



MINUTES
of the
THREE-HUNDRED-NINETEENTH MEETING
of the
LEGISLATIVE COUNCIL
November 14, 2008
Santa Fe

The three-hundred-nineteenth meeting of the New Mexico Legislative Council was called to order on Monday, November 14, 2008, at 10:27 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
Representative Donald E. Bratton
Senator Kent L. Cravens
Senator Stuart Ingle
Representative Rhonda S. King
Representative W. Ken Martinez
Representative Rick Miera
Senator Michael S. Sanchez
Representative Thomas C. Taylor

Special Advisory Members Present

Senator Dianna J. Duran
Senator Mary Jane M. Garcia
Representative James Roger Madalena
Senator Cisco McSorley
Representative Peter Wirth

Guests

Senator Rod Adair

Staff

Paula Tackett, Director, Legislative Council Service (LCS)
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS
Jeret Fleetwood, Locator Coordinator, LCS

Absent

Senator Pete Campos
Senator Carlos R. Cisneros
Representative Daniel R. Foley
Senator John T.L. Grubestic
Senator Leonard Lee Rawson
Representative Sheryl Williams Stapleton
Representative Jeannette O. Wallace

Special Advisory Members Absent

Representative Janice E. Arnold-Jones
Representative Antonio Lujan
Senator Steven P. Neville
Representative Al Park
Senator Lidio G. Rainaldi
Senator John Arthur Smith
Senator H. Diane Snyder

Speaker Lujan named Representative Bratton as a voting member for the duration of the meeting in order to satisfy a quorum.

On a motion made, seconded and unanimously approved, the minutes of the September 22, 2008 meeting were approved as submitted.

Interim Committee Requests

A request by the Mortgage Finance Authority Act Oversight Committee to hold a meeting on December 3, since its November meeting had been canceled, was approved.

Staff explained that the Indian Affairs Committee and the Radioactive and Hazardous Materials Committee had formed a joint subcommittee to discuss uranium mining issues, which would require approval by the council.

The request for a subcommittee was approved.

The Indian Affairs Committee also requested an additional meeting day in December. Staff explained that the committee members are concerned about the possibility that several capital outlay projects might not be reauthorized and want to review several projects. The meeting was tentatively scheduled for December 17.

The council acknowledged the importance of such a meeting, but emphasized that December interim committee meetings have traditionally been discouraged to allow staff to focus on pre-session issues.

The request was approved, but the council strongly suggested that staff select a date earlier in December for the meeting.

The Indian Affairs Committee also requested per diem and travel expenses for members of the committee to travel to Washington, D.C., to lobby the state's congressional delegation regarding funding for uranium mining site cleanup. Representative Madalena noted that the committee had visited several old mining sites during its October meeting and expressed its desire to relate the importance of cleanup of such sites to Congress.

Representative Bratton suggested that a member of the minority party be included in any delegation that travels to Washington, D.C., to lobby New Mexico's congressional delegation.

The committee's request was approved.

The council discussed a request by the New Mexico Finance Authority Oversight Committee to form a subcommittee to discuss transportation issues.

In response to several questions from Speaker Lujan, staff noted that additional meeting dates for the committee had already been approved by the council and that no particular dates for a subcommittee meeting had been identified by the committee.

The council suggested that the committee review transportation issues at its December 3-4 meeting and denied the request for a subcommittee.

Staff Reports

Senator Jennings presented Dr. Pauline Rindone with a certificate thanking her for her hard work as director of the Legislative Education Study Committee and congratulated her on her recent retirement.

Several members of the council expressed their gratitude to Dr. Rindone for her dedication to education and the legislative process

Ms. Tackett reminded the council that the ethics seminar and new member orientation is scheduled for December 18-19 and provided the council with an overview of the tentative agenda for the new member orientation.

In response to a question from Speaker Lujan, staff explained that returning members of the legislature would be paid the legislative rate for per diem and mileage while new members would receive the public rate for attendance at the ethics seminar and new member orientation. Ms. Tackett also emphasized that attendance at the ethics seminar is required of all members of the legislature.

Ms. Tackett explained that staff would be working with the National Conference of State Legislatures (NCSL) to update the classification and compensation study in order to better track with salaries offered by the executive branch. She noted that while recommendations would be forthcoming, none would come this year.

Ms. Tackett also pointed out that the parking structure under construction near the west side of the capitol would not be completed until May 2009. She explained that the prefabricated portions of the structure have been ordered and that staff are working with nearby businesses and churches to identify potential parking spaces and shuttle services to alleviate anticipated parking problems during the upcoming session.

Ms. Tackett noted that new members would not be allowed to pre-file bills due to the fact that they have not been sworn in yet. She also noted that there has been some discussion about whether the rules regarding pre-filing apply to newly constituted legislatures at all.

Ms. Tackett also explained that some of the recommendations of the Public School Funding Formula Task Force would require updating, which would involve a transfer of funds from the legislative interim expenses account. She noted that such a transfer would require council approval.

The council approved the transfer of funds from the interim expenses account for the purpose of updating the funding formula.

Representative Miera noted that recent newspaper articles have pointed toward funding problems within the Gadsden School District and asked Ms. Tackett to provide the council with an update on that situation.

Ms. Tackett explained that the Public School Facilities Authority (PSFA) reviews receipts submitted by school districts for reimbursement. She went on to indicate that during the course of the authority's review of the Gadsden School District's receipts, a question arose about whether money from the PSFA could be used by the Gadsden district to pay off its general obligation bond or to pay for operations. Ms. Tackett then explained that meetings with attorneys and the bond council resolved the question and that the actions of the Gadsden district had been deemed allowable.

Representative Miera also indicated that he has received several calls from local government entities expressing concern over an apparent unwillingness on the part of the Department of Finance and Administration (DFA) to reimburse local governments for capital outlay projects due to concerns over the constitutional anti-donation clause. Other members of the council indicated that they had received similar complaints and expressed frustration over their doubts about the ability of DFA to cut off funding for projects approved by the legislature.

After some discussion, the council directed staff to prepare a letter to DFA outlining concerns about the issue.

Speaker Lujan also suggested that DFA Secretary Katherine Miller be requested to appear before the Capital Outlay Subcommittee to further clarify the matter.

Senator Jennings then began a discussion about the responsibilities of the legislature and his concerns about a likely shortfall in the fiscal year 2009 budget. He indicated that revenue estimates paint a dire picture for New Mexico's economy and questioned whether the situation warrants a general legislative meeting or possibly a special session of the legislature to address the issues. Staff inquired whether the council wants to present the financial picture to the entire legislature sometime during the ethics seminar and new member orientation.

Senator Jennings acknowledged that he had mailed a letter to each of the state's school districts cautioning them that the state would likely face revenue shortfalls and that some discretion while crafting proposed budgets for the upcoming legislative session might be helpful.

Speaker Lujan said that the fiscal year actually ends in July 2009 and that, if necessary, the legislature could address any budget shortfalls once the 49th legislature convenes in January 2009. He also questioned whether Senator Jennings' letter might be construed by some recipients as the opinion of the entire legislature rather than that of the president pro tempore.

Other members of the council expressed their concerns over the state's budget and various means of addressing the issue before the full legislature convenes in January 2009.

There being no further business, the council adjourned at 12:05 p.m.

- 5 -