

February 5, 2016

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Rep. Don L. Tripp
Speaker of the House
New Mexico House of Representatives
Speaker@nmlegis.gov

By email and hand delivery

Dear Sen. Papen and Speaker Tripp:

I am writing on behalf of the New Mexico Foundation for Open Government in regard to the Open Meetings Act requirements that apply to committee meetings of both houses of the New Mexico legislature.

On Monday afternoon, February 1, the House Appropriations and Finance Committee locked the doors to its committee room and barred the public from attending the discussion about HB 2, the General Appropriation Act of 2016. It is our understanding that a quorum of the committee was in attendance.

The Open Meetings Act, NMSA 1978 § 10-15-2 provides as follows:

*A. Unless otherwise provided by joint house and senate rule, all meetings of any committee or policy-making body of the legislature **held for the purpose of discussing public business or for the purpose of taking any action within the authority of or the delegated authority of the committee or body are declared to be public meetings open to the public at all times....***
(Emphasis added)

Because the members of the House Appropriations and Finance Committee were undoubtedly "discussing public business," this provision required the meeting, and all other committee meetings, to be open to the public.

FOG acknowledges there is some ambiguity in this section of OMA. Subsection C of § 10-15-2 defines a meeting as "a gathering of a quorum of standing committees and conference committee held for the purpose of taking any action within the authority of the committee or body."

Some might read this provision to permit a committee to meet behind closed doors as long as it was not “taking any action.” “Action” is not defined in that portion of the statute.

We urge lawmakers to clarify this ambiguity by making clear in § 10-15-2 that discussion of public business must be done only in public meetings. In the meantime, we urge you to follow the interpretation of OMA that maximizes transparency, i.e., for all committee meetings to be open to the public. The touchstone of democracy is full and open discussion by public officials before the public they serve. To prohibit citizens from attending meetings where important public business is discussed is inconsistent with a representative government.

FOG also has been informed of similar closed-door committee meetings by the Senate in previous years, which is why this letter is addressed to both houses.

FOG appreciates the commitment and hard work of our legislators, especially during this 30-day session, but urges both the House and Senate to conduct their affairs in the sunlight.

Let me know if we can be of any assistance to you.

Kind regards,

Susan Boe
Executive Director

cc: Raul Burciaga