

**Minutes
of the
Eighth Meeting
of the
Government Restructuring Task Force**

**November 11, 2010
Room 307, State Capitol**

The eighth meeting of the government restructuring task force (GRTF) was called to order by Senator Tim Eichenberg, chairman, on November 11, 2010 at 8:35 a.m. in Room 307, State Capitol.

Present were:

Sen. Tim Eichenberg, chairman
Rep. Patricia A. Lundstrom, vice
chairwoman
Mr. Patrick Baca
Rep. Paul C. Bandy
Sec. Dannette Burch
Rep. Keith J. Gardner
Mr. John Gasparich
Dr. Dan Lopez
Sen. Linda M. Lopez
Rep. Rick Miera
Sen. Steven P. Neville
Mr. Jim O'Neill
Mr. David Ortiz
Sen. William H. Payne
Rep. Luciano "Lucky" Varela

Absent were:

Ms. Michelle Lujan Grisham
Sen. John Arthur Smith

Advisory members:

Sen. Carlos R. Cisneros
Sen. Stuart Ingle
Sen. Lynda M. Lovejoy
Rep. James Roger Madalena

Sen. Mary Jane M. Garcia
Rep. Joni Marie Gutierrez
Rep. Al Park
Rep. Jeannette O. Wallace

Legislative Guests: Sen. Timothy Z. Jennings and Sen. Bernadette M. Sanchez

Legislative Education Study Committee (LESC) Members: Representatives Dennis J. Roch, Jimmie C. Hall, Mimi Stewart, Mary Helen Garcia, Shirley A. Tyler, Sheryl Williams Stapleton, Roberto "Bobby" J. Gonzales and Eleanor Chavez; and Senators Vernon D. Asbill and Sander Rue.

Staff: Raúl E. Burciaga, Jonelle Maison, Kim Bannerman and Leslie Porter, legislative council service (LCS); Frances Ramírez-Maestas and David Harrell, LESC; Cathy Fernandez, legislative finance committee (LFC); and Stephanie Lenhart, department of finance and administration (DFA).

Copies of all handouts are in the meeting file. Approval of the minutes was postponed until the November 22-23 meeting.

LESC Report and Recommendations — Senator Cynthia Nava, chairwoman, and Representative Rick Miera, vice chairman

Senator Nava said in response to the task force's request for recommendations, LESC held a special meeting to develop ideas and alternatives for public education funding. She noted that the committee had a difficult time suggesting cuts because the members are advocates for education. The ideas she and the vice chairman will be discussing are not necessarily consensus recommendations of the committee but were items the committee considered at some point during the interim. The committee does have consensus, however, that it will not support any measure that changes the funding formula. The committee is not adverse to measures that will eliminate or ameliorate gaming of the formula. Senator Nava pointed out that the public education department (PED) does have budget approval authority and it could do much more to ensure that gaming is not occurring; there are obvious red flags, such as high special education rates, that the department should have seen and addressed.

Regarding GRTF proposals, LESC proposes alternatives to several of the items.

- ▶ Instead of changing the small school and small district size adjustments in the formula, LESC recommends two changes: (1) eliminating small school size units for schools claiming more than one school in the same facility; and (2) capping size adjustment and growth units. LESC staff is still working on potential savings for item (1) and thinks item (2) would save approximately \$2.6 million.

- ▶ Instead of striking constitutional language that gives the secretary of public education the responsibility to distribute and account for public school funds, LESC proposes that the PED budget be separated into program and finance functions like all other departments. Senator Nava pointed out that a constitutional amendment would not go to the voters until 2012, and there is still time to consider the GRTF ideas pertaining to the public education commission and the secretary's duties.

- ▶ Instead of moving financial oversight for school districts from PED to DFA, LESC proposes to transfer PED's office of inspector general to the state auditor to oversee both public and higher education. Again, the move would take a constitutional amendment, and the legislature has time to consider the best organization to ensure efficiency and accountability.

- ▶ The idea to merge PED and the higher education department (HED) into a single department may have merit in strengthening the pre-K-20 continuum and should be

investigated further.

- ▶ The Family and Youth Resource Act was part of the 2003 reform and the advisory committee meets once a year; members are paid per diem and mileage only if there is money to do so; eliminating the advisory committee would not save money, and LESC does not support it.

- ▶ LESC did not understand the rationale for eliminating the council on technology in education and replacing it with the department of information technology, and so it is not supporting that proposal.

- ▶ A study done four years ago showed that consolidating insurance purchasing agencies would cost more than it would save. Senator Nava pointed out that the public school insurance authority is the most efficient and cost-effective of the insurance agencies.

At its special meeting on October 29, LESC discussed potential cost savings and presented some measures to GRTF not as recommendations but as information only. Both Senator Nava and Representative Miera stressed that the committee does not support a reduction in instructional days or professional days, but the committee has provided the cost, which is \$12,890.0 for instructional days and \$11,250.0 for professional days, based on FY 2011. LESC discussed alternatives to delaying the educational retirement board (ERB) employer contribution increase. Senator Nava said the retirement systems solvency task force is considering a smaller phase-in of the remaining contribution increase instead of simply delaying it for another year. If the ERB employer/employee swap is not extended after July 1, 2011, it will cost the general fund \$23,193.4 using FY 2010 data. If an additional swap of 1.5% is implemented, the general fund would save another \$23,193.4. LESC looked at savings of \$1,085.0 if elementary breakfast funds are spent only in nonprovisional 2 schools. A one-year delay of the high school graduation exam would save \$2,530.2; however, that would mean that one class would graduate without having taken an exit exam. Eliminating double funding of students in new charter schools could save an estimated \$1,625.0. If the state captures unspent federal stimulus money allocated by the executive to the Graduate New Mexico program, approximately \$8 million could be reallocated to public schools. A 1% reduction in administrator salaries would save approximately \$363.2. A change in the ancillary workload calculation could save \$3,036.0. LESC has considered extending and possibly increasing the land grant permanent fund distribution, but that change would have to go to the voters in 2012. One suggestion LESC is considering is to require state board of finance review and approval for awarding emergency supplemental funding. Another idea is to place a moratorium on all new schools in both the public and higher education systems. One item that appears to have consensus in LESC is to repeal or delay implementation of the 180/150 instructional day calendar. The committee is considering proposals to: (1) revert excess credits to the state support reserve fund to maintain the statutorily required \$10 million in the fund; and (2) make the public school fund nonreverting. There are two pilot projects under consideration: (1) using the regional education cooperatives to work with schools in need of improvement; and (2) regionalizing administrative functions of small school districts. If the higher education census date is later in the semester,

the state would fund courses based more on student completion than enrollment; this idea could reduce funding of dual credit classes that high school students begin and then drop. In 2009, LESC endorsed legislation to study the public school transportation formula, but the bill was vetoed; it is reconsidering that legislation. Changing the instructional material adoption cycle from six to eight years would result in savings, but the amount has not been determined. Senator Nava said that the committee also is looking at a recommendation to raise the legislative retirement contribution on the assumption that if schools and state agencies are being asked to sacrifice, legislators should also be willing to do the same.

In response to questions by Senator Sanchez, Senator Nava said the legislature had made cuts below the line over the last couple of years. LESC's funding recommendations have focused on shielding programs for students. Representative Miera said there had been significant cuts in categorical funding during the decade. As for across-the-board cuts, the two senators agreed they are harmful and any cuts should be targeted to avoid impacting students.

Senator Jennings asked about the delay or repeal of the 180-day instructional day calendar. Senator Nava agreed that the law has a great deal of merit but is simply too expensive at this time. On other questions from Senator Jennings, Senator Nava said that ancillary personnel is where most of the special education formula gaming occurs; the proposal LESC is considering would help with that problem.

Representative Lundstrom asked about the amount of the total public education budget. Tom Sullivan, coalition of school administrators, said it is approximately \$2.2 billion. Senator Nava said the LESC staff is still working on costing out many of the ideas she discussed, but savings would be approximately \$89 million, which is the amount required to replace federal stimulus funding that had been used to supplant general fund support over the last couple of years. Asked if there are any items on which LESC had reached consensus, Senator Nava said the committee had worked with the school partners and there is some agreement, but nothing is firm yet. Possible consensus might be that the committee will not make its final decisions until its last meeting, but, for example, there seems to be support, between members and the partners, for items 11, 12, 14, 17, 19 through 21 and 28, and perhaps others. Item 17, the land grant permanent fund, would have to go to the voters in 2012. Representative Lundstrom asked whether there are criteria as to which districts qualify for emergency supplemental. Senator Nava said there is criteria, but the secretary of public education makes the decision, and LESC thinks it would be better to have another body, such as the state board of finance, approve that decision.

Dr. Lopez referred to item 26, the later census date in higher education. He said the department and legislature need to look at how institutions can deny dual enrollment to students who are not likely capable of doing college-level work. As for dropouts, he noted the institutions have no way to force students to complete courses. Senator Nava said the burden is on high schools to do a better job of screening dual enrollment students, because the school has to give permission for a student to enroll in a college course. The high schools must exercise more oversight and students need to understand the consequences of enrolling and not

completing a college course. Dr. Lopez said the institutions are left with few options; they incur the costs, but the later census date would leave them without the funding to pay the costs. He suggested the burden should be placed also on the student and parents. Senator Nava agreed.

On questions from Senator Cisneros, Ms. Ramírez-Maestas said the estimated savings of around \$89 million would make up for the loss of federal American Recovery and Reinvestment Act of 2009 (ARRA) funding that had been used to supplant the general fund over the last couple of years. School funding has been reduced about 6.2%; if the \$88.9 million is not made up, that would equate to another 4% cut. Senator Nava said the total of all cuts would be closer to 11%.

Mr. Ortiz asked if LESC had considered not allowing small school size adjustments for schools on the same campus. Senator Nava said the committee had been focusing specifically on schools in the same facility; it had not looked at those on the same campus. Mr. Ortiz reminded the task force that the small school and district adjustments had been established to help rural schools; now it has expanded to any small school. He asked for the rationale behind the expansion. Senator Nava said she did not know, but it was probably a result of there not being a statutory prohibition against the application to all small schools. Asked about item 2, change in the calculation of growth units, Senator Nava said districts get the units if they exceed 1% growth. Ms. Ramírez-Maestas said there were approximately 6,000 units last year. With the economic decline, private and home school students are enrolling in public schools; that may reverse itself as the economy improves. She noted that charter schools get growth units when they add new grades. Mr. Ortiz asked how items 5 and 21, concerning instructional days, would be reconciled. Senator Nava agreed they are at odds. LESC would prefer having more instructional days, but it would cost the general fund almost \$13 million for each day, and that is not realistic at present. Last year, the legislature delayed implementation of the minimum 180 instructional days, and item 21 would either delay the implementation again or repeal it, which would have the effect of going back to instructional hours. Asked why item 14, Graduate New Mexico, has so little participation, Ms. Ramírez-Maestas said the program is not a legislative initiative; the governor allocated \$9.4 million of his discretionary stimulus funds for the program, which has only about 300 students. If the item is passed, contracts would be canceled and the money redistributed. Senator Nava said she applauds the governor for the initiative to encourage people to come back to school; however, it proved difficult to get them to show up and stay in the program. Mr. Ortiz said he supports item 23, to make the public school fund nonreverting. Mr. O'Neill asked whether the federal government would want the Graduate New Mexico money returned. Senator Nava said the state has until September 2011 to expend it.

After further discussion of last year's funding, Secretary-Designate Burch explained that the credits reversion went toward the general fund shortfall and without that \$14 million, the 3.2% across-the-board reduction would have been higher.

Representative Gardner asked if there is consensus on changing the ancillary workload calculation. Senator Nava said there is agreement among the partners. The representative then initiated a discussion about the use of ARRA funds on recurring expenditures, which he believes was not allowed. Ms. Ramírez-Maestas said the \$89.9 million of ARRA funds was put into the

formula, which is recurring, but there was no choice; federal funds were needed to supplant the general fund. Senator Nava clarified that stimulus money that was given directly to school districts was not allowed to be used for recurring expenditures. Secretary-Designate Burch said that education stabilization and FMAP funding were used to avoid deeper cuts; title 1 and IDEA funding had to be nonrecurring.

Senator Eichenberg asked about consensus for item 9, extension of the ERB swap. Senator Nava said there is not consensus among LESC members, but she thinks there is consensus among the partners. He asked for further explanation of item 12, the one-year delay of the graduation exam. Senator Nava said PED is assuming that approximately 60% of students will retake the new, much more rigorous exam. Approximately 20% of students retake the current exam. Asked about items 19 and 20, the moratoria on all new public schools and higher education campuses/learning centers, Senator Nava said the partners have consensus on item 19 but have no opinion on item 20 because it pertains to higher education. Senator Eichenberg asked whether LESC had looked at reorganizing and restructuring school districts, using Las Vegas and West Las Vegas as an example of two school districts in the same town. Senator Nava said the LESC finance working group had been thinking of small rural districts when it discussed a pilot program for consolidating administrative functions, not Las Vegas. Asked about the LFC recommendation to eliminate 12th grade, Senator Nava said more analysis is needed, including looking at the data to see whether LFC's assumptions are correct; LESC will likely recommend that the university of New Mexico (UNM) conduct a study. She reiterated that LESC would not recommend changes to the funding formula. Senator Eichenberg discussed the idea of capping growth units. Mr. Johnson said the committee might look at a tiered approach, with different thresholds.

Higher Education Funding Formula — Paul Aguilar, LFC

Mr. Aguilar presented the staff report he had prepared for an LFC hearing on the higher education funding formula. Issues for that hearing included:

- ▶ the formula is not aligned with state policies;
- ▶ factors built into the formula when revenues were increasing are causing inequities now that revenue is dropping;
- ▶ fairness and equity concerns about the formula have been raised but not addressed;
- ▶ the formula funds inputs, using band adjustments, and ignores outcomes;
- ▶ the formula fully funds enrollment without considering the marginal cost of educating additional students;
- ▶ the formula has too many cost variables that take up significant time to collect data and calculate to distribute relatively little money;
- ▶ the tuition credit percentage is applied to institutions with very different costs of tuition, which causes a long-term shift in the percentage of general fund appropriations that go to different institutions;
- ▶ unlike the four-year institutions, two-year institutions have mill levies that may be used to offset the effect of tuition credits;
- ▶ many students graduate with more credit hours than necessary, for which the state pays;

- ▶ to increase enrollment, and therefore funding, institutions are expanding the number and scope of programs irrespective of service area or mission; for example:
 - ▶ New Mexico state university (NMSU) and New Mexico highlands university offer the same social work degree program in Albuquerque in buildings located next to each other;
 - ▶ NMSU offers public health and education courses in Albuquerque in competition with UNM;
 - ▶ Dona Ana community college has eight facilities in Dona Ana county;
 - ▶ Santa Fe community college is building an education center for four-year institutions to offer courses but will keep the square footage funding; and
 - ▶ the state is paying for distance education enrollment for out-of-state and, in some instances, out-of-country students; and
- ▶ there are 14 tuition waivers that cost the general fund about \$60 million annually, with another \$10 million in waivers coming on-line in the next couple of years.

Mr. Aguilar suggested the legislature may want to consider formally establishing a funding formula task force to develop a new formula and report to the legislature rather than the institutions or HED. The current funding formula task force recommended that the over 3% under 5% band adjustment be replaced with a three-year rolling average, but institutions have been resistant to that recommendation; instead, they have recommended using a two-year average but just for the next year. He noted that access to higher education in New Mexico is the highest in the country, but students are not completing their coursework. Another problem is the amount of accumulated debt students face, particularly if they do not graduate in high-paying fields. Noncompletion of classes costs the state \$43 million, which is 5% of total higher education funding. I&G used to be about 80% of the formula; now there are too many little factors and cost variables for effective funding.

Dr. Lopez pointed out that what has occurred in higher education funding is only what has been allowed; the institutions have merely followed the rules. If the rules are no longer applicable because the context has changed, then the formula should be changed to accommodate that new context. As for credit hours, he said, some degrees require a higher number of credits, depending on accreditation requirements. The methodology for funding distance learning should be looked at, but the state should guard against a parochial position. Eliminating waivers may cause more problems than it solves.

★ Representative Lundstrom asked why there is so much duplication of graduate programs in the same area by different institutions. Dr. Lopez said the issue may not be so much duplication as graduate-level specialization. An institution cannot have an acceptable graduate program unless professors are able to do research, and that leads to narrower foci. Representative Lundstrom said the task force needs to have something from higher education similar to LESC's list of potential cost savings; without that, all the parties will not come to any agreement on savings. Dr. Lopez said it would be a mistake not to provide a context for higher education funding. Higher education has been cut \$122 million, with the four-year institutions taking a larger percentage cut. Upon being pressed, he said the four-year institutions would

report back to the task force on potential savings. Danny Earp, director of New Mexico independent community colleges, said those budgets are flat for next fiscal year, but his organization could recommend next steps. It was agreed that this would be an agenda item at the next GRTF meeting.

Senator Eichenberg suggested that the institutions consider some type of consolidation or limitations based on geographic areas, e.g., having only UNM and central New Mexico community college offering courses in Albuquerque.

Senator Payne opined that the legislature has starved higher education for years and any new formula should recognize different funding for the research institutions. Asked about the cost of remediation at the four-year institutions, Mr. Aguilar said remediation is not funded at the research institutions, but it is at the comprehensive universities and the two-year schools. The cost is in the \$50 million range when considering both public and higher education. He said the office of education accountability estimates that 48% to 49% of high school graduates have to take at least one remedial class; some have to take two or three classes. Senator Payne said there should be remediation cost-sharing between high schools and colleges. Mr. Aguilar said LFC is not taking a position on the issue, but it had been brought to its attention. Senator Payne recommended that the lottery scholarship be structured as a loan, and if the student graduates, the loan would be converted to a scholarship. Mr. Aguilar said estimates on the lottery tuition fund indicate it will be completely depleted by FY 2013. Senator Payne suggested that the four-year institutions, particularly the two flagship universities, should reconsider open enrollment. He said higher education experts should start thinking of solutions because what the state needs are college graduates, not college students. Dr. Lopez agreed with Senator Payne, saying there should be more responsibility placed on students to complete their education and the lottery might be structured to forgive a certain amount of lottery loan cost at certain completion points.

Representative Bandy observed that there do not appear to be any objective performance standards in higher education and perhaps the focus should be more on what benefits the state rather than the student.

On questions from Mr. O'Neill, Mr. Aguilar said Santa Fe community college's learning center will be in all-new buildings rather than using existing classroom space at the college. Senator Lopez noted that there are public schools and county and municipal community centers that could be used for classes instead of continuing to build new facilities.

★ Senator Cisneros asked for a list of all post-secondary institutions and their locations. Mr. Aguilar said he would provide it. Senator Eichenberg asked that the list show which ones have been legislatively approved.

Legislative Health and Human Services Committee (LHHS) Recommendations — Michael Hely, LCS

Mr. Hely presented the committee's recommendations. The committee did not recommend the bill to move medicaid programs from the aging and long-term services

department to the human services department. The committee also did not endorse the so-called interagency benefits advisory committee (IBAC) bill but supported a version of 2009's House Bill 662, which proposed to consolidate actuarial services, fiscal analysis and administrative services with one contractor and a common design plan among the agencies. The committee will detail its recommendations in a letter to Chairman Eichenberg. Senator Payne asked if Albuquerque public schools was opposed to the IBAC bill. Mr. Hely replied that he had heard that was true; also, the retiree health care authority is opposed and favors the more modest approach of HB 662.

Mr. Hely presented a bill to create the health policy and finance department, which is a phased measure that begins by taking over medicaid for the human services department and behavioral health, although the interagency behavioral health purchasing collaborative would continue to exist. It repeals the New Mexico health policy commission. The next phase would take over functions of the IBAC; administer the long-term services waiver and CoLTS program but not the developmental disabilities waiver until after a study has been conducted on ending the managed care contract; and create a utilization database. There are several advisory councils created in the bill that are appointed by the New Mexico legislative council to provide research and input and to review contracts. The significant part of the bill is that the health policy and finance functions would be combined into one framework.

On questions from Representative Lundstrom, Mr. Hely said the bill had been drafted for LHHS, not GRTF, so the goal of legislation is less about streamlining and more about consolidation of multiple agencies involved in health care finance and policy development and ensuring that independent, legislatively appointed advisory councils have a voice in that development. Further discussion ensued about the interagency behavioral health purchasing collaborative and the advisory councils. Mr. Hely explained that the collaborative, which is an established relationship among affected departments, would continue to exist but would not have the power to contract on its own. Currently, the collaborative negotiates contracts and uses the human services department staff to write the contracts. There are 19 state agencies in the collaborative and there are local collaboratives, made up of providers and consumers, that advise it. The advisory councils would not have rulemaking authority. Cost savings would not be known until an FIR is completed.

★ Mr. O'Neill asked if the task force is expected to act on the bill. Senator Eichenberg answered in the affirmative. Mr. Hely added that the chairs of LHHS had developed the bill and the committee had not endorsed it but wanted GRTF to look at it. Mr. O'Neill moved the task force strike Section 7 on the point that no department needs seven advisory or oversight committees; Representative Lundstrom seconded the motion, and it passed. Representative Lundstrom asked that an FIR be prepared for the November 22-23 meeting and that it identify weaknesses in the bill.

Short- and Long-Term Goals — Representative Lundstrom

Representative Lundstrom provided a list of items the task force has heard during the interim, broken down into two-year and five-year goals.

Two-Year (2013) Goals		Five-Year (2016) Goals	
1.	Revision of the small school size adjustment	13.	Continued department consolidation: PED and HED — beginning with a feasibility study (Others as identified)
2.	Revision of the small district size adjustment	14.	Higher education regionalization: develop strategic plan beginning with a feasibility study
3.	Moratorium on charter schools	15.	Phase-out of remedial education at two-year and four-year colleges and universities
4.	On-site auditing of public schools	16.	Develop teacher performance evaluation system
5.	Extend public school auditing criteria to charter schools and include on-site evaluations and physical plant costs	17.	Phase in teacher preparation curricula at NM colleges and universities
6.	Genuine transferability of credits between NM four-year higher education institutions	18.	Shift education funding to support early (pre-K through elementary) education
7.	Genuine articulation from secondary to post-secondary institutions	19.	Genuine transferability of credits between NM two-year and four-year colleges and universities
8.	First steps: greater focus on distance learning		
9.	Study on eliminating the higher education "band"		
10.	Revision of the lottery scholarship to allow four-year portability		
11.	Department consolidation: commerce department environment-EMNRD DFA expansion general services department (GSD) elimination public regulation commission elimination		
12.	Reduction in number of boards and commissions		

Representative Miera suggested that the task force consider the LESC alternatives to size adjustments, a moratorium on all new schools and higher education campuses and learning centers and moving the PED internal audit to the state auditor. Representative Varela said the state auditor's function is post-audit and that DFA has the oversight function; he recommends an educational finance division of DFA. Representative Miera said LESC would look at it and report back to the task force. Representative Miera said there are laws on articulation and transferability of courses and they need to be enforced. Next year's higher education funding

formula will replace the increase/decrease band with a two-year rolling average. Senator Eichenberg proposed the task force consider Senator Payne's loan proposal on the lottery scholarship.

Representative Varela said the workforce solutions department should not be consolidated into the commerce department. Representative Lundstrom said much of the department involves strategies for work force development and keeping people employed, which seems to fit with the economic development function.

Senator Neville said it would be mistake to put the department of environment and energy, minerals and natural resources department together and thought the task force had agreed not to do that. Representative Lundstrom said she thought the task force was still discussing moving water quality functions.

Representative Bandy asked where GSD functions were being moved. Ms. Maison said at the last meeting, there seemed to be consensus to move only purchasing to DFA and to have the property control and building services divisions be a noncabinet department. With that move, it seemed more consistent to leave the name of GSD, make it noncabinet and keep state printing and transportation services rather than move them to other departments.

Senator Payne said the list should include the consolidation of the homeland security and emergency management department with the department of public safety.

On item 15, Senator Eichenberg said he would like to see a phase-out of remediation at the four-year schools but perhaps not the two-year schools.

Representative Miera suggested that items 16 and 17 be moved to the two-year goals and said LESC is moving forward on both items. In answer to Mr. O'Neill's question, Ms. Maison said there has been discussion in the legislature over the last few years to tie teacher performance to student growth and colleges of education to teacher performance, and PED has begun to collect data on those three elements.

After a discussion of items 18 and 19, the members decided to strike them from the list.

On motion made by Representative Varela, seconded by Mr. O'Neill, the task force agreed to use the revised goals as the foundation of its final report and its legislation.

There being no public comment or other business, the task force adjourned at 2:35 p.m.