesting that, in light of the memorial passing, the council request each interim committee that has review over state departments and state-funded entities to ask those departments if they already have a policy addressing institutional racism.

The council discussed Senator Lopez's request and agreed to transmit her request to the chair, vice chair and co-chairs of each interim committee.

Out-of-State Travel

Mr. Burciaga provided the council with a copy of Section 10-8-5 NMSA 1978, explaining that the statute prohibits members who are not running for the seat they currently hold, or who have been defeated in a primary or general election, from being reimbursed for out-of-state travel without approval from three-fourths of the Legislative Council members.

In response to a question from Senator McSorley, Mr. Burciaga indicated that out-of-state travel costs had been reduced three years ago and had been flat for the past two years.

On a motion made, seconded and unanimously approved, the council authorized reimbursement for out-of-state travel to non-returning members.

Regarding in-state travel, Mr. Burciaga explained that the number of extra meetings for which a member could receive per diem and mileage payments had been reduced from four to three for the 2011 interim. He also noted that, with prior approval, members could use one of those days for other in-state meetings, such as the law school for legislators program.

In response to a question from Senator McSorley, Mr. Burciaga explained that the federal reimbursement rate often changes for the summer in Santa Fe and that any other changes may be made in October.

In response to another question from Senator McSorley, Mr. Burciaga noted that while the LCS had never been asked to put any kind of newsletter together, he and staff would consider what information could be communicated to all legislators.

State Investment Council Appointment

Mr. Burciaga noted that the council had made appointments in 2010 to the State Investment Council and that the terms of those appointments were staggered. He also explained that the term of former Senator Leonard Lee Rawson ends in 2012.

On a motion made, seconded and unanimously approved, the council reappointed Mr. Rawson to the State Investment Council.

Legislative Information Policy

Mr. Burciaga provided the council with a proposed policy update for the Legislative Information System (LIS) that pertains primarily to the LIS User Group. He explained that the user group is composed of the house and senate chief clerks and the directors of the LCS, Legislative Education Study Committee and Legislative Finance Committee, and it meets monthly during the interim with LIS staff to discuss hardware and software upgrades, project status and security.

Mr. Burciaga also noted that the LIS receives an increasing number of requests for assistance with individual devices, such personal laptops and phones. He explained that such equipment sometimes poses compatibility and security concerns but that LIS staff would try to accommodate such requests as time and resources permit.

On a motion made, seconded and unanimously approved, the proposed LIS policy was adopted.

President Pro Tempore Jennings raised a question regarding ownership of information, such as emails and documents that may relate to state business but reside on a legislator's personal device. Mr. Burciaga indicated that staff would look into the issue and report back at the next meeting.

Staff Reports

Mr. Burciaga provided the council with budgets for the LCS and the house and senate chief clerks' offices. He explained that while the amounts are identical to those contained in House Bill 1, approved budgets still need to be submitted to the Department of Finance and Administration.

On a motion made, seconded and unanimously approved, the budgets for the LCS and the house and senate chief clerks' offices were approved as submitted.

Mr. Burciaga noted that the *Highlights* for the 2012 session had been published and provided the members of the council with a copy. He also noted that an electronic copy is available online.

Mr. Burciaga noted that a fairly large class is expected at the new member orientation in December. He noted that the leadership usually speaks with newly elected legislators, as well as second-term members about lessons they have learned and what they wish they had known as freshmen. Mr. Burciaga indicated that the orientation is expected to take place on Thursday, December 13, with a council meeting on December 14, after which the required two-hour ethics training would take place.

Mr. Burciaga also introduced several new staff members to the council. Capitol security officers Cato Garcia and Alan Armijo were introduced. He also introduced LCS Staff Attorney Shawn Mathis, Research Assistant Elizabeth Shaw and Information Technology Specialist Seth Morris.

Finally, Mr. Burciaga discussed attorney fees for redistricting. He explained that attorneys filed with the court for fees and costs and that District Judge James Hall held a hearing on April 20. Mr. Burciaga noted that Judge Hall asked attorney Rich Olson if the legislature had any position on the application for fees, and Mr. Olson said the legislature did not. He also explained that Judge Hall had asked for billing statements from the legislative attorneys as well as attorneys from the governor's, lieutenant governor's and secretary of state's offices. Mr. Burciaga went on to note that the judge strongly urged the parties to try to resolve their fee issues and asked if there was any objection to the legislature's attorneys being involved in any negotiations.

Mr. Burciaga then asked the council if it wished to authorize the legislature's legal counsel to participate in any settlement discussions that might take place and report back to the council before indicating approval of any agreement that might result from those discussions.

The council had a lengthy discussion about Judge Hall's request, with some members suggesting that the legislature stay involved in the process and others noting that there was little the legislature's attorneys could do other than report back. Other members emphasized that costs for all parties should be kept down.

On a motion made, seconded and unanimously approved, the council directed staff and the legislature's attorneys to comply with all court orders; not become directly involved in any negotiations; express to the court that any settlement should be minimal, reasonable and fair; and report back.

There being no further business, the council adjourned at 12:25 p.m.