

MODERNIZING THE NEW MEXICO LEGISLATURE

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MY PUBLIC LAW BACKGROUND

- 25 years as an attorney in the Executive Branch of NM State Government (1980-2005)
- 23 years at the NM Department of Health and its predecessor, the NM Health and Environment Department (1981-2004); specializing in public health, behavioral health, emergency preparedness, public procurement and the legislative process
- retired as NM Department of Finance and Administration General Counsel on September 1, 2005
- 15 years as a Legislative Analyst for the Senate Public Affairs Committee and the Senate Majority Leadership (Whip & Caucus Chair) -2006-2018; 2023-2024 Regular Legislative Sessions
- Legislative Liaison for the Lt. Governor - 2019-2020 Regular Legislative Sessions
- contract consultant to the NM General Services Department - 2021 “Virtual” Regular Legislative Session developing public procurement reform legislation
- drafted Fiscal Impact Reports (FIR’s) for the Legislative Finance Committee - 2022 Legislative Session

WHY MODERNIZE THE NEW MEXICO LEGISLATURE?

1. Increase the Legislature's "capacity to legislate" to better address the increasingly complex issues faced by New Mexico and improve services to constituents.
2. Increase oversight of the Executive Branch.
3. Increase transparency so Legislators, Legislative staff (stationed at the State Capitol Complex and in District Legislative Offices) and the public can better understand and be a more knowledgeable participant in the legislative process.

WHY MODERNIZE? (CONTINUED)

Process Issues

1. Oversight – Create Year-Round Legislative Committees with professional staff (including a General Counsel) and enforceable subpoena power (see, e.g., Section 2-5-5, NMSA 1978 re: Legislative Finance Committee powers).
2. Long Range Planning
3. Public Education and Public Involvement

WHY MODERNIZE? (CONTINUED)

Policy Making Process Issues

1. Interim Process Reform (More Efficient Use of Interim Committees)
2. Capital Outlay Reform (Avoid Unspent Appropriations)
3. Redistricting Reform (Avoid Gerrymandering)
4. Procurement/Public Purchasing Process Reform (Updates Needed)
5. Senate Confirmation Process During the Interim (Save Senate Rules Committee Time During the Regular Session)
6. Impeachment Process (Specifics Not Addressed in Law)

WHY MODERNIZE? (CONTINUED)

Policy Issues by Subject

1. Health Care
2. Affordable Housing
3. Education Reform
4. Economic Development
5. Environmental Protection/Climate Change
6. Public Safety/Gun Violence
7. Child Welfare Reform
8. Tax Reform

FOUR WAYS TO MODERNIZE THE LEGISLATURE

1. NM Constitution Enactment (Legislature and Voters)
2. NM Statutory Enactment (requires Governor involvement—sign, veto, line item veto, pocket veto or pocket sign -separation of powers issue?)
3. Legislative Rule Enactment (Legislature only – either or both Houses)
4. Legislative Policy Implementation based on existing legal authority & budgets (Legislative Council directives to Legislative Council Service Director & Staff)

HOW TO MODERNIZE? (3 Phases-Could Be Concurrent)

First Phase (Increase the “Capacity to Legislate”)

1. Compensation for Members and Length of Legislative Sessions (Every Bill is “Germane”) (By Constitutional Amendment)
2. District Offices and Local Staff (By Appropriations/Personnel Related Statutes/Legislative Council Policy Directives to the LCS)

HOW TO MODERNIZE? (CONTINUED)

Second Phase (Institutional Reform)

1. Reform the Standing/Permanent Committee Process During the Regular Session (By Legislative Rule)
2. Reform the Interim Process (By Statutory Reform & Legislative Rule)(Why statutory reform? Some Interim Committees are created by NM statute which might need to be amended, see, e.g., Sections 2-13-1, et seq., NMSA 1978 creating the “Legislative Health and Human Services Committee”, Laws of 1989, Chapter 349, Section 1)

HOW TO MODERNIZE?(CONTINUED)

Third Phase (Increase Transparency)

1. Upgrade the Quality of the Committee and Floor Webcasts (By Statutory Appropriations, Legislative Rules and Legislative Council Policy Directives to the LCS)
2. Expand the Legislative Information on the Legislative Council Service (LCS) Website (By Statutory Appropriations, Legislature Rules and Legislative Council Policy Directives to the LCS, e.g., bills on NM Legislative website only go back to 1996; the LCS Research Library has paper copies of bills going back to 1973; otherwise, NM Supreme Court Law Library Reference Desk & other Libraries/Archives).

15 SUGGESTIONS TO MODERNIZE THE NM LEGISLATURE – APRIL, 2022

1. pay Legislators approximately \$45,000 - \$50,000 annually, perhaps based on the average NM salary [requires an amendment to the NM Constitution; See, e.g., Senate Joint Resolution 8 – Salaries for Public Officials, Constitutional Amendment (2022 Regular Session); House Memorial 26-Study Legislative Sessions & Salaries] (2022 Regular Session);
2. provide each Legislator at least one Legislative Analyst & Scheduler to help their Legislator prepare and track bills, amendments and substitutions, prepare testimony and witnesses, track Committee hearings & votes and manage a District Office;
3. provide a District Office for all legislators staffed by a constituent services liaison like members of the US Congress have in their home Districts;
4. update the NM Legislative Web Page maintained by the Legislative Council Service by increasing the period covered for past legislation from 1996 -present to 1973 - present;
5. post the roll call votes on the NM Legislative Website for Motions to Table taken during Committee hearings and Floor proceedings [See e.g., House Resolution 1 (2020 Regular Session); House Bill 17 (2021 Regular Session, under “Committee Reports and Amendments); House Bill 19 (2021 Regular Session, under “Committee Reports and Amendments”)];
6. post proposed amendments and substitute bills when they are being debated during Committee hearings and Floor proceedings on the Legislative Website [See House Resolution 1 (2017 Regular Session); House Concurrent Resolution 1 (2022 Regular Session)];
7. require the Legislative Council Service to post its Informational Memos and Style Manual under “Publications” on the Legislative Website;
8. limit the number of bills a Legislator can introduce;
9. limit the time spent in Committee and on the Floor on Memorials that aren’t legally binding; limit the number of other ceremonial events on the Floor;
10. limit the time on Floor Debates – for the House of Representatives-1.5 hours; for the Senate – 1 hour (Half the current times allowed for debate by the Rules of each House);
11. require Committee Chairs to schedule every bill referred to the Committee unless asked to be removed from the Agenda by the Bill Sponsor;
12. reform the Interim process between Regular Sessions [See House Joint Memorial 1, (2020 Regular Session), co-sponsored by Reps. Daymon Ely and Greg Nibert];
13. create a written legislative history for each bill similar to the U.S. Congress;
14. annual 60 -90-day Sessions, all bills are germane, with a one-week mandatory recess at the midway point (requires an amendment to the NM Constitution), and;
15. provide more transparency in the process to annually create HB 2, the General Appropriations Act, and subject Legislative Task Force Meetings to the NM Open Meetings Act (See HB 356-2020 Regular Session).

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NM CONSTITUTIONAL TIMELINE

-May, 1850 – First Constitution of the State of New Mexico drafted and adopted by a vote of 8,371 to 39 on June 20, 1850.

The vote was declared null and void by the Military Governor of New Mexico prior to New Mexico having a legal existence as a Territory (Source: Constitution of the State of New Mexico 1850, Stagecoach Press Historians' Edition, 1965).

-1872-Adopted by the Legislative Assembly of the Territory of New Mexico on February 1, 1872 but not forwarded to the U.S. Congress by the Territorial Governor due to a “disappointingly small (voter turnout)- only a third of those expected actually voted- “(Source: “The Making of the New Mexico Constitution Part I”, Thomas C. Donnelly, New Mexico Quarterly 11, 4 (1941).

-1889-1890-Elected delegate convention convened in Santa Fe on September 3, 1889, and remained in session until September 21, 1889. A draft Constitution was submitted to the voters on October 7, 1890 and failed to be ratified by a vote of 16,180 to 7,493 due to dissension between Democrats and Republicans over the “apportionment of delegates to Republican counties”. (Donnelly, Ibid.)

-1907-Delegates to a Constitutional Convention met in Santa Fe on January 7,1907 but adjourned before completing a draft Constitution due to lack of funding from the Territorial Assembly. (Donnelly, Ibid.)

-January 21, 1911 – Constitution of the State of New Mexico adopted as federal prerequisite to Statehood.

-January 6, 1912 – New Mexico admitted to the US as the 47th State.

CURRENT LENGTH OF REGULAR SESSIONS

November 3, 1964 – **Article IV, Section 5 of the NM Constitution** is amended to establish current alternating 30/60-day Legislative Sessions.

See also **Dillon v. King**, 1974-NMSC-096, N.M. 79, 529 P. 2d 745 (New Mexico Supreme Court, 1974). A law passed in contravention of this constitutional time limitation is void since the Legislature would have ceased to be a legislative body by operation of the Constitution and therefore would have been without authority to perform any lawmaking function. (As amended November 5, 1940, November 5, 1946, and November 3, 1964) (Legislature can't “stop the clock” at 11:59 AM on the last day of the Session).

RECENT NM CONSTITUTIONAL PROPOSED AMENDMENTS UNSUCCESSFUL TO DATE

NM Constitution, Article IV, Section 5-Length of Sessions

2023 Regular Session –HJR 2 - 60 Day Sessions every year; all bills germane

2023 Regular Session - HJR 14 - 45 Day Sessions every year; all bills germane

2024 Regular Session –HJR 1- 45 Day Sessions every year; all bills germane

2024 Regular Session -HJR 5- 45 Day Sessions every year; all bills germane

2024 Regular Session -HJR 9- 45 Day Sessions every year; all bills germane

2024 Regular Session -SJR 3- 45 Day Sessions every year; all bills germane

2024 Regular Session -SJR 4- 60 Day Sessions every year; all bills germane

ARGUMENTS AGAINST INCREASING THE LENGTH OF THE 30 DAY SESSION

- Fiscal Impact of 30 more days of Legislative Session, including Per Diem, Seasonal Staff Salaries, and other expenses, e.g., printing of bills, etc. (estimated by the LFC to be \$3 million to \$3.5 million per Fiscal Impact Report for SJR 4 -2024 Regular Session);
- Decreases the Length of the Primary Election Campaign Season; and
- Decreases the Length of the Interim Period for Interim Committee Meetings.

PREVIOUS ARTICLE IV, SECTION 5 AMENDMENTS: “SPLIT SESSIONS”

1940 General Election -HJR 12/Constitutional Amendment #3 adopted to create a “Split Session’ after each General Election. First term of 30 days and a second term of 30 days with a recess of 30 days in between the two sessions. **Passed 11/5/1940**

1942 General Election-SJR 11/Constitutional Amendment #5- Split Session – 20 and 40 Days with a recess of 30 days in between the two sessions - **Failed**

1946 General Election -Constitutional Amendment #1-Eliminated split legislative session. After each General Election, Session not to exceed 60 days. – **Passed 11/5/46**

1953 HJC Substitute for HJR 5/Constitutional Amendment #7 – Each session in odd-numbered year shall not exceed 60 days and each session in even-number year shall not exceed 30 days. **Failed**

1959-SJR 3/Constitutional Amendment #2 – Sixty-day sessions in odd-numbered years and 30-day session in even-numbered years. **Failed**

1961- SJR 5/Constitutional Amendment # 8 -Sixty-day sessions in odd-numbered years and 30-day session in even-numbered years. **Failed**

TYPES OF CURRENT LEGISLATIVE COMPENSATION

1963 – Legislative Retirement Plan enacted (Sections 10-11-39, *et seq.*, NMSA 1978; Laws 1963, Chapter 102, Section 1); Legislative Pensions upheld by State ex rel. Udall v. Public Employees Retirement Board, 120 N.M. 786, 907 P.2d. 190 (NM Supreme Court, 1995) See also SB 165 (2024 Regular Session, Laws of 2024, Chapter 29) for most recent increase in Legislative pensions.

1996 – Article IV, Section 10 of the NM Constitution sets the current per diem and mileage rates; “no other compensation, perquisite or allowance” is permitted since the original 1911 NM Constitution was enacted:

“Each member of the legislature shall receive:

- A. per diem and mileage at the internal revenue service per diem rate for the city of Santa Fe** for each day’s attendance during each session of the legislature and the internal revenue service standard mileage rate for service for each mile traveled in going to and returning from the seat of government by the usual traveled route, once each session as defined by Article 4, Section 5 of this constitution;
- B. per diem expense and mileage at the same rates as provided in Subsection A of this section** for service at meetings required by legislative committees established by the legislature to meet in the interim between sessions; and
- C. no other compensation, perquisite or allowance.”** (As amended November 7, 1944, September 15, 1953, November 2, 1971, November 2, 1982 and November 5, 1996).

LEGISLATIVE SALARY (FULL OR PART-TIME)

Five Ways to Amend Article IV, Section 10 of the NM Constitution to Provide for Legislative Compensation/Part-Time Salary

1. Assign compensation to be determined or recommended by an independent “Citizen’s Compensation Commission” (see e.g., Judicial Compensation Commission, Section 34-1-10 NMSA 1978, Laws 2005, Chapter 85, Section 1).

AND

1. Assign compensation to be determined or recommended by the State Ethics Commission.
2. Recommendation of a Constitutional Revision Commission (See 1967 and 1995 Constitutional Revision Commission Reports & SB 308, 2023 Regular Session).
3. Set compensation in specific amounts in the NM Constitution (monthly/annual) for salary, per diem and mileage.
4. The Legislature to set salary, per diem and mileage “as provided by law” (e.g., based on an existing index like the per diem and mileage calculation process per City of Santa Fe federal rates).

The “3 R’s” -Rich, Retired, Resourceful (Legislators who can currently afford to serve).

RECENT NM CONSTITUTIONAL PROPOSED AMENDMENTS UNSUCCESSFUL TO DATE

NM Constitution, Article IV, Section 10 – Compensation, Perquisite or Allowance for Members

2022 Regular Session-HJR 10-Public Officer Salary Commission-Establish a “public officer salary commission” as a state agency to *establish and limit salary* for statewide elected officials, statewide elected judges, *legislators*, District Attorneys and other public officers as provided by law. (Italics added)

2023 Regular Session – HJR 8- “[A] salary *established* by the citizen commission on legislative salaries”. (Italics added)

2024 Regular Session – HJR 7-Establish a “citizen commission on legislative salaries” as an independent state agency “for the purpose of *establishing, adjusting and limiting* the salaries of the members of the legislature”. (Italics added)

ESTABLISHING VS. RECOMMENDING?

RELATED NM CONSTITUTIONAL & STATUTORY PROVISIONS RE: COMPENSATION

NM Constitution

Article IV Section 27 (Extra or increased compensation for officers, etc.)

Article IV, Section 28 (**Emoluments**, interest of legislators in contracts, etc.)

NM Statutes

Section 2-1-3, NMSA 1978 (No other compensation as state officer or employee)

Section 2-1-4, NMSA 1978 (Payment of compensation other than legislative compensation prohibited)

Section 2-1-5, NMSA 1978 (Penalty for violation of Sections 2-1-3 or 2-1-4, NMSA 1978)

Section 2-1-7 (**Emoluments**), NMSA 1978; cf. U.S Constitution, Article II, Section 1, Clause 7 (Domestic/Presidential Clause)

Section 2-1-8, NMSA 1978 (Session per diem and mileage of legislators)

Section 2-1-9, NMSA 1978 (Out-of-state travel; in-state travel)

CONSTITUTIONAL ISSUE AND ADDITIONAL RESOURCES

Why not amend both topics (Length of Session and Part-Time Salary) in one constitutional amendment?

-see Article IV, Section 16 of the NM Constitution which prohibits “log rolling”, i.e., more than one subject per bill.

-Does one proposed constitutional amendment for both topics constitute “log rolling”?

See also “Piecemeal Amendment of the Constitution of New Mexico- 1911-2022”, Table 7 (only includes Joint Resolutions that passed Both Houses & were on an election ballot) & “Arguments For and Against Proposed NM Constitutional Amendments”; both prepared by the Legislative Council Service.

DISTRICT OFFICES & STAFF CURRENT IMPLEMENTATION

1. SB 1, Section 10.B.(5)(a)- Page 33, lines 8-15 (2022 3rd Special Session)-Fifty thousand dollars (\$50,000) each from Reps. Joy Garratt and Angelica Rubio to the UNM Bureau of Business and Economic Research (BBER) “to conduct and report a survey of legislative personnel on the needs of the legislature and a survey of legislators to identify the activities and time devoted to their legislative duties outside of legislative sessions and to study the costs and benefits of legislator compensation, modifying the length and scope of legislative sessions and legislative staffing.” (Signed into law on April 8, 2022 as Laws of 2022, 3rd Special Session, Chapter 3).
2. HB 1, “Feed Bill”, Section 4. L., Page 7, lines 13-18 (2023 Regular Session)-Two million five hundred thousand dollars (\$2,500,000) “for expenditure in fiscal years 2023 and 2024 to hire a consulting entity to consider the feasibility of and make recommendations to the New Mexico legislative council on the logistics and resources needed for district staff offices and operations for the legislature . . .” (Signed into law on January 20, 2023 as Laws of 2023, Chapter 1).

DISTRICT OFFICES AND STAFF (CONTINUED)

1. HAFC/HB 2 & 3, aa-Page 5, lines 7-12 (2024 Regular Session)- “The general fund appropriation to the legislature includes six million dollars (\$6,000,000) to provide for *legislative district staff*, including salaries and benefits, information technology equipment and software, furniture, supplies, office space and other necessary support, contingent on approval of the legislative council adopting staffing patterns, policies, procedures and other guidelines for the staff and adopt administrative support guidelines for legislative council service.” (Signed into law on March 6, 2024 as Laws of 2024, Chapter 69) (Italics added).
2. HB 283 -Regional Legislative Staff (2024 Regular Session)– Sponsored by Representatives Rod Montoya, James G. Townsend and Randall Pettigrew: Would appropriate \$6 million dollars for *nonpartisan* administrative assistance and *policy support* for legislators in Regional Offices. Died on adjournment. (Italics added)

See also the Governmental Conduct Act (GCA), Section 10-16-11, NMSA 1978; LCS to adopt a general Code of Conduct for all legislative branch employees based on the general principles set forth in the GCA.

OTHER SUGGESTED LEGISLATIVE CHANGES TO IMPLEMENT DISTRICT STAFF

1. Amend Section 2-3-13 NMSA 1978 providing for the confidentiality of any “request or statement for service” from the Legislative Council Service to include District/Local staff requests (confidentiality can be waived with the consent of the requestor).
2. Amend Section 10-11-8. D. NMSA 1978 of the PERA Act to allow retired PERA members to be employed by the Legislature *during the Interim* as District/Local Staff (not limited to “Session” work).
3. Amend Section 1-19-29.1 A. (2) NMSA 1978 of the Campaign Reporting Act to *prohibit* legislators from expending campaign contributions on matters relating to the performance of their legislative duties including salaries and contracts for Session and Interim Staff (contingent upon the Legislature appropriating funding for Seasonal and District/Local Staff).
4. Enact a Legislative Personnel Act similar to the existing Personnel Act for State Executive Branch employees (Sections 10-9-1, et seq., NMSA 1978)

OTHER DISTRICT OFFICE CONSIDERATIONS

1. Password protected remote access to the LCS Request for Services and Database in the Santa Fe LCS Office.
2. Training for all District/Local Staff on the Legislative Process and use of the Legislative Website.
3. Train Legislators on how to use District/Local Staff.
4. Flexibility for employee vs. contractor arrangements, full and part-time schedules; working virtually from District/Local Offices and from home.
5. Determining if District/Local Staff and contractors are subject to the Governmental Conduct Act (GCA) and/or a Legislative Code of Conduct addressing conflict of interest, nepotism, prohibited political activities, use of public resources for personal gain, etc., as currently applicable to full-time legislative staff (See Section 10-16-11 NMSA 1978 of the GCA).
6. Determining if District/Local Staff can be detailed to Santa Fe for work during a Regular, Special or Extraordinary Session.
7. Can a Legislator opt-in or opt-out to receive the services of District/Local Staff?
8. Constituent Services to remain under supervision of Chief Clerks of both Houses?
9. Who will draft Job Descriptions for, e. g. Chief of Staff, Constituent Liaison, Scheduler, Legislative/Policy Analyst?
10. Who will set the pay scales hire, supervise, engage in disciplinary actions such as, verbal warning, letter of reprimand, suspension or termination, for District/Local staff?

CREATE A LEGISLATIVE TRAINING ACADEMY

Proposed Curriculum

1. NM Senate & House Floor Proceedings

- Senate and House Rules

2. NM Committee Process – Outline of Committee Proceeding - Similar for both Senate and House (Senate and House Rules, Committee Handbook-2012 revised & Mason’s Manual on Legislative Procedure – NCLS-2020)

- No need to Second a Motion

- Motion to Reconsider Process

- Public Notice of Committee Meeting (Open Meetings Act – Section 10-15-2, NMSA1978)

3. Working with the LCS/LFC/LESC

- e.g., Getting a bill, amendment or substitute bill drafted; Confidentiality Statute (Section 2-3-12 NMSA 1978)

- Who gets the Blue/Yellow Jacket & copies?

- Where to pick up ‘Jackets’ at the LCS?

- Significance of the “202” number assigned by the LCS

- Committee Amendment vs. Committee Substitute

- Correcting an FIR through the LFC

Overview of NM Leg Website

- What’s most useful- e.g. “Legislation”, (e.g. Bill Finder by Current Location); “What’s Happening” & “Publications” – Bill Drafting Manual, Committee Handbook, Legislative Rules

- What’s missing -e.g., Motions to Table or Failed Motions for Do Pass or No Recommendation

SEASONAL & DISTRICT OFFICE STAFF TRAINING (CONTINUED)

4. Using the Legislative Intranet and Website for Legislative Analyses-Accessing Agency Analyses Requested by the LFC to prepare FIR's (Note that certain agencies like the Attorney General's Office (AGO) may also post their Agency Analyses on their own websites) (See HCR 1-2023 Regular Session)

5. Overview of One Source for Legislative Analysts -Focus is on NM Statutes & NM Constitutional provisions, not Caselaw.
e.g., how to do a legislative history of a statute

6. Overview of Piecemeal Amendments of the Constitution of New Mexico -1911-2022

7. NM Legislative Legal Sources

- NM Constitution – especially Article IV
- NM Statutes – especially Chapters 2 & 12
- NM Caselaw (e.g., Coll v. Carruthers re: veto process)

- Joint Rules, Senate Rules, House Rules –
Internal; don't have the force of law (Introduced as a Senate or House Resolution or Concurrent Resolution)
- AGO Opinions – advisory – don't have the force of law
- State Ethics Commission Opinions – don't have the force of law
- LCS Informational Memos -advisory – don't have the force of law

Note that the NM Administrative Code (NMAC) only applies to NM *Executive* Branch Agencies (Executive Branch-made law through the State Rules Act process, the AGO and the NM Commission on Public Records)

LEGISLATIVE WEBSITE EXPANSION

Increased Transparency by Expanding the Legislative Website through appropriations in HB 1 (Feed Bill) and/or HB 2/CS (General Appropriations Act) and Legislative Council policy directives to the Legislative Council Service to include the following:

- digitalize all Roll Call votes on Committees Votes for Final Actions that are approved, or failed for lack of majority vote or tie vote (Do Pass, Do Not Pass, No Recommendation, Motion to Table, Motion to Reconsider) and post on the Legislative website;
- digitalize all bills introduced in the NM Legislature since 1912 and post on the Legislative website;
- digitalize all Daily Bill Locators since created after the statutory enactment of the Legislative Council Service (LCS) in 1951 and post on the Legislative website;
- digitalize the Constitutions of New Mexico of 1850, 1872 & 1889 and post on the Legislative website;
- digitalize the NM Constitution drafted in the Fall of 1910, adopted in 1911 and effective upon Statehood on January 6, 1912, and post on the Legislative website;
- digitalize the proposed 1969 NM Constitution (and LCS Pros and Cons) drafted by the 1969 Constitutional Convention (not adopted by the voters in December, 1969) and post on the Legislative website;
- digitalize the Pros and Cons of Constitutional Amendments published by the Legislative Council Service and post on the Legislative website;

LEGISLATIVE WEBSITE EXPANSION (CONTINUED)

- digitalize all non-confidential Information Memos drafted by the LCS and the LCS Style Manual and post on the Legislative website;
- digitalize all past Legislative Studies and reports to reform the NM Legislature [e.g., 1988 Legislative Reform Study Committee (location of Final Report, if any, unknown), 1964, 1967 & 1995 Reports of the Constitutional Revision Commission, 2002 Committee Process Study Subcommittee, 2007 Legislative Structure and Process Study Task Force Final Report (already posted on the LCS website under “Publications”), The Focus Group Study of the “Logistics and Resources Needed for Legislative District or Regional Staff Offices and Operations” (October 16, 2023) and the 1992, 2006 & 2007 Governor’s Ethics Task Force Final Reports recommending legislative compensation, and post all on the Legislative website;
- digitalize all FIR’s created by the LFC and post on the Legislative website;
- digitalize all Bill Analyses by the LESC and post on the Legislative website;
- digitalize all Agency Bill Analyses requested by the LFC for FIR’s previously posted on the Legislative Intranet and post on the Legislative website (see HCR 1, 2023 Regular Session);
- digitalize all Senate and House Standing Committee Analyses and post on the Legislative website (Note that Senate Majority and Minority Floor Analyses are considered confidential; is this based on an assertion of Legislative Privilege per Article IV, Section 13 of the NM Constitution? [See also Republican Party of NM v. NM Taxation and Revenue Department, 2012-NMSC-026 (2012), requiring specific legal authority either in the Constitution, statute or rule for a document to be deemed confidential under the NM Inspection of Public Records Act.].

EXPAND YEAR-ROUND LEGISLATIVE COMMITTEES

1951 – Legislative Council Service created (Section 2-3-2, NMSA 1978; Laws 1951, Chapter 182, Section 2).

1957 -Legislative Finance Committee created (Section 2-5-1, NMSA 1978; Laws 1957, Chapter 3, Section 1) (carved out from a subunit of the Legislative Council Service).

1965- Legislative Audit Commission created by Laws of 1965, Chapter 287; **declared unconstitutional by the New Mexico Supreme Court in Thompson v. Legislative Audit Commission, 79 N.M. 693, 448 P.2d 799 (1968), as infringement on role of State Auditor.**

1971 – Legislative Education Study Committee created (Section 2-10-1, NMSA 1978; Laws 1971, Chapter 287, Section 1).

Other Proposed Year-Round Staffed Legislative Committees, e.g., Legislative Health and Human Services Committee (See SB 263, 2023 Regular Session – Died on adjournment in the Senate Finance Committee); Legislative Public Works Committee (See SB 186, 2023 Regular Session- Died on adjournment in the Senate Rules Committee).

A PROPOSAL BY HEALTH ADVOCATES

Enact a new year-round staffed Legislative Health and Human Services Committee

Prior Introduced Legislation

- SB 430 & SB 503- (2008 Regular Session) Senate Floor Substitute adopted by a vote of 41-0 in the Senate. Died in House Business & Industry Committee.
- SB 172 & SB 242 Committee Substitute (2009 Regular Session)- Pocket Vetoed.
- HB 452 (2019 Regular Session)-Died in House Appropriations & Finance Committee. Co-sponsored by Rep. Debbie Armstrong
- HB 63 (2022 Regular Session)-Sponsored by Rep. Miguel Garcia. Not germane.
- SB 263 (2023 Regular Session) – Died on adjournment in the Senate Finance Committee. Co-sponsored by Senators Martin Hickey, Jerry Ortiz y Pino & Liz Stefanics.

WHAT WOULD A YEAR-ROUND LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE DO?

1. “monitor and oversee the programs, agencies, policies, issues and needs relating to health and human services, including monitoring and oversight of the statutes, constitutional provisions, regulations and court decisions governing such programs, agencies, policies and issues;
2. make an annual report of its findings and recommendations and recommend any necessary legislation to each session of the legislature, and;
3. hire a director of the legislative health and human services committee to oversee its work.
4. \$350,000 appropriation

Source: SB 263, Section 2 (2023 Regular Session)

Controversial Issues: What does “oversee” and “oversight” mean? Is this the traditional oversight of the Legislative Branch “over” the Executive Branch? Imbalance of resources between the two Branches?

PUBLIC WORKS/CAPITAL OUTLAY REFORM FAILED LEGISLATION

SB 79 (2010 Regular Session) Capital Outlay Planning & Monitoring (Sen. Pete Campos)

SB 131 (2011 Regular Session) Capital Outlay Review (Sen. Pete Campos)

SB 507 (2013 Regular Session) Capital Outlay Review, Plans & Monitoring (Sen. Pete Campos)

SB 293 (2016 Regular Session) Capital Outlay Planning & Monitoring Act (Sen. Pete Campos)

SB 148 (2018 Regular Session) Capital Outlay Reform Act (Sen. Pete Campos)

SB 455 (2019 Regular Session) Capital Outlay Reform Act (Sen. Pete Campos)

SB 51 (2022 Regular Session) Create Public Works Commission (Sen. Bill Tallman)

SB 197 (2023 Regular Session) Infrastructure Planning & Development Office (Sens. Pete Campos & Pat Woods, Rep. Andrea Romero)

CAPITAL OUTLAY LEGISLATION (CONTINUED)

SB 186 (2023 Regular Session) Interim Legislative Public Works Committee (Sens. Bill Tallman & Pete Campos) Failed

Powers and Duties – Capital Project Review & Evaluation

-making a appropriation of \$210,000 to the Legislative Council Service to pay for two additional full-time-equivalent research staff positions in the Capital Outlay Office and to pay for other expenses associated with the Public Works Committee.

HB 232 (2024 Regular Session) Infrastructure Planning & Development Division in the NM Department of Finance & Administration (Representatives Meredith Dixon, Gail Armstrong & Dayan Hochman-Vigil) Passed both Houses unanimously and **signed into law as Laws of 2024, Chapter 10**. Need legislative oversight over this new Executive Branch Division?

FUTURE PROCESS RECOMMENDATIONS

1. Create a Legislative Modernization Subcommittee of the Legislative Council;
2. Continue the Legislative Modernization Subcommittee of the Legislative Finance Committee from the 2023 Interim (the Subcommittee met once in Albuquerque on September 28, 2023).

See also: U.S. House of Representatives Select Committee on the Modernization of Congress (2019-2023)

[Select Committee on the Modernization of Congress | Congress.gov | Library of Congress](#)

APPENDIX: LIST OF RECENT LEGISLATIVE MODERNIZATION STUDIES & POLL

Recent Legislative Studies and Polls (Bold = can be found on the NM Legislative Website (www.nmlegis.gov) under “Publications”)

- 1988-Joint Interim Legislative Reform Study Committee
- 1995-Report of the Constitutional Revision Commission
- 2002-Final Report of the Committee Process Study Subcommittee
- 2006-2007 -Legislative Structure and Process Study Task Force meets. Final Report issued December 10, 2007.**
- November 21, 2022 – Common Cause NM Poll issued. [Microsoft Word - 05 COMMON CAUSE RPT.docx](#)
- November, 2022 – “A Report on Legislative Professionalism for the State of New Mexico”, Professors Timothy Krebs & Michael Rocca, UNM Political Science Department. [Legis Modernization Paper Updated \(2022\) \(commoncause.org\)](#)
- February, 2023 – “General Examination of Legislative Modernization in New Mexico”, UNM Bureau of Business and Economic Research (BBER).**
- October 16, 2023 – “Logistics and Resources Needed for Legislative District or Regional Staff Offices and Operations” (The Focus Group Discussion Draft); “Legislative Council Service Survey of Legislators” (Research & Polling, Inc., September, 2023); “District/Regional Office Study” (Architectural Research Consultants).**

QUESTIONS?

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