



MINUTES
of the
THREE-HUNDRED-NINETY-THIRD MEETING
of the
LEGISLATIVE COUNCIL
July 7, 2020
Video Conference Meeting

The three-hundred-ninety-third meeting of the Legislative Council was called to order by Representative Brian Egolf, co-chair, at 1:34 p.m. on Tuesday, July 7, 2020, and was conducted via videoconferencing software, with several members calling in.

Present

Rep. Brian Egolf, Co-Chair
Sen. Mary Kay Papen, Co-Chair
Rep. Daymon Ely
Rep. Candy Spence Ezzell
Rep. Doreen Y. Gallegos
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Rep. Rod Montoya
Sen. William H. Payne
Sen. Clemente "Memé" Sanchez
Sen. John Arthur Smith
Rep. Sheryl Williams Stapleton
Rep. James G. Townsend
Sen. Peter Wirth

Absent

Sen. Pete Campos
Sen. James P. White

Special Advisory Members Present

Rep. Eliseo Lee Alcon
Rep. Phelps Anderson
Rep. Deborah A. Armstrong
Rep. Kelly K. Fajardo
Sen. Roberto "Bobby" J. Gonzales
Sen. Daniel A. Ivey-Soto
Rep. Georgene Louis
Rep. Antonio Maestas
Sen. Michael Padilla
Rep. Patricia Roybal Caballero
Sen. Benny Shendo, Jr.
Sen. Mimi Stewart
Rep. Elizabeth "Liz" Thomson
Rep. Christine Trujillo

Special Advisory Members Absent

Rep. Gail Chasey
Sen. Ron Griggs
Rep. Jason C. Harper
Rep. Dayan Hochman-Vigil
Sen. George K. Munoz
Sen. Steven P. Neville
Sen. Cliff R. Pirtle
Rep. Jane E. Powdrell-Culbert
Sen. Gabriel Ramos
Rep. Patricio Ruiloba
Sen. William E. Sharer

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)

Amy Chavez-Romero, Assistant Director for Drafting Services, LCS

Jon Boller, Senior Staff Attorney, LCS

Jeret Fleetwood, Researcher, LCS

Approval of Minutes

On a motion made, seconded and passed, the minutes of the June 9, 2020 meeting were approved as submitted.

On a motion made, seconded and passed, the council noted Senator Sanchez's objection to closing the State Capitol to the public for the special legislative session.

Appointments

On a motion made, seconded and passed, the council reappointed the interim committees appointed in 2019, with the traditional rotation between chair and vice chair, with the following changes:

- Senator Gonzales will serve as a voting member of the Legislative Finance Committee (LFC), Radioactive and Hazardous Materials Committee and Revenue Stabilization and Tax Policy Committee (RSTP), and as an advisory member of the Legislative Education Study Committee (LESC), Military and Veterans' Affairs Committee, Indian Affairs Committee, Investments and Pensions Oversight Committee, Land Grant Committee, Science, Technology and Telecommunications Committee (STTC), Water and Natural Resources Committee (WNRC) and Transportation Infrastructure Revenue Subcommittee (TIRS);
- Senator Elizabeth "Liz" Stefanics will serve as an advisory member of the WNRC;
- Senator Richard C. Martinez will serve as an advisory member of the Courts, Corrections and Justice Committee (CCJ);
- Senator Joseph Cervantes will serve as co-chair of the CCJ and as an advisory member of the Criminal Justice Reform Subcommittee;
- Representative G. Andrés Romero will serve as a voting member of the LFC;
- Representative Christine Chandler will serve as a voting member of the RSTP and as an advisory member of the STTC;
- Representative Daniel R. Barrone will serve as a voting member of the TIRS;
- Representative Marian Matthews will serve as a voting member of the New Mexico Finance Authority Oversight Committee;
- Representative Hochman-Vigil will no longer serve on the Economic and Rural Development Committee and the TIRS;
- Representative Ely will serve as an advisory member of the STTC; and
- Representative Derrick J. Lente will serve as a designee of the LFC and an advisory member of the LESC.

On a motion made, seconded and passed, the council authorized the speaker and president pro tempore to make any other necessary changes to interim committee membership.

On another motion made, seconded and passed, the council authorized the speaker and president pro tempore to make appointments to the New Mexico Civil Rights Commission, with the understanding that a certain number of those appointments will be from the law enforcement community.

On another motion made, seconded and approved, the council authorized interim committee chairs to make decisions regarding in-person, hybrid and remote meetings, with Representatives Ezzell, Montoya and Townsend voting "no".

Mr. Burciaga explained that federal income tax rules regarding per diem and mileage reimbursement for attendance at interim committee meetings state that payment for meetings attended within 50 miles of a committee member's home could be considered income. Per diem payments for virtual meetings would likely also be considered income under Internal Revenue Service rules, he explained.

On a motion made, seconded and passed, the council authorized per diem reimbursement, subject to each member's discretion, for remote attendance at interim committee meetings, with Representatives Ezzell, Montoya and Townsend voting "no".

Out-of-State Travel for Non-Returning Members

Mr. Burciaga explained that Section 10-8-5 NMSA 1978 prohibits members who are not running for the seat the member currently holds, or who have been defeated in a primary or general election, from being reimbursed for out-of-state travel without approval from three-fourths of the council.

On a motion made, seconded and approved, the council authorized reimbursement for out-of-state travel to non-returning members, with Representative Montoya voting "no".

Adjusted Fiscal Year 2021 Budgets

Mr. Burciaga explained that, during the recent special legislative session, fiscal year 2021 budgets for all legislative agencies were reduced by four percent. He said that the directors of the LCS, LFC and LESC, plus each chief clerk, requested some flexibility to be able to trim the required four percent as each deemed appropriate. Representative Lundstrom suggested that the chairs of the committees that oversee the three legislative agencies approve any cuts made by the directors.

On a motion made, seconded and passed, the council authorized the directors of the LCS, LFC and LESC and the House and Senate to cut four percent from their budgets as they deem best, with the LCS, LFC and LESC cuts subject to the approval of the chairs of the committee to which each agency reports.

Governor's Executive Orders

Mr. Burciaga explained that questions had been raised regarding whether executive orders issued by the governor that authorized expenditures of more than \$750,000 during the COVID-19 pandemic exceeded the governor's authority to do so under statutory emergency powers provisions, including Section 12-11-24 NMSA 1978, noting that two of the orders authorized \$10 million and \$20 million to the Department of Health.

David Abbey, director, LFC, explained that the committee was aware of the executive orders exceeding \$750,000, that the amounts came from the Appropriation Contingency Fund, which is part of the General Fund, and that the Appropriation Contingency Fund has been exhausted so additional amounts came from the general operating reserve. In response to a question, Mr. Abbey noted that it appeared that the money had not yet been spent.

On a motion made, seconded and passed, the council directed staff to contract with outside counsel to investigate the governor's executive orders authorizing over \$750,000 and whether or not a budget adjustment request was required and report back to the council, and at the same time, send a letter to the governor requesting additional information on the governor's authority regarding the executive orders, all of which would be added to the agenda for the next council meeting.

Staff Reports

Mr. Burciaga noted that the LCS planned to hire an information technology consultant to review the legislature's information technology infrastructure.

The council approved the use of interim expenses to hire an information technology consultant.

The council also authorized the use of interim expenses for the New Mexico Civil Rights Commission.

Mr. Burciaga noted that a community solar working group decided to hire its own facilitator.

Mr. Burciaga also noted that the information technology assessment could help address some of the concerns raised by members about the overall legislative process.

Mr. Burciaga also noted that several entities requested that the legislature consider forming a redistricting commission.

Adjournment

There being no further business, the meeting adjourned at 3:08 p.m.