



MINUTES
of the
THREE-HUNDRED-NINETY-SECOND MEETING
of the
LEGISLATIVE COUNCIL
June 9, 2020
Videoconference

The three-hundred-ninety-second meeting of the Legislative Council was called to order by Senator Mary Kay Papen, co-chair, at 1:00 p.m. on Tuesday, June 9, 2020, and was conducted via videoconferencing software, with several members calling in.

Present

Rep. Brian Egolf, Co-Chair
Sen. Mary Kay Papen, Co-Chair
Sen. Pete Campos
Rep. Daymon Ely
Rep. Candy Spence Ezzell
Rep. Doreen Y. Gallegos
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. Stuart Ingle
Sen. James P. White

Special Advisory Members Present

Rep. Eliseo Lee Alcon
Rep. Deborah A. Armstrong
Rep. Gail Chasey
Rep. Kelly K. Fajardo
Sen. Ron Griggs
Rep. Dayan Hochman-Vigil
Sen. Daniel A. Ivey-Soto
Rep. Georgene Louis
Rep. Antonio Maestas
Sen. Steven P. Neville
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. Phelps Anderson
Rep. Jason C. Harper
Sen. George K. Munoz
Sen. Cliff R. Pirtle
Rep. Jane E. Powdrell-Culbert
Sen. Gabriel Ramos
Rep. Patricio Ruiloba
Sen. William E. Sharer

Guest Advisory Members

Rep. Cathrynn N. Brown
Rep. Rebecca Dow
Rep. Natalie Figueroa
Rep. Harry Garcia
Rep. Joy Garratt
Sen. Gay G. Kernan
Rep. Javier Martínez
Rep. Debra M. Sariñana
Rep. Melanie A. Stansbury
Sen. Elizabeth "Liz" Stefanics
Sen. Pat Woods

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

Special Session Logistics

Mr. Burciaga listed a number of items requiring council approval in preparation for the first special session of the fifty-fourth legislature, to be held during the coronavirus disease 2019 pandemic and with the public health order regarding mass gatherings, protective masks and social distancing still in effect.

Mr. Burciaga explained that the State Capitol had been closed to the public since March in response to the pandemic. He said that the State Capitol would be open to members, staff and tenants leasing space for the special session but should remain closed to the public.

On a motion made, seconded and unanimously approved, the council authorized closure of the State Capitol to the public for the special session.

Next, Mr. Burciaga explained that while some media outlets leased space and would have access to the building, other outlets, including the New Mexico Broadcasters Association and the New Mexico Press Association, had asked for some access to the building as well.

The council discussed access to the building and access to members for the media during the special session, including such issues as credentialing, requests for interviews with individual legislators and safety concerns.

In response to several questions, Mr. Burciaga explained that:

- access for the media would not be limited only to those outlets leasing space in the building;

- LCS staff would work with communications staff for each of the four caucuses to keep the media informed of access and safety procedures; and
- masks would be required for all entrants into the building, including media.

On a motion made, seconded and unanimously passed, the council authorized Mr. Burciaga to develop procedures for media access to the State Capitol for the special session.

Next, Mr. Burciaga said that several House and Senate standing committees planned to meet on June 17, 2020, before the special session was expected to begin. He explained that because no funding for them had been authorized in the regular session feed bill, they would have to be paid as interim committees.

On a motion made, seconded and unanimously passed, the council authorized use of the interim expenses account for per diem and mileage payments for meetings of the House Appropriations and Finance Committee, House Rules and Order of Business Committee, Senate Finance Committee and Senate Rules Committee on June 17, 2020.

Next, Mr. Burciaga noted that he had received a number of inquiries regarding per diem for remote participation at meetings. The council discussed several aspects of per diem payments for remote participation at meetings, including:

- different provisions in the Constitution of New Mexico for sessions and other meetings;
- whether authorizing per diem for remote participation would be for meetings before the special session, for the special session itself, for the duration of the public health order or permanently;
- expenses incurred by members participating in meetings, even remotely;
- language that may need to be included in any funding for the special session to allow for remote participation;
- that per diem for remote participation at meetings would likely be treated as income for tax purposes; and
- making per diem available to members and allowing them to decide whether or not to request it.

On a motion made, seconded and unanimously passed, the council authorized per diem payments for members participating remotely for meetings taking place on June 17, 2020.

Finally, Mr. Burciaga discussed the issue of testing staff and members for coronavirus disease 2019 before the special session. He explained that the LCS had received some guidance from Dr. David R. Scrase, secretary, Human Services Department, and that testing would be required of staff working in the State Capitol. However, Mr. Burciaga acknowledged that it was unlikely that testing could be required of members. The council had a lengthy discussion regarding testing and other measures to help maintain the safety of staff and members, including:

- taking the temperature of all entrants into the building;

- the availability of masks and hand sanitizer throughout the building;
- federal health care privacy laws that prevent disclosure of testing results;
- the timing of any potential testing;
- the example that might be set by members opting to get tested and approach the special session as safely as possible; and
- that staff are required to be tested as a condition of entering the building, not as a condition of employment.

Mr. Burciaga also listed several informational items, including that:

- all floor sessions and committee meetings will be webcast;
- staff will follow all health guidelines regarding personal protective equipment and social distancing;
- some LCS staff and other legislative staff will be on-site, while others will be working remotely;
- New Mexico State Police will be on-site with a regular detail, with more officers available in the event of protests;
- buffet-style food and drink will not be allowed;
- some furniture may be moved to make corridors wider and to discourage gathering in certain spaces;
- Legislative Building Services staff will be on-site to clean and sanitize the building; and
- efforts will be made to reduce the number of people touching and delivering paper documents.

The issue of paying per diem for remote attendance at this meeting and the June 10, 2020 Legislative Finance Committee meeting was raised. On a motion made, seconded and passed, the council authorized per diem payments for remote attendance at the June 9, 2020 Legislative Council meeting and the June 10, 2020 Legislative Finance Committee meeting, with Representatives Ezzell, Montoya and Townsend voting "no".

Representative Townsend raised the issue of emergency spending by the executive that was potentially in excess of what is allowed in statute. He indicated that he would like the issue added to the agenda for the next meeting.

Adjournment

There being no further business, the meeting adjourned at 11:23 a.m.