



**MINUTES  
of the  
THREE-HUNDRED-SEVENTEENTH MEETING  
of the  
LEGISLATIVE COUNCIL  
July 28, 2008  
Santa Fe**

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The three-hundred-seventeenth meeting of the Legislative Council was called to order on Monday, July 28, 2008, 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  
Senator Carlos R. Cisneros  
Senator Kent L. Cravens  
Representative Daniel R. Foley  
Senator John T.L. Grubestic  
Senator Stuart Ingle  
Representative Rhonda S. King  
Representative W. Ken Martinez  
Representative Rick Miera  
Senator Leonard Lee Rawson  
Senator Michael S. Sanchez  
Representative Sheryl Williams Stapleton  
Representative Thomas C. Taylor  
Representative Jeannette O. Wallace

**Absent**

Senator Pete Campos

**Special Advisory Members Present**

Representative Janice E. Arnold-Jones  
Senator Mary Jane M. Garcia  
Representative Antonio Lujan  
Representative James Roger Madalena  
Senator Cisco McSorley  
Representative Al Park  
Senator Lidio G. Rainaldi  
Senator H. Diane Snyder  
Representative Peter Wirth

**Special Advisory Members Absent**

Representative Donald E. Bratton  
Senator Dianna J. Duran  
Senator Steven P. Neville  
Senator John Arthur Smith

**Guest**

Representative Gloria C. Vaughn

**Staff**

Paula Tackett, Director, Legislative Council Service (LCS)  
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS  
Raúl Burciaga, Assistant Director for Drafting Services, LCS  
John Yaeger, Assistant Director for Legislative Affairs, LCS  
Jeret Fleetwood, Locator Coordinator, LCS

Speaker Lujan began the meeting by noting that the community of Ruidoso had experienced severe flooding over the weekend and stated that the legislature would do its best to help that community.

On a motion made, seconded and unanimously approved, the minutes of the June 23, 2008 meeting of the council were approved as submitted.

Newly hired LCS staff attorney Damian Lara and LCS law school interns Aaron Choneska, Alicia Santos and Tom Bunting were introduced to the council.

### **Per Diem and Mileage Policy**

Staff provided the council with an updated per diem and mileage policy. Ms. Tackett pointed out that the proposed policy revision would allow for meeting-related tours and field trips by members. For example, Ms. Tackett explained that the change would allow new members of the Courts, Corrections and Justice Committee to tour a correctional facility that most of the other members of the committee had already seen.

Senator Jennings noted that while changing the policy would likely work, it would be worthwhile to keep in mind the private citizens and state employees who attend interim committee, board and commission meetings and are reimbursed at lower per diem and mileage rates.

Speaker Lujan pointed out that the attorney general sent a letter to the governor regarding per diem and mileage payments. He also noted that New Mexico's reimbursement rate is one of the lowest in the country.

In response to a question from Representative Miera, Ms. Tackett explained that language had been changed in the proposed policy from "travel" to "drive" because some legislators fly their own planes to interim committee meetings and staff did not believe it was the intent of the legislature that those members receive an additional per diem payment.

### **Special Session Preparation**

Ms. Tackett reminded the council that extra staff for special sessions is typically limited to four phone operators, an emergency medical technician, state police officers and a small skeleton staff. She also reminded the council that phone calls are routed through the majority and minority offices in each house. Ms. Tackett went on to note that, without knowing what will be on the governor's proclamation, preparation can be tricky.

Speaker Lujan suggested that staff prepare as they usually do for a special session. He also reminded members that mail would be placed on their desks each day.

Steve Arias, house chief clerk, indicated that his office had plans to prepare as it normally does for a special session. He noted that the sergeant at arms staff would perform double duty as committee attendants and that the coffee shop would likely open with a limited menu.

In response to a question from Speaker Lujan, Mr. Arias explained that there would likely be staff for certain committees, but not for individual legislators.

Lenore Naranjo, senate chief clerk, indicated that the senate would also run on a skeleton crew, as it had during past special sessions.

In response to a question from Representative Taylor, Ms. Tackett explained that while the phones in each member's office would be turned on, incoming calls would be routed through the majority and minority offices.

Speaker Lujan suggested that leadership begin to look at the workload and appropriate money and resources as needed, likely enough for seven to 10 days, from legislative cash balances.

Senator Jennings indicated that there are still a number of unresolved issues surrounding the special session, including:

- concern by municipalities over potential revenue losses that might occur by moving and/or expanding the tax holiday;
- the high cost and lack of availability of lodging in the Santa Fe area during August;
- logistical issues for staff and legislators;
- the likelihood that, since there will only be a few bills and not all of the committees will need to meet, many legislators will be stuck in Santa Fe without much to do;
- whether the revenue projections issued in July would remain strong in the face of falling oil and natural gas prices; and
- the fact that members cannot solicit campaign contributions once the proclamation calling the special session is issued.

In response to a question from Senator Snyder, Ms. Tackett explained that neither house may adjourn for more than three days without the consent of the other.

### **Code of Conduct**

Mr. Yaeger provided the committee with a revised staff code of conduct, which he indicated has to be updated and approved by the council every four years. He explained that most of the proposed changes involve cleanup language, although some of the language regarding IT resources would be covered in a separate document. Mr. Yaeger also noted that,

once approved by the council, the code of conduct would be signed by the speaker and president pro tempore and then distributed to staff for them to sign.

In response to a question from Representative Martinez, Mr. Yaeger explained that wording regarding "gifts" and "compensation" had been changed to "money" to better track with the Governmental Conduct Act. The council directed staff to incorporate the more inclusive phrase "gift, compensation, money or any other thing of value" as appropriate.

The council had a lengthy discussion about what constitutes incidental use of state resources and whether staff could violate the code of conduct for occasionally using state resources, at the direction of a legislator, to assist that member with the member's profession outside of the legislature. For example, Representative Martinez noted that, during sessions, he occasionally has had to direct his staff to help rearrange his law practice schedule due to the time demands of the session. Ms. Tackett explained that such occasional uses of the legislative phone systems fall within the definition of incidental use. The council directed staff to return with proposed language addressing that issue.

### **Staff Reports**

A request by both the Courts, Corrections and Justice Committee and the Water and Natural Resources Committee to move their joint meeting to August 4-5 was approved. The Courts, Corrections and Justice Committee was also authorized to meet on August 6.

A request by the Revenue Stabilization and Tax Policy Committee to move its meeting to August 27-28 was approved. A request to move the committee's October meeting from Santa Fe to Albuquerque was also approved.

The council noted that the committee may need to select a new location for its August meeting due to the flooding in the Ruidoso area.

A request by the Legislative Health and Human Services Committee to cancel its August 22 meeting and instead hold a meeting on December 3-5 was approved.

The Legislative Council moved its August 22 meeting to 10:00 a.m. on Friday, August 15, to coincide with the start of the planned special session.

Ms. Tackett presented the committee with the findings of an annual audit on the LCS, noting that problems that were raised in the audit are attributable to the SHARE system and common to virtually all state agencies. Representative Arnold-Jones indicated that implementation of the SHARE system without adequate testing is costing the state a great deal of money and staff time.

The council approved a request from the University of New Mexico School of Law to co-sponsor the Law School for Legislators Program again. Speaker Lujan noted that the program has been especially helpful, particularly in the area of water.

Senator Jennings indicated that the Senate Committees' Committee has not met since the last council meeting, so members of the Financial Practices Committee have not yet been named.

Senator Jennings also provided the council with an update on the flooding in the Ruidoso area. He indicated that at least one person died and several others had been reported missing. Senator Jennings also noted that a number of homes and bridges had been destroyed and estimated the damage at \$15-20 million. He also indicated that the Mescalero Apache reservation had sustained damage, too.

There being no further business, the council adjourned at 11:45 a.m.