



**MINUTES**  
**of the**  
**THREE-HUNDRED-SEVENTY-FOURTH MEETING**  
**of the**  
**LEGISLATIVE COUNCIL**  
**October 23, 2017**  
**Santa Fe**

The three-hundred-seventy-fourth meeting of the Legislative Council was called to order on Monday, October 23, 2017, at 1:20 p.m. in Room 307 of the State Capitol by Senator Mary Kay Papen, co-chair.

**Present**

Rep. Brian Egolf, Co-Chair  
Sen. Mary Kay Papen, Co-Chair  
Sen. Carlos R. Cisneros  
Rep. Candy Spence Ezzell  
Rep. Doreen Y. Gallegos  
Rep. Roberto "Bobby" J. Gonzales  
Sen. Stuart Ingle  
Rep. Rod Montoya  
Sen. William H. Payne  
Sen. Clemente Sanchez  
Sen. John Arthur Smith  
Rep. Sheryl Williams Stapleton  
Sen. James P. White  
Sen. Peter Wirth

**Special Advisory Members Present**

Rep. Eliseo Lee Alcon  
Rep. Deborah A. Armstrong  
Sen. Pete Campos  
Rep. Kelly K. Fajardo  
Sen. Ron Griggs  
Rep. Rick Little  
Sen. Cisco McSorley  
Sen. Steven P. Neville  
Sen. Cliff R. Pirtle  
Rep. Jane E. Powdrell-Culbert  
Rep. Debbie A. Rodella  
Sen. William E. Sharer  
Rep. Elizabeth "Liz" Thomson  
Rep. Carl Trujillo

**Absent**

Rep. Zachary J. Cook  
Rep. Nate Gentry

**Special Advisory Members Absent**

Rep. Gail Chasey  
Rep. Rebecca Dow  
Rep. Jason C. Harper  
Sen. Daniel A. Ivey-Soto  
Rep. Georgene Louis  
Rep. Antonio Maestas  
Sen. George K. Munoz  
Sen. Michael Padilla  
Rep. Patricia Roybal Caballero  
Sen. Benny Shendo, Jr.  
Rep. Jim R. Trujillo

**Staff**

Raúl E. Burciaga, Director, Legislative Council Service (LCS)  
Amy Chavez-Romero, Assistant Director for Drafting, LCS  
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS  
John Yaeger, Assistant Director for Legislative Affairs, 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 August 28, 2017 meeting were approved as submitted.

**Interim Committee Requests**

Mr. Burciaga relayed the following interim committee requests to the council:

- one extra meeting day for the Investments and Pensions Oversight Committee, tentatively scheduled for November 13, in part because the committee postponed presentations from an earlier meeting date in order for members to attend the memorial service for former Representative Luciano "Lucky" Varela; and
- rescheduling of a meeting of the Public School Capital Outlay Oversight Task Force from November 3 to December 1, which, while not an extra day, requires council approval.

On a motion made, seconded and passed, both requests were approved by the council.

**Requests for Use of Chambers**

Mr. Burciaga relayed the following requests for use of one or both chambers:

- Representative Sarah Maestas Barnes requested use of the house chambers on October 24-25 on behalf of a group of grade school students and teachers;
- former house sergeant at arms Steve Shaw requested use of the house chambers on November 8 on behalf of a civic group from Rio Rancho;
- Sandia National Laboratories requested a briefing from Mr. Burciaga on the legislative process in the house chambers on November 15; and
- Representative James E. Smith requested use of the house chambers on October 26 on behalf of the Next Generation Education Leaders.

On a motion made, seconded and passed, the council approved all four requests for the use of chambers.

**Rio Grande Trail Commission Appointments**

Mr. Burciaga explained that at the request of the secretary of energy, minerals and natural resources, the Legislative Council had appointed four advisory members to serve on the Rio

Grande Trail Commission after its creation in 2015: Representatives Harper and Jeff Steinborn and Senators Cisneros and John C. Ryan. He noted that Representative Steinborn had since been elected to serve in the senate and that Senator Ryan did not seek reelection, and that the council had been requested to appoint four new advisory members to the commission.

Senator Papen named Senators Sander Rue and Steinborn to serve as advisory members on the Rio Grande Trail Commission.

Representative Egolf named Representative Gonzales to serve as an advisory member on the commission and noted that he would consult with Representative Gentry on the appointment of another house member.

In response to questions from members, Mr. Burciaga explained that legislative appointments to the commission were not included in the statutory construction of the commission but that legislatively appointed advisory members would be reimbursed for per diem and mileage for attendance at commission meetings.

In response to other questions regarding participation of the legislature in the process of developing the Rio Grande State Park, Mr. Burciaga noted that designees for legislative appointments, in the event that appointed members were unable to attend, were not contemplated in the enabling legislation. However, he said he would check to make sure that designees could attend meetings.

On a motion made, seconded and approved, the council approved the advisory appointments to the Rio Grande Trail Commission and authorized the speaker of the house, in consultation with the house minority floor leader, to make an additional appointment.

### **Staff Reports**

Mr. Burciaga provided the council with an update on litigation involving the 10 bills vetoed without explanation by the governor. He explained that the state district court had ruled that the vetoes were invalid and denied a request from the governor for a stay of the court's order. Mr. Burciaga went on to explain that legal counsel for the governor had submitted a motion to appeal the rulings to the State Court of Appeals, and that counsel for the legislature had until Thursday, October 26, to respond to the motions.

Mr. Burciaga went on to note that the tax study, contracted with the accounting firm of Ernst and Young, to analyze the strength of New Mexico's tax system, particularly the gross receipts and personal income taxes, was under way. He noted that at the previous meeting, the council directed staff to negotiate with Ernst and Young to include analysis of the corporate income tax in the study, in addition to its existing study of the gross receipts tax and personal income tax systems. However, Mr. Burciaga explained that meetings with the Taxation and Revenue Department (TRD), legislative staff and Ernst and Young revealed that inaccessibility of certain microdata needed to estimate the impacts of various factors on the corporate income

tax base, plus uncertainties with respect to application of net operating losses, prior overpayments and applications of certain credits, could impact the effectiveness of a corporate income tax study.

Members of the committee and staff discussed various aspects of the study, including staffing issues at the TRD and the difficulty of extracting information from the department's databases; inclusion of some corporate income tax information in the study; and the anticipated 14-week time frame for completion of the study, which would make it available in time for December meetings of the Legislative Finance Committee and the Revenue Stabilization and Tax Policy Committee.

On a motion made, seconded and passed, the council directed leadership and the clerk's offices to work with LCS staff on development of budgets for inclusion in House Bill 1.

On a motion made, seconded and passed, the council went into executive session to discuss litigation issues.

Upon returning from executive session, on a motion made, seconded and passed, the council directed staff to send a letter to the State Board of Finance objecting to recent actions by the board in approving a rule change to allow a dedication of state gross receipts tax increments for purposes other than securing gross receipts tax increment bonds and in waiving a six-month review period of an application regarding a tax increment development district. The council also directed staff to initiate legal action if the board does not take appropriate action.

On another motion made, seconded and passed, the council directed staff to send a letter to the secretary of energy, minerals and natural resources urging the Energy, Minerals and Natural Resources Department to bring to the legislature a proposal to transfer the Mesilla Valley Bosque State Park to the Department of Game and Fish.

There being no further business, the council adjourned at 3:25 p.m.