

MINUTES
of the
THIRD MEETING
of the
MILITARY AND VETERANS' AFFAIRS COMMITTEE

September 10, 2010
Santa Fe

The third meeting of the Military and Veterans' Affairs Committee (MVAC) for the 2010 interim was called to order by Senator David Ulibarri, co-chair, on Friday, September 10, 2010, at 9:10 a.m. in Room 322 of the State Capitol.

Present

Rep. Thomas A. Garcia, Co-Chair
Sen. David Ulibarri, Co-Chair
Rep. Elias Barela
Rep. Nathan P. Cote
Sen. John Pinto

Absent

Sen. Eric G. Griego
Rep. Dianne Miller Hamilton
Sen. William E. Sharer

Advisory Members

Sen. Rod Adair
Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Rep. Karen E. Giannini
Sen. Richard C. Martinez
Rep. Rodolpho "Rudy" S. Martinez
Rep. Edward C. Sandoval
Rep. Gloria C. Vaughn

Sen. Dianna J. Duran
Sen. Mary Jane M. Garcia
Rep. Kathy A. McCoy
Sen. William H. Payne

Guest Legislator

Rep. Sandra D. Jeff

Staff

Damian Lara
Rebecca Griego
Jennifer Rabinowitz

Guests and Handouts

The guest list is in the meeting file. Copies of all handouts and written testimony are in the meeting file.

Friday, September 10

Welcome and Introductions

Members of the committee and staff introduced themselves.

Veterans' Business Resources Center

Alan Martinez, deputy secretary of veterans' services, and Lloyd Calderon, director of the Veterans' Business Resources Center (VBRC) of the Veterans' Services Department, described New Mexico as "nonfriendly" to veterans' efforts to establish businesses. Deputy Secretary Martinez described small businesses as the heart of the New Mexico economy. Mr. Calderon said that New Mexico is the only state in the union with an office devoted to helping veterans establish businesses of their own. However, Mr. Calderon said that the state could do more to help veteran entrepreneurialism, including establishing a system of preferences for veterans when awarding state contracts for services and goods. Mr. Calderon explained that while there are three federal statutes encouraging that 3% of all federal contracts be directed to veterans, that goal is met by very few federal agencies. Mr. Calderon also highlighted the VBRC's role to assist veterans in navigating the federal procurement process. Over the last three years, the VBRC has helped veterans secure over \$34 million in contracts. If the VBRC can help veterans to access the 3% of federal contracts, it could potentially bring in contracts cumulatively worth billions of dollars that could greatly help the New Mexico economy. The VBRC's job, therefore, is to identify roadblocks to those opportunities. Putting resources into helping veterans access opportunities to build businesses is an important economic development issue. Mr. Calderon stated that a problem with accessing federal contracts is that federal agencies require evidence of past contractual performance, which creates a classic "Catch-22" situation. Mr. Calderon explained that a remedy is to assist veteran-owned businesses in receiving state contracts in New Mexico by legislating a new preference or an additional 5% preference for veteran-owned businesses in state contracts, in addition to the existing 5% preference given to New Mexico resident businesses.

The committee asked for statistics regarding the potential impact to New Mexico in accessing federal contracts under the 3% goal. The committee also commented that New Mexico's small business offices should be improved and that New Mexico business schools should assist veterans interested in starting businesses. Mr. Calderon said that the VBRC has a memorandum of understanding with the U.S. Small Business Administration in New Mexico and is partnering with the Chamber of Commerce. Still, he said, there is no support from the state for veteran entrepreneurialism in terms of set-asides or preferences. Mr. Calderon said assistance is needed in order for small businesses to compete with large, international companies that are already established.

In response to an inquiry about partnering with financial institutions, Mr. Calderon replied that banks have lending programs for veterans, but banks are highly risk-adverse and not lending money.

The committee expressed concern about pass-through entities and the problem of

corruption. The committee recommended that any legislation passed should specify penalties for laws being broken. The committee also said that establishing preferences should not accumulate preferences based on ethnicity, gender or to simply develop a check-the-box system for weighing contracts in the procurement process. The committee indicated that fairness in the procurement process is the overall goal. Nonetheless, the committee concluded that more needs to be done to assist veteran-owned businesses.

Operation Fort Bayard Committee

Kathryn Brown with the Operation Fort Bayard Committee and Bill Taylor, director for the Property Control Division of the General Services Department, discussed potential uses of Fort Bayard, which the Department of Health is vacating at the end of its lease in November. Ms. Brown discussed the potential of Fort Bayard as a facility for treating veterans with posttraumatic stress disorder (PTSD) and the need of veterans and their families for quality mental health treatment upon returning to the United States from deployment. Fort Bayard was established in 1866 by troops of Company B of the 125th United States Colored Infantry, whose hard work is reflected in the buildings' structural integrity today. Fort Bayard was designated a National Historic Landmark in 2004. Fort Bayard also has a veterans' cemetery. The facility is located upon more than 465 acres of pristine beauty, including 19 natural springs. Ms. Brown said that Fort Bayard is an ideal setting for offering veterans with PTSD a quiet, serene setting in which to heal and to readjust to civilian society. Soldiers returning from war have no buffer in which to heal from the traumas they experienced during deployment. The soldiers are not receiving treatment in the military. Ms. Brown stated that soldiers are being medicated, but they are not receiving therapeutic counseling. She also said that soldiers and their families need help in making the adjustment to civilian life. Mr. Taylor described the Fort Bayard buildings as needing work, including painting and asbestos removal.

The committee commented that Fort Bayard has many potential functions. In response to an inquiry about work readiness programs for veterans, Ms. Brown said that a task force is undertaking a study to determine the feasibility of establishing a vocational rehabilitation center, including a program in organic food production and solar energy at the facility.

The committee said that Fort Bayard represents a valuable economic opportunity to the region. The committee acknowledged that veterans' families would need to receive treatment to help the post-deployment readjustment process.

In response to questions, Ms. Brown further noted that aging veterans who could be cared for at Fort Bayard are being placed in out-of-state facilities, which represents a loss of federal dollars to the state. The committee noted that there are not enough inpatient treatment centers in New Mexico.

In response to a committee inquiry, Ms. Brown replied that female veterans need a place where they can discuss sensitive issues, including sexual assault, without the presence of male soldiers.

The committee asked whether the facility would be for all veterans or just those from New Mexico. Ms. Brown answered that Fort Bayard could be a facility for veterans with PTSD from across the nation and could offer a continuum of care model. In response to follow-up questions, Ms. Brown said that the project is still in a planning stage, and funding sources need to be identified. However, she said that funding will likely become more available for treating veterans with PTSD.

The committee asked Mr. Taylor about the state's plans for leasing the buildings. Mr. Taylor answered that the General Services Department is working to transfer the property from the Department of Health to the Veterans' Services Department, but there is no money in the budget to pay for operations costs. Mr. Taylor noted that unused buildings are a liability to the state. The state is currently expending money only for essential maintenance such as roof repairs. The committee said that the project will likely take a long time to get established, but it is a worthy use for veterans.

Returning Veterans Film Employment Program (ReV-FEP)

John C. Muir III, M.Ed., president, Bill McCamey, vice president, and Charles Tyler III, political affairs director, all of the ReV-FEP, discussed efforts to establish a not-for-profit school to train veterans in the film industry. Mr. Muir explained that the school would focus on recruiting disabled veterans and female veterans, who have been underserved by the film industry. New Mexico is one of three states that are frequently used as filming bases for the industry. Southern New Mexico, however, has lacked a production base for the film industry. Mr. Muir said that the ReV-FEP could establish a service base for the industry and also a technical training facility offering New Mexico veterans a place to learn skills and to develop valuable experiential learning.

The committee said the initiative is a good idea and asked whether the ReV-FEP would establish a training partnership with New Mexico universities or seek separate accreditation. Mr. Muir responded that the ReV-FEP is seeking its own accreditation and plans to be a 100% veteran student body. New Mexico universities are not as focused on recruiting and serving veterans. Mr. Muir pointed out that as a vocational school, the ReV-FEP does not need to be accredited.

In response to questions, Mr. Muir said that the ReV-FEP's training fills a void in an area that the Dona Ana Community College does not serve.

The committee directed staff to draft a bill that gives a percentage of the film industry tax credits to production companies that hire veterans.

Authorization to Direct Disposition

Dale M. Vande Hey, south central region state liaison, U.S. Department of Defense (DOD), discussed a conflict between state law and a DOD form in which deceased service members indicated their wish for the handling of their remains. Mr. Vande Hey said situations have arisen in which a deceased soldier's wishes, as indicated on the DOD form, are challenged by family

members under state law. The inconsistency between state law and recognizing the DOD document as authoritative creates a potential for litigation. Representative Cote and Legislative Council Service staff have drafted a bill recognizing the DOD form as determinative. Approximately 21 states have formally recognized the DOD form as binding. The committee recommended that the bill be endorsed when staff presents it at the final meeting.

Impact of Service Member Deployment on Child Custody

Mr. Vande Hey and Mark E. Sullivan of the Law Offices of Mark E. Sullivan discussed problems of child care and custody of deployed soldiers, even with previously established child care agreements. Mr. Sullivan, who joined the committee meeting by telephone conference, said there is a need for state courts to give temporary authority to determine the best interests of the child of a service member when the service member is deployed. He suggested that courts be empowered to issue temporary orders regarding child care, which would terminate after a soldier returns from duty. A court's final order would be issued 90 days after a soldier's return. He said a majority of soldiers do not have custody of their children, but they do have visitation rights. Situations have arisen in which a deployed soldier's extended family has initiated litigation for custody while the soldier is deployed.

The committee members questioned whether the proposed legislation would encourage litigation between a custodial parent and the service member's family, to which Mr. Sullivan answered that a statute would specify temporary custody to the family member closest with the child. The parenting plan in the final order will address the issue of future deployment and temporary custody. Committee members said that parenting plans are difficult to establish; adding temporary custody arrangements might further complicate that process. Committee members asked how temporary custody arrangements would accommodate incapacitated caretakers. Mr. Sullivan said that an expedited hearing would revisit custody arrangements under the temporary order. Committee members suggested that copies of a draft bill be sent to committee members for their review.

Transmission Line Impact on White Sands Missile Range

Dan Hicks, chief of staff at White Sands Missile Range (WSMR), discussed the potential impact to WSMR of placing SunZia transmission lines alongside or within testing areas. SunZia aims to place 460 miles of electric transmission lines across Arizona and New Mexico. Approximately 80% of the lines will be located on Bureau of Land Management (BLM) lands. WSMR conducts pilot training and missile testing, which would be affected by new infrastructure. For example, training missions in which pilots must fly close to the ground are affected by transmission lines. Mr. Hicks said that the transmission lines would pose a hazard to the pilots, the aircraft and also place the public at risk due to the dispersal of a plane's wreckage should an accident occur. Mr. Hicks said that the SunZia project would impact the Army's use of acoustic towers in training exercises. The transmission lines lose upwards of 200 kilowatts of energy and interfere with acoustics training to a distance of 11.8 miles, weakening America's ability to use acoustics in today's war arenas. The BLM is undertaking an environmental impact statement on the SunZia project in which several proposed transmission routes will be considered.

The committee members said that New Mexico must ensure that WSMR facilities stay in the state. WSMR and the national laboratories contribute \$4.5 billion annually to New Mexico. The committee recommended that it write a letter endorsing the DOD's recommendations, with the Science, Technology and Telecommunications Committee acting as a co-signer. The committee wishes for the letter to say that the DOD and WSMR should be able to maintain the integrity of their operations and missions, and that the economic value of WSMR to the state should be considered in the vetting process. The committee suggested that the letter be generally phrased. The committee also directed staff that wording of the letter should not favor the value of the military over the value of the growing alternative energy industry in New Mexico.

Upon a motion by Senator Ulibarri, seconded by Representative Cote, the committee voted without objection to write a letter to legislative leadership expressing the need to balance the growing alternative energy industry in New Mexico with the existing needs of the military facilities in New Mexico.

Holloman Air Force Base — Status Update

Colonel David Sullivan, 49th Wing vice commander, discussed the spectrum of military missions and activities undertaken at Holloman Air Force Base. Holloman is located in the Alamogordo area and is situated on 59,639 acres, including four off-base sites. Colonel Sullivan estimated that Holloman's local economic impact is approximately \$1.1 million per day and \$405.5 million per year. Holloman has 18 partner units, including the 49th Wing, 44th Fighter Group, 46th Test Group, 4th Space Control Squadron and the German Air Force, which use Holloman for training purposes. The mission of the 49th Wing is combat readiness, including supporting ongoing combat operations, training aircrews and training, equipping and certifying F-22 forces. The F-22 is a multi-role fighter aircraft costing \$143 million each. Colonel Sullivan described the F-22 in his presentation as an exponential leap in warfighting capabilities. Holloman is home to the MQ-1 Predator and MQ-9 Reaper, both of which are remotely piloted aircraft (RPA). Colonel Sullivan described RPAs as critical to American troops on the ground in Afghanistan. In August 2012, upon completion of a squadron transfer from Creech Air Force Base, it is estimated that the total RPA community at Holloman will number 600 to 800 people, with more than 300 students trained each year.

In new developments and of concern to the committee, Colonel Sullivan said the Air Force command is contemplating transferring F-16 aircraft to Holloman from Luke Air Force Base, changing Holloman's primary mission of F-22 combat readiness to F-16 pilot training. The transition is being analyzed based on potential environmental impacts, including hydrazine and other hazardous materials used in the F-16, the number of bombs and bullets dropped on ranges and increased training activities. The transition will also involve an increase in manpower at Holloman. The RPA mission will remain the same. Emerging missions at Holloman include, among other things, counter-narcotics operations, high value targets, target development, precision strikers, airstrike control, convoy overwatch and disaster relief. The base's daily economic impact is likely to increase as the base expands. The committee thanked Colonel Sullivan for the many volunteer activities Holloman undertakes in the Alamogordo community.

Fort Wingate — Status Update

James P. Bearzi, chief, Hazardous Waste Bureau, Department of Environment, discussed efforts to clean up unexploded ordnance and other environmental hazards at Fort Wingate in preparation of the transfer of land to the Pueblo of Zuni and the Navajo Nation. Fort Wingate has been occupied by the U.S. Army since 1862 and as an ammunition depot for most of the last century. Fort Wingate has extensive environmental contaminants in the soil and ground water, including munitions debris and propellants, buried waste and unexploded ordnance. As the cleanup proceeds, sacred and cultural sites of Native Americans are being discovered. Risk-based cleanup efforts may conflict with the needs and objectives of the tribes. Additionally, some areas are too dangerous to clean up or transfer to tribes. The Department of Environment's role is to ensure that cleanups proceed in a safe manner, that they meet applicable environmental legal standards, that the public is protected from immediate and long-term hazards, that tribal concerns are recognized and addressed and that the U.S. Army complies with the hazardous waste closure permit. Mr. Bearzi said the U.S. Army must continue identifying and cleaning up environmental contamination sites, addressing tribal and State Historic Preservation Division of the Cultural Affairs Department concerns, addressing immediate hazards as they are discovered and addressing natural resource damages. Federal law permits resource trustees, tribes, the state and federal agencies to sue for damages caused to natural resources. Mr. Bearzi pointed to some accomplishments made in the cleanup effort, including erecting a fence around one area containing unexploded ordnance, the cleanup of five parcels, the pending transfer of two parcels to tribes, the site investigation of Parcel 21, which is one of the most contaminated areas, and the demolition of contaminated structures on Parcel 21. Mr. Bearzi stated that current or future work includes planned remediation of six parcels in 2011, submitting a work plan for additional cleanup and building a fence along the south side of Parcel 3.

In response to committee questions, Mr. Bearzi said that approximately 5,500 of 26,000 acres will be transferred to the Pueblo of Zuni and the Navajo Nation. Mr. Bearzi also noted that it would be the tribes' decision whether igloos, or storage structures, would be removed. The structures that will remain during the transfer will only be those safe enough for unrestricted use.

The committee members inquired about the presence of asbestos in the buildings. Mr. Bearzi said that the igloos do not have asbestos but that some buildings do. Igloos, he said, have other contaminants.

Committee members wondered about the possibility of setting aside some of the land for veterans, as the veterans cemetery in Santa Fe is running out of available space. The committee suggested that the area might be excellent as a cemetery for Navajo Code Talkers or as a national cemetery. The committee encouraged the Pueblo of Zuni and the Navajo Nation to consider those ideas. The committee further inquired whether the cleanup effort includes remediation of contaminated water. Mr. Bearzi replied that the cleanup is limited to the surface.

Public Comment

Tina R. Sibbitt, associate attorney for the Administrative Office of the Courts, said that the

Child Support Enforcement Division of the State Bar of New Mexico would like to work with the legislature on any bill drafted to address child custody issues discussed today. The committee directed her to contact and work with Mr. Lara of the Legislative Council Service.

Minutes

Upon a motion by Representative Martinez, seconded by Representative Giannini, the committee approved without objection the minutes from the second meeting of the MVAC held on July 20-21, 2010.

Adjourn

There being no further business before the committee, the third meeting of the MVAC was adjourned at 3:15 p.m.