

MINUTES
of the
FIRST MEETING
of the
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE
May 26, 2010
Room 321, State Capitol

The first meeting of the 2010 interim of the Radioactive and Hazardous Materials Committee was called to order at 10:00 a.m. by Senator Richard C. Martinez, chair, on Wednesday, May 26, 2010, in Room 321 of the State Capitol.

Present

Sen. Richard C. Martinez, Chair
Sen. Stephen H. Fischmann
Rep. William J. Gray
Sen. Carroll H. Leavell
Rep. Antonio Lujan
Rep. Jim R. Trujillo
Rep. Jeannette O. Wallace

Absent

Rep. John A. Heaton, Vice Chair
Sen. Vernon D. Asbill
Sen. John Pinto
Rep. Jeff Steinborn
Sen. David Ulibarri

Advisory Members

Sen. Rod Adair
Rep. Eliseo Lee Alcon
Rep. Thomas A. Anderson
Sen. Lynda M. Lovejoy
Rep. Nick L. Salazar

Rep. Donald E. Bratton
Sen. Dianna J. Duran
Sen. Gay G. Kernan
Rep. Rodolpho "Rudy" S. Martinez
Sen. William H. Payne

Staff

Gordon Meeks
Mark Harben

Guests

The guest list is in the meeting file.

Wednesday, May 26

2010 Interim Work Plan and Meeting Schedule

The committee adjusted the agenda and discussed the work plan and meeting schedule first. Senator Martinez asked if any members had suggestions to add to the work plan.

The committee members asked that the following be added to the draft work plan:

- costs passed on to customers from electric, propane and energy companies or co-ops for energy materials, along with issues facing customers;
- the status of green jobs;

- cap and trade rules before the Environmental Improvement Board (EIB) and the Department of Environment plans;
- regulatory justice;
- status of Los Alamos National Laboratory;
- uranium mining; and
- geothermal and nuclear energy options.

Government Restructuring Issues

Paula Tackett, director, Legislative Council Service (LCS), introduced herself and Raúl E. Burciaga, director-designate, LCS. She discussed the general calendar for interim committee meetings and added that the New Mexico Legislative Council asked to have the total number of meeting days limited. Ms. Tackett added that the council, due to budget constraints, has also requested that meetings should be held in Santa Fe, unless the committee illustrates that traveling is vital. She also discussed the current government restructuring process that is ongoing to help save money during the budget crunch. Ms. Tackett told the committee that the Government Restructuring Task Force needs the help of committees to pinpoint cuts that are appropriate, necessary and not too detrimental to the state.

Discussion and comments were focused on:

- travel to Los Alamos and Carlsbad;
- whether the committee needs to look at revenue enhancements;
- things to make agencies more efficient and effective;
- policies that should drive the budget cuts;
- mitigation of executive orders as budget consequences; and
- opposition to revenue enhancement ideas.

Committee members expressed appreciation to Ms. Tackett and compliments to the staff.

Senator Martinez made a motion to adopt the work plan, which was seconded by Representative Lujan and Representative Trujillo; the work plan was adopted by the committee.

Department of Environment Mission

Ron Curry, secretary, Department of Environment, introduced the members of his department in the audience. Secretary Curry discussed the ways the department is funded, stating that funding comes from many different sources. He mentioned how projects, including ground water protection and monitoring, are funded with the general fund, which has been budgeted to be less than it was under Governor Gary Johnson's administration. Secretary Curry stated that as cuts continue, the important projects that are pivotal in protecting New Mexico's environment are suffering. He said that the department depends exclusively on the general fund for ground water work, which has stayed flat during Governor Bill Richardson's administration. The department's vacancy rate is high, meaning Secretary Curry has inadequate staff for the jobs at hand. He emphasized that the Ground Water Bureau deals with the hard rock mine permits that include large employers such as Phelps Dodge and Freeport MacMoran. The department

has an overall vacancy rate of 25% to 30% of its approved full-time employees. He pointed out that the workload of the department includes permitting and inspecting septic tanks, only half of which are permitted. The state has 15,000 to 20,000 cesspools. He said the general fund accounts for only 16% of the department's total budget. To the extent that the budget drives policy programs, the general fund programs are limited in their effectiveness. The department has more than 100 grants from the federal Environmental Protection Agency (EPA), none of which can be moved from one purpose to another. He said that the Drinking Water Bureau was \$1.2 million in debt to the EPA for failure to fulfill requirements of the EPA, which has tight restrictions like the Legislative Finance Committee. Yet, he said, he is proud of the five consecutive unqualified audits of the department. He said there are three components of the department's mission: policy, financial and legal. Each is critical.

Jim Perry, Administrative Services Division director, Department of Environment, discussed past legislation and what the department is planning for the upcoming legislative session. He thanked the committee for championing the cause of the department. He discussed the nuclear workers' compensations and said that the legislature and executive have to approve funding for that each year. Mr. Perry also went over financial figures for the department.

Questions and topics discussed:

- penalties and revenues for "supplemental environmental project"; ex PNM consent decree;
- fees as revenue;
- the concentration of cesspools in what area (spread throughout the state);
- compliments to the Department of Environment for work in Rio Arriba County;
- the difference between septic tanks and cesspools;
- the Kirtland Air Force Base plume and PCBs near Albuquerque water intake;
- greenhouse gas and cap and trade plans: June 7 New Mexico Supreme Court hearings; California and New Mexico are the only states moving toward cap and trade; and
- environmental issues with the Santa Fe courthouse.

Greenhouse Gas Initiative

Jim Norton, Environmental Protection Division director, Department of Environment, and Sandra Ely, environment and energy policy coordinator, Department of Environment, were introduced and discussed the greenhouse gas initiative with the committee. They referred to the challenge in court for an injunction against the EIB rules on cap and trade. A formal petition had not been filed yet by the department. The existing court case will be considered before the department acts. They said six jurisdictions will be moving forward in 2012 on cap and trade policy with or without the federal government taking action. A 100 million metric ton cap is New Mexico's goal in light of the other jurisdictions not moving forward. The process will involve public meetings. An issues paper has been published, and the department is receiving public comments on that. Since the EIB has been enjoined by a lower court from taking action, the rules are held in abeyance until the state supreme court reviews and acts on the lower court's

ruling. A 60-day comment period would follow if the supreme court overrules the injunction. No future public hearings are planned until the supreme court issues its decision. They said the department feels it has the authority to regulate air pollution that contributes to greenhouse gases created in New Mexico. The New Mexico proposed rules are similar to the California initiative on greenhouse gas rules. Both states are members of the Western Climate Initiative. Costs to New Mexico residents of cap and trade rules need to be identified, they said.

The discussion and commentary focused on:

- reasons other states are sitting on the sidelines;
- mechanisms for distributing greenhouse gas allowances;
- potential financial windfall to allowance holders when the market is created and what is the experience elsewhere;
- "cap and dividend" concept compared to cap and trade (it is wise to go with cap and trade without comparing it with cap and dividend);
- Bernalillo County jurisdiction (25,000-ton threshold applies outside Bernalillo County and Indian land);
- implementation schedule; and
- gubernatorial candidates are opposed to cap and trade.

Senator Martinez discussed the dates of future meetings this interim. He said he would like to go to Los Alamos on September 8 and Hobbs/Carlsbad on October 14-15.

Senator Martinez adjourned the meeting at 11:53 a.m.