

MINUTES
LEGISLATIVE FINANCE COMMITTEE
JULY 16th, 17th and 18th, 2003

FEDERAL FUNDING INITIATIVE

Representative Coll reported the committee had been given a spreadsheet on the governor's proposal for spending \$31 million of the federal funding initiative. Representative Coll indicated the members should have also received an information memorandum from Paula Tackett, director, LCS, and Gary Carlson on the separation of powers issues. Representative Coll recommended LFC negotiate something different with the governor, perhaps coming up with their own proposal.

Senator Lopez stated she agreed with his proposition. She stated she believes there is still some separation between the executive and the legislative branch and the Legislature to her knowledge still has the authority to work with those dollars. She concurred that the Legislature should put its list on the table as well, as legislators also know the needs that exist in their communities.

Senator Smith indicated he would like to know exactly what type of communication the legislative leadership has already had with the executive branch. If the executive has acted unilaterally, then there is a problem. If it has consulted with legislative leadership, then the problem is with the leadership, and another direction should be taken.

Senator Altamirano reported the leadership met with the governor when it came to their attention that the governor was spending the money. Representative Coll stated they talked about the issue of the using the funds for recurring expenses and the governor seemed to agree he would not include recurring expenses. Senator Altamirano reported the governor said he would make a list of statewide projects he thought were acceptable to the Legislature and that the executive and legislative leadership would talk about them and reach an agreement. The governor said he would like to keep the money out of the legislative session; he would like to spend it before, if the executive and the leadership could come to an agreement.

Senator Altamirano stated there was no agreement made and the understanding was that the governor would come up with a list. LFC staff came up with a list as well.

Representative Coll stated the leadership told the governor appropriating power rests with the Legislature.

Representative Lundstrom stated the appropriation power lies with the legislative branch.

Senator Altamirano stated they were talking about federal funds being sent to the state to take care of unfunded mandates and the way it is worded in the order begs for an interpretation. The

executive and the Legislature have different views. He said the group that met with the governor has not planned a lawsuit.

Representative Wallace raised concerns about the leadership acting without the knowledge of other legislators. Senator Altamirano stated there was no decision made. He said a lawsuit might come from somewhere else. Representative Coll stated it was not a partisan issue, but a legislative and executive branch issue.

Senator Smith stated House and Senate leadership should be communicating and move expeditiously. He said he was concerned the leadership had not moved quickly, leaving a void the executive moved forward to fill.

Representative Coll stated the discussion in the governor's office focused on the separation of powers. The leadership was present and participated, but didn't make any deals.

Senator Smith stated the Legislature might have abrogated some of its legislative powers by failing to take the very first step.

Representative Varela stated he wondered why spending the money was urgent. The governor could have presented his proposal for statewide spending at the special session. The governor suggested the executive and the Legislature prepare lists and work out a compromise. Representative Varela stated, but he has heard the governor is already close to a final decision.

Representative Saavedra stated this is the first time he has heard of this issue and he asked when legislators would have an opportunity to have input.

Senator Smith stated he is concerned about using some of the dollars for recurring purposes because the Legislature has the option to reduce whatever is used as recurring from next year's budget.

Senator Altamirano stated he would like for staff to contact leadership immediately and tell them about this discussion. He said LFC should not take any action opposed by the leadership. The leadership could call a meeting with the governor and discuss this issue in the next three days.

Representative Coll stated the committee should ask that the leadership offer to work with the governor on a settlement that does not embarrass either branch, does not infringe on either branch's power, and complies with the state Constitution. He said the executive and the Legislature probably will agree on many of the projects but the leadership will need to take a firm stance to get the governor to negotiate. If the governor declines to work with the Legislature, legislators are going to have to decide if they are going to fight for their legislative power.

Responding to Senator Altamirano about what Representative Coll would suggest if the leadership aggress with the governor, Representative Coll stated individual legislators could bring lawsuits. The Clark lawsuit over Governor Gary Johnson's authority to sign the gaming agreements was brought by an individual legislator as was Representative Paul Taylor's lawsuit

over the administrative implementation of welfare reform. A third dispute with Governor Johnson over the separation of powers, when Governor Johnson vetoed the budget and threatened to run state government without an appropriation act, was resolved when the Democrats and the Republicans joined together, called themselves into session and overrode a veto to enact a budget bill.

Representative Wallace asked Senator Altamirano if the committee could contact the leadership and discuss the issue again at its Chama meeting in August. Senator Altamirano suggested the committee discuss it on Friday before it adjourns.

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Mr. Abbey reported that discussions with the governor several weeks ago resulted in the decision that the executive would make a list and perhaps legislative staff or members would make a list. Linda Kehoe, LFC capital outlay coordinator, came up with a list that was not endorsed by anyone, but was provided to DFA Secretary James Jimenez and was based on what she thought were statewide priority issues.

Representative Varela stated he thought when they met and exchanged the list it was to work out an understanding. The list was not intended to recommend anything, but to give information to the members. Mr. Abbey stated the list comprised only nonrecurring expenses.

Mr. Abbey reported Ms. Kehoe's approach on water projects was to put the money in a water projects fund and use the existing process and criteria to select specific projects.

Responding to Representative Saavedra, Representative Coll stated that, under the governor's list, Santa Fe and Española get a large portion of the funds. Under the LFC list, \$10 million would go in the wastewater grant fund and \$10 million would go to water supplies, without any amount going to a specific project.

Representative Varela stated he pointed out to the House speaker that it is not a balanced distribution. The conversations were that it would be distributed statewide.

Representative Saavedra stated there should have been a meeting that included everyone.

Senator Altamirano stated his concern was he didn't know whether it was the prerogative of this committee to do anything. Senator Aragon will be calling the governor today. Senator Altamirano stated he believed there should be a meeting with the governor. He also suggested the members needed to decide if it was an initiative the LFC wants to take or something best left to the leadership.

Representative Wallace stated the LFC has the responsibility to point out the governor's list includes recurring expenditures and that will affect the budget.

Representative Coll stated that running the funds through the legislative process would ensure input from every legislator. Both branches need to agree.

Senator Altamirano stated the governor said he would spend the money and he was not worried about constitutional issues. The House speaker has requested the list compiled by Ms. Kehoe. The feeling is that he will just spend the money. Senator Aragon will try to set up a meeting with the governor.