



**MINUTES  
of the  
THREE-HUNDRED-TWENTY-NINTH MEETING  
of the  
LEGISLATIVE COUNCIL  
March 31, 2010  
Santa Fe**

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The three-hundred-twenty-ninth meeting of the Legislative Council was called to order on Wednesday, March 31, 2010, at 11:40 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 Dianna J. Duran  
Representative Keith J. Gardner  
Senator Stuart Ingle  
Representative Rhonda S. King  
Representative W. Ken Martinez  
Senator Cisco McSorley  
Representative Rick Miera  
Senator William H. Payne  
Senator Michael S. Sanchez  
Representative Sheryl Williams Stapleton  
Representative Thomas C. Taylor  
Representative Jeannette O. Wallace

**Absent**

**Special Advisory Members Present**

Representative Eliseo Lee Alcon  
Representative Donald E. Bratton  
Representative Anna M. Crook  
Representative Brian F. Egolf, Jr.  
Senator Mary Jane M. Garcia  
Representative James Roger Madalena  
Senator George K. Munoz  
Representative Al Park  
Senator John Arthur Smith

**Special Advisory Members Absent**

Senator Pete Campos  
Senator Kent L. Cravens  
Representative Antonio Lujan

**Staff**

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

On a motion made, seconded and unanimously approved, the minutes of the January 18, 2010 meeting of the Legislative Council were approved as submitted.

**State Investment Council Appointments**

Ms. Tackett explained that Senate Finance Committee Substitute for Senate Rules Committee Substitute for Senate Bills 18, 218 and 238 passed during the 2010 session and signed by the governor, changed the makeup of the State Investment Council (SIC) by including four members to be appointed by the Legislative Council. She pointed out that the bill states that no more than two of the appointees may be from the same political party and reviewed some of the other qualification requirements. Ms. Tackett also noted that because the bill carried an emergency clause, the council would have to make its appointments at the present meeting. She also noted that appointments made at the meeting would still have to be confirmed by the senate during the 2011 session. Ms. Tackett went on to review the application process and noted that résumés for all 19 applicants had been transmitted to the council over the past week.

Speaker Lujan noted that a number of very good people were under consideration and directed staff to send a letter to each of them thanking them for their interest in serving on the SIC.

Senator Jennings indicated that the two applicants selected by the senate were Michael Martin of Silver City and former Senator Leonard Lee Rawson of Las Cruces.

Senator Smith reviewed the credentials of Mr. Martin, explaining that he has served as chief operating officer for two Lordsburg banks and president of the New Mexico Bankers' Association.

Speaker Lujan indicated that the two applicants selected by the house were Peter Frank of Santa Fe and Craig Reeves of Clayton. He pointed out that Mr. Frank had been a member of the SIC and had been attempting to implement several of the recommendations made by Ennis, Knupp and Associates regarding reform of SIC operations.

Some members of the council asked about Senator Rawson's experience to qualify for appointment. Senator Ingle noted that Senator Rawson has operated a Las Cruces construction firm, managing the 401k plans for 115 employees, for at least 10 years. He also pointed out that Senator Rawson had also served since 1999 on the board of trustees of the New Mexico Home Builders Association self-insured workers' compensation group, which provided him with relevant experience.

Representative Taylor indicated that he would also like to have M. Greg Anesi considered as a house appointee. He pointed out Mr. Anesi's banking and small business experience as relevant factors to consider regarding Mr. Anesi.

In response to a question from Representative Gardner, Ms. Tackett explained that the staggered terms called for in the bill would be determined by drawing lots.

The council had a lengthy discussion regarding the SIC appointments. Several members highlighted the significance of the appointments being made, pointing out that the SIC is charged with investing billions of taxpayer dollars. Also, members raised concerns about having to use résumés alone to select appointees, rather than being able to interview applicants or verify the information contained in their résumés.

Ms. Tackett explained that the bill carried an emergency clause, which did not allow sufficient time for a personal interview process at this juncture, but it would be appropriate for future appointments. She pointed out that the appointees still have to be confirmed by the senate in 2011, which would provide some time for the Senate Rules Committee (SRC) to review their information and to monitor their performance.

The council went on to discuss appropriate means of vetting SIC appointments, both currently and in future years. Members pointed out that the SRC has conducted background checks on executive appointments and is authorized to meet in the interim, so it is a legitimate option for vetting SIC appointees. The discussion led to whether the council could direct, or should simply request, the SRC to hold hearings quickly and to allow various levels of involvement by house members in those hearings. The council also discussed ways to improve the appointment process, acknowledging that while time constraints presented concerns about current appointments, future ones could benefit by improving the process.

Senator Jennings moved that Mr. Frank, Mr. Martin, Senator Rawson and Mr. Reeves be appointed to serve as the Legislative Council appointees to the SIC.

The council continued to discuss the problems presented by selecting applicants based solely upon their résumés, which might steer members toward supporting those applicants they were personally familiar with rather than more qualified ones.

Senator McSorley made a motion to divide the question contained in Senator Jennings' motion to confirm all four appointees and instead to vote upon each nominee individually.

The motion to divide the question failed, 7-8, with Speaker Lujan and Representative Martinez and Senators Cisneros, Duran, Jennings, Ingle, Payne and Sanchez voting NO.

The motion that Mr. Frank, Mr. Martin, Senator Rawson and Mr. Reeves be appointed to serve as the Legislative Council appointees to the SIC was approved, with Representatives Gardner, Stapleton and Taylor and Senator McSorley voting NO.

Senator McSorley explained that he voted against the appointments because voting on people he did not know presented a significant ethical issue for him.

Senator Sanchez urged anyone possessing information about ethical or conflict-of-interest issues regarding the appointees to share that information with the SRC.

In response to questions from Senator McSorley, Ms. Tackett explained that the appointees would begin serving on the SIC, but that they are still subject to confirmation by the full senate, like any interim appointments. She also stated that staff could brief the council at the next meeting on options available should the council wish to vote on the appointments again.

In response to a question from Senator Garcia, Senator Sanchez explained that SRC background checks take between two weeks and one month.

Representative Martinez explained that he voted against dividing the question to honor the equality of both houses, noting that he did not want the house to have to vote on senate preferences and vice versa. He also remarked on the quality of all the applicants and the eventual appointees.

On a motion made, seconded and unanimously approved, all members of the council were authorized to attend SRC meetings and ask questions of appointees. Staff was directed to notify the SRC about the authorization.

Steve Moise, recently appointed to be the interim state investment officer (SIO), provided the council with an overview of his personal history and qualifications. He promised to have an open, by-the-book process. Mr. Moise explained that he had been selected as SIO one week ago by the members already appointed to the SIC, but that his appointment is subject to a vote by the entire SIC. He also provided the council with a brief summary of his professional accomplishments.

Senator Jennings asked Mr. Moise to provide the council with a copy of his résumé and assured him that a better mechanism for selecting the council's appointments to the SIC would be in place before the next round of appointments. He also emphasized the importance of the SIC making the most money possible for the beneficiaries of the funds it oversees, rather than for individuals serving on or connected to the SIC.

Senator Payne asked for an update from SIC staff on the status of the various lawsuits involving the SIC. Mr. Moise indicated he would provide the council with an update.

### **Government Restructuring Task Force Appointments**

Ms. Tackett provided the council with an overview of the legislation, House Bill 237, forming the Government Restructuring Task Force and explained that the mission of the task force is to study the current resources of the state's agencies, programs, services, funding and policies and the public needs served by them. She went on to note that the task force is to review the recommendations of the Governor's Committee on Government Efficiency; identify possible duplication or overlapping programs and services; and recommend consolidation, elimination or reduction of programs.

Ms. Tackett then discussed the appointments laid out in the bill, noting that five members of the house would be appointed by the speaker, five members of the senate would be appointed by the president pro tempore in consultation with the Senate Committees' Committee and three public members with expertise in public and private organizational structure and operations would be appointed from each house.

Members of the task force are Representatives Bandy, Gardner, Lundstrom, Miera and Varela and Senators Eichenberg, Lopez, Neville, Payne and Smith. Public members appointed by the house are Pat Baca, F. Chris Garcia and David Ortiz. Public members appointed by the senate are John Gasparich, Anita Lockwood and Jim O'Neill. Advisory members are Representatives Madalena, Park and Wallace and Senators Cisneros, Ingle, Lovejoy and Michael Sanchez.

### **Other Appointments**

Ms. Tackett noted that Senate Joint Memorial 1, passed during the 2010 session, requests the superintendent of insurance to convene a health care working group with members of the Department of Health, the Human Services Department, the Insurance Division of the Public Regulation Commission, the New Mexico Medical Insurance Pool, the New Mexico Health Insurance Alliance and members from the Legislative Finance Committee (LFC) and Legislative Health and Human Services Committee appointed by the council.

Members of the working group are Representatives Begaye, Gardner, Gutierrez, Larrañaga and Picraux and Senators Beffort, Feldman, Kernan, Morales and Papen. Advisory members are Representatives Bratton and King and Senators Harden, McSorley and Rodriguez.

Members of the Commission on Domestic Violence are Representative Stapleton and Senator Ortiz y Pino.

Ms. Tackett noted that appointments to the Medicaid Task Force called for in Senate Memorial 27 could probably wait until the next meeting.

### **Capitol Parking Facility Interim Operations**

Ms. Tackett reviewed the policy governing the Capitol Parking Facility approved by the council during the session, noting that it was the first year the parking structure was in operation and that the council recognized that the policy would be, in effect, a kind of pilot project. She

explained that the session policy provided that there would be some spaces reserved for state employees and house and senate employees, with the remaining spaces open to the public for \$1.00 per hour with an \$8.00 maximum per day. Ms. Tackett also noted that 30 high-occupancy vehicle spaces had also been reserved to encourage car-pooling, that house and senate employees who did not have spaces were allowed to shift their cars into the facility after hours and that two employees had been hired to oversee the facility. She went on to point out that the facility was rarely full during the session and that some of the assigned space holders left their spaces vacant, too, in spite of the fact that an effort was made to move traffic from the PERA lot to the facility.

Ms. Tackett went on to explain that, since the session and given current budget constraints, the session parking facility staff had not been retained and the facility was operating on a first-come, first-served basis at no charge, with some spaces still reserved. She recommended that the facility continue to operate in this manner, with a few more reserved spaces set aside for tenants of the capitol, which would allow for more parking for interim committees in the capitol basement.

In response to a question from Senator Ingle, Ms. Tackett noted that the facility had been vandalized with graffiti once before it was stuccoed, but not since.

On a motion made, seconded and unanimously approved, the proposed interim Capitol Parking Facility policy was approved by the council.

### **Staff Reports**

Ms. Tackett noted that an updated legislative candidate list and a follow-up list of cost-saving proposals were in each member's folder.

Ms. Tackett also pointed out that a letter from Representatives Bandy, Nuñez and Roch was also included in each member's folder. She explained that the letter suggested that the LFC and council-created committees work more closely with one another to better inform members of the budget issues facing various agencies so that targeted budget cuts could be made, if needed, rather than across-the-board budget reductions. Ms. Tackett noted that it might be better to discuss the issues raised in the letter at the council's June meeting, when committee budgets and work plans are traditionally approved.

Representative King emphasized the importance of the issues raised by the letter and suggested that staff begin coordinating in an effort to reduce duplication and make the interim committee process more productive.

In response to a question from Senator McSorley, Senator Jennings explained that while there was no specific limit on out-of-state travel for legislators, he still suggests that individual members remain aware of how much they plan to travel during the interim in an effort to keep costs down. He also noted that he would try to hold off on sending too many people to out-of-state meetings.

Ms. Tackett indicated that about \$87,000 was left for fiscal year 2010, but that interim committee organizational meetings would still have to be held before the end of the fiscal year.

Representative Begaye asked the council to clarify the per diem policy regarding special sessions. He explained that he was summoned to Santa Fe on Sunday, February 28, for a meeting with leadership and the chair of the House Appropriations and Finance Committee, while the special session did not begin until the afternoon of Monday, March 1. However, Representative Begaye explained that he only received \$730 in per diem for the five days he was in Santa Fe for the special session, meaning the special session actually cost him money.

Ms Tackett explained that the special session had been budgeted for three days.

Speaker Lujan noted that none of the members was reimbursed for attendance at the Sunday meeting, explaining that the chair called the meeting to provide information to the members regarding budget issues, and no request was made to the House Printing and Supplies Committee for inclusion in the session budget.

Representative Begaye indicated that he attended the Sunday meeting because he believed it would be important, but assumed that he would be paid for it. He suggested that a mechanism be established to allow members to be reimbursed for similar meetings held in the future.

Several members of the council echoed Representative Begaye's point, noting that it takes at least four hours and significant wear and tear on their vehicles to travel from some parts of the state to Santa Fe. Other members noted that they had begun traveling to Santa Fe several days earlier, when the governor first indicated he would call a special session, only to find out later that day that the session had been postponed.

Speaker Lujan suggested that language be developed to fix the issues raised by Representative Begaye and the council.

There being no further business, the council adjourned at 1:55 p.m.