STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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September 27, 2010

MEMORANDUM

TO: Legislative Education Study Committee

FR: David Harrell

RE: STAFF REPORT: GOVERNMENT RESTRUCTURING TASK FORCE: UPDATE

Twice before during the 2010 interim, the Legislative Education Study Committee (LESC) has heard staff reports about the work of the Government Restructuring Task Force (GRTF), a 17-member body charged with examining all of state government, including K-12 and higher education, and making recommendations leading to increased efficiencies and reduced costs.

- Among other points, the report in June 2010 reviewed the statutory provisions, summarized the meetings and activities of the task force up to that time, and noted the education-related topics that the GRTF had discussed.

- The report in August 2010 discussed the six education-related recommendations that the task force had selected from a field of 33 altogether[1] and explained the task force's

[1] The six recommendations were to merge the Public Education Department (PED) and the Higher Education Department; to defer Educational Retirement Board contributions by the state for another year; to reduce the number of school districts; to provide incentives for districts to save money, perhaps by raising the cap on cash balances; to place the financial oversight of school districts and charter schools with the Department of Finance and Administration rather than PED; and to implement the proposal in the state's Race to the Top application to establish a link between student growth and teacher performance and a corresponding link between teacher performance and teacher preparation programs.

actions in response to a number of recommendations about state government in general.

This staff report will summarize the GRTF's most recent discussions and actions during the sixth meeting, September 16-17, 2010. It begins with a review of actions related to public education and concludes with a brief overview of the task force's attention to state government in general.

Public Education

During the September meeting, the GRTF reviewed two bill drafts related to public education and requested additional drafts and information.

Joint Resolution Affecting the Public Education Commission and Educational Finance

The first education-related bill draft (Attachment 1) would propose two substantive amendments to Article 12, Section 6 of the state constitution:

- have the Public Education Commission (PEC) appointed by the Governor, rather than elected, with confirmation by the Senate; and

- remove the authority of the Secretary of Public Education over "functions relating to the distribution of school funds and financial accounting for the public schools," with the understanding that these functions would be assigned by law.

Most of the discussion focused on the nature and role of the PEC as an advisory body to the Secretary of Public Education yet with certain assigned duties, including oversight of federal Carl Perkins funds and the authority to authorize state-chartered charter schools. Some members suggested that responsibility for public education should reside exclusively with the Secretary and the Public Education Department (PED). While acknowledging that doing so would affect the state-level authorizing of charter schools, task force members agreed to have the draft amended to eliminate the PEC altogether.

Limiting Size Adjustment Program Units

The second education-related bill draft that the GRTF reviewed (Attachment 2) would amend the *Public School Finance Act* and the public school funding formula to place additional conditions on schools and school districts in order for them to qualify for size adjustment program units, effective school year 2012-2013.

- A school would qualify for additional program units only if it is located "in a small town, village or rural community" with a population of less than 3,000 and if it is located at least five miles from another public school that offers "a similar academic program."

- A school district would qualify only if it has a total MEM of less than 3,000 (reduced from 4,000 in current law) and if its central office is located more than 15 miles from the central office of another school district with a total MEM of less than 3,000.

As the Legislative Council Service (LCS) explained, this bill would essentially eliminate small urban schools, including charter schools, from the small size adjustment.

The task force discussion of this bill draft, supplemented by a preliminary analysis by LESC staff, raised a number of points and concerns, among them that:

- the draft employs several undefined terms, including *town*, *village*, *rural community*, and *similar academic program*;

- the location of a district's central office, which is subject to change, may have little to do with the operation of that district in relation to other contiguous districts;

- the mileage designations are unclear – whether they are straight-line distances between points or roadway miles between points – and apparently arbitrary;

- through its changes to the public school funding formula, this bill would reduce funds allocated to affected schools and districts, exacerbating the shortfall already created by reliance on one-time federal funds; and

- the membership figures are subject to change as a result of the census being completed now.

Another point raised in the discussion was that, while the bill draft does not address consolidation of school districts *per se*, its provisions might encourage some small districts to consolidate. On that point, one task force member cautioned that such consolidation could increase some costs – transportation, for example; and that, in that case, the districts would be twice-affected: first by the loss of the small district size adjustment and second by the increased costs. Another member noted that such factors as a district's debt level and the disposition of its facilities would also affect cost savings.

In response to questions from task force members, the LESC Director explained that, having seen the bill draft only the day before, the staff analysis had necessarily been quick and preliminary. Nonetheless, that analysis, using data provided by the Public School Facilities Authority, identified 10 districts that would be disqualified because of size – Artesia, Aztec, Bernalillo, Bloomfield, Grants, Los Alamos, Lovington, Moriarty, Silver City, and Taos – and another seven that would be disqualified because of the 15-mile provision – Dexter, Hagerman, Lake Arthur, Las Vegas City, Maxwell, Springer, and West Las Vegas – with a total net effect, according to this preliminary analysis, of approximately $5.3 million.

LESC staff further explained that an analysis of the changes to the school size adjustment would be more complex but that it could be done using grade-level configurations as the basis for the undefined term *similar academic program*. Whether that definition is helpful or meaningful is another question, however; and even that approach is problematic in that schools do not correspond exactly. That is, three schools within five miles of each other may offer grades K-8, K-6, and 6-8 respectively.

The discussion concluded with a request that staff from the LESC and the Legislative Finance Committee (LFC) confer and return at the next GRTF meeting with a more refined proposal,

accompanied by a fiscal impact report (FIR). The task force also expressed interest in hearing any other recommendations of the LESC.

Other Education Issues

Finally, in other education-related matters, the task force:

- asked for a review of information technology applications in schools, with particular attention to possible uses of the state's super computer;

- suggested amending the lottery provisions in statute to allow students to wait a year or more before attending college and still qualify for the Legislative Lottery Scholarship;

- requested that the Office of Education Accountability provide information about the duration of the effects of New Mexico PreK and full-day kindergarten;

- requested information from the LESC regarding the Legislative Lottery Scholarship, school calendars, teacher preparation, and school leadership; and

- asked that the LCS draft two more bills for task force review:

  - one calling for year-round schools; and
  - the other tying the evaluation of teachers and administrators to the achievement of their students, using recent developments in Colorado, Florida, and Louisiana, as models.

State Government in General

Among the materials and proposals related to state government in general, LCS and LFC staff:

- provided an overview of health care financing, administration, policy, and function;

- discussed three consolidation options for the four entities of the Interagency Benefits Advisory Committee (IBAC): the General Services Department, the New Mexico Public Schools Insurance Authority, the Retiree Health Care Authority, and Albuquerque Public Schools;

- provided an overview of the numerous agencies, boards, commissions, institutions, and other entities that provide disability-related services to New Mexicans; and

- reviewed the highlights of the federal *Restructuring and the Patient Protection and Affordable Care Act*.

Staff from the LFC also provided an overview of recurring revenue to the General Fund, noting that, since 2003, the annual average growth has decelerated from 6.1 percent to 3.4 percent. In addition, the LFC reviewed the history of General Fund appropriations and one-time funds (most of them federal) supplanting General Fund dollars since FY 07.

Another table from the LFC showed the full-time equivalent positions (FTEs) in the 20 largest state agencies (with PED being the 19th largest) since the hiring freeze was enacted in December 2008. Overall, state agency FTEs have been reduced by just over 8.0 percent. At the next GRTF meeting, the LFC will provide a breakdown showing how much of the state budget is devoted to salaries and benefits of employees and how much to contracts. This report will also identify those state employees paid through federal funds, whose positions will end when the federal funds expire.

Among its actions related to state government in general, the task force:

- asked the LCS to draft a bill that restructures the Department of Finance and Administration (DFA) in the following manner:

  - move the property control and state purchasing functions of the General Services Department (GSD) to DFA;
  - move the State Personnel Office to DFA and create a state personnel division in DFA;
  - create an educational finance oversight division of DFA to oversee the finances of the Higher Education Department and PED; and
  - create an agency administration division to govern small agencies;

- asked the LCS to draft a bill moving the transportation pool from GSD to the Department of Transportation;

- asked the LCS to draft a bill to combine the Economic Development Department, the Tourism Department, and the Department of Workforce Solutions into a single agency called the Commerce Department;

- approved a bill draft to merge the Department of Homeland Security and Emergency Management, the State Fire Marshal's Division, the Firefighters' Training Academy, and the E-911 Program with the Department of Public Safety;

- asked staff to examine overlap between bureaus and divisions in the Energy, Minerals and Natural Resources Department and the Environment Department and to present proposals addressing the areas of overlap; and

- approved two draft measures related to the Public Regulation Commission (PRC):

  - a joint resolution to amend the state constitution to eliminate the PRC as a constitutional body and to provide that regulation of corporations, utilities, transportation, transmission and pipeline companies, insurance and other business be provided in law; and
  - a bill to repeal the *Public Regulation Commission Apportionment Act* and the *Public Regulation Commission Act* and to appoint a legislative committee to recommend ways to integrate the PRC's duties into the executive branch.

9/7/10

_____ JOINT RESOLUTION

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

[THIS CA REMOVES EDUCATIONAL FINANCE AND MAKES COMMISSION APPOINTED.]

A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 12, SECTION 6 OF THE CONSTITUTION OF NEW MEXICO TO HAVE THE PUBLIC EDUCATION COMMISSION APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE SENATE AND TO PROVIDE BY LAW FOR THE POWERS AND DUTIES OF THE SECRETARY OF PUBLIC EDUCATION.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 12, Section 6 of the constitution of New Mexico to read:

"A. There is hereby created a "public education department" and a "public education commission" that shall have such powers and duties as provided by law. The department shall be a cabinet department headed by a secretary of public education who is a qualified, experienced educator who shall be appointed by the governor and confirmed by the senate.

B. Ten members of the public education commission

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shall be [~~elected~~] appointed by the governor and confirmed by the senate for staggered terms of four years as provided by law. Commission members shall be residents of the public education commission district from which they are [~~elected~~] appointed. Change of residence of a commission member to a place outside the district from which [~~he~~] the member was [~~elected~~] appointed shall automatically terminate the term of that member.

C. The governor shall fill vacancies on the commission by appointment of a resident from the district in which the vacancy occurs [~~until the next regular election for membership on the commission~~] for the remainder of the unexpired term.

D. The secretary of public education shall have administrative and regulatory powers and duties [~~including all functions relating to the distribution of school funds and financial accounting for the public schools to be performed~~] as provided by law.

E. The [~~elected~~] members of the [~~2003 state board of education~~] 2012 public education commission shall constitute the public education commission, if this amendment is approved, until their terms expire [~~and the districts from which the state board of education were elected shall constitute the state public education commission districts until changed by law~~]."

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SECTION 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

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50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

DISCUSSION DRAFT

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; LIMITING SIZE ADJUSTMENT PROGRAM UNITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-8-23 NMSA 1978 (being Laws 1975, Chapter 119, Section 1, as amended) is amended to read:

"22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

A. An approved public school [~~with~~] <u>that is located in a small town, village or rural community with a population of less than three thousand, that is located at least five miles from another public school offering a similar academic program and that has</u> a MEM of less than 400, including early childhood education full-time-equivalent MEM but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old

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developmentally disabled programs, is eligible for additional program units. Separate schools established to provide special programs, including but not limited to vocational and alternative education, shall not be classified as public schools for purposes of generating size adjustment program units. The number of additional program units to which a school district is entitled under this subsection is the sum of elementary-junior high units and senior high units computed in the following manner:

Elementary-Junior High Units

$$\frac{200 - MEM}{200} \times 1.0 \times MEM = Units$$

where MEM is equal to the membership of an approved elementary or junior high school, including early childhood education full-time-equivalent membership but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs;

Senior High Units

$$\frac{200 - MEM}{200} \times 2.0 \times MEM = Units$$

or,

Senior High Units

$$\frac{400 - MEM}{400} \times 1.6 \times MEM = Units$$

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whichever calculation for senior high units is higher, where MEM is equal to the membership of an approved senior high school excluding membership in class C and class D programs.

B. A school district with total MEM of less than [~~4,000~~] 3,000, including early childhood education full-time-equivalent MEM, the central office of which is located more than fifteen miles from the central office of another school district that also has a total MEM of less than 3,000, is eligible for additional program units. The number of additional program units to which a school district is entitled under this subsection is the number of district units computed in the following manner:

District Units

[~~4,000~~] 3,000 - MEM x 0.15 x MEM = Units

[~~4,000~~] 3,000

where MEM is equal to the total district membership, including early childhood education full-time-equivalent membership.

C. A school district with [~~over~~] more than 10,000 MEM with a ratio of MEM to senior high schools less than 4,000:1 is eligible for additional program units based on the number of approved regular senior high schools that are not eligible for senior high units under Subsection A of this section. The number of additional program units to which an eligible school district is entitled under this subsection is

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the number of units computed in the following manner:

$$\frac{4{,}000 - \text{MEM}}{\text{Senior High Schools}} \times 0.50 = \text{Units}$$

where MEM is equal to the total district membership, including early childhood education full-time-equivalent membership, and where senior high schools are equal to the number of approved regular senior high schools in the school district."

SECTION 2. APPLICABILITY.--This act applies to the 2012-2013 school year and subsequent school years.

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