

**MINUTES  
of the  
SIXTH MEETING  
of the  
MILITARY AND VETERANS' AFFAIRS COMMITTEE**

**November 23, 2011  
Room 322, State Capitol  
Santa Fe, NM**

The sixth meeting of the Military and Veterans' Affairs Committee (MVAC) for the 2011 interim was called to order by Representative Thomas A. Garcia, co-chair, on Wednesday, November 23, 2011, at 9:10 a.m. in Room 322 of the State Capitol in Santa Fe.

**Present**

Rep. Thomas A. Garcia, Co-Chair  
Sen. David Ulibarri, Co-Chair  
Rep. Eliseo Lee Alcon  
Rep. Dianne Miller Hamilton  
Sen. Richard C. Martinez  
Sen. John Pinto  
Rep. Bob Wooley

**Absent**

**Advisory Members**

Rep. Thomas A. Anderson  
Sen. Carlos R. Cisneros  
Rep. George Dodge, Jr.  
Rep. Rodolpho "Rudy" S. Martinez  
Rep. Edward C. Sandoval

Sen. William F. Burt  
Sen. Mary Jane M. Garcia  
Sen. Eric G. Griego  
Sen. Clinton D. Harden, Jr.  
Sen. Timothy M. Keller  
Sen. William H. Payne

**Staff**

Pam Stokes, Legislative Council Service (LCS)  
Douglas Carver, LCS  
Rebecca Griego, LCS

**Guests**

The complete guest list is in the meeting file.

**Handouts**

Copies of all handouts and written testimony are in the meeting file.

**Wednesday, November 23**

**Welcome and Introduction**

Representative Garcia opened the meeting by extending a welcome to the committee, staff and members of the public present. He asked all committee members and staff to introduce themselves. Representative Garcia also welcomed Michele Jacquez-Ortiz, field representative, office of Senator Tom Udall; and Jennifer Catechis, district director, office of Congressman Ben Ray Lujan, to the meeting.

**Briefing on Low-Altitude Flights out of Cannon Air Force Base**

Representative Garcia noted that as there have been plenty of prior opportunities for the public to comment on the low-altitude flights issue, the committee would not be open for public comment at this meeting, but that those in attendance were welcome to submit written comments for review by the members of the committee. He also offered that members of the public who wish to make a comment via email could send those comments to LCS staff.

Colonel Larry Munz, vice commander, 27th Special Operations Wing, Cannon Air Force Base (CAFB), gave the bulk of the presentation on the status of the review of low-altitude flights out of CAFB, walking the members of the committee through a PowerPoint presentation. Steve Coffin, 27th Special Operations Wing, CAFB; Captain Jeff Wadell, 27th Special Operations Wing, CAFB; and Second Lieutenant Stephanie Schonberger, public affairs, 27th Special Operations Wing, CAFB, also participated in the presentation.

Colonel Munz noted that the purpose of the low-altitude flights proposal is to establish an adequate training area for the air crews that meet special operations low-altitude training requirements. The training space needs to be over an adequately sized area, with appropriate types of terrain that lack large population centers yet are close to CAFB. Colonel Munz discussed the tasks that Air Force Special Operations undertake, including the humanitarian missions in places like Haiti and New Orleans following Hurricane Katrina. He noted that the overflights out of CAFB would be conducted by CV-22 Ospreys and multiple variants on the C-130, adding that there would be no unmanned aircraft flown in the proposed area.

Colonel Munz then discussed the federal National Environmental Policy Act of 1969 (NEPA) process that had been undertaken for the low-altitude flights, noting that the NEPA process has significantly influenced the proposal. The public comment period was from September 7, 2011 to November 5, 2011, with a final decision being made at the command level of headquarters Air Force Special Operations Command (AFSOC) and not at CAFB.

Colonel Munz then discussed the details of the low-altitude training area, which covers an area in northern New Mexico and southern Colorado. The proposed area includes mountainous terrain for realistic training and enough overall area to replicate actual missions. Colonel Munz said that there would be a maximum of three training missions per night from CAFB, and no location would be overflown more than once a night, with a maximum of 688 flights annually, most of which would occur Monday through Friday after dark. Colonel Munz

stated that the no-action alternative would mean that the flights would be spread over a small geographic area, having a more concentrated impact, and that it would be a sterile training environment for the air crews.

Colonel Munz then discussed the public forums held throughout the areas that would be affected by the low-altitude flights and in some communities outside of the overflight areas. The format for these community meetings allowed ample time both for presentations and for questions from the public to be answered. The public were also invited to submit comment cards by email or regular mail. These meetings had pilots, navigators, NEPA experts and planners in attendance in order to be able to provide detailed answers to the widest range of questions. The 17 public meetings in Colorado and New Mexico had 855 attendees in total and 208 public speakers, with 90 written comments received and approximately 300 total comments (spoken and written). In addition, approximately 1,500 individual comments were sent directly to the 27th Special Operations Wing. There were over 50 agency comments from the city or county level, from federal, state and local agencies and from special interest groups. There were additional comments from tribal entities. Comments and questions covered a variety of topics, including the effect of low-altitude flights on livestock and wildlife, how much increased noise there would be, whether there would be an effect on wind energy, what impact there might be on tribal practices and what effect there might be on the value of ranches and other property. Colonel Munz added that comments submitted during the 2011 public comment period will be considered in order to evaluate the validity of the analysis and the need for supplemental analysis.

Colonel Munz concluded by noting that the final environmental assessment would be a collaborative effort, taking into account the public comments and consultation with the state historic preservation officer, tribal governments and federal agencies. The final environmental assessment can result in a finding of no significant impact, which would allow the proposal to proceed; a no-action alternative; or the preparation of a full environmental impact statement (EIS). He said he expects the final decision to be made early in the coming year.

Members of the committee asked whether it was known which counties approved of the low-level flights, which were opposed and which requested that an EIS be conducted. Lieutenant Schonberger stated that there had been a mix of responses in different communities in the state. Members of the committee noted the strong support throughout the state for the military, but stated that some communities seem to feel that their voices are not being heard. Members of the committee asked Colonel Munz whether he would look at comments that were presented to the committee. He replied that the committee would review the comments, but that it would not be possible to include them in the environmental assessment process as the comment period was closed. Members of the committee discussed with Colonel Munz what impact the committee could have on the review and approval process.

Members of the committee asked for clarification on the difference between an environmental assessment and an EIS. Mr. Coffin stated that with both there are public forums and alternative plans considered, depending on feedback from affected communities, but with an

EIS, there are, in addition, public hearings chaired by a neutral judge, as well as government-to-government reviews, including tribal governments and requirements under the National Historic Preservation Act. Members of the committee expressed their wish to have a list of communities that had supported or opposed the low-altitude flights and which communities had provided comment. Lieutenant Schonberger said that she had a list that she had compiled, but she could not guarantee that it was comprehensive as it was dependent upon the communities informing the 27th Special Operations Wing if the communities had taken a vote or formally addressed the matter.

### **Strategic Plan of the Veterans' Services Department**

Secretary Timothy L. Hale of the Veterans' Services Department (VSD) gave an overview of his department's services and plans for the future. He discussed the department's motto, "Serving those who served", and the focus of the department on the approximately 180,000 veterans who live in New Mexico. He noted that the department's focal points are health care, homelessness, education, long-term care and special needs and veteran burial benefits and cemeteries. He discussed New Mexico's military heritage and the large population of veterans in the state, noting that New Mexico's per capita veteran population is among the nation's highest, but that there has been an overall decline in the veteran population since the 2000 census. He also discussed the changing makeup of New Mexico's veteran population, with a near-term declining elderly population, but a small elderly increase pending as veterans from the Reagan-era buildup reach retirement age, as well as an increase in veterans from more recent military actions. Secretary Hale discussed how the large number of veterans from the more recent conflicts will have challenges regarding posttraumatic stress disorder (PTSD), traumatic brain injuries and military sexual trauma and how important it is that veterans get help within the first six months after they leave the service.

Secretary Hale then discussed the guiding principles of the VSD: people centric, results driven and tactically focused but strategically driven. He stated that the VSD has the following strategic goals: 1) to improve awareness and access to benefits for all New Mexico veterans; 2) to improve and build upon community and interagency partnerships to bridge verified gaps in the United States Department of Veterans Affairs (VA) benefits; and 3) to make New Mexico the most veteran-friendly and -accessible state. He discussed the various state and federal agencies, the national service groups and service foundations that make up the VSD's constituents and key partners. He then discussed the locations of the major VA facilities, PTSD treatment facilities and VA community and rural health facilities in and near New Mexico, as well as the New Mexico state veterans home and the availability of veteran cemeteries.

Secretary Hale then reviewed the VSD's specific strategic goals, including making its service officers the best in the nation, jobs for veterans, homes for veterans and developing and refining plans for an aging veteran population. He discussed the importance of cooperative efforts to put veterans to work with the United States Department of Labor (DOL) and the Workforce Solutions Department for jobs and with the Higher Education Department and the DOL for education and on-the-job training. He also discussed the VSD's business development initiatives, including the Veterans Enterprise Training Program and the New Mexico Veterans

Business Outreach Center. Secretary Hale elaborated on conferences, workshops and focus groups that the VSD had conducted, which included the Transitional Assistance Program and VSD information, and a focus on entrepreneurs. From FY 2008 through FY 2010, there was \$39,589,000 in contracts awarded to veterans' businesses, businesses that tend to hire more veterans as the businesses grow. He also discussed the VSD's short-term expansion plans, which include expanding into women, Native American, National Guard and college markets for entrepreneurs; expanding the social media presence; and securing additional federal grant funding. Over the next one to two years, the department would like to have additional veteran business advisor support locations, particularly in Las Cruces and Farmington, and to have satellite locations on university and college campuses.

Secretary Hale then gave the members of the committee details of the department's field operations. The mission of the field operations is to provide information and assistance to veterans and eligible dependents so they might obtain the state and VA benefits and services to which they are entitled. There are 17 veteran service officers in 20 offices, covering 16 of the state's 33 counties. At present, there are unfilled positions in Las Vegas and Las Cruces, and there is a recent vacancy in Clovis. The field operations serve a population of veterans that make up nine percent of the state's total population, versus a national average that is less than one-half percent. The service officers processed over 18,000 claims in FY 2009.

Secretary Hale concluded by reviewing VA expenditures in the state, which totaled over \$1.5 billion. He also noted that the University of New Mexico Veteran's Office had received \$1.3 million in GI Bill tuition benefits, \$2.6 million in housing allowances to veterans or the children of veterans and \$275,000 worth of book stipends.

Members of the committee asked Secretary Hale for further details concerning the distribution of field offices in the state. They also asked Secretary Hale how New Mexico might move up in the rankings of how it cares for veterans compared with other states. Secretary Hale noted that the key areas are social security withholding, veterans' retirement withholding, veterans' programs, veterans' housing tax benefits, veterans' cemeteries, veterans' homes, in-state tuition benefits and scholarships for veterans and tax breaks for veterans' businesses. He added that changes to tax benefits would be one of the fastest ways to move up in the rankings, particularly a retiree tax exemption and business incentives. There was some discussion among the members of the committee concerning state revenues and the difficulty of lowering anyone's tax rates at this point in time given the state's already meager tax returns.

Secretary Hale noted the strong support the military has in the state's academic institutions.

### **Approval of Minutes**

Senator Ulibarri made a motion, seconded by Senator Martinez, to approve the minutes of the fifth meeting of the MVAC, with changes to who had sponsored and seconded motions two and three of that meeting. The motion to approve the minutes with those amendments passed with all present voting in favor.

## **Veterans' Clubs — Nonprofit Gaming Issues**

David L. Norvell, chair, Gaming Control Board (GCB), Frank A. Baca, executive director, GCB, Tom Fair, director, Audit and Compliance Division, GCB, and Steve Millwood, GCB, gave a presentation to the members of the committee concerning issues surrounding the use of slot machines and other gaming machines in meeting halls for veterans' service organizations. Representative Garcia informed the panelists that the members of the committee are interested in hearing why there is so much paperwork involved in having gaming machines in American Legion posts, Veterans of Foreign Wars posts and the like, and why having gaming machines appears to create restrictions on how and where such organizations can donate money.

Minda McGonagle, a lobbyist for veterans' nonprofit organizations, was invited to address the committee. She noted that she is working with the GCB to address structural issues and to see what could be streamlined in the GCB's regulations and guidelines because the degree of complexity is overwhelming many of the clubs. She would like to see more clubs participate in gaming so that there would be more money going into veteran communities and the community at large. She noted that the paperwork required and signatures needed are especially big obstacles and that she would like to see more flexibility regarding what might be considered a charitable donation made by clubs with gaming machines.

Mr. Norvell indicated that the GCB understood the concerns expressed by Ms. McGonagle and that it is working to streamline the paperwork required for nonprofits. He stated that while there are some forms that could be dispensed with, there are certain requirements that cannot be ignored as they are statutory. The question of donations is particularly tied to what the statutes require.

Mr. Baca then introduced materials that had been provided by Mr. Fair concerning general trends in gaming and statutes and policies regarding charitable contributions, and he discussed more of the issues surrounding paperwork, duplication of effort, errors and charity. He noted that one reason for the increase in paperwork is that tight budgets prohibit GCB staff from making personal visits. With personal visits, a relationship is established and errors or omissions are more expeditiously handled. He said that the issue of paperwork duplicating what is already in the computers connected to the gaming machines is being examined by the GCB information systems staff and the GCB. He noted that the high turnover of personnel in nonprofits with gaming machines leads to more errors as new people have to become familiarized with the necessary recordkeeping. He repeated the point others had made that there is statutory guidance for what is considered a charity.

Mr. Fair presented his figures on gaming trends, noting that the overall trend line for gaming revenue is negative, a pattern that is mirrored in the average revenue per veteran licensee. He discussed the allowable gaming expense (AGE), the amount that can be spent on running a gaming enterprise, noting that the larger the AGE, the smaller the profit being made. He added that 34 percent of institutions with gaming machines did not manage their AGE well. Mr. Fair also gave some specifics regarding the forms required, noting that while there are 31 total forms for nonprofits with gaming machines, not all of these are needed by any one

institution. He also noted that there is an agreement in principle to allow clubs to donate to each other, but that it takes time to implement a rule change.

Mr. Baca noted that the GCB provides training for new clubs, and that the GCB is looking into holding regular training sessions in different parts of the state. He added that the GCB encourages organizations to call if they have any questions. Mr. Fair indicated that the GCB is examining the possibility of web-based interactive forms, but that to ensure accountability, there are certain forms that are recommended always to be done by hand.

Members of the committee encouraged the GCB to continue examining ways to streamline its processes and regulations. They also suggested that the GCB look into whether it would be permissible for groups of American Legion posts or Veterans of Foreign Wars posts to band together to obtain volume contracts for vending machines. It was requested that the GCB report back to the committee with an answer. Members of the committee also requested that the GCB schedule a training at its office as soon as feasible, preferably on a Saturday as many veterans involved with veterans' support organizations work during the week. It was also requested that the GCB let committee staff know when the training would be scheduled so that members of the committee could help to spread word of the training.

### **Consideration of Legislation**

Upon a motion by Representative Hamilton, seconded by Representative Garcia, the committee voted without objection to endorse a memorial requesting the VSD to collaborate with various agencies and organizations to study the unmet behavioral health and primary health care needs of veterans in the southwest portion of the state (file no. 187910.3). It was agreed that Representative Martinez would carry the bill and Representative Hamilton would cosponsor it.

Upon a motion by Representative Sandoval, seconded by Representative Wooley, the committee voted without objection to endorse a bill enacting the Service Member Child Custody Act (file no. 187687.1). It was agreed that Representative Garcia would carry the bill.

Upon a motion by Representative Alcon, seconded by numerous members of the committee, the committee voted without objection to endorse a bill making an appropriation for a feasibility and market study for a Navajo code talkers museum and veterans center (file no. 187913.1). It was agreed that Senator Pinto would carry the bill.

Upon a motion by Representative Sandoval, seconded by Representative Hamilton, the committee voted without objection to endorse a \$500,000 capital outlay request to plan, design and renovate the Yucca Lodge at Fort Bayard for use as a veterans' PTSD clinic. It was agreed that Representative Martinez would carry the request.

Upon a motion by Representative Sandoval, seconded by Representative Hamilton, the committee voted without objection to endorse a memorial requesting the VSD to collaborate with various agencies and organizations to study the unmet behavioral health and primary health

care needs of veterans in the state (file no. 187911.1). It was agreed that Senator Martinez would carry the bill.

The following two bills were discussed by the committee although the committee had not had time prior to the meeting to review the bills' contents. It was agreed that the committee would take a provisional vote on whether to endorse the legislation, but that if after reviewing the text of the bills, any committee member had objections, they were to inform Ms. Stokes and the bill to which a member had raised objections would not receive the committee's endorsement.

Upon a motion by Representative Martinez, seconded by Representative Sandoval, the committee voted without objection to endorse a bill to make an appropriation for a pilot program to treat veterans with PTSD with a virtual reality device (file no. 187979.1). It was agreed that Representative Hamilton would carry the bill.

After discussion with Secretary Hale, upon a motion by Representative Sandoval, seconded by Representative Hamilton, the committee voted without objection to endorse a bill making an appropriation to study the need for a state cemetery for members of the United States National Guard and Reserves (file no. 187980.1). It was agreed that Representative Martinez would carry the bill.

#### **Other Matters**

Members of the committee discussed the possibility of increased funding for veterans in the state's budget. Upon a motion by Representative Wooley, seconded by Representative Sandoval, the committee voted without objection to endorse members of the committee contacting the Office of the Governor to endorse an increase in funding for the state's veterans.

Members of the committee also discussed a study that had been conducted that showed that every veteran in the state brought \$1 million to the state. It was decided that the committee could discuss that report and possibilities for legislation in the next interim.

#### **Adjournment**

There being no other business before the committee, Representative Garcia thanked the members for their service during the interim, and the committee adjourned at 12:52 p.m.